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J. Adema

TO:	CHAIR AND MEMBERS PLANNING & ENVIRONMENT COMMITTEE
FROM:	JOHN M. FLEMING MANAGING DIRECTOR, PLANNING AND CITY PLANNER
SUBJECT:	INFORMATION REPORT BILL 73 AMENDMENTS TO THE PLANNING ACT MEETING ON MONDAY, JUNE 1, 2015

RECOMMENDATION

That, on the recommendation of the Managing Director, Planning and City Planner, this report **BE RECEIVED** for information.

BACKGROUND

On March 5, 2015 Bill 73, the *Smart Growth for Our Communities Act*, was introduced in the Legislative Assembly of Ontario. The Bill includes amendments to the *Planning Act* and *Development Charges Act*. The new Act is the outcome of consultations by the province on the land use planning and appeal system and development charges system that began in October, 2013.

The Hon. Ted McMeekin, Minister of Municipal Affairs and Housing and the sponsor of Bill 73, indicated in his statement on the Bill that “if passed, the Smart Growth for Our Communities Act would give residents a greater, more meaningful say in how their communities grow.” The amendments are also intended to set clearer rules for land use planning and give municipalities more independence to make local decisions.

As a Government Bill, it is anticipated that Bill 73 will be passed in the current session of Parliament. The Bill was debated in its second reading on April 21, 2015, however the timeline for a third reading and Royal Assent is unknown.

This report provides background information on Bill 73 as it relates to amendments to the *Planning Act* and outlines aspects that may impact planning processes in the City of London. This report does not describe possible implications of proposed amendments to the *Development Charges Act*. Questions regarding amendments to the *Development Charges Act* should be directed to staff in the Development Finance division.

SUMMARY OF PLANNING ACT AMENDMENTS IN BILL 73
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The Smart Growth for Our Communities Act includes amendments to the *Planning Act* that would change several sections and have a variety of impacts on the planning process in London. Below is a summary of changes to the *Planning Act* of which Council should be aware. This report discusses the changes to the legislation that impact the adoption of new official plans and zoning by-laws, OMB appeal processes, and other planning processes significant to the City of London context.

With regards to the adoption of new official plans and zoning by-laws:

- Currently the *Planning Act* allows for global appeals of new official plans, where an appellant may submit an appeal to the entire plan without specifying specific

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lands or policies that are of concern. Bill 73 will only allow appeals connected to specific issues with a plan. This will change the number and nature of appeals to a new official plan, and will likely result a shortened schedule of hearings as each would be scoped to the specific issues identified in the appeal.

- Bill 73 applies a moratorium on amendment applications for a two-year period following the adoption of a new official plan or zoning by-law. This moratorium applies to general and site specific official plan and zoning by-law amendments and minor variance applications. This change shows respect for the authority of Council and the long process of implementing a new Official Plan or Zoning By-law. It also places more weight on the decision of Council as there is no opportunity for an amendment application to be submitted for a two year period following adoption. In instances where Council finds that an amendment to a plan or by-law is necessary, an exemption to the moratorium may be granted.
- The *Planning Act* currently requires that a comprehensive review of an official plan be completed every five years. Bill 73 revises that official plan review schedule by requiring a comprehensive review ten years after the initial adoption of a plan and at five year intervals thereafter. This recognizes the comprehensive and in-depth process that is required to adopt a new official plan. It is also consistent with another change to the *Planning Act* in Bill 73 that requires provincial policy statements to be reviewed every ten years instead of five.
- Bill 73 adds a section that states when a new official plan is adopted, parts of the plan cannot be appealed that identify an area as being within a vulnerable area as defined by the Clean Water Act.

With regards to appeals to the OMB:

- When the OMB considers an appeal of a decision made by Council, the *Planning Act* requires the OMB member to “have regard to” decisions relating to the same planning matter, and to any supporting information and material they considered in making those decisions. For appeals that are submitted due to a lack of decision by Council in the statutory timeframe there is no such clause. Bill 73 adds a subsection that requires the OMB member to have regard to any information material that the City received in relation to an appeal due to no decision by Council.
- Bill 73 requires that any appeals to a planning decision submitted on the basis of non-compliance with provincial policies must specify the specific discrepancy between provincial policy and the decision. Otherwise the appeal may be dismissed prior to the hearing date. This amendment will change the number and nature of appeals related to provincial policy by scoping hearings to address certain issues and ensuring that hearings are only scheduled for valid appeals.
- For certain appeals, Bill 73 gives the City authority to use mediation, conciliation, or other dispute resolution techniques prior to scheduling a hearing at the OMB. Where these dispute resolution techniques are successful the agreement reached between parties will be final and a board hearing is not required. This amendment grants the City more options when a planning decision is appealed and may allow for greater decision making ability by Council. It gives the City the ability to agree to a solution instead of being required to comply with a decision made by the OMB.

