City of Peterborough

To:	**Members of the Planning Committee**
From:	**Ken Hetherington, Manager, Planning Division**
Meeting Date:	**May 25, 2015**
Subject:	**Report PLPD15-028** **Bill 73 – An Act to amend the Development Charges Act, 1997 and the Planning Act**

Purpose

A report to inform Council of proposed amendments to the *Development Charges Act, 1997* and the *Planning Act*, and Staff's response to each.

Recommendations

That Council approve the recommendations outlined in Report PLPD15-028, dated May 25, 2015, of the Manager, Planning Division, as follows:

a) That Report PLPD15-028 be received for information.

b) That the Planning Committee authorize Planning & Development Services staff to forward a letter summarizing the City of Peterborough's comments on Bill 73 – An Act to amend the *Development Charges Act*, 1997 and the *Planning Act*, as described in Report PLPD15-028, to the Ministry of Municipal Affairs and Housing prior to June 3, 2015.

Budget and Financial Implications

If approved, Bill 73 should enhance the City's ability to collect the full growth-related cost of providing certain services through development charges. Additionally, cost efficiencies may be gained by prohibiting certain kinds of land use planning appeals and by aligning municipal and provincial plan review timelines. However, these efficiencies could be offset in part by potential increased spending on locally-based dispute resolution.

Background

1. Bill 73 – An Act to amend the *Development Charges Act*, 1997 and the Planning Act

From October 2013 to January 2014, the Ministry of Municipal Affairs and Housing undertook province-wide consultation on the land use planning and appeal system, and the development charges system. The purpose of the consultation was to ensure the predictability, transparency, cost effectiveness and responsiveness of each system to the changing needs of communities.

To facilitate this consultation, the Ministry released two consultation documents: *Land Use Planning and Appeal System Consultation Document* (Fall 2013) and *Development Charges in Ontario* (Fall 2013). These documents, which are currently available on the Ministry's website (http://www.mah.gov.on.ca/Page10355.aspx), served to focus the consultation on particular themes as follows:

- Land Use Planning and Appeal System:
  - Predictability, transparency and accountability in the planning / appeal process and cost;
  - Municipal leadership in resolving issues and making local land use planning decisions;
  - Citizen engagement in the local planning process; and
  - Protection of long-term public interests, particularly through better alignment of land use planning and infrastructure decisions and support for job creation and economic growth;

- Development Charge System:
  - The development charge system process;
  - Transparency and accountability;
  - Economic growth; and
  - Growth and intensification.

On March 5, 2015, the Minister of Municipal Affairs and Housing (the Minister) introduced *Bill 73 – An Act to amend the Development Charges Act, 1997 and the Planning Act* (short title: *Smart Growth for Our Communities Act*) to the Ontario Legislature for first reading. The Act proposes a number of amendments to each Act in response to the feedback received during the consultation period. Bill 73 is currently available for public review on the Environmental Bill of Rights Registry (http://www.ebr.gov.on.ca), and the Province has established June 3, 2015 as the last day for providing comments on the proposed legislative amendments.

2. Development Charges Act, 1997

Proposed amendments to the *Development Charges Act, 1997* are summarized here by theme and are accompanied with staff commentary.

2.1. Process

a) Amend Subsection 2(4) to identify ineligible services in regulations rather than partly in the Act and partly in regulation, as is currently the case.

Generally, staff support proposed amendments to the *Development Charges Act* that intend to clarify or supplement the process of establishing and administering a development charge by-law. In staff's opinion, it is ideal to maintain prescribed matters such as the list of services that are ineligible for development charge collection and funding in regulation rather than in the act to facilitate both convenient access for users and ease of maintenance should the list need to be amended in time.

