



Corporation of the Municipality of Temagami

Memorandum to Council

Memo No.
2018-M-026

☒ **Staff**
☐ **Committee**

Subject: Changes to the Land Use Planning Appeal System – Building Better Communities & Conserving Watersheds Act, 2017

Agenda Date: April 17 ,2018

Attachments for Information:

- Overview of changes
- Job Aid Implementation Table

RECOMMENDATION

This memorandum is to recommend that Council consider the following motion:

WHEREAS Council deems it desirable to further the training of current/newly appointed Committee members, and members of Council; AND WHEREAS Council concedes that legislation is continuously changing; AND WHEREAS Council deems it desirable to further have training opportunity regarding the Planning Act changes taken into effect April 3, 2018; NOW THEREFORE BE IT RESOLVED THAT Council receive Memo 2018-M-026; AND FURTHER THAT Council invite Christopher Brown, Planner of the Ministry of Municipal Affairs to come and make a presentation to Council; AND FURTHER THAT Council also hereby invite members of the Committee of Adjustment, Planning Advisory Committee, and members of the public to attend and participate in this training session.

INFORMATION

In the spring of 2016 the review process began, outreaching to gain input from publics, municipalities & First Nations communities on recommended changes to the operations, practices and procedures surrounding the Ontario Municipal Board (OMB).

Bill 139, *Building Better Communities & Conserving Watershed Act*, 2017 received Royal Assent in December of 2017. These changes proposed in Bill 139 were to Repeal the *Ontario Municipal Board Act* and replace with the *Local Planning Appeal Tribunal (LPAT), Act 2017*. LPAT replaces the OMB as the appeal body province-wide. Some of the changes with Bill 139 give more empowerment to municipalities, give voice regarding land use decisions and enhance the protection of public interest. The attached overview of changes and job aid implementation table is attached for your information.

To assist municipalities facilitate these legislative changes, Christopher Brown, Planner from the Ministry of Municipal Affairs would be pleased to come and make a presentation to the Council, Committee of Adjustment, Planning Advisory Committee and members of the public on the changes; however, he requires a resolution of Council to do so.

Prepared by:

Approved for Council consideration by:

Tammy Lepage,
Planning Assistant

Elaine Gunnell,
Municipal Clerk/ Acting CAO

Name, Position

Name, Position

Building Better Communities and Conserving Watersheds Act, 2017



OVERVIEW OF CHANGES TO THE LAND USE PLANNING AND APPEAL SYSTEM



MUNICIPAL AND GOVERNMENT INFORMATION SESSION

Ontario Municipal Board (OMB) Review

- Review began Spring 2016
- Sought to recommend changes to improve the Ontario Municipal Board's role within broader land use planning system and address recurring concerns among many groups that:
 - too many decisions are appealed, hearings are increasingly complex and costly
 - there needs to be more respect and deference to decisions made by local councils
 - more needs to be done to increase the use of mediation and reduce adversarial nature of hearings
 - public and community groups feel they do not have the knowledge or resources to meaningfully participate in the process
- While previous changes had been made impacting how the OMB dealt with land use planning appeals, these did not address the OMB's operations, practices and procedures
 - Strong Communities (Planning Amendment) Act, 2004 (Bill 26)
 - Planning and Conservation Land Statute Law Amendment Act, 2006 (Bill 51)
 - Smart Growth for Our Communities Act, 2015 (Bill 73)

OMB Review – Process and Intent

- Jointly led by Ministry of Municipal Affairs (MMA) and Ministry of the Attorney General (MAG)
- Focused on “scope” and “effectiveness” of the OMB
 - scope - what Board deals with (Planning Act)
 - effectiveness - how Board operates (OMB Act)
- Key principles framing review:
 - protecting long term public interests
 - maintaining / improving access to dispute resolution
 - transparency in hearing processes and decision-making
 - minimizing impacts on court system
- Out of scope: eliminating the OMB

Province-wide Consultation

- Broad province-wide outreach engaged municipalities, stakeholders, Indigenous communities and the public
- Spring 2016 - web posting and e-consultation
- October 2016 - public consultation document released proposing specific changes in key areas and inviting feedback
- Environmental Bill of Rights and Regulatory Registry postings – 75 day postings ended December 19, 2016
- 12 Regional Public Town Halls - Newmarket, Clarington, Hamilton, Windsor, London, Guelph, Thunder Bay, Sudbury, Ottawa, Mississauga and Toronto - approximately 700 participants
- MPP-led workshops with their constituents

What We Heard

- Approximately 1,100 written submissions received
- Broad range of views expressed, broad-based support for undertaking a review of the OMB
- Too many land use decisions are appealed
- More deference to municipal decisions needed
- Need to “level the playing field”
- Hearings are long and adversarial, increase use of mediation
- Overall mixed views from many groups on possible changes to Planning Act

Bill 139 Milestones

- Introduction / First Reading May 30, 2017
- Second Reading /
Referred to Standing Committee September 27, 2017
- EBR / Regulatory Registry Postings
(proposed regulation changes) December 7, 2017
- Third Reading / Royal Assent December 12, 2017

Bill 139 Highlights

- Building Better Communities and Conserving Watersheds Act, 2017 (Bill 139) received Royal Assent December 12, 2017
- Makes transformative changes to the land use planning and appeal system
- Repeals Ontario Municipal Board Act and replaces it with Local Planning Appeal Tribunal Act, 2017
- Enacts the Local Planning Appeal Support Centre Act, 2017 which establishes a new independent agency
- Makes changes to the Planning Act and various other Acts

Bill 139 Highlights

- **Planning Act changes:**
 - provide more municipal control
 - provide a strong community voice for local land use decisions
 - protect public interests
- **Local Planning and Appeal Tribunal Act, 2017**
 - establishes Local Planning Appeal Tribunal (LPAT) as the province-wide appeal body for land use planning matters
- **The LPAT:**
 - is an independent, dispute-resolution body
 - is governed by the Local Planning Appeal Tribunal Act
 - reports administratively through Environment and Land Tribunals Ontario to the Ministry of the Attorney General
- **Local Planning Appeal Support Centre Act, 2017**
 - creates the Local Planning Appeal Support Centre (LPASC)
 - establishes LPASC as a new independent agency
 - gives LPASC the mandate to establish and administer a cost-effective and efficient system for providing support services to persons determined to be eligible for matters governed by the Planning Act that are under the jurisdiction of the Tribunal

Timing

- Bill 139 changes to the land use planning and appeal system come into force upon proclamation
- There are some corresponding technical changes required to existing regulations under the Planning Act
- There will also be new regulations under the Planning Act and the Local Planning Appeal Tribunal Act, 2017 setting out:
 - transition for certain planning matters in process at the time the legislation comes into force
 - rules for matters and proceedings that come to the LPAT under the Planning Act
- Changes not addressed in the transition regulation would apply immediately upon proclamation

Building Better Communities and Conserving Watersheds Act, 2017



PLANNING ACT CHANGES MUNICIPAL AND GOVERNMENT INFORMATION SESSION

Key Areas of Change

More Municipal Control

- Two-Year “Time-Out” – New Secondary Plans
- No Appeal of Interim Control By-laws When First Passed
- More Authority for Local Appeal Bodies (LABs)
- Longer Decision Timelines
- Protected Major Transit Station Area (PMTSA)

Strong Community Voice

- Consistency / Conformity Standard
- Requirement to Send New Information Back to Approval Authority
- LPAT Authority Limited to Matters that were Part of Council Decision

Protecting Public Interests

- No Appeal of Major Provincial Decisions
- Minister’s Zoning Orders
- Climate Change
- Affordable Housing



Cannot apply to amend new secondary plans for two years, unless amendment is municipally-supported

Intended Outcomes

- Give municipalities more control over development in their communities
- Increase certainty in local planning processes, facilitate implementation of local policies

Previously

- Applications to amend a secondary plan could be made at any time

Implementation Considerations

- Change provides a two-year timeout for **new** secondary plans – removes ability to make applications to amend a new secondary plan for two years, unless proposed change is supported by council
- Planning Act defines secondary plan for the purposes of this provision
- “Timeout” would begin on the first day that any part of the secondary plan comes into effect
- Change shelters policies / designations that are contained within a secondary plan document - does not shelter policies that affect a secondary plan area but are not contained within the plan itself (e.g., secondary plan policies which rely on cross-references to policies in parent official plan)
- Complements change introduced through Smart Growth for Our Communities Act, 2015 that provided a two-year timeout for applications to amend new official plans and comprehensive zoning by-laws

No appeal of municipal interim control by-laws when first passed (except by Province)

Intended Outcomes

- Give municipalities more control over development in their communities
- Allow municipalities to redirect limited resources from responding to appeals to carrying out the planning studies intended by interim control by-laws

Previously

- Appeal of an interim control by-law could be made within 60 days of the passing or extension of the by-law

Implementation Considerations

- Any extension to interim control by-laws (beyond 1st year) is subject to appeal
- Province continues to have the ability to appeal
- Interim control by-laws allow municipalities to put a “pause” on development in a specific area in order to undertake required technical studies prior to possible enactment of a new zoning by-law; can be passed for a period of up to one year and can be extended prior to expiry so that the by-law is in place for up to two years from time first passed
- Once an area is subject to an interim control by-law, another interim control by-law cannot be passed to apply to the area for a minimum three year period following the expiry of the by-law

Authority of local appeal bodies (LABs) expanded to include adjudicating appeals related to site plans

Intended Outcomes

- Provide option to adjudicate additional appeals locally (i.e., site plan control)

Previously

- Changes made in 2007 provided municipalities with authority to establish a LAB for appeals regarding applications for minor variances and consents to sever land

Implementation Considerations

- Once established, a LAB replaces the function of the LPAT for these matters
- Municipalities can determine which types of authorized appeals (minor variance, consents, site plans) their LAB may adjudicate
- Some site plans could still be appealed to LPAT if they are linked to other applications (e.g., zoning)
- LAB decisions are final – they are only appealable to Divisional Court and only on a question of law (and decisions on motions for directions are not appealable)

Longer Decision Timelines

Decision timelines extended for official plans, official plan amendments and zoning by-law amendments

Intended Outcomes

- More time 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 appeals

Previously

- Official plans and official plan amendments - 180 days
- Zoning by-law amendments - 120 days
- Holding by-laws - 120 days

Implementation Considerations

- Timelines extended by 30 days:
 - official plans and official plan amendments - 210 days
 - zoning by-law amendments and holding by-laws - 150 days
- Decision timeline is 210 days where there are concurrent official plan amendment and zoning by-law amendment applications to a local municipality for the same proposal (joint applications)

Protected Major Transit Station Areas (PMTSAs)

New municipal tool to support transit infrastructure - restricts appeals of official plans and zoning by-laws / community planning permit by-laws in municipally-defined PMTSAs

Intended Outcomes

- Facilitate implementation of densities that support higher order transit infrastructure projects – transit that operates in whole or in part in a dedicated right of way, including heavy rail, light rail, buses
- Give municipalities more control over development in transit corridors