With regards to other planning processes:

- Currently under the *Planning Act* municipalities are permitted to appoint planning advisory committees, but they are not required and there are no requirements regarding who may be appointed. At the City of London, the Planning and Environment Committee functions as a planning advisory committee that is also a Standing Committee of Council. Bill 73 provides new wording for this section of

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the *Planning Act* and changes it such that a planning advisory committee will be mandatory and required to include at least one member who is not on Council or a City employee. Therefore, the required planning advisory committee cannot be a Standing Committee of Council. Because the Planning and Environment Committee does not meet the requirements of a planning advisory committee listed in Bill 73, revisions to the planning process in London would be required to comply with the *Planning Act* amendments.

- The *Planning Act* allows municipalities to require parkland dedication as part of a development application. As an alternative, a municipality may also accept cash-in-lieu of parkland. Bill 73 reduces the amount of cash-in-lieu of parkland that may be required from 1 hectare per 300 dwelling units to 1 hectare per 500 dwelling units. It also requires that a parks plan be in place in order to collect cash-in-lieu of parkland. When parkland is dedicated the rate remains 1 hectare per 300 dwelling units.
- The *Planning Act* currently allows municipalities to implement a development permit system, which is preferred by the province over traditional planning processes. The Ministry of Municipal Affairs and Housing states on its website that “The development permit system benefits not only municipalities and the community, but also individual land owners by providing a similar level of certainty as exists in zoning while also providing the added benefits of streamlining, flexibility and the convenience of a one-stop source for planning approvals.” Bill 73 will add a new section to the *Planning Act* that gives the province authority to require municipalities to adopt a development permit system for prescribed purposes. If this new authority were applied in London, the City would need to make significant changes to its planning approvals processes

The amendments to the *Planning Act* in Bill 73 benefits municipal governments by increasing their authority to make decisions on local matters and reducing the impact of appeals, especially as it relates to new planning documents. If the *Planning Act* amendments included in Bill 73 are approved, the City will need to consider revisions to its planning process, particularly relating to establishing a planning advisory committee and possible future implementation of a development permit system.

IMPLICATIONS FOR THE LONDON PLAN

The timing of Bill 73 warrants special consideration by Council as it may coincide with the completion of The London Plan. It is anticipated that The London Plan will be presented to Council for adoption in late 2015. This is also the potential timeframe for the enactment of the Smart Growth for Our Communities Act in Bill 73. Given that some parts of the proposed amendment to the *Planning Act* relate specifically to adopting new official plans, it may be appropriate for the City to await the enactment of the *Planning Act* amendments in Bill 73 before adopting The London Plan.

Staff will monitor the status of the proposed amendments and, if required, will report to Council on the anticipated timing of the *Planning Act* Amendments.

If The London Plan is to be adopted after the enactment of the Smart Growth for Our Communities Act, some minor changes will be required to the Plan for conformity with amendments to the *Planning Act*.

CONCLUSION

The proposed amendments to the *Planning Act* listed in Bill 73, the Smart Growth for Our Communities Act, have the potential to grant City Council greater authority with

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regards to land use planning. City staff are generally supportive of these amendments as the intent of Bill 73 is to improve the planning system in Ontario. Because of the potential implications on the timing of the adoption of The London Plan and on other planning processes it is important for Council to be aware of the impacts of Bill 73.

Staff do not propose that any immediate action be taken with regards to Bill 73. At this time staff believe it is best to continue with The London Plan review and consultation process. Staff will monitor Bill 73 for any changes to the expected timeframe or contents of the amendment and will report any relevant information to Council.

PREPARED BY:	SUBMITTED BY:
JUSTIN ADEMA, MCIP, RPP PLANNER II, LONG RANGE PLANNING AND RESEARCH	GREGG BARRETT, AICP MANAGER, LONG RANGE PLANNING AND RESEARCH
RECOMMENDED BY:	
JOHN M. FLEMING, MCIP, RPP MANAGING DIRECTOR, PLANNING AND CITY PLANNER	

May 27, 2015
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