

ITEM SUPPLEMENTARY 14
MANAGER'S REPORT NO. 49
COUNCIL MEETING 1982 09 07

RE: LETTER FROM UNION OF BRITISH COLUMBIA MUNICIPALITIES
313 SIXTH STREET, NEW WESTMINSTER, B.C., V3L 3A7
BILL 72 - LAND USE ACT
(ITEM 8, REPORT NO. 13, 1982 MARCH 01)

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

* * * * *

TO: MUNICIPAL MANAGER 1982 SEPTEMBER 02
FROM: DIRECTOR PLANNING & BUILDING INSPECTION OUR FILE: 02.192
SUBJECT: BILL 72 - LAND USE ACT

RECOMMENDATION

1. THAT Council reiterate its overall objection to the Land Use Act as now expressed in Bill 72, and
2. THAT a copy of this report be directed to Mr. C.S.J. McKelvey, Executive Director, Union of B.C. Municipalities, 313 Sixth Street, New Westminster, B.C., V3L 3A7.

REPORT

1.0 BACKGROUND: BILL 9 - THE LAND USE ACT

- 1.1 On 1982 March 22 Council adopted the following motions with respect to Bill 9 - the Land Use Act:
 - "(1) THAT the Minister of Municipal Affairs be advised that Burnaby Council finds "Bill 9 - The Land Use Act" quite unacceptable and request the Minister to withdraw the proposed Bill.
 - (2) THAT staff prepare a covering support statement using the information contained in Item 8, Municipal Manager's Report No. 13, 1982.
 - (3) THAT copies of the motion and statement be sent to the Honorable W.R. Bennett, Premier of British Columbia, the Greater Vancouver Regional District, Union of British Columbia Municipalities, the Planning Institute of British Columbia, the Dewdney-Alouette Regional District, Technical Planning Committee of the Greater Vancouver Regional District and all members of the Legislative Assembly."

1.2 A copy of the aforementioned Item 8, Manager's Report No. 13, 1982 March 01, is attached for reference, and it contains an Appendix comparing the major provisions of the Land Use Act with those initially proposed in the Planning Act discussion paper. The report stated that a general consensus had developed among those concerned with the consequences of the passage of Bill 9, centering around:

- a. lack of an integrated framework for determining optimum use of land and resources, through coordination of provincial planning and land use programs,
- b. concern that the worthy objectives of the Planning Act would not be achieved through the Land Use Act, due to reductions in local government accountability and accessibility, deletion of provisions aimed at coordinating provincial planning, and increasing bureaucratic procedures and uncertainty,
- c. lack of provision for organized planning and regional decision-making of the metropolitan level in the urban regions of Vancouver and Victoria, and
- d. deep concern with the apparent centralization of planning at the provincial level, combined with diminution of local autonomy. The introduction of various ad hoc and counter-productive measures, and a reduction in public access to the planning process.

1.3 The report concluded that Bill 9 should not be passed in the form then before the House, but rather that major changes would be required before it could meet the objectives originally described in connection with the Planning Act.

1.4 In an effort to set the stage for discussion and improvement of some of the most significant specific aspects of Bill 9, a number of amendment proposals were put forward for the consideration of Council (Section D Proposals). Council did not adopt the recommendations of this report, but rather, as noted above, took the position that the Act was unacceptable and that it should be withdrawn.

2.0 INTRODUCTION OF BILL 72:

2.1 On 1982 July 23, Bill 9 was withdrawn and replaced by the introduction into the Legislature of Bill 72, a revised version of the Land Use Act. The new Bill proposes numerous adjustments to the provisions of the former; for the most part these revisions are minor in nature, offering clarification, modified procedures, or shifts in emphasis, together with a few more significant changes.

2.2 On 1982 August 09 Council received correspondence from the U.B.C.M. on this topic, and the Director Planning & Building Inspection was requested to keep a watching brief on the future of Bill 72, and to keep Council informed of new and pertinent information on this legislation.

This report is submitted in accordance with Council's direction, and is also relevant to the request contained in the letter from Mr. C.S.J. McKelvey, Executive Director, U.B.C.M., which appears on the agenda for the 1982 September 07 meeting of Council.