Presently, no regulation has been proposed to establish a list of ineligible services as contemplated by the Bill. Staff look forward to reviewing and commenting on any new regulation or regulation amendment which addresses the eligibility of services for development charge collection. In particular, staff feel that all facilities and services that are funded exclusively by municipalities should be eligible for development charges. Such facilities could include cultural and entertainment facilities such as museums, art galleries and convention centres, waste management facilities and services, hospitals and municipal headquarters. Presently, these facilities and services are ineligible for development charges but, in staff's opinion, are necessary for the development of complete communities as contemplated by the *Growth Plan for the Greater Golden Horseshoe*.

b) Expand the required contents of a development charge background study as listed in Subsection 10(2) of the Act to include consideration of the use of area-specific development charges and the preparation of an asset management plan.

The City of Peterborough has employed area-specific development charges since 2004 to reflect the varying cost of development across the municipality and recently approved a Capital Asset Management Plan in December 2014. Accordingly, the City is well positioned to meet the proposed new requirements for development charge background studies should the amendments pass as currently worded. Staff have no concern with this proposed amendment.

c) Add Subsection 26(1.1) to the Act to clarify that if a development consists of one building that requires more than one building permit, the development charge is payable when the first permit is issued.

Presently, where a building requires more than one building permit, the City collects the applicable development charge(s) at the time when the first permit is issued. Accordingly, because the City's current practice mirrors that of the proposed amendment, staff does not anticipate any change in the way that development charges are collected.

2.2. Growth and Intensification

d) Add Subsections 2(9) to 2(12) to the Act to enable the Minister to make regulations requiring municipal councils to use development charge by-laws for prescribed areas and services.

This amendment is intended to enable the Minister to require municipalities to implement area-specific development charges. The use of area-specific development charges can help both municipalities and the Province achieve the growth and intensification objectives established in the *Provincial Policy Statement, 2015* and the *Growth Plan for the Greater Golden Horseshoe* by ensuring that development charges address the true cost of servicing new development. Where area-specific development charges are employed, such as in Peterborough, development charges in existing built-up areas tend to be lower and therefore encourage intensification. Staff have no objection to this proposed amendment.

e) Add transit to the list of services in Subsection 5(5) for which no reduction of capital costs is required when determining development charges.

Presently, when calculating development charges, the Act requires the growth-related capital cost of general municipal services to be reduced by 10%. To facilitate better provision of transit and better coordination of land use and transit planning, Bill 73 proposes to eliminate the need for a 10% reduction on the estimated growth-related capital cost for transit. Staff strongly support this measure as a means of ensuring full cost recovery for municipal investment in transit service.

f) Add Section 5.2 to the Act to require that development charges for prescribed services in the regulations be calculated based on a 10-year planned level of service rather than the average level of service from the previous 10 years.

To ensure that new development does not receive greater service levels than existing development, the Act requires that the estimate of growth-related capital costs be based on a 10-year historical average for each service. If approved, this amendment enables the Province to identify through regulation a list of services for which municipalities would be able to estimate the growth-related capital cost based on a 10-year planned level of service. Although no regulations are proposed at this time to specify which services will be eligible for this measure, staff strongly supports this measure as a means of ensuring appropriate service levels are planned for and

funded to meet the needs of our growing community. Staff will eagerly await any regulations proposed to give effect to this measure and will provide comments on any proposed regulations as the opportunity arises.

2.3. Transparency and Accountability

g) Expand the required contents of an annual treasurer's report as listed in Subsection 43(2) of the Act to include statements regarding how development charge funds are used, the funding source for capital assets that are not funded by development charge funds, and municipal compliance with the Act's restrictions on the use of development charges.

h) Requiring the annual treasurer's report to be made publicly available.

Together, these two amendments seek to improve transparency and accountability in the collection and use of development charge funds by expanding the scope of municipalities' existing financial reporting requirements and by making those reports publicly available. Furthermore, under this approach, municipalities would be required to confirm their compliance with the Act's parameters under which development-related charges may be collected. Generally, staff have no concerns with these proposed measures.

i) Add Section 59.1 to the Act to clarify the parameters under which a municipality can impose charges related to development, to clarify the Minister's power to investigate municipal compliance with those parameters, and to clarify the Minister's ability to require a municipality to pay all or part of the cost of such an investigation.