Previously

- Could not shelter transit-supportive densities from appeal under the Planning Act

Implementation Considerations

- Discretionary tool for municipalities that have “higher order transit” as defined in Planning Act
- Greater Golden Horseshoe municipalities may choose to use PMTSA tool to help implement MTSA policy direction in Growth Plan
- To use tool, municipalities need to establish the required official plan policies, subject to approval, and where appropriate, corresponding zoning by-law / Community Planning Permit System by-law provisions
- Municipalities can use planning tools like zoning by-laws or a community planning permit system to determine where the density should go and what form it should take

PMTSAs - How Process Works

NO APPEAL* of matters in the chart below when municipality establishes PMTSA official plan policies and zoning / Community Planning Permit System by-law provisions

Establishing the Official Plan Framework:

Official Plans: Minimum Requirements for PMTSAs

Upper-Tier Municipality	Lower-Tier Municipality	Single-Tier Municipality
<ul style="list-style-type: none"> Identify area around station or stop on higher order transit corridor as a “Protected” MTSA and delineate the area’s boundary Identify minimum density target across area (i.e., residents and jobs per hectare) Require lower-tier official plans to identify uses and minimum densities for buildings and structures 	<ul style="list-style-type: none"> Delineate “Protected” MTSA and identify minimum density targets in conformity with upper-tier official plan Identify permitted uses within area Identify minimum densities for buildings and structures in the area identified in upper-tier official plan 	<ul style="list-style-type: none"> Identify area around station or stop on higher order transit corridor as a “Protected” MTSA and delineate the area’s boundary Identify minimum density target across area (i.e., residents and jobs per hectare) Identify permitted uses within area Identify minimum densities for buildings and structures in the area
Density targets are set out in the Growth Plan for the Greater Golden Horseshoe and / or implementation support materials (e.g., MTO Transit-Supportive Guidelines)		

*Matters that Continue to be Appealable

- All other official plan policies (e.g., parkland, housing, environmental protection)
- All other zoning / community planning permit system requirements (e.g., bonusing, lot coverage, setbacks, parking)
- Minister can appeal any matter in a PMTSA

PMTSAs - How Process Works

Establishing the Zoning By-Law or Community Planning Permit By-Law Framework:

- Municipality needs to align zoning by-laws with their PMTSA official plan policies by identifying minimum densities; may also wish to identify minimum heights
- Municipalities also have the option to identify maximum densities and heights

Approving the Framework

- Municipalities need to signal their intent to use the PMTSA tool (e.g., they need to use the term “Protected” when developing their PMTSA framework for public consultation and submitting it for approval)
- Upper and single-tier PMTSA official plan policies must be approved by the Province
- Lower-tier PMTSA policies are to be developed within one year of the upper-tier PMTSA policies coming into effect and must be approved by the upper-tier
- Once approved, there is no ability to appeal the PMTSA official plan policies
- Corresponding zoning by-law provisions (i.e., density, height, use) are not subject to appeal, except by Minister

PMTSAs - How Process Works

Amending the Framework

- Once in place, cannot apply to amend the PMTSA official plan policies, unless supported by local council (i.e., upper-tier, lower-tier or single-tier)
- Any proposal (either municipally-initiated or privately-initiated) to amend the minimum PMTSA official plan policies requires approval by the Province or upper-tier municipality
- Once an amendment is approved, cannot appeal the PMTSA provisions

Applications to Amend Zoning By-law Provisions within PMTSA

- Any amendment to the zoning by-law must comply with the requirements of the official plan
- If the municipality supports the application and passes the zoning by-law amendment, the municipality's decision on the elements necessary to provide for the minimum density (i.e., uses, height and density) are not appealable, except by Minister
- If the municipality refuses or fails to make a decision on a zoning by-law amendment application, the applicant may appeal but only on the basis that both:
 - the existing zoning by-law does not reflect the policy direction set out in official plan or provincial policies and
 - the application brings the zoning by-law in line with the official plan and provincial policies

Restrict appeal grounds for official plans/amendments, zoning by-laws/amendments and community planning permit by-laws to only matters of consistency and/or conformity with provincial and/or municipal policies/plans

Intended Outcomes

- Increase deference to municipal decisions
- Provide more certainty in local planning process

Previously

- When appeal was lodged, OMB could make any planning decision that council or an approval authority could have made

Implementation Considerations

- Change limits ability of LPAT to overturn decisions made by locally-elected councils – LPAT must dismiss an appeal of a local decision unless it is inconsistent with the Provincial Policy Statement (PPS), does not conform / conflicts with provincial plans, does not conform with applicable official plan (e.g., upper-tier official plan)
- Municipalities will be better positioned to defend their decisions when official plans are consistent / conform with provincial policies and plans
- Onus is on appellant to set out reasons why council decision is inconsistent / does not conform with provincial policy and / or applicable official plan
- For appeals of a non-decision or a refusal, onus is on the applicant to demonstrate: (1) how their proposal would be consistent with provincial and local policies and (2) how existing official plan policies or zoning provisions fall short
- LPAT has authority to approve a settlement to which all specified parties have agreed – LPAT is required to confirm that any such settlement aligns with provincial and local policies / plans

Consistency / Conformity - What it Applies to

Consistency / Conformity standard applies to:

- appeals of municipal decisions / refusals on official plans, official plan amendments, zoning by-laws, zoning by-law amendments and community planning permit by-laws
- appeals of municipal non-decisions for applicant-initiated official plan or zoning by-law amendment applications

Note – There is a **two-part test** for all municipal refusal and non-decision appeals of applicant-initiated official plan or zoning by-law amendments:

An appeal of this nature would need to be made on the grounds that:

1. the part (or parts) of an official plan or zoning by-law that would be affected by the requested amendment is **inconsistent / does not conform** with provincial and local policies / plans; and
2. the requested amendment **is consistent / conforms** with provincial and local policies / plans

A hearing based solely on consistency / conformity does not apply to:

- appeals of tools that are exclusively site-specific in nature (e.g., subdivisions, consents, minor variances)
- appeals of approval authority non-decisions on official plans and official plan amendments

Consistency / Conformity Standard: Opportunity to Reconsider (Remedial Authority)

Requirement to return matter to municipality for new decision when LPAT determines that municipal decision / settlement on a major land use planning matter did not follow provincial / local policies

Intended Outcomes

- Increase deference to municipal decisions and more certainty in local planning process
- Provide municipalities an opportunity to reassess their original decision and address any shortcomings

Previously

- OMB was not required to return matter to municipality but instead had authority to make the final decision on an appeal

Implementation Considerations

- Change applies to appeals of official plans/amendments, zoning by-laws/amendments, and community planning permit by-laws where there are consistency / conformity issues
- Municipality has opportunity to address local matters in making a new decision
- If a matter is returned, municipality has up to 90 days to issue a new decision on an application
- 90 day timeline does not apply to municipally-initiated matters
- When reconsidering a planning application returned by LPAT, a municipality would need to reassess the application, provide notice of a public meeting, hold the public meeting and issue a new decision
- If a new municipal decision is not made within the timeframe, the matter can be appealed and LPAT makes the final decision

Requirement to Send New Information Back to Municipality

Requirement for LPAT to send new information and material at subdivision hearings back to municipality for re-evaluation of original decision if the municipality requests the information and material be returned

Intended Outcomes

- Increase certainty for municipalities that would like the opportunity to review new information on a subdivision application submitted during an appeal

Previously

- OMB had authority to determine whether to send new materials back to municipalities, based on test of whether it would have “materially affected” appealed decision

Implementation Considerations

- Gives municipalities the ability to require the LPAT to send material back
- Does not require all new information to be sent to municipalities, only information that is requested
- If sent back, a municipality would have 60 days to reconsider its decision and make a written recommendation to the LPAT, as per O. Reg. 549 / 06

LPAT Authority Limited to Matters that were Part of Council Decision

Clarification that LPAT authority is limited to only dealing with parts of an official plan that were part of Council's decision

Intended Outcomes

- Support local decision-making
- Recognize the role of municipalities as primary decision makers on their official plans

Previously

- Tribunal did not have authority to approve or modify any part of an official plan that was already in effect that was not part of the original municipal decision

Implementation Considerations

- Technical change that further clarifies existing Planning Act provision
- Change clarifies that the LPAT does not have authority to approve or modify any part of an official plan that is already in effect and was not added, amended, or revoked by the municipality when making their original decision

No appeal of provincial decisions on official plans and major official plan updates (s. 26)

Intended Outcomes

- Reduce number of appeals, including conformity exercises to provincial plans
- Increase certainty regarding implementation of provincial policies and interests
- Protect important provincial interests, such as public health and safety

Previously

- Provincial decisions, including provincial plan conformity exercises, could be appealed

Implementation Considerations

- Change means there is no appeal of a provincial decision to approve, modify or refuse all or part(s) of a new official plan or an official plan update where the Minister is the approval authority, including conformity exercises to provincial plans done through section 26 of Planning Act
- Province's decision cannot be appealed whether it is made within the statutory timeframe (210 days) or once the timeframe has expired - however, an appeal can be made if no provincial decision is issued when statutory timeframe has expired
- If the Province issues a partial decision, an appeal can be made on the part or parts of an official plan or amendment where no provincial decision was made within the statutory timeframe (210 days)
- Appeals of non-decisions (and partial non-decisions) by the Province are not subject to hearings based solely on consistency / conformity; however, other reforms apply (e.g., timelines for oral hearings)
- Province and municipalities will continue to work together to ensure both local and provincial matters are adequately addressed

Remove mandatory referral of MZO's

Intended Outcomes

- Greater certainty regarding implementation of provincial matters
- Provide the Minister with final discretion on matter, recognizing MZO's are used to protect provincial interests

Previously

- Any party could request referral of MZO to OMB
- Minister required to refer MZO to OMB unless: request did not disclose any apparent land use planning grounds, was not made in good faith, was frivolous or vexatious, was made only for purposes of delay, was an abuse of process

Implementation Considerations

- Change removes ability for anyone to require Minister to refer MZO to Tribunal - means that the Minister of Municipal Affairs is the final decision-maker related to any requests to amend or revoke a MZO
- Minister of Municipal Affairs retains authority to refer MZO to LPAT, if the Minister determines it to be appropriate
- Approach similar to Ontario Planning and Development Act process where Minister has final discretion on how to resolve the matter

Requirement for all municipal official plans to include climate change policies

Intended Outcomes

- Support Ontario's Climate Change Action Plan 2016-2020
- Support proactive planning for climate change

Previously

- Climate change policies were not explicitly required through section 16 of Planning Act; this section sets out goals, objectives and policies that need to be included in municipal official plans

Implementation Considerations

- Official plan policies must identify goals, objectives and actions to mitigate greenhouse gas emissions and adapt to a changing climate, including through increasing resiliency
- Legislative change complements and supports existing provincial policies
- Provincial land use policies, such as the Provincial Policy Statement 2014, already require municipalities to plan for and consider the impacts of climate change
- Ministry of Environment and Climate Change is preparing guidance material to assist municipalities

