



PB6.1

Bill 108 – Proposed Amendments

to the Ontario Heritage Act

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Bill 108 - More Homes, More Choice Act

- On May 2, 2019, the Minister of Municipal Affairs and Housing issued its Ontario Housing Supply Action Plan. The Action Plan is detailed in Bill 108, the More Homes, More Choice Act
- Bill 108 amends 13 pieces of legislation including the Ontario Heritage Act (OHA)
- Schedule 11 details substantial changes to the OHA. Regulations governing transitional and other matters are pending and will prescribe the following:
 - Principles
 - Listing of Heritage Properties - contents of the notification
 - Content of designation by-laws
 - Prescribed Event
 - Complete Application for Alteration and Demolition Permits
- Overall, the City's position is that the proposed legislation will have significant impacts to the City relating to heritage conservation (identification, notification, application processes, timelines and protection). Most importantly, it will remove Council's final authority for Part IV designations.
- The Chief Planner submitted City Council's adopted recommendations to the Province on May 27th.

Key Areas of Change

Principles:

New section 26(0.1) will require Council to consider a set of prescribed principles when exercising its decision-making authority under prescribed sections of the Act.

Timing:

90 day timeline for decision on alteration and demolition permit requests

90 day timeline on when municipalities can give Notice of an Intention to Designate after a “prescribed event”

120 day timeline for Designation by-laws to be passed (90 days following the end of the objection period)

Process:

New complete application process for alteration and demolition of designated properties

Notice required for listings, owners can object

New appeal process for designations, LPAT to have final authority

Designations and Heritage Conservation Districts:

Designation by-laws – new mandatory content

Proposed Amendments

- Principles
- Listing of Heritage Properties
- Designation of Heritage Properties, Amendments, and Repeals of Designation Bylaws
- Appeal of Part IV designations
- Designation of Heritage Conservation Districts
- Alteration and Demolition

Principles

- A new section 26(0.1) will require Council to consider a set of prescribed principles when exercising its decision-making authority under prescribed sections of the Act.
- The Regulation has yet to be released

Listing of Heritage Properties

- Requires owner notification of Council decision to list a property on the Heritage Register within 30 days of the decision
- Allows owner objections to Council's decision, and requires Council to make a second decision if an objection is received
- No time frame is yet prescribed for an owner to object to a decision to list their property

Regulation:

Will prescribe the contents of the notification.

Listing of Heritage Properties

City's Recommendations:

City Council request the Province that if the objection process is to be maintained as currently proposed in Bill 108, **a time limit be included within which a person may object**, by adding to the end of Subsection 27(7) of the Ontario Heritage Act, "within 30 days of the notice referred to in Subsection (5)."

City Council request the Province to amend Section 27 of the Ontario Heritage Act, to provide for a more efficient process for listings to **allow an owner to object to a listing at a statutory public meeting before Council makes any decision**, and in turn to make proposed Subsection 27(9) (Restriction on demolition, etc.) applicable from the date that notice is given respecting the proposed listing.

Part IV Designations

- Council has 90 days to provide a notice of intention to designate following a “prescribed event,” subject to exceptions that may be prescribed.
- Council will be required to pass a designation bylaw within 120 days of publishing a notice of intention to designate, or the intention will be deemed to have been withdrawn
- Requires Council to make a decision on a notice of objection within 90 days after the end of the 30 day period during which an objection may be filed

Regulations:

- Designation by-laws - mandatory requirements for the content of designation by-laws
- Prescribed Event - has yet to be defined; may refer to the submission of an application under the Planning Act

Part IV Designations

City's Recommendations:

City Council request the Province to amend Section 29 of the Ontario Heritage Act, to provide for a more efficient process as follows:

- a. allow an owner to object to a notice of intention to designate at a statutory public meeting before Council makes any decision respecting designation;
- b. only permit an owner to appeal a notice of intention to designate to the Tribunal, or alternatively only permit an individual who has made an objection at a statutory public meeting to appeal a notice of intention to designate to the Tribunal;
- c. make the decision of Council to state its intention to designate appealable, rather than the By-law itself and delete the time limit for Designation By-laws to be passed; alternatively, extend the time period to pass a Designation By-law to one year; and
- d. if the opportunity to object to the Council's decision remains in the Act, then extend time periods for reconsideration of an intention to designate by Council to 180 days, allow for Council's decision to be appealed, and remove the timeframe within which a Designation By-law must be passed.