Staff understand that some municipalities engage in a practice of collecting voluntary payments from developers to help pay for infrastructure costs over and above development charges. As a consequence, this amendment seeks to clarify municipalities' authority for imposing charges on development and the Minister's ability to investigate municipal compliance with the Act. Generally, staff have no concerns with these proposed measures. The City of Peterborough does not engage in the practice of collecting voluntary payments from development. Staff is supportive of measures to improve the Corporation's fiscal transparency and accountability.

3. Planning Act, R.S.O. 1990, Chapter P.13

Bill 73 proposes extensive amendments to the *Planning Act* to improve predictability, transparency and accountability in the land use planning process, to empower local decision-making, to better engage citizens in the planning process, and to better protect long-term interests. Generally, staff support most of the measures proposed and feel that, if approved, the Bill will successfully achieve these objectives.

Proposed amendments to the *Planning Act* are summarized here by theme and are accompanied with staff commentary.

3.1 Predictability, Transparency and Accountability

a) Amend Subsection 3(10) to require the Minister to review the Provincial Policy Statement issued under Subsection 3(1) of the Act every 10 years rather than every five years.

Staff strongly support the proposal to require review and/or revision of the Provincial Policy Statement every ten years. Presently, it can be challenging for municipalities to keep pace with necessary policy amendments resulting from the regular update of Provincial plans and policy statements. In staff's opinion, allowing for review of the Provincial Policy Statement every 10 years will help improve municipal consistency with Provincial policy and will also provide adequate time for the Provincial Policy Statement to mature.

b) Amend Subsection 26(1) to require municipalities to revise their official plan within 10 years of it coming into effect as a new plan (instead the current five years) and every five years thereafter, and to remove the requirement for municipalities to revise or confirm employment area policies if the official plan contains such policies.

Staff strongly support the proposal to require a new official plan to be revised within 10 years of coming into effect rather than five. Although this measure does not impact the City's current Official Plan, staff feel it is important to maintain a consistent timeframe between Provincial policy reviews and official plan reviews and thereby facilitate municipal consistency with Provincial policy. In fact, staff would recommend that consideration be given to extending the 10-year time frame to the revision of existing official plans as well. Requiring municipalities to revise their official plans every 10 years would better enable the City to maintain the Official Plan's conformity with provincial policy and would also provide a more appropriate timeframe for monitoring the effectiveness of Official Plan policy.

c) Establish a prohibition on global appeals of new official plans.

Staff support this measure as a means of preventing frivolous and vexatious appeals on new official plans. Specifically, in some municipalities, appeals have been launched against new official plans in their entirety in an effort to resolve property-specific issues. Such appeals delay Council adopted policies from coming into effect, regardless of whether the policies have any material effect on issue at the heart of the appeal. Such appeals are costly for municipalities to resolve and can cause delay in the development community for proponents looking to develop property in accordance with new official plan policy.

d) Impose a two-year moratorium on the following development applications:

- official plan amendments following the adoption of a new official plan;
- zoning by-law amendments following the global replacement of the municipality's zoning by-law(s); and,
- minor variances following the approval of an owner-initiated site-specific zoning by-law amendment unless Council has declared by resolution that the application for minor variance is permitted.

Generally, staff support this measure as a means of allowing these specific kinds of Council decisions to take effect. The adoption of a new official plan or the passing of a new comprehensive zoning by-law is typically the culmination of a long, consultative process that is intended to reflect the vision and priorities of the community. Such documents require time to mature before the effectiveness of their implementation can be evaluated.

