



Committee Report

To: Warden Mitch Twolan
Members of the Planning and Development Committee

From: Kara Van Myall
Director of Planning and Development

Date: August 1, 2019

Re: Proposed Planning Act Regulations related to Bill 108

Recommendation:

That the proposed planning act regulations related to Bill 108 Report be forwarded to the Ministry of Municipal Affairs as the County of Bruce's Comments on the Environmental Registry of Ontario posting [#019-0181](#).

Background:

The Province has passed Bill 108, the More Homes, More Choices Act, and it has received royal assent. Bruce County [provided comments](#) on the Bill to the Province following Committee discussion.

The Province is currently seeking comments on regulations that would assist in the implementation of the Bill. This report addresses proposed regulations related to the Planning Act that are relevant to land use planning in Bruce County. The deadline for sending comments to the province is August 6, 2019. Proposed regulations related to other legislation have different deadlines and comments may be advanced in upcoming PDC agendas.

Summary:

Bruce County offers the following comments to the Province as it considers regulations to implement Bill 108. The comments follow the order of the changes outlined in the registry posting. The Comments are summarized below and expanded in the following pages.

1. Transition regulations giving broader powers to the Local Planning Appeals Tribunal should apply to appeals filed after Royal Assent, and not to all as-yet unscheduled appeals.
2. The force-and-effect date for new shortened decision timeframes provide Municipalities little time to adapt to this change. The new timeframes should come into effect on either the regulation approval date or January 1, 2020.

3. Removing the ability to appeal a Community Planning Permit System by-law ordered by the Province may place increased pressure on Councils in the lead-up to their decision to adopt the by-law.
4. Regulations related to additional residential units should provide opportunities for Municipalities to consider the availability of services and impacts where services are not available.
5. While Bruce County Municipalities do not currently use inclusionary zoning or increased density provisions, changes to the development charges / community benefit charge framework may impact their operations.

Expanded Review:

1. Transitional regulation for the Local Planning Appeals Tribunal

Changes described in the regulation posting include:

- Expanding the grounds of appeal of a decision or a non-decision on an official plan/amendment or zoning by-law/amendment (currently limited to consistency with PPS and conformity with Official Plan);
- Allowing the Local Planning Appeal Tribunal to make any land use planning decision the municipality or approval authority could have made regarding the merits of the matter before the Tribunal; and
- Coming into effect of the Planning Act changes that limit appeals of subdivision draft approvals, appeals of conditions, and changes to conditions

These would apply to appeals of decisions that have not yet been scheduled for a hearing by the Local Planning Appeal Tribunal, or for subdivisions where the appeal period starts or conditions are appealed after the changes come into effect, although no reference to an effect date for subdivisions is provided.

Further to Bruce County's comments on Bill 108, the backlog of former OMB appeals is not proof that the two-hearing process is not working, and the return to "de novo" hearings diminishes the role of local Councils and does little to streamline the process. Municipalities and applicants have invested in the preparation and filing of appeals under the Two-hearing process. These cases, including unscheduled cases, should continue through that process. We recommend that changes to the process as enacted by Bill 108 be applicable only to appeals filed since the bill received Royal Assent.

There appears to be a trend towards more complex legislation in terms of what can be appealed, why it can be appealed, and who can appeal it. While limiting appeals can present opportunities for streamlining, increasing the complexity of appeal rights requires the public and committees to develop an additional layer of understanding, beyond planning considerations, of procedural matters and their implications on the decision-making process.

2. Effective date for shorter decision-making timeframes

The regulation posting states: "The reduction for decision timelines on applications for official plan amendments (120 days), zoning by-law amendments (90 days), except where

concurrent with official plan amendment for same proposal) and plans of subdivision (120 days) would apply to complete applications submitted after Royal Assent.”

Bill 108 received Royal Assent on June 6, 2019. Comments on the regulation that sets June 6 as the day these timelines come into force are due by August 6th. A significant portion of the new (shorter) timeline for decisions on applications submitted since June 6th will have passed before the regulation is adopted establishing June 6th as the effective date.

To allow Municipalities time to adjust processes to the new timeframe, we recommend that the new timelines come into effect on the approval date of the regulation or January 1, 2020.

