



Comments from the Ontario Professional Planners Institute on Bill 26, An Act to Amend the Planning Act

Standing Committee on General Government
September 20, 2004

Good Morning. My name is Don May and I am the President of the Ontario Professional Planners Institute. With me today is Greg Daly who is Chair of our Policy Development Committee and Loretta Ryan who is our staff Manager of Policy and Communications.

I would like to thank the Committee for the opportunity to speak and note that my remarks today are based on recommendations contained in our letter to the Minister, dated March 15, 2004 and in our submission regarding planning reform consultations, dated August 30, 2004. A Copy of these are included in your package.

The Ontario Professional Planners Institute, also known as OPPI, is the recognized voice of the province's planning profession. OPPI provides leadership and vision on policy matters related to planning, development, and other important socio-economic issues.

Over the years, OPPI has contributed to the reform of planning in Ontario. We have demonstrated a strong commitment to working with all governments.

As the Ontario affiliate of Canadian Institute of Planners, OPPI brings together the 2,600 practising professional planners from across the province. In addition, there are approximately 400 student members.

The breadth of our members' knowledge and the diversity of their experience provides OPPI with a unique perspective from which to contribute to planning reform.

OPPI members work for government, private industry, a wide variety of agencies, not-for-profits, and academic institutions, engaging in a broad range of practice areas including urban and rural community planning and design, and environmental assessment.

OPPI is a professional association funded entirely by membership fees and program and activity revenue.

Through our public policy program we conduct research on planning issues and general quality of life issues. We distribute this information to our members, government, the public and the media. Our purpose is to provide objective and balanced submissions based on the collective experience and wisdom of our members.

Overall Comments

We are pleased that the government is committed to improving the land use planning system in Ontario.

Communities not only need proper tools to deal with the range of issues affecting how they grow and prosper, but they need a complete range of tools to do so. If the proposed legislation does not give them a complete range of usable tools, it will simply complicate the planning process, rather than make it more responsive to local needs.

The Province has undertaken an ambitious program and schedule of reform of the Ontario planning system with several initiatives simultaneously taking place within a number of ministries. There is concern about the need to undertake these reforms in a coordinated and thoughtful manner and to ensure there is sufficient time for review and comment.

A number of planning reforms underway are interconnected. Some of the planning reform issues are on 'their own track' but many others are complicated and interconnected. The PPS and the Planning Act should, for example, move forward together.

It is key that these initiatives are clearly understood within the Ministry of Municipal Affairs' areas of responsibility and also within the broader framework of planning reform underway at the Ministry of the Environment and the Ministry of Public Infrastructure Renewal. Growth management issues are an example as these are intertwined with planning initiatives. Many issues are also highly technical and complicated in nature and it is difficult, for example, to ascertain the structural relationship between watershed planning and planning reform.

Interconnectedness is not only at the provincial level. These reforms impact many local planning processes and documents. More time is needed to properly assess the implications of these changes.

At this point in time, we would like to provide comments on four areas, as they pertain to Bill 26:

1. Importance of the Provincial Policy Statement
2. The Need for Definitions
3. Declaration of Provincial Interest
4. Local Autonomy

Importance of the Provincial Policy Statement

The Provincial Policy Statement (PPS) sets out overall policy direction on matters of provincial interest. The review of the PPS has been under way since 2001. The importance of this planning document cannot be understated.

While the PPS may not garner as much attention as some of the other major initiatives the government has unveiled lately, it is the tool that makes everything else work. The review should be

finalized and action taken to implement the revisions as soon as possible.

One area of implementation that must be addressed is how to ensure that planning decisions are “consistent with” the PPS. The wording “be consistent with” is intended to result in decisions that more closely reflect the intent of the PPS. There needs to be clear guidance on how competing interests might be balanced and it must be made clear that there is room for practical planning decisions. You do not want literal interpretations or minor inconsistencies in phraseology to cause good planning to be delayed or frustrated.

One of the essential elements of planning is balancing social, economic, and environmental interests. Planning involves a comprehensive analysis of all resources and application of all pertinent policies.

Without clear direction on the province’s priorities for environmental protection and community growth and on what to do when conflict occurs, the new wording provides continued challenges – exactly what are municipalities expected to “be consistent” with?

