



# Navigating the Post OMB World: Making Sense of the Development Approvals Process

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# Introduction: The Status of Bill 139

- Royal Assent: December 2017
- Not yet in force: expected Spring 2018
- Rules and Regulations for the new LPAT need to be finalized
- Transition Regulations have been drafted but are still subject to public comment

# Six Observations on the New World...

1. The primacy of provincial policy...
2. Limits on what can be appealed...
3. The form of the appeal...
4. The pathway of the appeal...
5. The role of Council in decision-making process...
6. The rules governing transition?

# 1. The primacy of provincial policy...

- Successful appeals must prove the municipal decision:
  - is inconsistent with a provincial policy statement
  - fails to conform with or conflicts with a provincial plan, or
  - fails to conform with the applicable upper-tier OP
- If you can't pass that test, you have no appeal
- Also a Joint Test applicable to privately-initiated OPAs or ZBAs
- It remains to be seen how much deference Councils will get from LPAT or Courts on judicial review.

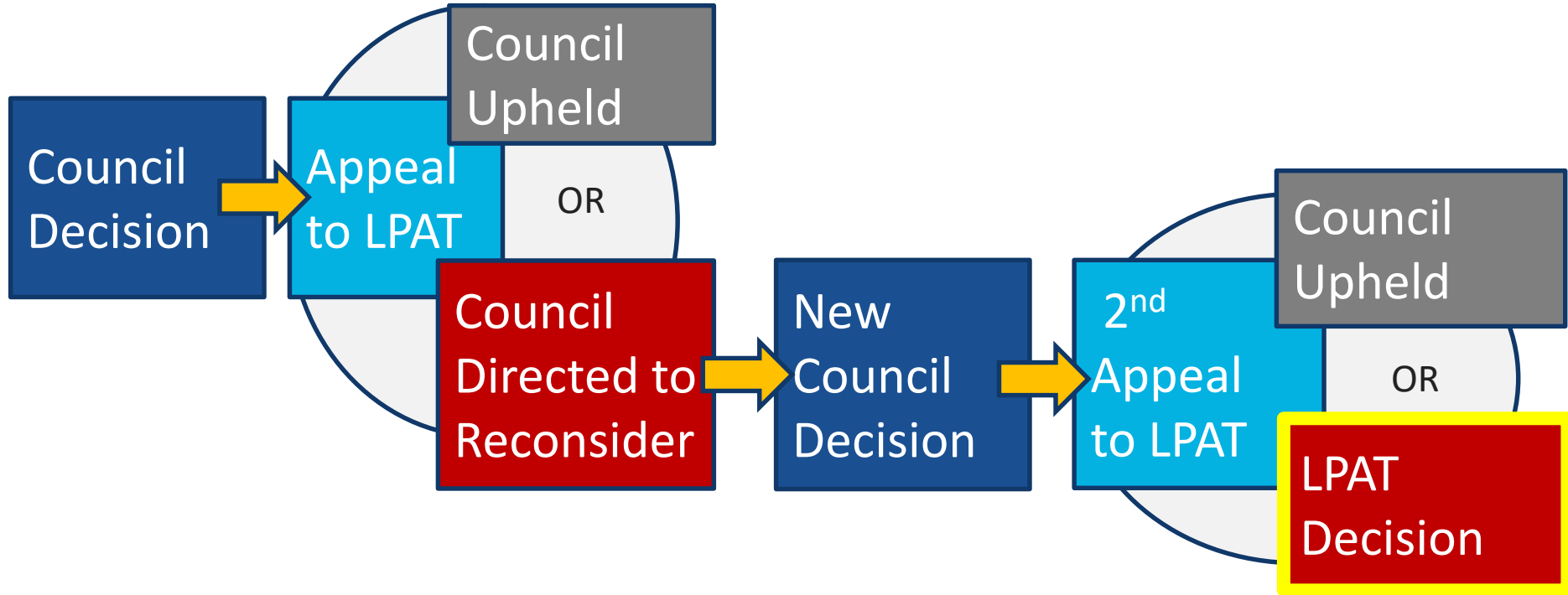
## 2. Limits on what can be appealed...

- No appeals of municipally initiated Official Plan Amendments that require Minister's approval
- No appeals for two years on amendments to newly approved Secondary Plans
- Interim Control By-laws can only be appealed by the Minister
- Restricted appeals regarding Major Transit Station Area policies

# 3. The form of the appeal will change...

- Limits on “de novo” hearings...
- Evidence drawn from the record of what was before Council
- Reliance of written submission
- Time limits on oral submissions
- Mandatory case management conferences
- Local Planning Support Centre will be established

# 4. The pathway of the appeal process...



# 5. The role of Council in the process...

- Heightened importance of making your case at Council
  - Change from oral evidence...
  - Reconsideration stage...
- Bill 139 did not specify changes to the procedural requirements that Councils deliver, but they will have to come...



# 6. Rules governing transition?

**Proposed transitional rules are still subject to change**

Dec. 12, 2017

Proclamation Day  
(Spring 2018?)

## **Appeals will go to OMB if...**

- Appealed to the OMB before Dec. 12, 2017
- Filed a complete application before Dec. 12, 2017, and file an appeal before proclamation of the new regulations

**Otherwise the appeal will go to the LPAT**

# Our Panel

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