



Co-ordinated Land Use Planning Review
(EBR Registry #012-3256)

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Affairs and Housing

Submitted by: The Ontario Bar
Association, Municipal Law Section



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Introduction

The Ontario Bar Association (“OBA”) appreciates the opportunity to provide comments to the Ministry of Municipal Affairs and Housing (the “Ministry”) on the consultation process and discussion document relating to the 2015 co-ordinated land use planning review of the *Growth Plan for the Greater Golden Horseshoe*, the *Greenbelt Plan*, the *Oak Ridges Moraine Conservation Plan*, and the *Niagara Escarpment Plan* (the “Co-ordinated Review”).

The OBA

Established in 1907, the OBA is the largest voluntary legal organization in Ontario representing approximately 16,000 lawyers, law professors and students. In addition to providing legal education for its members, the OBA is pleased to analyze and assist government with dozens of legislative and policy initiatives each year - both in the interest of the profession and in the interest of the public.

This submission was prepared by the OBA Municipal Law Section, which has over 350 lawyers who are leading experts in land use planning matters representing proponents, municipalities, the public, developers and other stakeholders before courts and tribunals, including the Ontario Municipal Board.

Comments

The provincial plans have a significant impact on the advice we provide to our clients as the *Planning Act* requires all land use planning decisions to conform with, or in some instances not conflict with, the provincial plans. The OBA, therefore, has an interest in ensuring that the provincial plans contain rational, consistent and coherent policies.

Land use planning decisions often involve a balancing of competing interests and policy directives. As such, it is important that the provincial plans provide sufficient guidance as to how their policies should be interpreted and applied.

Although each provincial plan is intended to be read in its entirety with all relevant policies applied to each situation, certain land use planning matters necessarily involve two or



more competing policies, sometimes in two or more plans, where strict adherence to one policy may produce results which are at odds with another policy or another plan.

In the interest of producing clear, rational, and consistent policies, it is important that the Co-ordinated Review give specific consideration to the following:

- Clear direction should be provided relating to how municipal Official Plans and zoning by-laws should be brought into conformity with the provincial plans, and how policies should be reconciled.
- Harmonization of policy language and provisions. It would be prudent for there to be a thoughtful and comprehensive review of the policies and definitions in the plans to ensure the use of consistent language as may be appropriate.
- Clearly articulating when a policy is implicated/to be applied and whose responsibility it is for implementing the plan (e.g. by municipalities when developing their plans, by landowners when seeking development approvals, by proponents when seeking specific permits). The Lake Simcoe Protection Plan provides a good example where such direction is provided.
- If, as we believe, the intent of the provincial plans is for complex matters to be decided on a case-by-case basis using the best evidence available on all relevant and applicable policies, this intent could be more clearly articulated in the Implementation and Interpretation section of the plans.

With respect to the process for the Co-ordinated Review, we note that each of the four provincial plans being reviewed is enacted under its own specific legislation, which sets out a process for reviewing and amending the plan. In order to provide for a clear, transparent, and fair process, we recommend that the Ministry publish and keep up to date the working plan for the review that:

- Provides a clear road map on the plan review process that sets out when and how the legislative requirements for submissions, reports, hearing officers, and cabinet level decisions will be met.
- Identifies which stakeholders are being invited to participate in the plan review process, the forms, and timelines (e.g. Ministries, industry groups, municipalities, public sessions).



- Publishes all reports and submissions prepared by the Government, its ministries, and other stakeholders as part of the plan review process.

Conclusion

Overall, our objective is to ensure that the land use planning system is efficient and streamlined, while ensuring that there is an accountable and transparent process.

We thank you for considering our input and we look forward to reviewing a draft of any proposed changes to the provincial plans and making further comments at that time.