



MEDIA BACKGROUNDER

Bill 51: Big step forward for Ontario environmental planning

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The Planning and Conservation Land Statute Law Amendment Act

With Bill 51 - *The Planning and Conservation Land Statute Law Amendment Act, 2005* - the government of Ontario has proposed a number of changes to the planning process to create stronger, more liveable and more sustainable communities. Bill 51 was introduced in December 2005. Environmental organizations have submitted formal comments on the legislation under the *Environmental Bill of Rights*.

Positive reforms proposed in Bill 51

1. Consistency with provincial policy

Bill 51 includes a requirement that municipal council and Ontario Municipal Board (OMB) decisions be consistent with provincial policies and plans at time that the council or the OMB takes a decision on a planning matter. This provision will prevent a flood of development applications in anticipation of an upcoming change to a more environmentally protective policy, as occurred in some municipalities just prior to the coming into effect of the new Provincial Policy Statement on March 1, 2005. At present, the laws and policies in effect at the time a developer files an application with a municipality are the ones that govern its fate.

2. Complete applications

In the proposed legislation, municipalities will be able to set out what is required for a development application to be considered “complete.” In the past, developers have submitted bare-bones preliminary information and expected decisions from councils based on that. These new provisions – whereby all a developer’s environmental, engineering and other studies would have to be filed with the municipality as part of the development application – may reduce the number of appeals to the OMB since councils will be better equipped with full information from applicants to make timely decisions.

3. Enhanced public consultation on official plans

Municipalities will also be required to hold public information meetings before the council meetings where official plan decisions are made. This provision enshrines in law a “best practice” that many municipalities have already instituted and may reduce the number of appeals to the OMB.

4. Mandatory five-year reviews of official plans

Currently, there is no requirement that municipal official plans be updated regularly. In many cases, existing plans no longer reflect current community conditions or current land-use planning policies protecting natural heritage areas, prime agricultural lands and other important public assets. Under Bill 51, municipalities will be required to update their official plans every five years to reflect current provincial policies.

5. Strengthening the provincial interest in municipal planning decisions

It is important that the provincial government’s interests, identified in the Planning Act as including “the protection of ecological systems, including natural areas, features and functions” and “the protection of the agricultural resources of the Province,” be fully reflected in municipal and OMB land use planning decisions. Bill 51 provides a mechanism for the Cabinet to intervene in specific cases to protect these interests.



6. Sustainable design of buildings and neighbourhoods

Bill 51 would permit municipalities to require energy efficiency and other environmental sustainability design requirements for both individual buildings and entire neighbourhoods.

Areas of concern for proposed Bill 51

1. Restrictions on OMB Appeals

Bill 51 takes a very restrictive approach to who is permitted to appeal municipal planning decisions to the OMB, and to the introduction of new information at OMB hearings that was not before municipal councils when they made their decisions on developments. These provisions may work against the ability of community and other public interest groups to participate in municipal and OMB decision-making processes.

2. No provisions for intervenor funding

Neither Bill 51 nor accompanying proposals for administrative reforms to the OMB hearing process addresses long-standing concerns regarding the lack of intervenor funding for community and public interest groups participating in OMB appeals. The absence of an intervenor funding program places community and public interest groups at a serious disadvantage at OMB hearings compared to the significant financial resources of developers, as well as municipalities' ability to tap into their property tax base. The Province should set up a multi-stakeholder task force to design an intervenor funding program.

3. OMB appointments process not yet reformed

The Province has issued preliminary proposals to reform the OMB appointments process to address the qualifications and independence of OMB members, but they are not part of Bill 51 and their formal adoption is long overdue.

4. Exemption of Energy Projects from Planning Approvals

Bill 51 contains provisions that would allow the Cabinet to exempt energy-related projects from *all* land-use planning requirements. This may result in facilities that are sited on hazard lands or that damage important natural heritage features, and whose approvals are regarded as illegitimate by host communities.

The groups

Canadian Environmental Law Association is a non-profit, public interest organization established in 1970 to use existing laws to protect the environment and to advocate environmental law reforms.

Environmental Defence protects the environment and human health. We research. We educate. We go to court when we have to. All in order to ensure clean air, safe food and thriving ecosystems. Nationwide.

Ontario Nature protects and restores natural habitats through research, education and conservation, connecting thousands of individuals and communities with nature.

The Pembina Institute is a national independent environment and energy policy research and education organization. Building sustainable communities is a major focus of the Institute's work.

Sierra Legal Defence Fund is a national environmental law organization dedicated to defending Canadians' fundamental right to a clean, healthy natural environment.