- 2.3 Planning staff have reviewed the proposed replacement Bill, together with some comparison commentary materials supplied by the Assistant Executive Director, U.B.C.M. Copies of an overview comparison of Bill 72 with Bill 9 are attached as Appendix I, followed by a more detailed comparison identified as Appendix II.
- 2.4 In general terms, it is our opinion that the changes introduced in Bill 72 would not warrant the Burnaby Council changing its position on the Land Use Act. With only a few exceptions, the report previously considered by Council as Item 8, Manager's Report No. 13, 1982 is still valid as a commentary on the Provincial approach to the new Land Use Act, and the problems associated with the details.
- 2.5 The exceptions include:
1. Deletion of the Transit Service Levy.
 2. Deletion of the power of the Inspector to order the Municipality to issue intensive agricultural or soil removal permits.
 3. Deletion of the provision for provincial regional planning.
 4. There is a slight recognition of the need for inter-municipal and regional planning in the G.V.R.D. and the Capital Regional District.
 5. The Advisory Planning Commission can be asked to report on individual zoning applications.
 6. The Minister must have the consent of the local government before he amends a plan submitted for approval.
Additionally, the new Bill provides that:
 7. A limit is placed in the amount of the capital costs (80%) that a local government may recover through development cost charge bylaws. (this provision would not have any particular ramifications in Burnaby, as we have never sought to recover a greater amount).
 8. Floodplain elevations may be specified in a land use bylaw.
 9. Provisions are introduced for improved coordination and reconciliation of official plans between abutting municipalities.
 10. A transition provision that the Lower Mainland Official Regional Plan stays in effect, until a local government adopts an official plan, and
 11. Provision for the Minister to order that a local plan be amended to accommodate what the cabinet considers an "important development".
- 2.6 The following table summarizes the relationship between Bill 72 and the Proposals that were set out in Section D of Item 8, Manager's Report No. 13, 1982, for amendments to allow the legislation to accomplish the objectives of the "Planning Act - A Discussion Paper":