Requirement for all municipal official plans to include policies dealing with the adequate provision of affordable housing

Intended Outcomes

- Support implementation of provincial policies and plans that require an adequate supply of housing, including affordable housing

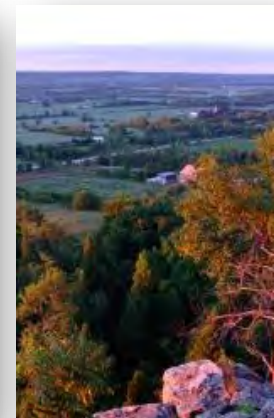
Previously

- Policies dealing with the adequate provision of affordable housing were not explicitly required through Section 16 of the Planning Act; this section sets out goals, objectives and policies that must be included in municipal official plans

Implementation Considerations

- Legislative change complements existing provincial policy requirements
- Provincial policies, such as the Provincial Policy Statement 2014, already require municipalities to plan for an appropriate range and mix of housing, including affordable housing
- Many municipalities already include policies that address this requirement

Building Better Communities and Conserving Watersheds Act, 2017



CHANGES TO HEARING PROCESS MUNICIPAL AND GOVERNMENT INFORMATION SESSION

Key Areas of Change

Local Planning Appeal Tribunal (“LPAT” or the “Tribunal”)

Supporting Citizens

- Establishing the Local Planning Appeal Support Centre (“LPASC” or the “Support Centre”)
- Creating User-friendly Websites for LPAT and LPASC
- Making LPAT Decisions Publicly-accessible

Modernized Processes and Reducing Adversarial Hearings

- Introducing Mandatory Case Management Conference Process
- Changing Requirements for Oral Testimony and Evidentiary Record
- Promoting Active Adjudication



The Ontario Municipal Board Act is repealed and LPAT is established as the province-wide appeal body for land use planning matters

Intended Outcomes

- Make the hearing process faster and fairer
- Active adjudication by Tribunal members

Previously

- Hearings cost too much and took too long
- Hearings were too adversarial and there was the need for more mediation

Key Details

- Modernize hearing procedures and practices, including timely processes and decisions
- Promoting alternative dispute resolution and reduced number of hearings

The new Local Planning Appeal Support Centre provides information and support for citizens who want to participate in the land use planning appeal process before the LPAT

Intended Outcomes

- Help level the playing field for citizens
- Provide the tools participants need to effectively participate in the land use planning appeal process
- Provide information on land use planning, guidance on board procedures, and advice and representation to citizens in certain matters

Previously

- Citizen Liaison Office provided limited citizen support

Key Details

- The Local Planning Appeal Support Centre is established as a separate agency, replaces Citizen Liaison Office
- LPASC will establish and administer a cost-effective and efficient system for providing support services to eligible persons regarding matters governed by the Planning Act that are under the jurisdiction of the Tribunal

User-friendly Websites

New, user-friendly websites for the Tribunal and the Local Planning Appeal Support Centre

Intended Outcomes

- Introduce new, user-friendly websites for new Tribunal and the Support Centre to help citizens engage in process
- Provide clear information on LPAT and the Support Centre practices and procedures
- Improve access to information and resources to better support citizen participation

Previously

- Citizens found the OMB website difficult to navigate and locate information
- The website lacked information about how a lay person could participate in an appeal and what they could expect at a hearing

Key Details

- The Tribunal website will provide clear information on Tribunal practices and procedures and will include:
 - easy-to-understand educational videos on the hearing process
 - easy access to past decisions

Making LPAT Decisions Publicly-Accessible

Require public posting of Tribunal decisions, including plain language executive summaries

Intended Outcomes

- Make the LPAT process easier to navigate by making decisions easier to understand
- Help citizens access Tribunal decisions
- Increase transparency in process

Previously

- Challenging for non-experts to access and understand OMB decisions
- Difficult to search for past OMB decisions

Key Details

- Adopt of plain language to make the LPAT process more accessible
- Provide of clearer rationale for decisions

Mandatory Case Management Conference Process

Implement mandatory case management conference process for major planning matters to narrow issues and promote settlement

Intended Outcomes

- Allow for hearings to be held in a fair, cost-effective and expeditious manner by providing opportunities for parties and other interested persons to come together to:
 - identify if additional parties should be added
 - confirm and narrow the issues in dispute
 - explore opportunities for mediation and settlement
 - deal with any other matter
- Empower the Tribunal to actively guide the proceedings to level the playing field and make it less adversarial for parties and participants

Previously

- OMB reviewed each case and decided, with input from the parties, whether to direct the case to mediation, hold a pre-hearing conference or schedule a hearing
- Most appeals proceeded directly to a hearing

Key Details

- Require for submissions to the Tribunal to be made 30 days before the case management conference
- At case management conference, Tribunal required to explore opportunities for mediation and settlement with parties

Statutory rules regarding the conduct of proceedings which limit oral testimony and the evidentiary record

Intended Outcomes

- Create of a faster, more efficient and cost-effective proceedings
- Less adversarial hearings

Previously

- More flexibility given to parties to determine what evidence to submit
- No limits on oral testimony often provided an inherent advantage to one party over the other during hearings

Key Details

- Reduce adversarial hearings by eliminating oral testimony in major land use planning appeals at the Tribunal
- On matters that fall under the consistency / conformity test, only parties to the appeal may provide oral submissions
- On matters that do not fall under the consistency / conformity test but are complex (i.e., approval authority non-decisions on official plans and plans of subdivision), parties and other persons, as determined by the Tribunal, may provide oral submission
- No persons or parties may introduce new evidence or call or examine witnesses at oral hearings

The LPAT Act clarifies the Tribunal's power to ask questions, examine a party and require a party to produce evidence

Intended Outcomes

- An approach to hearings in which adjudicators play a more active role to simplify and expedite the hearing process, and in some case to address inequalities between parties

Previously

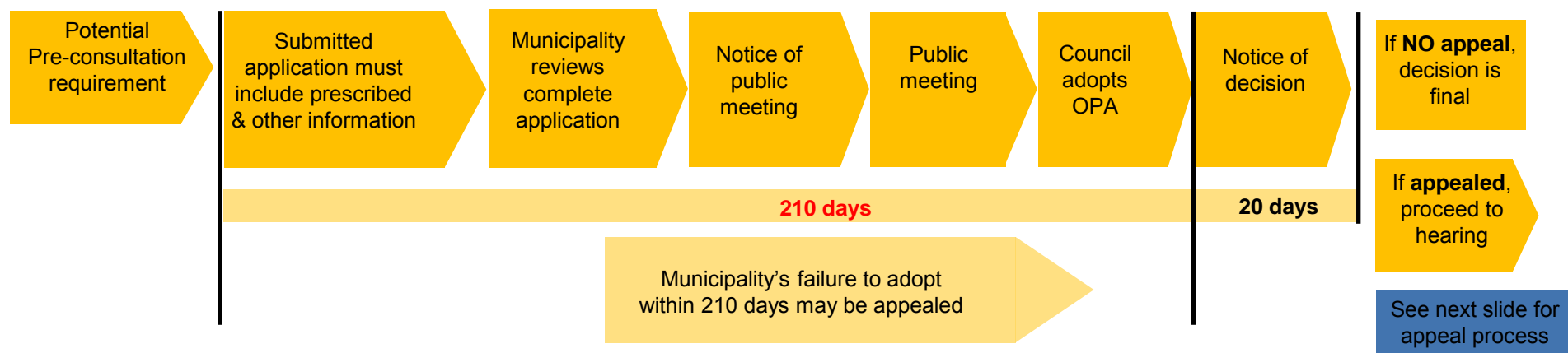
- OMB adopted a formal and legalistic superior court model

Key Details

- Active adjudication can lead to less adversarial hearings, which can benefit all parties
- Adjudicators play a more active role in proceedings by, for example, explaining rules and procedures, scoping issues and evidence and questioning witnesses

Planning and Appeal Process With Bill 139 Changes

Planning Process: Official Plan Amendment Initiated by Applicant and Exempt from Approval*



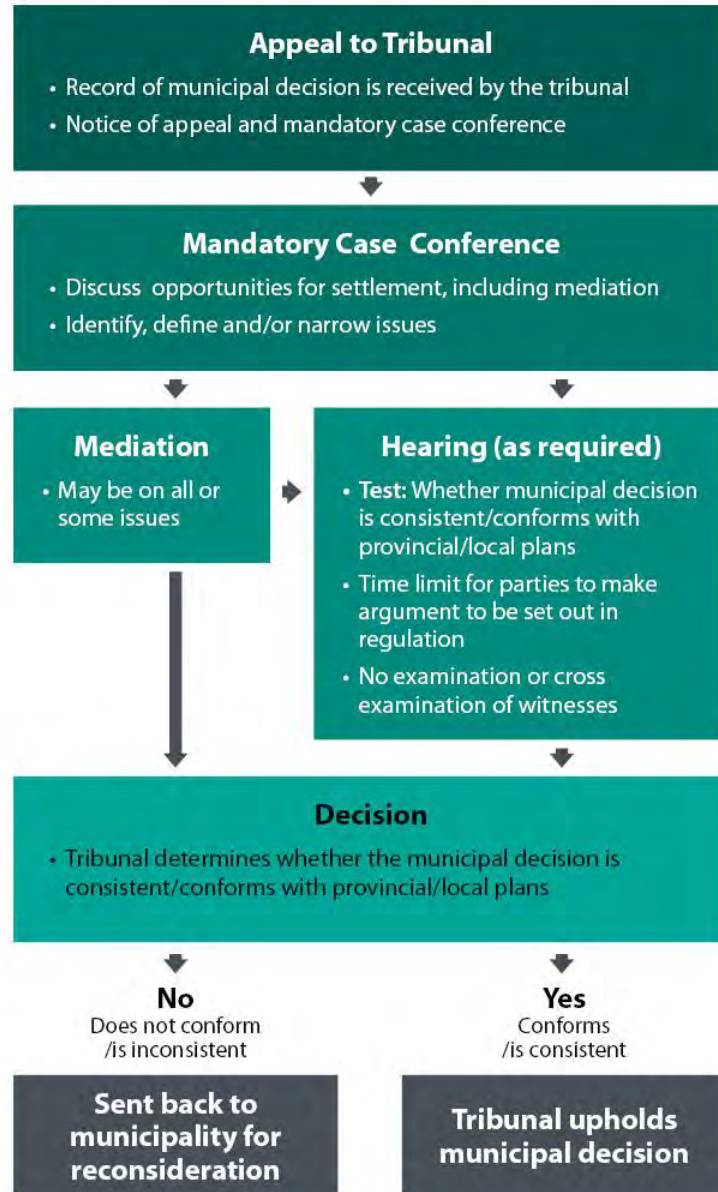
Note: Number of days based on extension of 180 day timeline to 210 day timeline