Should a municipality determine that it is necessary to amend a newly approved official plan or comprehensive zoning by-law, the proposed amendment would not prevent a Council from leading an initiative to amend its own official plan or zoning by-law.

e) Establish a requirement for Appellants who appeal a notice of decision for a proposed official plan, official plan amendment, zoning by-law or zoning by-law amendment on the basis that the decisions are inconsistent with provincial policy statements, provincial plans or upper-tier official plans to explain how the decision is inconsistent with the said document(s) in their notice of appeal otherwise the Ontario Municipal Board (OMB) may dismiss all or part of the appeal without a hearing.

Similar to the amendment described in paragraph c), this amendment attempts to reduce opportunity for frivolous and vexatious appeals by requiring appellants to rationalize their appeal in their notice of appeal when the appeal questions consistency with provincial and/or upper-tier municipal policy. Provincial policy addresses a broad range of planning issues. Requiring appellants to better explain the basis of their appeal will improve issue-scoping and foster quicker resolution of appeals at the OMB. Staff support this proposed measure.

f) Provide Approval Authorities the ability to limit the time period for receiving appeals related to the Authority's failure to issue a notice of decision with respect to a proposed official plan or official plan amendment within the prescribed timeframe to 20 days once an appeal has been received.

When an applicant requests an amendment to the City Official Plan or when the City adopts an Official Plan or Official Plan Amendment that is subject to Ministerial approval, the approval authority has 180 days to issue a decision before the matter could be appealed to the OMB. In instances where an Official Plan or an Official Plan Amendment is appealed to the Board because of a lack of decision, the Act currently does not specify a time limit for filing appeals. Consequently, appeals could be filed long after the original appeal is filed, thus causing delay in resolving appeals.

This amendment would allow approval authorities, such as the City when processing a proponent-requested Official Plan Amendment, to establish a 20-day time limit for receiving appeals following receipt of the first appeal related to the City's non-decision on a requested amendment. Staff strongly support this measure because it provides more certainty to the appeal process for all parties and better enables the scoping and resolution of appeals. In fact, rather than make this provision discretionary, staff would recommend that this provision be made mandatory for all approval authorities to implement.

g) Amend Section 2.1 to require the OMB to have regard to the information and material received by a municipal council or approval authority, including written and oral submissions from the public relating to the planning matter, when the Board is dealing with appeals resulting from the failure of a municipal council or approval authority to make a decision.

Typically, when a planning matter is appealed to the Board, the Board must have regard for the municipality or approval authority's decision on the matter and any supporting information or material, including written and oral submissions from the public on the matter that was considered in making the decision. Unfortunately, these provisions do not explicitly apply to situations where an appeal is filed due to a lack of a decision from the municipality or approval authority. To correct this situation, this amendment would require the Board to have regard to any information and material received by the municipality or approval authority. Staff support this measure as a means of ensuring that the Board considers the same information that Council would consider in these situations and also as a means of preventing applicants from attempting to circumvent consideration of public input on a proposed planning matter.

h) Add clarification to the Act that where reference is made in either an Act or in regulation to the day on which a request for an official plan amendment is received, that day will be considered the day when all prescribed information and material is received and any other information and material is received that council deems necessary (if the official plan contains provisions relating to such requirements), together with any fee required for processing the application.

Staff have no objection to this amendment.

i) Amend the height and density bonusing provisions of Section 37 to require that money collected under that section be kept in a special account and that the municipal treasurer make an annual statement regarding the status of the account, the use of any funds in that account, and the funding source for any facilities, services or other matters not completely funded by the special account.

Despite its availability, height and density bonusing is rarely used in Peterborough. Notwithstanding this, staff supports measures such as this one that seek to improve municipal fiscal transparency and accountability.

j) Amend Sections 42 and 51.1 which relate to the acquisition of land for parkland purposes to:

- require municipalities to prepare a parks plan that examines the need for parkland in the municipality before adopting official plan policies that enable the municipality to consider alternative parkland dedication rates;
- specify that where alternative parkland dedication rates are used, payment in lieu of parkland dedication will be calculated based on a rate of 1 hectare of parkland for every 500 dwelling units proposed or a lesser rate rather than 1 hectare for every 300 dwelling units as the Act currently provides; and
- require the municipal treasurer to make an annual statement regarding the status of the special account required for keeping funds collected as payment in lieu of parkland dedication, the use of funds from the account, and the funding source for any capital costs not completely funded by the account.