3. Sheltering Minister-ordered community planning permit systems by-laws from appeal
Community Planning Permit Systems (CPPS) are a tool that allows Municipalities to combine Zoning, Variance, Building Permit, and Site Plan approvals into one process that can provide greater flexibility. This tool is not currently used in Bruce County, and the Province has not ordered the County to develop or implement a CPPS. The proposed regulation would apply if the Province ordered the County or a lower-tier Municipality to develop a CPPS and would remove the ability for the CPPS by-law to be appealed. Although not stated in the posting, we would expect that the Minister would retain the right of appeal. Removal of general appeal opportunities as a means of resolving conflicts or concerns with the CPPS could result in additional pressure on a Council prior to its adoption of the CPPS by-law.

4. Additional Residential Unit Requirements and Standards

These regulations are intended to support the already-enacted Planning Act changes that require accessory units be permitted in both a detached dwelling / semi-detached dwelling / row house and in an ancillary building or structure (such as a coach house or above a detached garage).

This could yield a significant increase in the number of dwelling units on a lot; for example, a single-detached dwelling with one accessory unit in the building and one in an ancillary building, or more if there were 2 semi-detached dwellings each with an additional apartment, plus a unit in an ancillary building. Prior to Bill 108 a second unit was required to be permitted in either the primary building or an ancillary building, but not both.

The proposed regulations include defining and permitting tandem parking, requiring the same (or lower) parking requirements for additional units as for primary units, enabling units to be constructed regardless of age of primary dwelling, and permitting rental to any person regardless of whether the primary dwelling unit is owner-occupied.

These regulations make sense where services are appropriate and can accommodate the additional intensity of use. We note that other amendments through Bill 108 exempt these additional units from development charges. We would expect that service connection fees and local service improvements where the receiving infrastructure is undersized remain applicable as direct costs associated with the construction of additional dwelling units.

The level of intensification permitted may not however be appropriate in areas where services are not available. Several of Bruce County’s Rural Recreation areas have no water or sanitary sewer services and are remote from other services, stores, or employment

opportunities that would suggest them as appropriate areas for intensification or housing focused on affordability. Many of these areas have existing lots that do not meet lot size standards designed to avoid cumulative environmental impacts. Intensification on private services may not be appropriate in these areas.

In Ottawa, recently developed [coach house standards](#) outline a minimum lot area (4000 square metres) for accessory dwelling units on private services, with study requirements to demonstrate that the additional development is appropriate. The regulations, which are to address requirements and standards, should clearly authorize Municipalities to address servicing considerations for additional dwelling units.

5. Housekeeping Regulatory Changes - Inclusionary Zoning and Increased Density

This change relates to Planning Act changes through Bill 108 for inclusionary zoning (which relates to affordable housing) and increased density. This replaces increased density provisions with a community benefits charge framework and includes adjustments to the development charges framework.

No Bruce County Municipalities have applied inclusionary zoning at this time. The County does not currently have development charges. Local Councils are encouraged to review regulation changes in respect of Community Benefit Charges and Development Charges for impacts on their Municipal operations and provide comments directly to the Ministry.

6. Additional Services added to the Development Charges Act

Capital costs of Ambulance and Waste Diversion services have been added to the list of eligible services for Development Charges. As these services are administered at the County level this change may provide an opportunity that should be considered by Council for future funding.

Financial/Staffing/Legal/IT Considerations:

There are no financial, staffing, legal or IT considerations associated with this report. Staff will adjust processes and notice documents in accordance with the Planning Act and regulations in force and effect.

Interdepartmental Consultation:

None.

Link to Strategic Goals and Elements:

Goal 5: Eliminate our own red tape:

- e. focus on the internal and external customer / client needs first

Goal 7: Stimulate and reward innovation and economic development:

- a. Streamline and simplify our Planning Processes (Official Plan, Zoning By-law)

Goal 9: Coordinated, Concerted effort to advance our agenda:

- b. Politicians and staff lobby associations and government in support of local policy needs;

- d. Make political and staff participation in provincial and federal committees a priority

Written by: Jakob Van Dorp, Senior Planner, Planning and Development

Approved by:

A handwritten signature in black ink, appearing to read 'Murray Clarke', written in a cursive style.

Murray Clarke
Acting Chief Administrative Officer