*Additional steps would be required where there is an approval authority

Planning and Appeal Process With Bill 139 Changes

New Hearing Process

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



Municipal Planning Review

- 90 days for applications (hold public meeting, issue new decision)
- If no appeal, decision in effect
- If appealed proceed to Tribunal for final resolution

Impact of Changes on Appeals

Planning Matter	Was a Decision Made?	Continued Ability to Appeal to Tribunal	Subject to Consistency/Conformity Review Standard	Ability to Appeal to LAB (currently only Toronto)
New Official Plans and s. 26 Updates approved by Province	Decision	No	n/a	n/a
	Non-decision	Yes	No	
Official Plan Amendments approved by Province	Decision	Yes	Yes	
	Non-decision	Yes	No	
Official Plans / Amendments not approved by Province	Decision	Yes*	Yes	
	Non-decision	Yes	No	
Privately-initiated Official Plan Amendments (s.22(7))	Municipal decision to refuse to adopt OPA	Yes	Yes	
	Non-decision	Yes	Yes	
Zoning By-laws / Community Planning Permit By-laws	Decision	Yes*	Yes	
	Non-decision	Yes	Yes	
Minister's Zoning Orders /Requests to amend or revoke	Decision or Non-decision	No	n/a	
Interim Control By-laws		No (unless extended beyond 1 year)	n/a	
Community Planning Permits		Yes	No** will benefit from procedural hearing improvements (e.g., hearing timelines)	Yes
Subdivisions/ Condominiums				Yes
Site Plans				Yes
Consents				Yes
Minor Variances				Yes

* Unless a municipality chooses to use the "Protected Major Transit Station Area" tool, then those policies / provisions would not be appealable

** Tools are subject to additional review criteria

Building Better Communities and Conserving Watersheds Act, 2017



**IN-EFFECT DATES, PROCLAMATION, REGULATIONS
MUNICIPAL AND GOVERNMENT INFORMATION SESSION**

In-Effect Date, Regulations

Effective Date of Legislation

- Bill 139, or Building Better Communities and Conserving Watersheds Act, 2017 is now in force, but the schedules to the Act that implement changes to the land use planning appeal system come into force on a day to be named by proclamation of the Lieutenant Governor

Transition Regulations

- New provisions in the regulations under the Planning Act and the Local Planning Appeal Tribunal Act, 2017 set out transition rules for certain Planning Act matters that are in process when the new system comes into force

Other Planning Act Regulations

- Some Planning Act changes require corresponding technical amendments to existing regulations

Other Local Planning Appeal Tribunal Act, 2017 Regulations

- Regulations made under the LPAT Act include those that:
 - prescribe timelines for appeals to the Tribunal under the Planning Act
 - establish time limits for submissions at oral hearings by the Tribunal of major land use planning appeals
 - govern the practices and procedures of the Tribunal

Planning Act Regulations – Amended

Regulation	Regulation #	Planning Act Reference
Official Plans and Plan Amendments	O. Reg. 543/06	ss. 17 & 22
Zoning, Holding, Interim Control By-laws	O. Reg. 545/06	ss. 34, 36 & 38
Plans of Subdivision	O. Reg. 544/06	s. 51
Consent Applications	O. Reg. 197/96	s. 53
Minor Variance Applications	O. Reg. 200/96	s. 45
Local Appeal Bodies	O. Reg. 551/06	s. 8.1 (& s. 115 COTA)
Community Planning Permits	O. Reg. 173/16	ss. 70.2 & 70.2.1
Prescribed Time Period	O. Reg. 549/06	s. 51
Transitional Matters - General	O. Reg. 174/16	s. 70.8

Amended Planning Act Regulations

- Technical changes made to a number of existing regulations to:
 - replace references to Ontario Municipal Board with Local Planning Appeal Tribunal
 - update relevant legislative cross-references
- Changes revise what information is to be included in the giving of notice:
 - as some decisions would be final and not subject to appeal, the statements in a notice (written or posted) need to reflect this inability to appeal
- Changes to facilitate implementation of the new consistency / conformity standard of review:
 - regulation amendments revise what information and material is needed for an official plan / amendment or zoning by-law / amendment:
 - the required information and material as part of a submission to an approval authority (only for an official plan / amendment) or a complete application will now have to include whether an application conforms with the relevant official plan(s)
 - regulation amendments revise what is required to be forwarded to the Local Planning Appeal Tribunal on an appeal of an official plan / amendment or zoning by-law / amendment:
 - the municipal statement would also need to include an explanation as to whether the decision conforms with the relevant official plan(s)

Planning Act Regulations – Changes at a Glance



Regulation	Notice Requirements	Complete Application Requirements	Record to be Forwarded to LPAT and approval authority (if applicable)	Tribunal Name Change & Legislative Cross-References
O. Reg. 543/06 “Official Plans and Plan Amendments”	✓	✓	✓	✓
O. Reg. 545/06 “Zoning By-Laws, Holding By-Laws and Interim Control By-Laws”	✓	✓	✓	✓
O. Reg. 544/06 “Plans of Subdivision”	-	✓	-	✓
O. Reg. 197/96 “Consent Applications”	-	✓	-	✓
O. Reg. 200/96 “Minor Variance Applications”	-	-	-	✓
O. Reg. 551/06 “Local Appeal Bodies”	-	-	-	✓
O. Reg. 173/16 “Community Planning Permits”	-	-	-	✓
O. Reg. 549/06 “Prescribed Time Period – Subsections 17 (44.4), 34 (24.4) and 51 (52.4) of the Act”	-	-	-	✓
O. Reg. 174/16 “Transitional Matters - General”	N/A	N/A	N/A	N/A

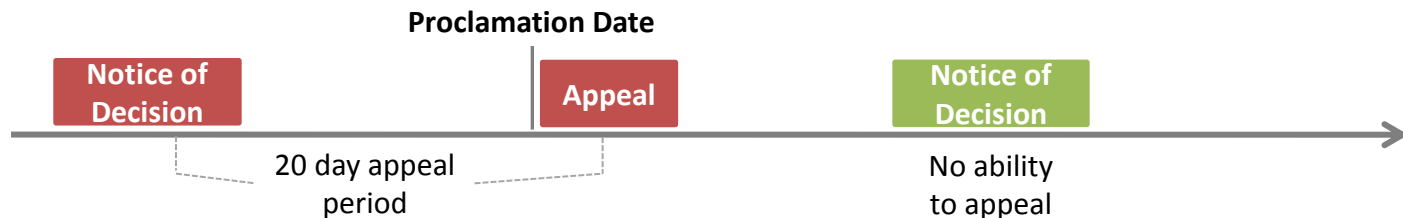
Planning Act Changes – Transition Principles

- Appeals made after the new rules come into force (i.e., proclamation) are generally subject to the new rules and heard by the new Local Planning Appeal Tribunal
- Appeals already before the OMB as of December 12, 2017 (i.e., Royal Assent) would be subject to the existing rules and would be heard by the Board
- Appeals of matters between the date of Royal Assent and the date that the new rules are proclaimed into force:
 - would be heard by the Local Planning Appeal Tribunal if the planning matter began after the date of Royal Assent
 - would be heard by the Ontario Municipal Board if the planning matter began (e.g., the complete application was received) before the date of Royal Assent

No Appeal of Provincial Decisions on Official Plans and Official Plan Updates

Planning Act Change	Effective Date
Remove ability to appeal provincial decisions on official plans and official plan updates, including conformity exercises	Applies to provincial decisions on official plans and official plan updates where notice of decision is given after proclamation

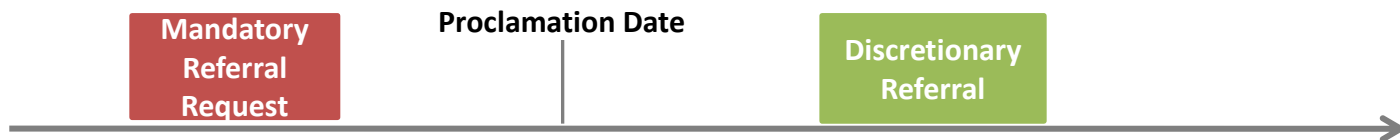
-  Applies where notice of decision is given after proclamation date
-  Does not apply where notice of decision is given before proclamation date



No Mandatory Referral of Minister's Zoning Orders

Planning Act Change	Effective Date
Remove mandatory referrals of Minister's Zoning Orders to the Tribunal	Applies to requests for referral made after proclamation

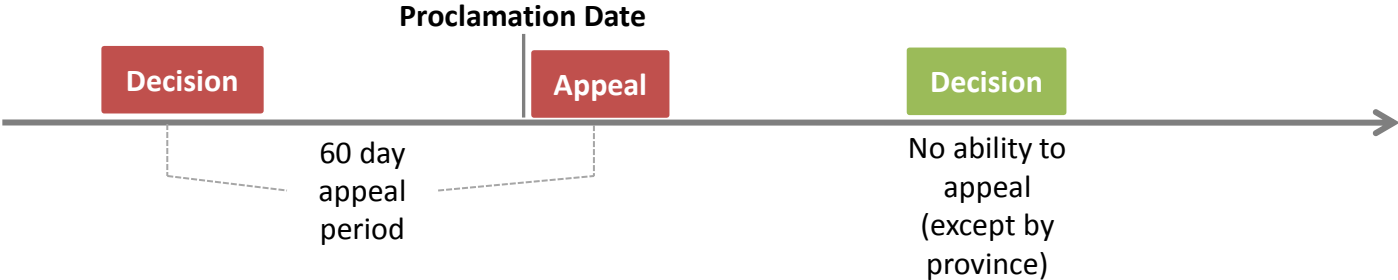
- Referral is discretionary after proclamation date
- Requests to refer may be made before proclamation date



No Appeal of Interim Control By-laws When First Passed

Planning Act Change	Effective Date
No appeal (except by province) of municipal interim control by-laws when first passed	Applies to decisions made after proclamation

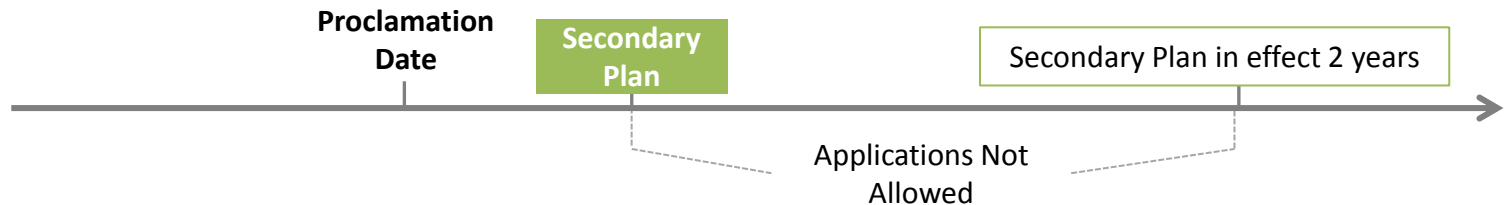
- Applies to decisions made after proclamation date
- Does not apply to decisions made before proclamation date