These amendments intend to make the municipal process of acquiring parkland through development applications more transparent by requiring municipalities to prepare a parks plan that establishes the need for parkland in the community and also to engage in enhanced financial reporting for funds collected and used for parkland acquisition. Staff support these measures and note that the City's current parkland dedication standards were established through a comprehensive review of parkland needs in 2000.

Furthermore, to promote intensification and higher density development, the Bill amends the alternative standard for calculating cash-in-lieu of parkland payments to be based on a ratio of 1 hectare of parkland for every 500 dwelling units proposed. Currently, this rate is typically 1 hectare for every 300 units. The effect of this proposal would be to reduce the amount of money being collected by municipalities if the alternative parkland calculation method is used.

Staff do not support this proposal and feel that it will work against municipalities' ability to acquire adequate parkland for their communities. Staff note that Subsections 42(1), 42(3), 51.1(1) and 51.1(2) of the Act already provide municipalities with the flexibility to reduce the amount of parkland or cash-in-lieu of parkland received through

planning applications. Given this flexibility, staff feel it is inappropriate for the Act to specify a reduced cash-in-lieu rate and that municipalities should retain the ability to decide the circumstances under which reduced parkland dedication rates are appropriate for their community.

k) Amend Section 45 to require committees of adjustment to ensure that minor variance decisions conform to prescribed criteria in addition to the matters set out in Subsection 45(1).

This amendment is intended to ensure consistency in minor variance decisions across the province by providing flexibility for additional conformity criteria to be prescribed in regulation in addition to those matters described in Subsection 45(1). Generally, staff support this measure as it will help guide municipal Committees of Adjustment in their deliberation process and also provide more consistent decisions for applicants. Staff note that no regulations are proposed at this time however staff will provide comments on any proposed regulations as the opportunity arises.

l) Add Subsection 70.2(2.1) to authorize the Lieutenant Governor in Council, when making a regulation that establishes a development permit system that local municipalities can adopt or that delegates the power to establish a development permit system to a local municipality, to specify that applications to amend new development permit by-laws or the related official plan provisions are prohibited for five years from the date the by-law is passed.

In 2006, the *Planning Act* was amended to provide municipalities the ability to implement Development Permit Systems (DPS). A DPS is a land use planning tool that combines zoning, site plan and minor variance processes into one application and approval process. The intent of DPS is to streamline local planning approvals while promoting development. Similar to the adoption of a new official plan, the adoption of a DPS requires extensive community consultation including both a Public Open House and a formal Public Meeting under the Act.

Although Peterborough does not have a DPS nor is staff currently contemplating the preparation of a DPS for Council consideration, staff questions the appropriateness of enabling the Province to impose a five-year moratorium on amendments to a new DPS by-law or related official plan policies. Staff recognizes the need to allow significant land use tools such as a new DPS to mature however staff suggest that a 2-year timeframe would be more appropriate. A 2-year prohibition on amendments would be consistent with the Bill's proposed approach for new official plans and new comprehensive zoning by-laws.

m) Adding Section 70.2.1 to clarify that the term development permit, when used on its own or in the phrase development permit system or development permit by-law may also be referred as “community planning permit” without changing the legal effect.

Staff has no objection to this amendment.

n) Adding Section 70.2.2 to authorize the Minister to make an order requiring a local municipality to adopt a development permit system for prescribed purposes, to authorize upper-tier municipalities to pass by-laws requiring lower-tier municipalities to adopt a development permit system for prescribed purposes, and to authorize the Minister to make an order requiring an upper-tier municipality to pass a by-law requiring lower-tier municipalities to adopt a development permit system for prescribed purposes.

