

Bill 139/LPAT

Potential Implications for the City of Barrie

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Presentation Highlights

1. Overview of Changes to the Legislation
2. Bill 139 Highlights (Planning/Appeal)
3. Appeal Process
4. Timelines
5. Opportunities
6. Challenges
7. Summary

Overview of Changes to the Land Use Planning and Appeal System

- OMB to be replaced and continued as the Local Planning Appeal Tribunal (“Tribunal”)
- Narrow the scope and application of section 2.1 of the *Planning Act*
 - This means that section 2.1 will no longer be applicable to:
 - public or private OP, OPA, ZB, or ZBA refusals or approvals unless it is on a second appeal or the Minister has declared a provincial interest in the matter;
 - non-decisions of private OPA applications or ZB applications;
 - site plan non-decision appeals; or,
 - minor variance appeals.
- Hearings will no longer be “de novo”
- Two stage hearing process

Overview of Changes to the Land Use Planning and Appeal System

- Two new tests to meet on appeal:
 - 1. Consistency/Conformity Test: applies to a decision by council to adopt or approve an official plan or an official plan amendment (ss. 17(24)); a decision of an approval authority that approved or did not approve all or part of an official plan or official plan amendment (ss. 17(36)); a decision to pass a zoning by-law (ss. 34(19));
 - 2. Dual Appeal Test: applies to a council refusal or a non-decision on a privately-initiated official plan amendment (ss. 22(7)); and a council refusal or non-decision on a zoning by-law amendment (ss. 34(11))
- Notices of appeal: must specifically outline how the Consistency/Conformity Test or Dual Appeal Test is being met
- Expanded powers to dismiss without a hearing: “shall dismiss” instead of “may dismiss”

Bill 139 Highlights (Planning/Appeal)

Planning

More Municipal Control

- Two year time out for new Secondary Plans
- No appeal of Interim Control Bylaws when first passed
- Longer Decision Timelines
- Protected Major Transit Station Area

Strong Community Voice

- Consistency/Conformity Standard
- Requirement to Send New Info Back to Council
- LPAT Authority Limited to Matters that were part of Council Decision

Protecting Public Interest

- No Appeals of Major Provincial Decisions
- Remove mandatory referral of Ministers Zoning Orders
- Climate Change policies in all OPs
- Affordable Housing policies in all OPs

Appeal

LPAT

- Province-wide body for land use planning matters

LPAT Support Center

- New independent agency

Supporting Citizens

- LPAT Support Centre
- User friendly Website
- LPAT Decisions publicly accessible

Modernized Processes and Reducing Adversarial Hearings

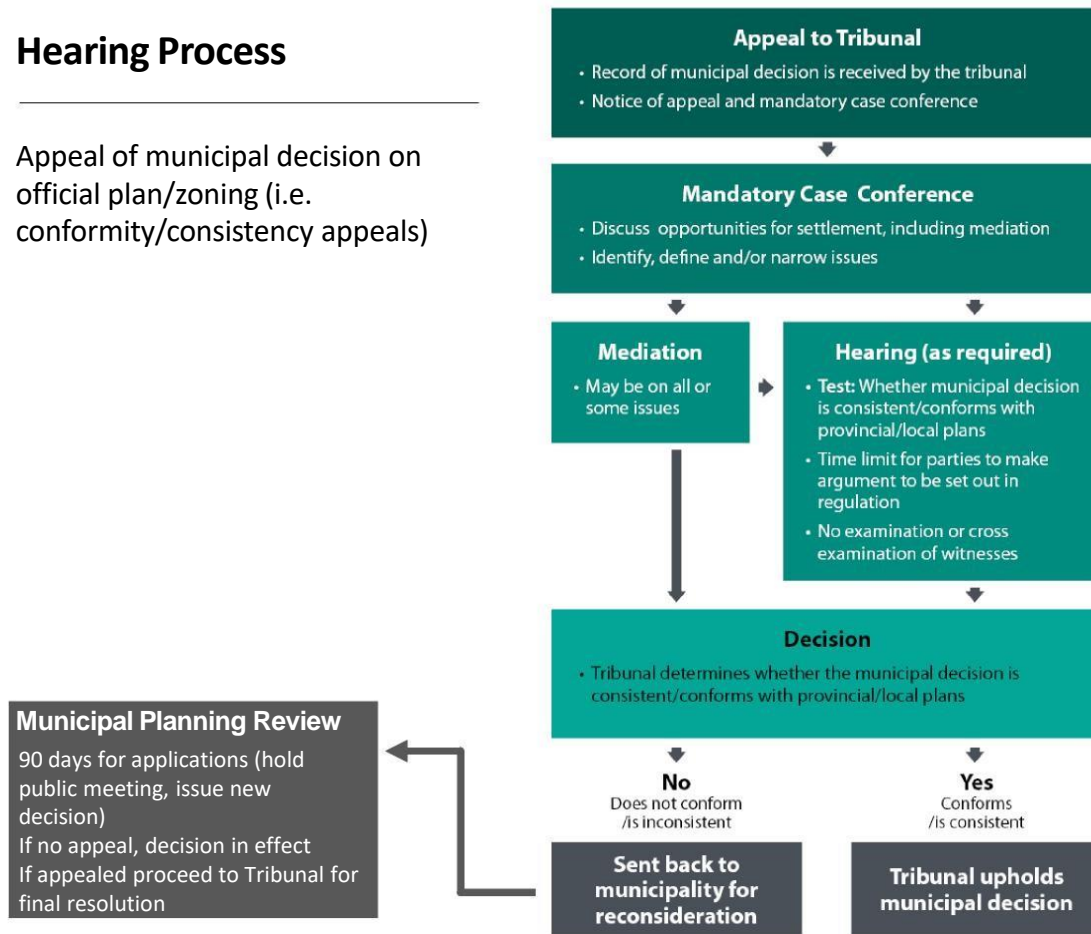
- Mandatory Case Management
- No oral testimony and revised evidence record requirements
- Promote active adjudication

Appeal Process

Appendix B – Proposed Planning and Appeal Process

Hearing Process

Appeal of municipal decision on official plan/zoning (i.e. conformity/consistency appeals)



Timelines

- Longer decision timelines in order to:
 - Assess planning matters and hear input from the public before making a decision
 - More time to negotiate solutions to possible issues and potentially avoid delays
- Decision Timelines extended by 30 days
 - OP and OPA – 210 days
 - ZBLA and Holding Bylaws – 150 days

Opportunities

- Increase certainty in local processes and local policy
- Support local decision making, coupled with clear and protected provincial policy and provincial interest
- More time to assess planning matters and to negotiate potential solutions and avoid appeals
- Support for implementation of intensification that support higher order transit infrastructure; more control over development in transit corridors
- Support for climate change and affordable housing policy

Challenges

- Fairness
 - Process in front of council
 - Appeal procedures
 - Record before council
- Reports to Council
 - Consistency/Conformity test
 - Record before council
 - Timing
 - Decisions that differ from recommendation
- Complete Application Requirements
- Learning as we go

Summary

- Changes are now in effect
- Staff are working through how to implement
- Council should be aware of the consistency/conformity test in decision making
- Patience needed as we all respond to the new rules from the Province