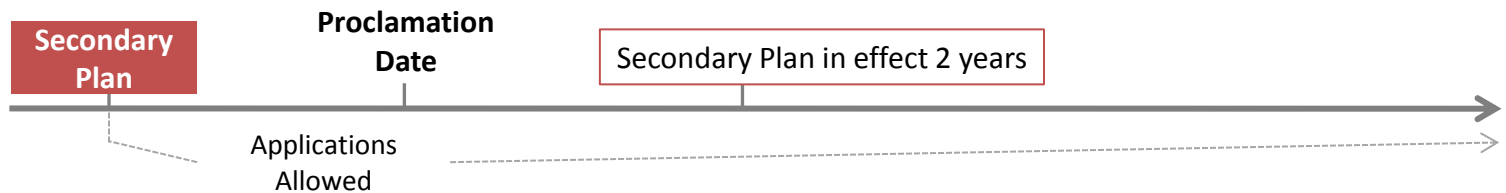
Two-year Timeout for Secondary Plans

Planning Act Change	Effective Date
No applications to amend new secondary plans for two years, unless permitted by municipal council	Applies to applications for amendments to secondary plans that come into effect after proclamation

■ Applies to applications for amendments to secondary plans that come into effect after proclamation date



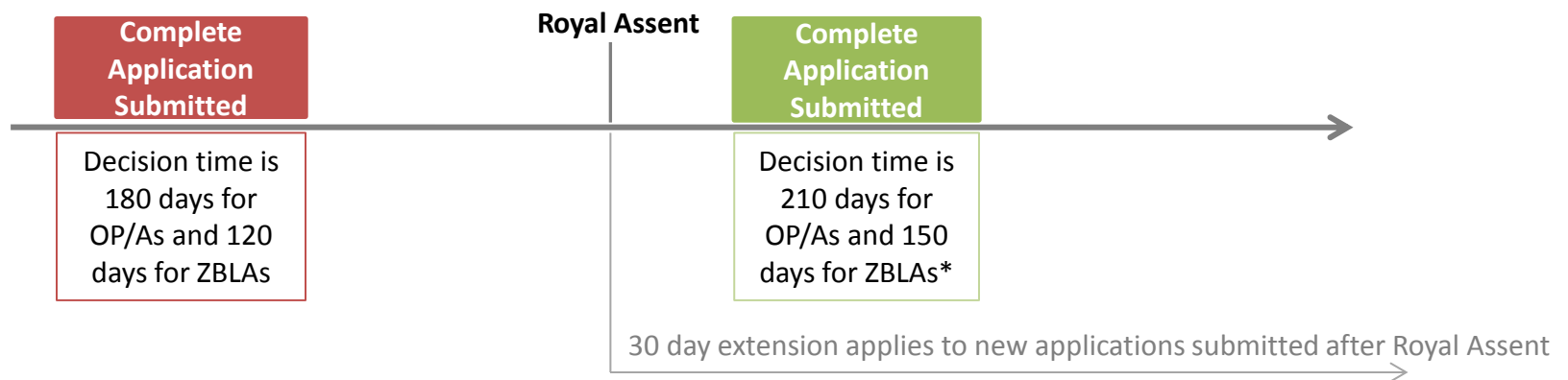
■ Does not apply to applications for amendments to secondary plans that come into effect before proclamation date



Extend Planning Decision-Making Timelines for Municipalities

Planning Act Change	Effective Date
Provide an extension (generally 30 days) for certain municipal decision timelines (official plan/official plan amendments and zoning by-law amendments)	Would apply to complete applications submitted after Royal Assent (December 12, 2017)

- Applies to complete applications submitted after Royal Assent
- Does not apply to complete applications submitted before Royal Assent

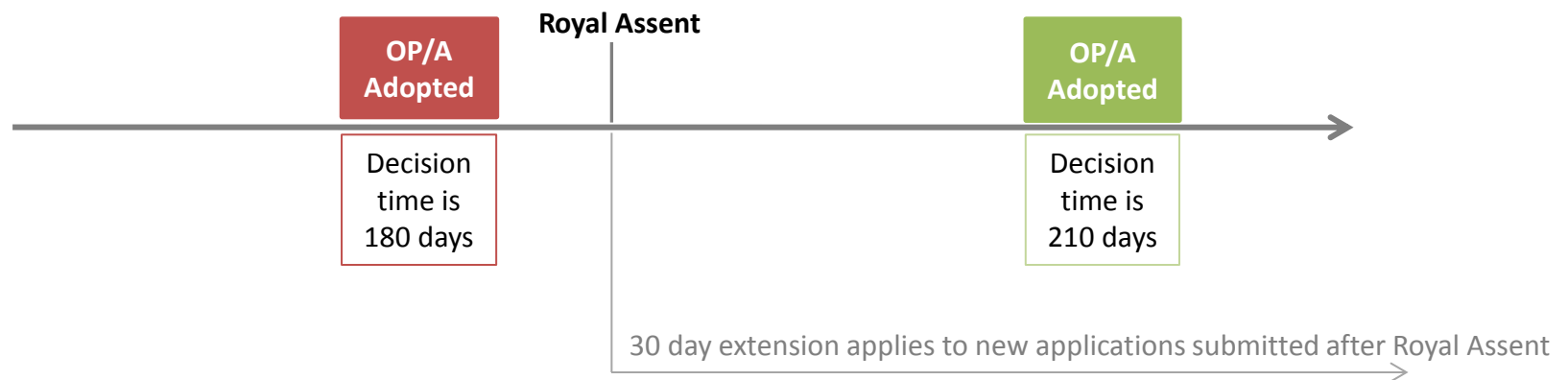


*If an application to amend a zoning by-law is submitted concurrently with a request to amend a municipality's official plan, the timeline for the zoning by-law amendment application will be extended to 210 days.

Extend Planning Decision-Making Timelines for Approval Authorities

Planning Act Change	Effective Date
Provide a 30 day extension for approval authority decisions on adopted official plans and amendments	Would apply to official plans/amendments adopted after Royal Assent (December 12, 2017)

- Applies to OPs/OPAs adopted after Royal Assent
- Does not apply to OPs/OPAs adopted after Royal Assent

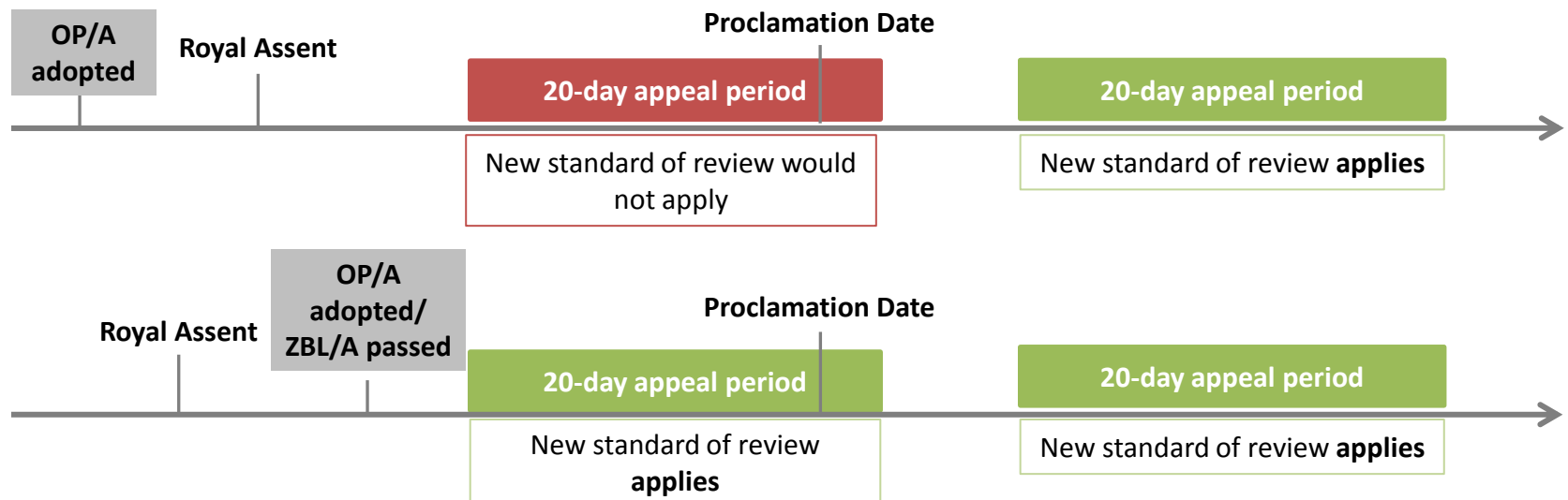


*If an application to amend a zoning by-law is submitted concurrently with a request to amend a municipality's official plan, the timeline for the zoning by-law amendment application will be extended to 210 days.

Consistency/Conformity Standard for Decisions on Municipally-Initiated Official Plans / Amendments and Zoning By-Laws / Amendments

Planning Act Change	Effective Date
Restrict the grounds of appeal of a decision on a municipally-initiated official plan/ amendment or zoning by-law/ amendment to consistency and/ or conformity with provincial and/or local plans	<p>Applies to:</p> <ul style="list-style-type: none"> • appeals of decisions made during appeal periods that begin after proclamation, and • appeals of decisions made before proclamation in respect of: <ul style="list-style-type: none"> • municipally-initiated official plan amendments that are adopted after Royal Assent (December 12, 2017) • municipally-initiated zoning by-law amendments that are passed after Royal Assent (December 12, 2017)

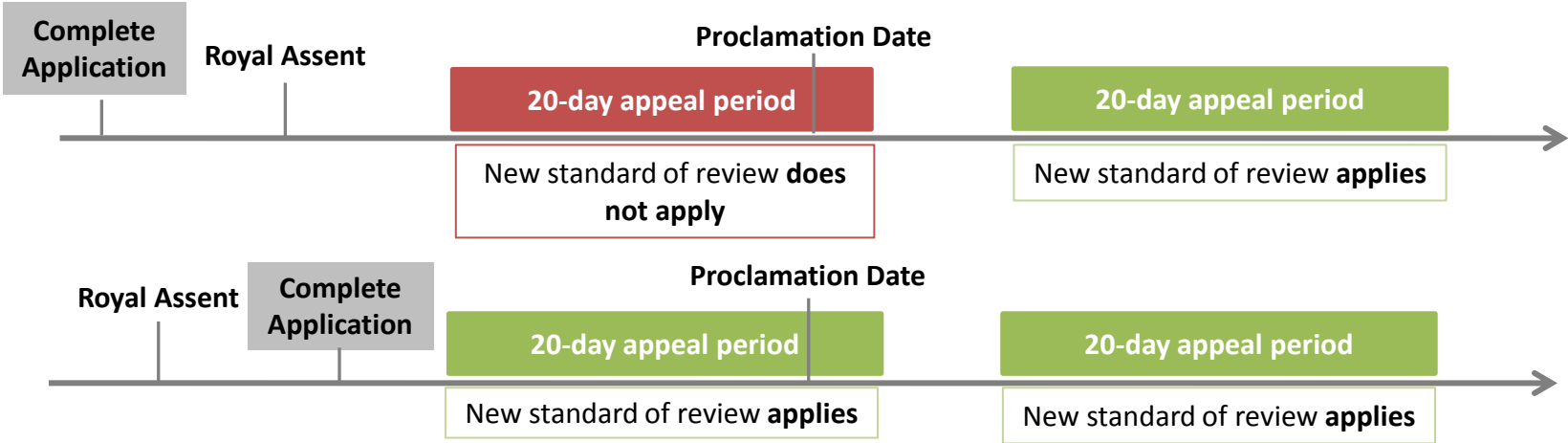
- Subject to hearings based solely on consistency/conformity
- Not subject to hearings based solely on consistency/conformity