Since the *Planning Act* was amended in 2006 to allow for municipal adoption of DPS, only four municipalities have adopted a DPS (as of 2013).

If approved, this amendment would give the province the ability to create a DPS for municipalities to adopt and would also empower the province to require municipalities to adopt a DPS for purposes that would be prescribed in regulation. While staff support the province in their effort to promote DPS and support the proposal to enable the province to create a DPS that municipalities could adopt, staff do not support provisions that could require municipalities to adopt a DPS. In staff’s opinion, the Act does a good job of facilitating the municipal adoption of DPS however the decision to adopt a DPS should be made by municipal councils who have regard for the unique qualities of their community.

3.2 Municipal Leadership in Resolving Issues and Making Local Land Use Planning Decisions

o) Enable decision making authorities to use mediation, conciliation or other dispute resolution techniques prior to submitting an appeal record to the OMB for the following types of appeals:

- Appeals against a council decision to adopt an official plan or an official plan amendment or to refuse a requested official plan amendment;
- Appeals against an Approval Authority (i.e. the Minister or a delegated authority) decision respecting a proposed official plan or official plan amendment;
- Appeals against a council decision to pass a zoning by-law or zoning by-law amendment or to refuse a requested zoning by-law amendment;

- Appeals against an Approval Authority decision respecting a proposed plan of subdivision, the conditions of subdivision approval, or changes made to conditions of subdivision approval; and
- Appeals against a Minister or council (or delegated body of council) decision respecting a request for consent or changes made to conditions of provisional consent.

p) Where alternative dispute resolution measures are used, the time for submitting the appeal record to the OMB would be extended by 60 days.

These amendments attempt to foster local decision making and reduce OMB case load by providing decision-making bodies such as Council the ability to use mediation, conciliation or other dispute resolution techniques prior to submitting an appeal record to the OMB. If Council opted to use these alternative techniques, it would have 75 days from the date the notice of appeal is received to forward the appeal record to the Board instead of the current 15 days. Generally, staff welcomes the opportunity to use alternative dispute resolution techniques however staff have some questions and thoughts regarding the proposed process:

i) Who would pay for the use of an independent mediator if one is used? Or would the Board supply one? Presently, the Board would act as a mediator if mediation is to be used before a hearing.

ii) What is the timing requirement for Council to issue notice of its intent to use alternative dispute resolution techniques? The Act currently requires all information and material related to an appeal to be forwarded to the Board within 15 days of the appeal's receipt. This should be clarified in the Bill.

If notice is required from Council to signify its intent to use alternative dispute resolution techniques, Council may wish consider delegating the authority to make such determination to staff in order to ensure such notices are issued in a timely manner given Council's three-week cycle schedule. Alternatively, Council may wish to consider passing a resolution to signify its intent to use alternative dispute resolution techniques in all applicable instances and authorize staff to issue notice of such automatically when an appeal is received.

iii) What happens if all or some parties refuse to participate? The Bill indicates that participation in alternative dispute resolution techniques is voluntary for all persons and public bodies who receive an invitation from the approval authority. If some invited parties refuse to participate in the process, the Bill should clarify who makes the determination of whether the alternative process should continue and also contain provision determining when all information and material is to be forwarded to the Board if it is determined that the alternative process will not continue. Furthermore, the Bill should provide a

timeline for parties to respond to any invite/notice received from the approval authority with respect to alternative dispute resolution techniques.

q) Establishing allowance for a one-time 90-day extension of the 180-day time period within which an Approval Authority is required to make a decision regarding a proposed official plan or official plan amendment when:

- The person or public body that has requested the official plan amendment requests an extension in writing to the Approval Authority;
- In all other cases, the municipality extends the time period in writing to the Approval Authority; or
- The Approval Authority extends the time period by giving written notice to the person or public body or the municipality.