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COMMENT RE: EFFECT OF BILL 72	139																		
<p>PROPOSAL RE: BILL 9 PER ITEM 8, MGR'S REPORT NO 13, 1982</p>	<table border="1"> <tr> <td data-bbox="846 1380 873 1487">1</td> <td data-bbox="873 1380 2558 1487"> <p>That the Act make provision for a coordinated provincial planning process in which plans and policies of provincial ministries are established and made known to municipalities in order to provide a framework for local government planning; and that provincial ministries be required to respect the resultant approved policies, plans and bylaws of municipalities.</p> </td> </tr> <tr> <td data-bbox="846 1185 873 1380">2</td> <td data-bbox="873 1185 2558 1380"> <p>That the Act provide for municipalities, including the City of Vancouver, that constitute an urban region (particularly in the Greater Vancouver and Greater Victoria areas) to participate fully with the province both at a political and staff level, in meeting the comprehensive and co-ordinated planning needs of their metropolitan area.</p> </td> </tr> <tr> <td data-bbox="846 990 873 1185">3</td> <td data-bbox="873 990 2558 1185"> <p>That in order to maintain local accountability in land use matters, the Act be reexamined in relation to the respective powers of the Minister of Municipal Affairs and municipal councils, and be amended to reverse the move towards provincial centralization at the expense of local autonomy and local decision making.</p> </td> </tr> <tr> <td data-bbox="846 795 873 990">4</td> <td data-bbox="873 795 2558 990"> <p>That the Act make provision for increased public access to the planning process, by open public hearings on provincial and regional, as well as local, planning matters thereby precluding unsupported decision making at any level of government.</p> </td> </tr> <tr> <td data-bbox="846 600 873 795">5a</td> <td data-bbox="873 600 2558 795"> <p>The appropriateness of including a transit service levy in the Land Use Act and the potentiality negative effect of such a levy on the municipality's objectives for Metrotown</p> </td> </tr> <tr> <td data-bbox="846 406 873 600">5b</td> <td data-bbox="873 406 2558 600"> <p>The possible detrimental effects of unsuitable time limits defined in the Act, on municipal development processes and the objective of orderly development with a minimum of delay.</p> </td> </tr> <tr> <td data-bbox="846 211 873 406">5c</td> <td data-bbox="873 211 2558 406"> <p>Clarification of the intent of the Minister in giving himself the power to set regulations and servicing standards governing municipal development.</p> </td> </tr> <tr> <td data-bbox="846 16 873 211">5d</td> <td data-bbox="873 16 2558 211"> <p>The undesirable effect of the mandatory intensive agriculture legislation on urban municipalities.</p> </td> </tr> <tr> <td data-bbox="846 16 873 16">5e</td> <td data-bbox="873 16 2558 16"> <p>Clarification of criteria governing the use of a residence for handicapped persons, in order to avoid a potential loophole in the payment of development cost charges.</p> </td> </tr> </table>	1	<p>That the Act make provision for a coordinated provincial planning process in which plans and policies of provincial ministries are established and made known to municipalities in order to provide a framework for local government planning; and that provincial ministries be required to respect the resultant approved policies, plans and bylaws of municipalities.</p>	2	<p>That the Act provide for municipalities, including the City of Vancouver, that constitute an urban region (particularly in the Greater Vancouver and Greater Victoria areas) to participate fully with the province both at a political and staff level, in meeting the comprehensive and co-ordinated planning needs of their metropolitan area.</p>	3	<p>That in order to maintain local accountability in land use matters, the Act be reexamined in relation to the respective powers of the Minister of Municipal Affairs and municipal councils, and be amended to reverse the move towards provincial centralization at the expense of local autonomy and local decision making.</p>	4	<p>That the Act make provision for increased public access to the planning process, by open public hearings on provincial and regional, as well as local, planning matters thereby precluding unsupported decision making at any level of government.</p>	5a	<p>The appropriateness of including a transit service levy in the Land Use Act and the potentiality negative effect of such a levy on the municipality's objectives for Metrotown</p>	5b	<p>The possible detrimental effects of unsuitable time limits defined in the Act, on municipal development processes and the objective of orderly development with a minimum of delay.</p>	5c	<p>Clarification of the intent of the Minister in giving himself the power to set regulations and servicing standards governing municipal development.</p>	5d	<p>The undesirable effect of the mandatory intensive agriculture legislation on urban municipalities.</p>	5e	<p>Clarification of criteria governing the use of a residence for handicapped persons, in order to avoid a potential loophole in the payment of development cost charges.</p>
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| COMMENT RE: EFFECT OF BILL 72 | No provision in Bill 72. No provision in Bill 72 except for inter-municipal planning agreements (S. 16) Little change Transit Service Levy deleted No change in time limits No clarification of powers of the Minister. The Inspector can no longer order intensive agricultural permit to be issued. Criteria not clarified. |

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<p>5f Reintroduction of proposals contained in the Planning Act, permitting a municipality to be compensated for the closure of public rights-of-way when initiated through plans cancellation procedures.</p> <p>5g Confirmation that plans formally adopted by resolution of Council as part of the official plan process are still available to municipalities as an expression of Council policy and as a guide to developers and the public.</p> <p>5h A complete re-examination of the impact of temporary permits and variance permits on the municipal planning process, and the preservation of neighbourhood stability.</p> <p>5i Confirmation that provincial ministries and crown corporations will respect the official community plans of municipalities.</p>	<p>Little change in Plans Cancellations.</p> <p>No clarification as to status of guide plans.</p> <p>No fundamental change in temporary and special variance permits.</p> <p>No confirmation of respect for Municipal plans.</p>
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3.0 CONCLUSIONS:

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Apart from the deletion of the Transit Service Levy, a limited reduction in the centralization of planning powers at the provincial level, and the introduction of some slight recognition of the need for provisions for inter-municipal and regional planning, there is little in Bill 72 that can be cited as an improvement over its predecessor. Accordingly, we must convey our view that there is nothing in Bill 72 which would warrant Burnaby Council changing its position on the Land Use Act.

DGS/g1

Attachments


A.L. Parr,
DIRECTOR PLANNING &
BUILDING INSPECTION

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RE: MATTER FROM DEWDNEY ALOUETTE REGIONAL DISTRICT
32386 FLETCHER AVENUE, MISSION, B.C., V2V 5T1
BILL 9 - LAND USE ACT

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendations of the Director Planning & Building Inspection be adopted.