Consistency/Conformity Standard for Decisions on Applications for Official Plan Amendments and Zoning By-Law Amendments

Planning Act Changes	Effective Date
Restrict the grounds of appeal of a decision on an official plan amendment or zoning by-law amendment application to consistency and/or conformity with provincial and/or local plans	Applies to: <ul style="list-style-type: none">• appeals of decisions made during appeal periods that begin after proclamation, and• appeals of decisions made before proclamation in respect of complete applications made after Royal Assent (December 12, 2017)

- Subject to hearings based solely on consistency/conformity
- Not subject to hearings based solely on consistency/conformity

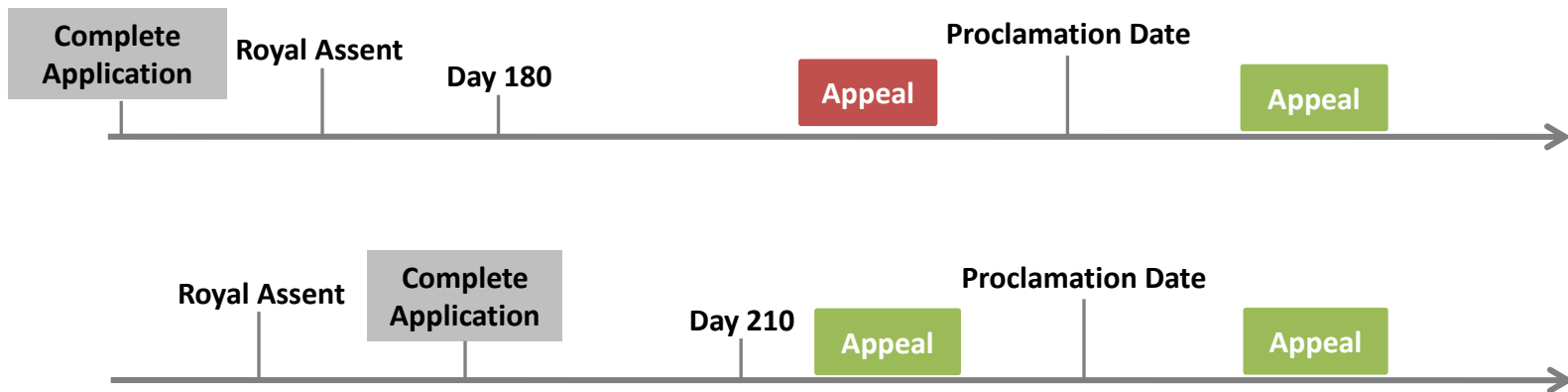


Consistency/Conformity Standard for Non-Decisions on Applications for Official Plans / Amendments and Zoning By-Laws / Amendments

Planning Act Change	Effective Date
Restrict the grounds of appeal of a non-decision on an official plan/amendment or zoning by-law/amendment to consistency and/or conformity with provincial and/or local plans	<p>Applies to:</p> <ul style="list-style-type: none"> appeals of non-decisions made after proclamation appeals of non-decisions made before proclamation in respect of complete applications made after Royal Assent (December 12, 2017)

■ Subject to hearings based solely on consistency/conformity

■ Not subject to hearings based solely on consistency/conformity



LPAT Act – Transition Regulation

LPAT Act	Application
<p>New process for appeals of a municipality or an approval authority's <u>decision</u> in respect of an official plan or zoning by-law described in <u>subsection 38 (1)</u> of the Act</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • appeals made during appeal periods that begin after the Act comes into force; and • appeals made before the Act comes into force for <ul style="list-style-type: none"> ○ complete applications made to a municipality or an approval authority after Royal Assent ○ municipally-initiated official plan amendments that are adopted after Royal Assent; and ○ municipally-initiated zoning by-law amendments that are passed after Royal Assent
<p>New process for appeals of a municipality's <u>failure to make a decision</u> in respect of an official plan or zoning by-law described in <u>subsection 38 (1)</u> of the Act</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • appeals made after the Act comes into force; and • appeals made before the Act comes into force for complete applications made to a municipality or an approval authority after Royal Assent
<p>New process for appeals of an approval authority's <u>failure to make a decision</u> in respect of an official plan or plan of subdivision described in <u>subsection 38 (2)</u> of the Act</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • appeals made after the Act comes into force

LPAT Act – Transition Examples

Appeal Type	Complete Application Filed	Appeal Date	Old Process	New Process
Appeal under subsections 17(24), 17(36), 22(7), 34(11) or 34(19) of the Planning Act of: <ul style="list-style-type: none"> a municipality or approval authority's decision in respect of an official plan or zoning by-law; or a municipality's failure to make a decision in respect of an official plan or zoning by-law (See LPAT Act s. 38(1))	Dec 11 (i.e., before Royal Assent)	Before LPAT Act comes into force	✓	
	Dec 11 (i.e., before Royal Assent)	After LPAT Act comes into force		✓
	Dec 13 (i.e., after Royal Assent)	Before LPAT Act comes into force		✓
	Dec 13 (i.e., after Royal Assent)	After LPAT Act comes into force		✓
	After LPAT Act comes into force			✓
Appeal under subsections 17(40) & 51(34) of the Planning Act of: <ul style="list-style-type: none"> an approval authority's failure to make a decision in respect of an official plan or plan of subdivision (See LPAT Act s. 38(2))	Before LPAT Act comes into force		✓	
	After LPAT Act comes into force			✓

Table shows timelines under the LPAT Act for proceedings before the Tribunal in relation to appeals under the Planning Act: **the time for a proceeding begins from the date the proceeding is received and validated by the LPAT**

Type of Appeal	Timeline for Completion of Proceeding / Hearing
<ul style="list-style-type: none"> A municipality or approval authority's decision or a municipality's failure to make a decision in respect of an official plan or zoning by-law described in subsection 38 (1) of the LPAT Act 	10 months
<ul style="list-style-type: none"> A new decision of a municipality or an approval authority on an official plan or zoning by-law described in subsection 38 (1) of the LPAT Act A municipality or approval authority's failure to make a new decision on an official plan or zoning by-law described in subsection 38 (1) of the LPAT Act 	6 months
<ul style="list-style-type: none"> An approval authority's failure to make a decision on an official plan or plan of subdivision described in subsection 38 (2) of the LPAT Act 	12 months
<ul style="list-style-type: none"> Any other proceeding before the LPAT under the Planning Act (e.g., minor variances, site plans, consents) 	6 months

LPAT Act Regulations – “Stop the Clock”

- For the purposes of calculating the time for a proceeding, any of the following periods of time would be excluded from the calculation:
 - Any period of time occurring during an adjournment of the proceeding if,
 - the adjournment is granted by the LPAT on the consent of two or more parties for the purposes of mediation, or
 - the adjournment is necessary, in the opinion of the LPAT, to secure a fair and just determination of the appeal
 - Any period of time during a stay of the appeal before the LPAT granted by the Divisional Court

LPAT Act Regulations – Time Limits for Submissions at Oral Hearings

- At an oral hearing of an appeal of a municipality or approval authority's decision or a municipality's failure to make a decision on an official plan or zoning by-law described in subsection 38 (1) of the LPAT Act:

each party would have a maximum of 75 minutes to make a submission (i.e., presentation) to the LPAT

- At an oral hearing of an appeal of an approval authority's failure to make a decision on an official plan or plan of subdivision described in subsection 38 (2) of the LPAT Act:

each party would have a maximum of 75 minutes to make a submission to the LPAT and other persons identified by the LPAT as participants would each have 25 minutes to make a submission to the LPAT

- LPAT has discretion to increase the time limits where, in the opinion of the LPAT, it is necessary for a fair and just determination of the appeal

LPAT Act Regulations – Practices and Procedures

- For appeals described in subsections 38 (1) and (2) of the LPAT Act, the examination of a party or any other person, other than by the LPAT, would be prohibited

Where to Find Resources - Planning Act

Information materials are available: www.mah.gov.on.ca/Page11014.aspx

MMA Municipal Services Offices (MSOs)

MSO Central (Toronto)

(416) 585-6226 or 1-800-668-0230

MSO North (Sudbury)

(705) 564-0120 or 1-800-461-1193

MSO West (London)

(519) 873-4020 or 1-800-265-4736

MSO North (Thunder Bay)

(807) 475-1651 or 1-800-465-5027

MSO East (Kingston)

(613) 545-2100 or 1-800-267-9438

Where to Find Resources—LPAT and LPASC

Environment and Land Tribunals Ontario <http://elto.gov.on.ca/>

Local Planning Appeal Support Centre



Questions?

JOB AID: Changes to the Land Use Planning and Appeal System – “Before and After” Implementation Table

The table below identifies key changes made to the land use planning and appeal system as a result of the Building Better Communities and Conserving Watersheds Act, 2017 that take effect upon proclamation.

Disclaimer: This table has been prepared as a training tool only. Although the table has been carefully prepared, the Ministry of Municipal Affairs and the Ministry of the Attorney General do not guarantee the accuracy or completeness of the information contained in it. The table deals in summarized fashion with complex matters and reflects legislation, policies and practices that are subject to change. The table is not a substitute for specialized legal or professional advice. Users should always refer back to the original legislation and other relevant documents when making decisions related to land use planning matters.