This amendment would provide municipalities and approval authorities the opportunity to establish more time for processing new official plans or official plan amendment applications before the matter could be appealed to the OMB on account of a lack of decision within the required timeframe. Specifically, this amendment would enable an approval authority to extend the time period for which it has to make a decision on the matter from 180 days to up to 270 days. This provision would only apply if the approval authority has not already made a decision within 180 days and, as noted, could only occur in specific situations.

Although staff would appreciate additional time for processing official plan amendment applications, the proposed process would appear to introduce uncertainty into the planning process and a lack of a mechanism for dispute resolution should an affected party disagree with the decision to extend the timeframe. At a minimum, the Bill should clarify that such an extension can only be granted if no appeals have been received regarding the approval authority's failure to make a decision within the 180-day time period. Preferably, to reduce uncertainty in the process, the Bill would simply provide approval authorities a 270-day time period for processing official plans and official plan amendments.

3.3 Citizen Engagement

r) Amend Section 8 to require upper-tier and single-tier municipalities to appoint a planning advisory committee consisting of at least one resident of the community who is neither a member of Council nor an employee of the municipality.

Presently, the Act enables Council to appoint a Planning Advisory Committee composed of persons as Council may determine in order to provide advice to Council on land use planning matters. If Bill 73 is approved, Council would be required to appoint such a committee with membership containing at least one person who is neither a member of Council nor an employee of the City.

Prior to 1990 the City had a Planning Advisory Board consisting of some members of Council and appointed citizens. The Board's purpose was to review planning applications and make recommendations to Council thereon. In 1990 the Board was abolished and replaced with a standing committee of Council to hear planning matters before they come to City Council for ratification. The reason for removing the Board at the time was to give members of Council greater involvement in the planning system and to eliminate redundancy and streamline the development approval process. Since 1990, the format for Council's handling of planning applications has remained relatively unchanged.

If Bill 73 is approved as currently worded, staff will need to assess the function that a Planning Advisory Committee would provide and how that function relates to current Council processes and functions. Although staff welcomes and encourages citizen participation in planning matters, staff would like to ensure that the City's land use planning review and approval system remains efficient and minimizes duplication of process and function for all parties involved. If the purpose and function of such a committee is to be similar in nature to other Council-appointed advisory committees such as the Arenas, Parks & Recreation Advisory Committee and the Arts, Culture & Heritage Advisory Committee, consideration may need to be given to the inclusion of more members of the general public than the minimum of one that is considered in the Bill. Further reporting to Council will be required on this matter should Bill 73 be approved.

s) Amend Section 16 to make it mandatory for an official plan to contain a description of the measures and procedures for informing the public and obtaining their views on proposed amendments or revisions to the official plan, proposed zoning by-laws, proposed plans of subdivision and proposed consents while maintaining an official plan's discretion for providing a similar description for other planning matters.

Presently, the Act enables municipalities to include a description of the means for informing the public and obtaining their views with respect to proposed official plan and zoning by-law amendments. In the City's Official Plan, this description is provided in Section 9.6. Under Bill 73, such descriptions would be made mandatory and would be expanded in scope to address proposed plans of subdivision and consents. Staff support this measure and note that such descriptions could be incorporated into the Official Plan as part of the current Official Plan Review. Providing a clear description of the City's public notice and consultation procedures helps to make planning more accessible, transparent and predictable for citizens and developers alike.

t) Extending permission in the Act for an official plan to establish alternative measures for informing the public and obtaining their views on planning matters to include plans of subdivision and consents in addition to proposed official plan amendments and zoning by-laws.

Staff have no objection to this proposed amendment.

u) Expand the required contents of a notice of decision for an official plan, an official plan amendment, a zoning by-law amendment, a minor variance, a plan or subdivision and a consent to include a brief explanation of the effect that written and oral submissions have had on the decision.