Designation of Heritage Properties, Amendments and Repeals of Designation Bylaws

- Abolishes the Conservation Review Board
- New right of appeal to the local Planning Appeal Tribunal (LPAT) from final decisions related to designation by-laws passed by a municipality, as well as from final municipal decisions on applications for alteration under Part IV.
- For designation by-law related decisions - Conservation Review Board (CRB) preliminary objection process to be replaced with a 30 day period to object to the municipality before a final decision is made (e.g, 30 days after a NOI is issued).
- Part IV designation appeals will be heard by the Local Planning Appeal Tribunal (LPAT)
- The LPAT will have final authority in the designation appeals process, and can dismiss, repeal or amend designation bylaws

Designation of Heritage Conservation Districts

- Heritage conservation district plans will be required to include a description of the district's heritage attributes, as well as the heritage attributes of properties within the district

City's Recommendation:

- City Council request the Province to amend Part V of the Ontario Heritage Act to provide clarity on the relationship between the individual heritage values and attributes of properties within the Heritage Conservation Districts and the values and attributes of the District, particularly as it pertains to alterations.

Alteration and Demolition Permits

- Clarify that demolition or removal under section 34 (and certain other similar sections) of the Act includes demolition or removal of heritage attributes, as well as demolition or removal of a building or structure.
- Clarify that alter does not include demolition or removal for purposes of certain sections of the Act.
- Council will be required to make a decision on alteration and demolition permits within 90 days of a complete application
- Staff have 60 days to notify applicants whether they have submitted a complete application
- Planning Appeal Tribunal (LPAT) will have final decisions on applications for alteration under Part IV.

Regulations:

- The content of a complete application
- The process following the issuance of a notice of incomplete application

Alteration and Demolition Permits

City Recommendations:

City Council request the Province to amend the Ontario Heritage Act Subsections 33(5) and 34(4.1) to change the headings to "Notice of Incomplete Application" and to add the words "that the application is incomplete" after the words "notify the applicant" for clarification.

City Council request the Province to amend the Ontario Heritage Act to extend time periods for consideration of alteration from 90 days to 180 days by deleting "90" and replacing it with "180" in Subsections 33(7)1 and 34(4.3)1; and/or make amendments to the Planning Act to state that where an application to alter or demolish is made under Sections 33 or 34 of the Ontario Heritage Act that the timelines in the Ontario Heritage Act prevail to the extent of any conflict for the purposes of the date an appeal may be made under the Planning Act regarding a Planning Act application.

Provincial Guidance on Cultural Heritage Landscapes

- The Ministry of Tourism, Culture and Sport will develop new guidance on Cultural Heritage Landscapes and update the Ontario Heritage Toolkit
- Cultural Heritage Landscapes guidance will include:
 - A process to identify and choose appropriate tools to protect cultural heritage landscapes, while allowing for sustainable and compatible development.
 - More uniformity and consistency in how cultural heritage landscapes are addressed under the Planning Act and the Ontario Heritage Act.

City Council on May 14 and 15, 2019, adopted the following:

City Council request the Province to extend the June 1, 2019 timeline on the Environmental Registry of Ontario for comments on proposed Bill 108 to provide additional time for municipalities to comment on the proposed legislation.

City Council request the Province to consult with the City prior to issuing any draft regulations associated with proposed Bill 108, before the coming into force of the proposed Bill, such that the City can fully understand and be able to analyze the impact of the proposed Bill changes comprehensively, including the cumulative financial impacts to municipalities.

City Council request the Province to provide compensation to the City of Toronto for the increased number of appeals and litigation if the proposed legislative changes to the Local Planning Appeal Tribunal process proposed in Bill 108 are implemented.

City Council request the Province to provide a transparent and thorough stakeholder consultation process in the development of all regulations associated with proposed Bill 108.

City Council request the Province to hold fulsome standing committee meetings to enable stakeholders to make both deputations and submissions on the proposed regulations.

Questions?