Finally, the various planning reform initiatives provide an excellent opportunity to provide a coordinated framework through which the government sets an overall direction for growth in the Province. Within such a framework for growth, there should be flexibility so that individual communities – rural areas, small cities, northern Ontario, the GTA – to make decisions that respond to local needs. This flexibility must also address the ability of some municipalities to go beyond the minimum standards in the PPS and still “be consistent with” provincial policy.

Definitions

Definitions require further refinement to achieve what the Province intends. As noted earlier, we are particularly concerned that a working definition of “be consistent with” be clearly established, so that municipalities understand what is intended by the phrase and how it is to be applied, recognizing that the application will vary from circumstance to circumstance.

To clarify intent, the Province should ensure that identical definitions are included in all planning reform legislation.

Declaration of Provincial Interest

We have three main concerns with the sections on declaration of provincial interest.

First, we believe that the PPS should clearly and concisely state the criteria used to identify a matter of provincial interest.

Second, the Province should declare a provincial interest much earlier than the minimum 30 days before an OMB hearing. Matters of appeal that involve a provincial interest are major policy decisions and all parties need to prepare properly before making arguments at a hearing.

Third, the wording in Bill 26 on planning matters under appeal to the OMB needs to be clarified. It appears that the intent is to maintain the province’s interest in a matter under appeal to the OMB, where the reason for appeal relates to conformity with the PPS, whether or not the Minister formally identifies it as a provincial interest. The current wording suggests that unless the Minister declares the matter a provincial interest, the province’s interest is waived in matters before the Board.

Local Autonomy

Bill 26 seeks to give Ontario residents more of a say in how their communities grow. OPPI believes that providing adequate time to obtain input and resolve disputes promotes good planning, particularly for complex proposals. Ensuring that local councils

are able to prevent premature urban boundary expansions is also consistent with good planning, especially when comprehensive growth management strategies are in place. Provided that time is allowed for parties to undertake the statutory actions required of them and for the public to be involved in the establishment, review, or amendment of public policy, OPPI supports this approach.

Although we support the amended timeframes proposed in Bill 26, we are concerned with the wording of proposed sections 17(53) and (54) and parallel sections of the *Planning Act* relating to Cabinet's role in situations in which a development application adversely affects a matter of provincial interest. While the Province may need to express provincial interests that override local perspectives, this section appears to express the exact opposite of municipal empowerment, by giving decision-making power to a body removed from the local issue. In reality, especially if the Province takes an expansive view as to what is of provincial interest, all of these decisions except the most controversial ones will be rubber-stamped by an overburdened Cabinet committee entirely on the basis of provincial staff reports. The proposed wording suggests a process that is less than transparent, timely or efficient, and fails to give the community any reassurance that its concerns are being properly addressed. Strengthening the PPS would be a more effective way to address or even avoid situations in which Cabinet has the final decision on planning matters.

Implementation

We are pleased the Ontario Government is committed to improving the land use planning system in Ontario, however, the substantive and comprehensive nature of many of the proposed amendments will place a significant burden on municipalities as these jurisdictions endeavour to apply the new provisions. New components such as watershed based plans, performance monitoring and indicators are welcome but need to be

accompanied with sufficient provincial direction and supporting resource to make them possible.

Further consideration needs to be given regarding additional tools than those proposed in currently available documentation since no new implementation tools are identified. Transferable development rights, incentives, and other implementation tools need to be considered

Summary

We are dedicated to the promotion of good planning and would welcome the opportunity to work with the Ministry of Municipal Affairs, the Ministry for Public Infrastructure Renewal and its Smart Growth Secretariat and other ministries to help explain publicly the critical importance of managing growth. This is important given the significant amount of land already approved for development in growing Ontario municipalities.

Ontario's Registered Professional Planners have a great deal to contribute to both the policies and mechanics of better planning, and unparalleled knowledge of how to make the government's policy directions actually work effectively across the province.

We encourage you to use OPPI's resources in planning for growth management, economic development, environmental policy, and effective public engagement as part of the plan to bring change to land use planning in Ontario.

Thank you and we would be pleased to answer any questions.

Check against delivery.