	#	Key Changes	Legislative References	Matters Impacted	Previous Provision(s) / Requirement(s)	Intended Outcomes	Implementation Considerations
More Municipal Control	1	Two-year “Time-out” – New Secondary Plans <ul style="list-style-type: none">Cannot apply to amend new secondary plans for two years, unless amendment is municipally-supported	Planning Act subsections: 22(2.1.1), (2.1.2) and (2.2)	OPA	Applications to amend a secondary plan could be made at any time	Give municipalities more control over development in their communities Support new secondary plans developed by municipalities Increase certainty in local planning processes, facilitate implementation of local policies Provide continued municipal flexibility to make amendments they feel are necessary during the “time-out”	<ul style="list-style-type: none">Change removes ability to make applications to amend a new secondary plan for two years, unless amendment is municipality-supportedPlanning Act defines secondary plan for the purposes of this provision:<ul style="list-style-type: none">“...a secondary plan is a part of an official plan, added by way of an amendment, that contains policies and land use designations that apply to multiple contiguous parcels of land, but not an entire municipality, and that provides more detailed land use policy direction in respect of those parcels than was provided before the amendment” s. 22 (2.1.2)Change shelters policies and designations that are contained within a secondary plan document - does not shelter policies that affect a secondary plan area but are not contained within the secondary plan itself (e.g. secondary plan policies which rely on cross-references to policies in parent official plan)Complements change introduced through Smart Growth for Our Communities Act, 2015 that provided a two-year timeout for applications to amend new official plans and comprehensive zoning by-laws
	2	No Appeal of Interim Control By-laws when First Passed <ul style="list-style-type: none">No appeal of municipal interim control by-law when first passed (except by Province)	Planning Act subsections: 38 (4) and (4.1)	ICBL	Appeal of an interim control by-law could be made within 60 days of the passing or extension of the by-law by anyone who received notice	Give municipalities more control over development in their communities Allow municipalities to redirect limited resources from fighting appeals to carrying out the planning studies contemplated by interim control by-laws Reduce appeals	<ul style="list-style-type: none">Change removes appeals of municipal interim control by-laws when first passed (except by Province)Any extension to an interim control by-law (beyond 1st year) is subject to appealInterim control by-laws allow municipalities to put a “pause” on development in a specific area in order to undertake required technical studies prior to enactment of a new zoning by-law; can be passed for a period of up to one year and can be extended prior to expiry so that it can be in place for up to two years from time first passedOnce an area is subject to an interim control by-law, another interim control by-law cannot be passed to apply to the area for a minimum three year period following the expiry of the by-law

More Municipal Control	3	More Authority for local appeal bodies (LABs) <ul style="list-style-type: none"> Authority of LABs expanded to include adjudicating appeals related to site plans 	Planning Act subsections: 8.1 (6) – Expanded authority for LABs City of Toronto Act, 2006 subsections: 115 (5) – Expanded authority for Toronto LAB	Consent / Minor Variance / Site Plan	Changes made in 2007 provided municipalities with authority to establish a LAB for appeals regarding applications for minor variances and consents to sever land Reduce number of appeals to provincial appeal body	Provide option to adjudicate additional appeals locally (i.e. site plan control) Reduce number of appeals to provincial appeal body	<ul style="list-style-type: none"> Once established, a LAB replaces the function of the Local Planning Appeal Tribunal for applications for minor variances, consents to sever land and site plan control Municipalities can determine which types of those authorized appeals their LAB may adjudicate Even where a LAB is empowered to hear appeals related to site plans, some site plans could still be appealed to Tribunal if linked to other applications (e.g. zoning) LAB decisions are final – they are only appealable to Divisional Court and only on a question of law (and decisions on motions for directions are not appealable)
	4	Longer Decision Timelines <ul style="list-style-type: none"> Decision timelines extended for official plans, official plan amendments, zoning by-law amendments, holding by-laws Consolidated timeline for zoning by-law amendment applications that are submitted together with an official plan amendment request 	Planning Act subsections: 17 (40) – Approval authority decision timeline for OPs 22 (7.0.2) – Decision timeline for requests for OPAs 34 (11) – Decision timeline for applications for ZBLAs 34 (11.0.0.0.1) – Consolidated timeline for ZBLA applications that are submitted together with an OPA request 36 (3) – Decision timeline for applications to remove holding symbols	OP / OPA ZBLA Holding By-law	Official plans and official plan amendments - 180 days Zoning by-law amendments and holding by-laws - 120 days	More time 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 appeals More efficient and timely decisions	<ul style="list-style-type: none"> Certain decision making timelines have been extended by 30 days <ul style="list-style-type: none"> Official plans and official plan amendments - 210 days Zoning by-law amendments and holding by-laws - 150 days Where there are concurrent official plan amendment and zoning by-law amendment applications to a local municipality for the same proposal (joint applications), the timeline is extended to 210 days

More Municipal Control	5	Protected Major Transit Station Area (PMTSA) <ul style="list-style-type: none"> New municipal tool to support transit infrastructure - new tool restricts appeals of certain parts of official plans and zoning by-laws / community planning permit by-laws in municipally-defined PMTSAs 	Planning Act subsections: <p>1(1) – Definition of “higher order transit”</p> <p>16 (15) to (19) – Official plan requirements and related approvals</p> <p>17(36.1.4) to (36.1.7) – Limitations on appeals regarding PMTSAs (OPs)</p> <p>22(2.1.3) and (2.2) – No ability to apply to amend PMTSA official plan policies unless support by council</p> <p>34(19.5) to (19.8) – Limitations on appeals regarding PMTSAs (ZBLs)</p>	OP / OPA / ZBL / ZBA CPPS	Transit-supportive densities in major transit station areas were not sheltered from appeal under the Planning Act	Facilitate implementation of densities that support higher order transit infrastructure projects	Give municipalities more control over development in transit corridors	Overview of Tool <ul style="list-style-type: none"> Discretionary tool for municipalities that have “higher order transit” as defined in Planning Act - “higher order transit” means transit that operates in whole or in part in a dedicated right of way, including heavy rail, light rail, buses) Tool restricts appeals of PMTSA matters (e.g., transit-supportive density and height) when a municipality establishes the required official plan policies and the corresponding implementing zoning by-law provisions Density targets are set out in Growth Plan for the Greater Golden Horseshoe and / or implementation support materials (e.g., MTO Transit-Supportive Guidelines) How It Works <ul style="list-style-type: none"> Municipalities need to signal their intent to use the PMTSA tool (e.g., use term “Protected” when developing their PMTSA framework for public consultation and submitting it for approval). Municipalities need to first delineate the boundary of the PMTSA and establish the required official plan policies (e.g., identify the uses and minimum densities to be accommodated in the PMTSA) Either the Province or the appropriate upper-tier municipality needs to approve the official plan policies when they are being put in place and whenever they are being changed Municipalities also need to align their zoning by-laws with official plan policies Municipalities may also identify minimum heights and/or maximum densities and heights for the PMTSAs in their official plans and zoning by-laws (or CPP by-laws) PMTSA policies and zoning provisions are not subject to appeal (except by Province). However, there could be appeals of other components of a PMTSA official plan amendment and related zoning/community planning permit system requirements (e.g. bonusing, lot coverage, setbacks, parking) Applications to amend approved PMTSA official plan policies are not allowed unless they are municipally-supported Municipalities can use planning tools like zoning by-laws or a community planning permit system to determine where the density should go and what form it should take Site-Specific Applications to Amend Zoning By-law Provisions within PMTSA <ul style="list-style-type: none"> Any amendment to the zoning by-law must conform with official plan policies If the municipality supports the application and passes the zoning by-law amendment, the municipality’s decision on the PMTSA elements (i.e., uses, height and density) are not appealable (except by Province) If the municipality refuses or fails to make a decision on the zoning by-law amendment application, the applicant may appeal but only on the basis that both: <ul style="list-style-type: none"> existing zoning by-law does not reflect the policy direction set out in official plan or provincial policies and subject application brings zoning by-law in line with the official plan and provincial policies

Strong Community Voice	6	Consistency / Conformity Standard – Reducing the Local Planning Appeal Tribunal’s (LPAT) Ability to Overturn Local Decisions and Providing Municipality with Opportunity to Reconsider Matter <ul style="list-style-type: none"> Restrict appeal grounds for official plans/OPAs, zoning by-laws/ZBAs and community planning permit by-laws to <u>only</u> matters of consistency and/or conformity with provincial and/or municipal policies/plans Requirement to return matter to municipality for new decision when LPAT determines that municipal decision / settlement on a major land use planning matter did not follow provincial / local policies If a new decision on an application is not made within the timeframe, the LPAT would make the final decision 	Planning Act subsections: 17 (24.0.1) and (36.0.1) –Basis for an appeal of the adoption or approval of an official plan limited to consistency/conformity 17 (45) and (49.1) to (49.12) – LPAT authority limited to issues of consistency/ conformity for an appeal of a decision to adopt or approve an official plan; opportunity for municipality to reconsider the matter 22 (7.0.0.1) – Basis for an appeal of a refusal or non-decision on a request to amend an official plan limited to consistency/ conformity 22 (11.0.4) and (11.0.8) to (11.0.19) – LPAT authority limited to issues of consistency/ conformity for an appeal of a refusal or non-decision on a request to amend an official plan; opportunity for municipality to reconsider the matter	OP / OPA ZBL / ZBLA CPPS	OMB was required to “have regard to” the decision of the local council but had authority to make any decision that council or an approval authority could have made	Increase deference to municipal decisions and more certainty in local planning process Provide municipalities with an opportunity to reassess their original decision and address any shortcomings	<ul style="list-style-type: none"> Consistency / conformity standard applies to: <ul style="list-style-type: none"> appeals of municipal decisions / refusals on official plans, official plan amendments, zoning by-laws, zoning by-law amendments and community planning permit by-laws appeals of municipal non-decisions for applicant-initiated official plan or zoning by-law amendment applications Change limits ability of LPAT to overturn decisions made by locally-elected councils – LPAT must dismiss an appeal of a local decision unless it is inconsistent with the Provincial Policy Statement (PPS), does not conform / conflicts with provincial plans, does not conform with applicable official plan (e.g. upper-tier official plan) Tribunal can overturn local decision only on the basis of being inconsistent with the PPS, not conforming / conflicting with provincial plans, not conforming with applicable official plan (e.g. upper-tier official plan) Municipalities will be better positioned to defend their decisions when official plans are consistent / conform with provincial policies and plans Onus is on appellant to set out reasons why council decision is inconsistent / does not conform with provincial policy and/or applicable official plan For appeals of a non-decision or refusal of an official plan amendment or zoning by-law amendment, the consistency / conformity standard applies and there is a two-part test. Onus is on applicant to demonstrate: 1) how their proposal would be consistent with provincial and local policies and 2) how existing official plan policies or zoning provisions fall short LPAT has authority to approve a settlement to which all specified parties have agreed – LPAT is required to confirm that any such settlement aligns with provincial and local policies / plans <p>Requirement to Return Matter to Municipality for New Decision</p> <ul style="list-style-type: none"> If LPAT determines a municipal decision does not follow local and / or provincial policies, the Tribunal is required to return the matter to the municipality to make a new decision If a matter related to an application is returned, the municipality has up to 90 days to make a new decision 90 day timeline does not apply to municipally-initiated matters Municipality’s second decision would be final unless it is appealed <p>Second Appeal</p> <ul style="list-style-type: none"> If the second decision is appealed, LPAT would hear the matter and make a determination on whether the second decision follows local and / or provincial policies If the second decision is aligned, the municipal decision would stand If the second decision is again found to be inconsistent or does not conform with local or provincial policies, LPAT would be responsible for making the final decision

