



MEMO / NOTE DE SERVICE

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TO: Built Heritage Committee

DESTINATAIRE: Comité du patrimoine bâti

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FILE NUMBER: ACS2024-PRE-RHU-0021

**SUBJECT: Amendments to the *Ontario Heritage Act* Proposed By Bill 139, the
Less Red Tape, More Common Sense Act 2023**

**OBJET: Modifications de la *Loi sur le patrimoine de l'Ontario* en vertu du projet
de loi 139, *Loi de 2023 pour plus de bon sens et moins de formalités
administratives***

PURPOSE

The purpose of this memorandum is to inform the Built Heritage Committee of changes proposed by the Province to the *Ontario Heritage Act* (OHA) first introduced in draft form on October 19, 2023. Background information and a summary of the proposed

amendments are set out below. This memorandum also summarizes the Heritage Planning Branch's response to the amendments proposed. Responses to the Province's specific questions, in addition to general comments, were submitted to the Province of Ontario within the proposal's commenting period which closed on December 3, 2023. These comments are attached as Document 1.

BACKGROUND

As part of the Province of Ontario's "Fall Red Tape Reduction package", Bill 139 – the *Less Red Tape, More Common Sense Act, 2023* – was introduced to the Provincial Legislature on October 19, 2023. Bill 139 proposes to amend 20 Provincial Acts, including Section 33 of the OHA. Section 33 restricts the alteration of properties designated under Part IV of the OHA and establishes the process for Council to review and permit property alterations. The proposed amendments establish a new process with reduced timelines and Council oversight for alterations to designated buildings used primarily for religious practices or the spiritual practices of Indigenous communities or Indigenous organizations.

Bill 139 received Royal Assent on December 4, 2023. The amendments were expected to come into force on January 1, 2024. On December 22, 2023 the Ministry of Citizenship and Multiculturalism announced that the amendments would not come into force on January 1, 2024 and that further details regarding a coming into force date would follow in 2024. To date, the City of Ottawa has received no further updates on these amendments coming into force.

DISCUSSION

Proposed *Ontario Heritage Act* Amendments

The stated intent of the proposed amendments is to provide certainty and shorter timelines for religious organizations, Indigenous communities, and Indigenous organizations undertaking alterations required for religious or spiritual practices.

Bill 139 amends Section 33 of the OHA to require that applications to alter a property designated under Part IV of the OHA are consented to by Council within 30 days and without terms or conditions if the following criteria are satisfied:

- The building, or part thereof, to be altered is primarily used for religious practices.
- The heritage attributes to be altered are connected to religious practices.
- The alteration of the heritage attributes is required for religious practices.
- Any additional conditions prescribed by regulation; and,

- The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.

Further, the amendments propose that municipalities are required to rely on the affidavit or sworn declaration to demonstrate that the above noted requirements are met. Under OHA Section 33 (2) and Regulation 385/21, municipalities retain the ability to require other supporting material, including plans and studies, which are not subject to the affidavit. In addition, the Province has proposed that this process will not apply to additions to a designated building. An amended version of OHA section 33, incorporating the proposed amendments, is attached as Document 2.

Summary of City of Ottawa Comments

In general, the Heritage Planning Branch had questions regarding the necessity of the proposed amendments. Under the City of Ottawa's Delegation of Authority By-law, most minor alterations to properties designated under Part IV are processed and issued at the staff level in five to ten business days. We anticipate that most alterations subject to the proposed process would be eligible to proceed under the existing delegated authority process. The City of Ottawa's opinion is that the proposed amendments are not necessary where a delegated authority approval process has been established.

The Heritage Planning Branch has also requested clarification on several specific questions related to the implementation of the proposed amendments. For example, it is unclear how the proposed provisions apply where alterations under OHA Section 33 are requested simultaneously with requests for the demolition or removal of heritage attributes under OHA Section 34. Currently, proposals like this are processed simultaneously because they share a 90-day legislated timeline.

The Heritage Planning Branch has also requested clarification on why applications to permit alterations under the proposed provisions cannot be approved with conditions. Conditions that delegate to staff the authority to approve minor design alterations, primarily for the purposes of adjusting approved plans to meet Building Code or Zoning By-law requirements, are commonly applied to permit applications processed through Built Heritage Committee and Council. If Council lacks the ability to apply conditions to approvals under Section 33, applicants may be required to apply for a new heritage permit when minor alterations are required.

Impacts to the Built Heritage Committee

Heritage staff do not anticipate significant impacts to the number of applications heard by BHC. Most applications that qualify for approval under the provisions proposed by Bill 139 would currently be reviewed and approved by Staff under the City of Ottawa's

existing Delegation of Authority By-law. As the new provisions are implemented staff will monitor the number of applications processed under their authority and update BHC should internal procedures require amendments.

SUPPORTING DOCUMENTATION

Document 1: City of Ottawa Comments on Bill 139 *Ontario Heritage Act* Amendments

Document 2: Amended *Ontario Heritage Act* Section 33