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Monday, February 10, 2014

Bulletin No.: G.2.1.0

**Intergovernmental
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**Using the
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Act**

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Date: October 2000

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OCP Process and Consultation

Rationale:

The new *Local Government Act* provisions regarding the official community plan (OCP) development and adoption process and consultation during the preparation of an OCP reflect the principles established in 1997 to guide the *Municipal Act* Reform process. In particular, these changes provide:

- local government **accountability** for enabling citizen input on issues of concern to them during the development of an OCP or OCP amendment;
- improved **inter-local government relationships** on planning and land use management issues; and,
- **appropriate provincial government involvement** in the development and amendment of OCPs in instances where the provincial government has a clear responsibility or interest.

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These legislative amendments, which will come into force January 1, 2001, establish requirements for consultation with citizens and public authorities during the development of an OCP, streamline the adoption procedures for OCP bylaws and authorize the chair of a public hearing considering an OCP bylaw to establish procedural rules.

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New Provisions:

- Section 879 requires local governments to provide one or more opportunities for consultation with persons, organizations and authorities it considers will be affected when developing, amending or repealing an OCP. The local government must determine if this consultation should be early and on-going, and, specifically, if consultation is required with adjacent jurisdictions, First Nations, school districts, improvement districts, greater boards (ie. water districts) and the provincial and federal governments and agencies. This consultation is additional to the legislative requirement for a public hearing.
- Section 882 is amended to set out new, more streamlined,

adoption procedures for both municipal and regional district OCP bylaws. The following changes are particularly noteworthy:

- The required majority for each reading of a regional district OCP has been clarified in subsection (2) -- each reading must receive the affirmative vote of a majority of all directors entitled under section 791 to vote on the bylaw.
- A number of specific requirements for referrals of a proposed OCP bylaw to other local government jurisdictions have been removed because these are no longer necessary given the new consultation requirement noted above.
- The requirement that an OCP for an area that includes land in the Agricultural Land Reserve be referred to the Land Reserve Commission is continued. However, the Minister may make regulations defining areas and circumstances in which this referral is not required, and providing terms and conditions for this exception. This is in keeping with the Minister's authority to define areas and circumstances in which approval of a regional district OCP bylaw is not required. For further information on the reduction of provincial approvals in other areas, see Bulletin Number [G.1.0.0](#) (Planning and Land Use Management: New Directions).
- The requirement to consider an OCP after first reading, in conjunction with its financial plan or capital expenditure plan and any applicable waste management plan, is continued but this is now supplemented by a new provision (sub-section 5) enabling a local government to consider a proposed OCP in conjunction with any other land use planning and any social, economic, environmental or other community planning and policies.

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Related Provisions:

- Sections 875 to 877 describe the purpose of OCP, provide authority to include in an OCP any statements and material considered appropriate and require consideration of applicable provincial policy guidelines (see Bulletin Numbers [G.2.0.0](#) (OCP Purpose and Content) and [G.2.2.0](#) (OCP Provincial Policy Guidelines)).
- Division 4 of Part 24 requires public hearings for some OCPs and sets out the procedural requirements in relation to these (see Bulletin Number [G.4.0.0](#) - Public Hearing Procedures).

Practical considerations:

- The new requirements for consultation with citizens and public authorities suggest a new way of "doing business" for local government when developing or amending an OCP. The new provisions recognize that local governments generally use other mechanisms besides the required public hearing to seek input from the public and other jurisdictions. The new legislation emphasizes the value of a local government seeking input from other authorities at an early stage in the planning process, as opposed to receiving comments in response to a referral after first reading, when the OCP has already been drafted.

- The intent of the new consultation requirement is that input will be obtained from those that will be affected by an OCP early in its development, in order that any concerns can be more easily addressed. The requirement allows each local government to develop its own approach to consultation. Local governments can vary the type and number of consultations and even decide who should be consulted with, so long as they ensure that consultation opportunities are provided for those they consider will be affected.
- However, it is now mandatory that local governments specifically consider possible pre-public hearing consultation with certain specified parties (eg., First Nations, adjacent local governments) when developing an OCP and that they consider whether consultation should be early and ongoing. When making choices about consultation, councils and boards may wish to take a number of factors into consideration, including:
 - Is the bylaw under development a new OCP, or is making minor or major amendments or repealing an existing OCP? Consideration of the potential impact may well drive out a different consultation need or strategy for actions that affect large numbers of people or diverse interests than for actions that affect only a small segment of the community).
 - What parties can reasonably be considered to be affected by the OCP? Local governments may want to think in terms of the statutory requirement to specifically consider certain organizations as a starting point for decisions about who will be affected rather than an exhaustive listing of who will be affected. For example, "citizens" or "residents" are not listed as a mandatory group to consider, but would be affected by virtually all OCPs, and so consultation opportunities should be developed. Consideration might also be given to establishing protocols with adjacent jurisdictions or other government bodies to help to clarify when those governments are affected by an OCP, and the level of consultation required in different circumstances.
 - How effective will various forms of consultation be? Effective consultation at this stage can not only lead to a smoother public hearing process, but should also result in better OCPs. This will be particularly true if the consultation is early enough in the process that issues raised during the consultation can be adequately reviewed and if the consultations are frequent enough that the results of these reviews can become part of future consultation opportunities.
 - How transparent are the consultation decisions? Since these new consultation provisions impose a number of statutory requirements on councils and boards (eg., must provide consultation opportunities; must consider whether opportunities should be early and on-going; must specifically consider consultations with specified groups) and since the adequate fulfilment of these requirements could become the subject of a court challenge, local governments may want to take particular care to ensure that their decision-making process with respect to this consultation is transparent. So, for example, all staff reports on consultation should be well

documented and the report should advise council or the board of whether to and whom to consult. To ensure that evidence of "consideration" can be shown in court proceedings, the council or board minutes should list the decisions regarding each of the mandatory considerations.

- In developing effective consultation, local governments may want to prepare a comprehensive consultation policy that addresses such things as: fairness and equity, how to define consultation in different circumstances, who must and who should be consulted, how different interests want to be involved, and how the results of consultation will be considered.
- In order to provide further guidance to local governments, the Minister of Municipal Affairs will establish a provincial policy guideline on consultation for consideration of local governments developing an OCP in 2001.
- In order to more successfully integrate various planning initiatives, local governments may want to assess what other planning and policies within their own jurisdiction, or other affected jurisdictions, might usefully be considered during the development or amendment of an OCP.

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Transitional provisions:

- A transitional regulation will clarify that where a local government has held a public hearing for any OCP bylaw amendments, repeals or a new OCP, but not adopted the bylaw prior to January 1, 2001, the additional consultation under section 879 will not be required.

For all other new bylaws and amendments or repeals to existing bylaws, **any new procedural requirements must be followed as soon as the applicable provision is brought into force.** For example, after January 1, 2001, any OCP bylaw amendments or repeals, or development of new OCP bylaws will require local government consultation with persons, organizations and authorities the council or board consider will be affected. Because these requirements place an obligation on councils/boards to undertake consultation in addition to the public hearing, local governments will want to be particularly careful with bylaws in process, to ensure that if the bylaw has not gone to public hearing by January 1, 2001, the local government has complied with the new consultation requirements.

Local Government Act References:

Primary Sections: Section 879, 882

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