Appendix A of Report CM-11-19

City of Burlington Recommendations Regarding Proposed Bill 108: More Homes, More Choice Act, 2019

**Bill 108 (Schedule 11) – The Proposed More Homes, More Choice Act: Amendments to the Ontario Heritage Act**

**ERO Number: 019-0021**

Introduction of “prescribed principles” that Council must consider when designating property or making decisions related to designated properties

Recommendation:

The regulations that will establish prescribed principles should be created through consultation with municipalities, and provide sufficient time for a thorough municipal review and response.

The province should limit the application of prescribed principles to designations under section 29, and state that the principles will not apply to listing non-designated properties under section 27.

Changes to provisions for provincial heritage properties

Recommendation:

The province should not repeal section 26(2) of the Act, and should leave it unchanged. Alternatively, the province should not repeal section 26(2) but amend it by stating that provincial standards and guidelines shall only prevail over municipal decisions when occupation of a designated heritage property by a provincial or prescribed public body exceeds a certain minimum duration of time.

New process for listing non-designated properties on the Municipal Register

Recommendations:

The province should introduce a time limit for the owner to object after the City notifies the owner that the property has been listed.

Recommend that a provision be added to allow a property owner to withdraw a notice submitted under subsection 27(9), regarding intention to demolish or remove a building or structure on a listed property.

Introduction of “prescribed principles” that Council must consider when designating property or making decisions related to designated properties

Recommendation:

The province should consult municipalities on the regulations that will establish prescribed principles, and provide sufficient time for a thorough municipal review and response.

The province should limit the application of prescribed principles to designations under section 29, and state that the principles will not apply to listing non-designated properties under section 27.

Changes to provisions for provincial heritage properties

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The province should not repeal section 26(2) of the Act, and leave it unchanged. Alternatively, the province not repeal section 26(2) but amend it by stating that provincial standards and guidelines shall only prevail over municipal decisions when occupation of a designated heritage property by a provincial or prescribed public body exceeds a certain minimum duration of time.

New process for listing non-designated properties on the Municipal Register

Recommendations:

The province should introduce a time limit for the owner to object after the City notifies the owner that the property has been listed.

A provision should be added to allow a property owner to withdraw a notice submitted under subsection 27(9), regarding intention to demolish or remove a building or structure on a listed property.

Introduction of “prescribed events” that limit Council’s ability to designate heritage properties

Recommendations:

The province should remove the proposed new subsection 29(1.2) concerning prescribed events from Bill 108.

Alternatively, if proposed new subsection 29(1.2) concerning prescribed events is to be retained, the province should:

* clarify how the City will be notified when the prescribed event has occurred, and deem that the 90-day time limit does not begin until the City has been notified in writing that the event has occurred;
* increase the time limit for Council to state an intention to designate from 90 days to one year, and state that the restriction on stating an intention to designate after that period ends shall be temporary rather than permanent;
* amend the subsection to allow the property owner to agree in writing to extend the time limit for stating an intention to designate beyond the stated time limit identified in the Act; and
* consult municipalities on the regulations that will establish prescribed events and associated exceptions, and provide sufficient time for a thorough municipal review and response to the proposed regulations.

Changes to Decision-Making Process and Appeals Process for Designations, Designation Amendments, Designation Repeals, and Heritage Permits (Municipal Consent for Alterations or Demolition to Designated Property)

Recommendations:

* The province should amend the proposed section 29, as currently worded in Bill 108, to provide for a more efficient process for designation decisions and for the efficient handling of notices of objection to a municipality’s intention to designate a property.
* The province should amend the proposed subsection (8)(1), to extend the time limit for passing a designation by-law after publishing notice of intention to designate, from 120 days to one year.
* The appeal body (CRB or LPAT) that hears appeals on heritage designations should only be able to make non-binding recommendations to Council, rather than binding decisions, and that final decision-making authority rest with municipal Council – in recognition that heritage designations are an inherently local matter concerning the conservation of cultural heritage resources that are valued by a local community.
* The right to appeal a heritage designation should be limited to the property owner, rather than “any person”, and that the grounds for appeal of a by-law passed by Council to designate property, or amend or repeal the designation of a property, be limited to the basis that said by-law does not comply with the Heritage Act or regulations.
* The province should amend subsections 33(4) and 34(4) to clarify notification requirements for incomplete applications, and accordingly, amend subsections 33(7) and 34 (4.3) to clarify that the 60-day timeline that begins at the commencement of an application is suspended and restarted after the Council serves notice on the applicant that the submitted application is incomplete.
* The province should make amendments to the Ontario Planning Act to state that where an application to alter or demolish is made under Sections 33 or 34 of the Ontario Heritage Act that the timelines in the Ontario Heritage Act prevail to the extent of any conflict for the purposes of the date an appeal may be made under the Planning Act regarding a Planning Act application.
* The proposed Act, as currently worded in Bill 108, should be amended to restore municipal Council discretion in determining whether an application to remove a heritage attribute from a designated property constitutes alteration or demolition.

Changes to Heritage Districts

Recommendations:

Request that the province amend the Heritage Act to provide clarity on the relationship between the individual heritage values and attributes of properties within a Heritage Conservation District and the values and attributes of the District, particularly as it pertains to alterations and demolition/removal.