Often, staff will receive queries from citizens wondering how their comments have been heard and/or how their comments have influenced a planning decision. Typically, Council receives public comments through staff's report and presentation on a planning matter, and also through written and oral submissions made at a public meeting. To enhance accountability in the decision-making process, Bill 73 proposes approval authorities to enhance their notices of decision to include a brief description of the effect that oral and written submissions have had on the decision. Staff supports this measure and notes that this explanation is often contained in the staff report to Council.

v) Require that the Minister be provided with a copy of any official plan or official plan amendment 90 days prior to the issuance of a notice of public meeting or public open house, as applicable, where the Minister is the approval authority for the plan or amendment and the plan or amendment is not exempt from approval.

To facilitate municipal compliance with provincial policy and plans, Bill 73 proposes to require municipalities to provide a copy of any official plan or official plan amendment to the Minister for review 90 days before notice is given of a public meeting (or a public open house, as required by the Act) on the matter where the Minister is the approval authority. Generally, staff does not object to this requirement and notes that for the City, this situation would typically only arise if the Council is adopting a new official plan or is comprehensively amending the Official Plan. In all other situations, the Minister has exempted the City's Official Plan from approval.

3.4 Protecting Long-term Public Interests

w) Prohibit appeals on those portions of new official plans or official plan amendments that pertain to certain specified matters including the identification of an area as being a vulnerable area as defined in the *Clean Water Act, 2006* and the identification of population and employment growth forecasts where those forecasts are set out in a growth plan that is approved under the *Places to Grow Act, 2006* and the forecast applies to the Greater Golden Horseshoe Growth Plan area as designated in Ontario Regulation 461/05.

Since 2005, the province has revised many aspects of the provincial land use planning system including the introduction of new policy statements and new provincial plans coupled with amendments to the Act to require planning-decision

consistency and/or conformity with these statements and plans. Each new policy and plan decision issued by the Province comes with a municipal obligation to review and update its official plan to ensure plan conformity. In the process of updating an official plan to conform with provincial direction, opportunity exists for interested parties to appeal municipal decisions on the matter.

To protect the province's long-term interests and ensure timely implementation of certain matters, Bill 73 proposes to prohibit appeals on any part of an official plan or official plan amendment that are intended to implement certain approvals already granted at a provincial level. Staff welcome this provision as it will ensure the City's ability to incorporate these important provincial matters into the Official Plan in a timely manner.

Summary

Generally, staff support most provisions in Bill 73 and feel that the Bill will improve predictability, transparency, cost effectiveness and responsiveness in both the development charges and land use planning systems. In particular, staff strongly support the following proposed measures:

- the elimination of a 10% reduction on the estimated growth-related capital cost for transit when calculating development charges;
- the estimation of the growth-related capital costs based on a 10-year planned level of service when calculating development charges;
- the alignment of the comprehensive review and update of provincial policy and municipal official plans every ten years;
- the establishment of a 20-day time limit for appeals related to a non-decision on an official plan or official plan amendment; and,
- the prohibition on appeals related to those aspects of an official plan or official plan amendment that are intended to implement provincially-approved matters.

Notwithstanding staff's general support for the Bill, staff disagrees and/or has outstanding questions regarding the following matters:

- the list of services to be prescribed as ineligible for development charges;
- the appropriateness of specifying a reduced cash-in-lieu of parkland dedication rate in the *Planning Act*;
- the need for establishing provincial authority to require municipal adoption of development permit systems;

- the mechanics of implementing alternative dispute resolution techniques when appeals are filed on planning matters;

- the appropriateness of creating a discretionary ability for municipalities and approval authorities to extend the time period for issuing a decision on new official plans or official plan amendments; and,

- the purpose and function of a Planning Advisory Committee relative to the City's existing land use planning review and approval system.

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Attachments:

Exhibit A: Explanatory Note from Bill 73 – An Act to amend the Development Charges Act, 1997 and the Planning Act