Strong Community Voice			<p>34 (11.0.0.0.2) and (19.0.1) – Basis for an appeal of a decision to pass, refuse or a failure to make a decision on a zoning by-law/ amendment</p> <p>34 (25) and (26) to (26.3) – LPAT authority limited to issues of consistency/ conformity for an appeal of a decision to pass, refuse or a failure to make a decision on a zoning by-law/amendment; opportunity for municipality to reconsider the matter</p>				<ul style="list-style-type: none"> • Process gives municipality opportunity to reassess their position on a planning matter and address any shortcomings, while continuing to have the opportunity to address local matters in making a new decision • Could allow municipality to implement LPAT’s decision while applying local context • When reconsidering a planning application returned by LPAT, a municipality would need to reassess the application, provide notice of a public meeting, hold the public meeting and issue a new decision
	7	Requirement to Send New Information Back to Approval Authority <ul style="list-style-type: none"> • Requirement for LPAT to send new information and material at subdivision hearings back to approval authority for re-evaluation of original decision if the municipality requests the information and material be returned 	Planning Act subsection: 51 (52.4)	Plan of Subdivision	OMB had authority to determine whether to send new materials back to approval authorities, based on test of whether the new information would have “materially affected” appealed decision	Increase certainty for municipalities that would like the opportunity to review new information on a subdivision application submitted during an appeal	<ul style="list-style-type: none"> • Change gives approval authorities the ability to require the OMB to send material back • Does not require all new information to be sent to approval authority • If sent back, an approval authority continues to have 60 days to reconsider its decision and make a written recommendation to the LPAT
	8	LPAT Authority Limited to Matters that Were Part of Council Decision <ul style="list-style-type: none"> • Clarification that LPAT authority is limited to only dealing with parts of an official plan that were part of council’s decision 	Planning Act subsection: 17 (50.1)	OP / OPA	Previous Planning Act reforms limited the scope of OMB’s authority in relation to official plans	Support local decision-making Recognize the role of municipalities as primary decision makers on their official plans	<ul style="list-style-type: none"> • Technical change amending existing Planning Act provision to clarify that LPAT’s authority is limited to dealing with parts of an official plan that are part of council’s decision • Change clarifies that the Tribunal does not have authority to approve or modify any part of an official plan that is already in effect and was not added, amended, or revoked by the municipality when making its original decision

Protecting Public Interests	9	No Appeal of Major Provincial Decisions <ul style="list-style-type: none"> No appeal of provincial decisions on official plans and major official plan updates (section 26) 	Planning Act subsections: 17 (36.5) – No appeal of a provincial decision to approve, modify or refuse all or part of an official plan 21 (3) – No appeal of a provincial decision on a major official plan update under section 26 of the Planning Act	OP / OPA	Provincial decisions, including provincial plan conformity exercises, could be appealed Reinforce Ontario’s policy-led planning system and increase certainty regarding implementation of provincial matters Protect important provincial interests, such as public health and safety Reduce number of appeals, including conformity exercises to provincial plans	<ul style="list-style-type: none"> Shelters major provincial decisions from appeal - change means there is no appeal of a provincial decision related to a new official plan or an official plan update where the province is the approval authority Change shelters upper-tier and single-tier conformity exercises from appeal where minister is approval authority and makes a decision An appeal can continue to be made where no provincial decision is issued within the statutory timeframe (210 days) Province and municipalities will continue to work together to ensure both local and provincial matters are adequately addressed
	10	Minister’s Zoning Orders <ul style="list-style-type: none"> Remove mandatory referral of MZOs to the Tribunal 	Planning Act subsections: 47 (8.0.1), (10), (13) and (15)	MZO	Any party could request referral of MZO to OMB Greater certainty regarding implementation of provincial matters Provide Minister with final discretion on matter	<ul style="list-style-type: none"> Change removes ability for anyone to require minister to refer an application to amend or revoke a MZO to Tribunal - means that MMA Minister is the final decision-maker related to any requests to amend or revoke a MZO MZOs have traditionally been used in situations where the Province believes that a tangible provincial interest needs to be protected or maintained, for example to facilitate employment-generating uses such as auto parts manufacturing Approach similar to Ontario Planning and Development Act, 1994 process where Minister has final discretion of disposition of matter
	11	Climate Change <ul style="list-style-type: none"> Requirement for all municipal official plans to include climate change policies 	Planning Act subsection: 16 (14)	OP	Climate change policies were not explicitly required through section 16 of Planning Act which sets out goals, objectives and policies that needed to be included in municipal official plans Support Ontario’s Climate Change Action Plan 2016-2020 Support proactive planning for climate change	<ul style="list-style-type: none"> Change requires municipalities to develop and include climate change policies in their official plan Official plan policies must identify goals, objectives and actions to mitigate greenhouse gas emissions and adapt to a changing climate, including through increasing resiliency Provincial land use policies, such as the Provincial Policy Statement 2014, already require municipalities to plan for and consider the impacts of climate change; GGH Growth Plan policy requires upper and single-tier municipalities to develop climate change policies Legislative change complements and supports existing provincial policies Ministry of Environment and Climate Change is preparing guidance material to assist municipalities
	12	Affordable Housing <ul style="list-style-type: none"> Requirement for all municipal official plans to include policies dealing with the adequate provision of affordable housing 	Planning Act clause: 16 (1)(a.1)	OP	Policies dealing with adequate provision of affordable housing were not explicitly required through section 16 of the Planning Act which sets out goals, objectives and policies that must be included in municipal official plans Support implementation of provincial policies and plans that require an adequate supply of housing, including affordable housing	<ul style="list-style-type: none"> Provincial policies, such as the Provincial Policy Statement 2014, already required municipalities to plan for an appropriate range and mix of housing, including affordable housing Legislative change complements existing provincial policy requirements Many municipalities already include policies that address this requirement

Supporting Citizens	13	Local Planning Appeal Tribunal (LPAT) <ul style="list-style-type: none"> Replace the Ontario Municipal Board Act with the Local Planning Appeal Tribunal 	Local Planning Appeal Tribunal Act subsection: 2 (1)		Appeals on land use planning matters were heard before the Ontario Municipal Board	Making the hearing process faster and fairer	<ul style="list-style-type: none"> Modernize hearing procedures and practices, and timely processes and decisions Promote alternative dispute resolution and reduced number of hearings
	14	Local Planning Appeal Support Centre (LPASC) <ul style="list-style-type: none"> New agency to provide information and support on the land use planning appeal process 	Local Planning Appeal Support Centre Act subsection: 2 (1)		In 2006, Ontario established the Citizen Liaison Office at the OMB to help the public understand what the OMB does and how to participate in the process Citizen Liaison Office provided some/limited citizen support. One employee dedicated to responding to requests for information for all tribunals under the Environment and Lands Ontario, including the OMB	Support citizens Provide citizens and participants with tools to effectively participate Provide information on land use planning, guidance on board procedures, and advise and representation to citizen in certain matters	<ul style="list-style-type: none"> Local Planning Appeal Support Centre is established as a separate agency, replaces Citizen Liaison Office The support centre will establish and administer a cost-effective and efficient system for providing support services to persons determined to be eligible formatters governed by the Planning Act that are under the jurisdiction of the Tribunal. The support centre will provide: <ul style="list-style-type: none"> information on land use planning guidance on tribunal procedures advice or representation any other services prescribed by the regulations
	15	User-Friendly Websites <ul style="list-style-type: none"> New, user-friendly websites for LPAT and LPASC 	n/a		Website was difficult to navigate and find information	Provide tools participants need to effectively participate Increase public access to information and resources Provide clear information and resources to better support citizen participation	<ul style="list-style-type: none"> Website will provide clear information on Tribunal practices and procedures Include easy-to-understand educational videos on the hearing process Provide easy access to past decisions
	16	Making LPAT Decisions Publicly-Accessible <ul style="list-style-type: none"> Ensure public posting of Tribunal decisions, including plain language executive summaries 	n/a		Difficult to search for OMB past decisions	Make process easier to navigate by making decisions easier to understand Help citizens access Tribunal decisions Increase transparency in process	<ul style="list-style-type: none"> Adopt plain language to make the LPAT process more accessible Provide clearer rationale for decisions

Modernized Processes and Reducing Adversarial Hearings	17	Mandatory Case Management Conference Process <ul style="list-style-type: none"> Implement mandatory case conference process for major planning matters to narrow issues and promote settlement 	Local Planning Appeal Tribunal Act subsections: 33 (1) 39 (1), (2)		In 2008, the OMB updated its rules of practice and procedures to require mediation assessment. This allowed the Board, upon receiving an application, to review the information to determine if it should be streamed into mediation, pre-hearing or a full hearing	Allow for hearings to be held in a fair, cost-effective and expeditious manner by providing opportunities for parties and other interested persons to be brought together to identify if additional parties should be added, confirm and narrow the issues in dispute, explore opportunities for mediation and settlement and deal with any other matter Empower the Tribunal to actively guide the proceedings in order to level the playing field and make it less adversarial for parties and participants	<ul style="list-style-type: none"> Require submissions to the Tribunal to be made 30 days before the case management conference Make most hearings more efficient by putting in place a mandatory case management conference for the majority of appeals under the Planning Act before a case can proceed to a hearing, which may result in cases being sent to mediation or having the issues under dispute narrowed
	18	Oral Testimony and Evidentiary Record <ul style="list-style-type: none"> Statutory rules created regarding the conduct of proceedings to limit oral testimony at oral hearings 	Local Planning Appeal Tribunal Act subsection: 32 (3) 41 (1) 42 (1), (2), (3)		No limitation on oral testimony provided and limited flexibility given to parties to determine what evidence to submit	Faster and more efficient proceedings Shorter hearings which would save time and costs for those involved	<ul style="list-style-type: none"> Reduce adversarial hearings by eliminating oral testimony in major land use planning appeals at the Tribunal The Act identifies who may participate in oral hearings and the time they have to make oral submissions On the matters that fall under the consistency / conformity test, only parties to the appeal may provide oral submissions On the matters that do not fall under the consistency / conformity test, but are complex, parties and other persons, as determined by the Tribunal, may provide oral submission No persons or parties may bring evidence or examine witnesses at oral hearings
	19	Active Adjudication <ul style="list-style-type: none"> LPAT Act clarifies power to ask questions, examine a party, and require a party to produce evidence 	Local Planning Appeal Tribunal Act subsection: 33 (2)		The OMB used a formal and legalistic superior court model	An approach to hearings in which adjudicators play a more active role to simplify and expedite the hearing process, and in some case to address inequalities between parties	<ul style="list-style-type: none"> Active adjudication can lead to less adversarial hearings, which can benefit all parties Adjudicators play a more active role in proceedings, for example, by explaining rules and procedures, scoping issues and evidence, and questioning witnesses