



OPPI

To the Minister of Municipal Affairs Comments on Bill 26 and Bill 27 March 15, 2004

Introduction

The Ontario Professional Planners Institute (OPPI) is the recognized voice of the province's planning profession. OPPI provides leadership and vision on policy 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. The breadth of our members' interests and the diversity of their experience provide OPPI with a unique perspective from which to contribute to planning reform. We urge the Ministry to draw on OPPI as a professional resource on matters relating to planning in Ontario.

Statement of Key Findings

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.

We wish to address six issues at this time.

1. Importance of Provincial Policy Statement Review (General Comments)
2. The Need for Definitions (Bill 26 and Bill 27)
3. Declaration of Provincial Interest (Bill 26)
4. Local Autonomy (Bill 26)
5. Effective Growth Management (Bill 27)
6. OMB Reforms (General Comments)

As the proposed legislation evolves, and our members have more opportunity to comment on specific aspects of the legislation, we may provide additional comments.

1. Implementing the Provincial Policy Statement (General Comments)

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 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 sooner rather than later.



One area of implementation that must be addressed is **how** to ensure that planning decisions are “consistent with” the PPS. Although the wording “be consistent with” is apparently 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. 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. If planning decisions are required to “be consistent with” the PPS, it must be made clear that there is room for practical planning decisions to protect one resource interest at the expense of another. 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 PPS review provides an excellent opportunity to provide a coordinated framework through which the government sets an overall direction for growth in the Province. In particular, the framework should include guidance on regional-scale planning issues such as transportation and infrastructure development, which need to be established on a province-wide basis. Within such a framework for growth, the PPS can allow for flexibility so that individual communities – rural areas, small cities, northern Ontario, the GTA – can make decisions that respond to local needs. This flexibility must also address the need for some municipalities to go beyond the minimum standards in the PPS and still “be consistent with” provincial policy.

2. Definitions (Bill 26 and Bill 27)

The definitions sections require further refinement to achieve what the Province intends. For example, in Bill 27 as currently worded, much activity in the rural area can be seen to be non-agricultural. Certain legitimate activities in the rural area must, of necessity, locate in rural areas. These uses should not be affected by the government’s initiative to limit urban sprawl. It may be more appropriate, in the context of Bill 27, to state what is *not* intended for rural areas – specifically no urban uses.

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 the intent of the legislation, the Province should ensure that identical definitions are included in both the *Planning Act* through Bill 26 and in the Provincial Policy Statement.

3. Declaration of Provincial Interest (Bill 26)

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.

4. Local Autonomy (Bill 26)

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.

5. Effective Growth Management (Bill 27)

Our policy work on growth management (Exploring Growth Management Roles in Ontario: Learning from "Who Does What" Elsewhere, September 2001¹) suggests that greenbelts are not an effective growth management strategy in and of themselves. Rather, they are part of a package of tools that can address growth management. There should be provision for appropriate land uses within greenbelts. Furthermore, municipalities and developers may need an economic incentive to protect land and to respect regional planning strategies.

The areas affected by Bill 27 are under immediate development pressure. However, other areas face similar pressures for boundary changes. The Province needs to take a "big-picture" approach and create a vision that applies to the whole province, not just specific regions. The



Province should give all areas that face development pressure the benefit of time to study key areas and identify ways to protect specific lands and contain urban sprawl.

Including the principles of growth management in the current planning reforms provides an opportunity to strengthen the environmental policy framework and review the effectiveness of current environmental protection policy within the context of economic development and infrastructure planning. To this end, we encourage the Province to explore tools complementary to greenbelt protection zones and other effective growth management strategies.

OPPI is prepared to make presentations to Mayor Maclsaac and the Greenbelt Task Force in order to further explore these tools and other aspects of the Bill 27 legislation.

6. OMB Reform (General Comments)

As professional planners, we believe that, on balance, the OMB plays an important role in the planning and development process. That said, OPPI believes that it is both possible and desirable to improve the way in which the OMB functions.

OPPI has considerable insight into Board function and processes. We encourage the Province to review our February 2002 comments on the Role and Function of the Ontario Municipal Board.² We welcome the opportunity to advance the recommendations included in our report and any other recommendations that may emerge as the government defines the direction it intends to take with respect to OMB reform.

Suggestions for Further Dialogue

In addition to these general comments on the proposed legislation, OPPI can contribute more to the discussion. We request that presentations before the Standing Committee be arranged at 2nd Reading to allow OPPI, and other stakeholders, the opportunity to explore matters in greater detail. OPPI is particularly interested in:

- Ensuring that the amendments have province-wide application;
- Appropriately defining the greenbelt study area; and
- Investigating opportunities to integrate all planning initiatives into the proposed statutes or any existing planning legislation.

We are dedicated to the promotion of good planning and would welcome the opportunity to work with the Ministry of Municipal Affairs to explain publicly the critical importance of managing growth, given the significant amount of land already approved for development in growing Ontario municipalities. OPPI has a great deal to contribute to both the policies and mechanics of better planning, and unparalleled knowledge of how to make the government's generally praiseworthy 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.



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Background on the OPPI

As the Ontario affiliate of Canadian Institute of Planners, OPPI is the only organization that brings together all of Ontario's professional planners and represents more than 2,600 practising planners across the province. In addition, there are approximately 400 student members.

OPPI members work for government, private industry, agencies, and academic institutions, engaging in a wide variety of practice areas including urban and rural community planning and design, and environmental assessment. A not-for-profit Ontario Corporation, OPPI is funded entirely by membership fees and program and activity revenue.

OPPI promotes good planning in Ontario. Through our public policy program, we conduct research on planning issues and disseminate this information to our members, government, media and the public.

Sincerely,
Don May, MCIP, RPP
President