* * * * *

TO: MUNICIPAL MANAGER
FROM: DIRECTOR PLANNING & BUILDING INSPECTION
SUBJECT: BILL 9 - LAND USE ACT

MUNICIPAL MANAGER
DIRECTOR PLANNING & BUILDING INSPECTION
PLANNING DEPARTMENT
1982 FEBRUARY 23

RECOMMENDATIONS:

1. THAT the Municipal Council request the Minister to amend Bill 9, the Land Use Act, to incorporate the major provisions referred to as Items 1 to 4 inclusive in the PROPOSALS Section D of this report.
2. THAT, in addition to making the amendments referred to in Recommendation 1, the Municipal Council request the Minister to delay passage of Bill 9 until an opportunity has been provided to provincial and municipal staff to jointly discuss those specific matters referred to as Item 5 a. to i. inclusive in the PROPOSALS Section D of this report; and that Bill 9 be further amended to reflect the results of such discussions.
3. THAT the Municipal Council express its willingness to meet with the Minister of Municipal Affairs in order to present its concerns directly to the Minister.
4. THAT a copy of this report be forwarded to The Honourable William Bennett, Premier of British Columbia, the Union of British Columbia Municipalities, the Planning Institute of British Columbia, the Dewdney-Alouette Regional District and the Technical Planning Committee of the Greater Vancouver Regional District.

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REPORT

A. BACKGROUND

In 1980, the Ministry of Municipal Affairs produced a document entitled, "The Planning Act - A Discussion Paper", and circulated it widely for discussion and comment.

This document was reviewed by the Planning Department and comments were provided to Council in a report dated 1980 October 01. This report which took the form of a table that identified issues, was received by the Municipal Council at the meeting of 1980 October 06, at which time staff were instructed to forward Municipal comments to the UBCM and the Ministry of Municipal Affairs.

The general conclusion was that with the exception of the issues of local autonomy, mandatory official plan preparation and the Provincial Appeal Board, there appeared to be no reason why the proposed Planning Act could not be generally supported.

However, during 1981 a drastically revised document entitled "Bill 9 - Land Use Act" was tabled in the legislature by the Minister of Municipal Affairs. A review of this document would suggest that there was no support from provincial ministries for the proposed Planning Act, that many of the concerns expressed by local governments have not been addressed, and that on balance the Land Use Act has not only deleted all the advantages of the proposed Planning Act and maintained or worsened all the disadvantages, but also created new problems that were not even contained in the proposed Planning Act. The result is that one would now have to say that there appears to be no reason why the Land Use Act should be supported.

B. RESEARCH AND CONCLUSIONS

A great deal of discussion has been initiated by the introduction of the Land Use Act; and in the Lower Mainland area briefs have been prepared by the following organizations:

1. The Union of British Columbia Municipalities.
2. The Planning Institute of British Columbia.
3. The Dewdney-Alouette Regional District
4. The G.V.R.D. Technical Planning Committee.

There have also been workshops held by the Lower Mainland Municipal Officers' Association and the Planning Institute of British Columbia.

To avoid repeating all of the important and relevant points raised in the above briefs, a file has been prepared for individual members of Council and forwarded under separate cover.

In addition to reviewing the above briefs and attending the workshops, staff of the Planning Department have reviewed the Act itself and prepared the attached Appendix I, which compares the major provisions of the Land Use Act with those initially proposed in the Planning Act discussion paper and comments upon the current issues which have resulted from the new Act.

It is possible as a result of all this activity to conclude that a general consensus has developed among those concerned with the consequences of the passage of Bill 9 which can be identified as follows:

- a. Disappointment that the thrust of the Planning Act discussion paper towards the coordination of provincial planning and land use programs, in order to provide an integrated framework for determining the optimum use of land and resources, has not been carried through into the Land Use Act.
- b. Agreement that the original objectives of the Planning Act - namely, to achieve an efficient, fair and easily understood land use planning and control system by developing -
 - cohesion, accessibility and accountability at all levels of government.
 - coordination of Provincial planning, and
 - minimization of delay and uncertaintyare still desirable objectives which will not however be achieved through the Land Use Act. Rather the Land Use Act by reducing local government accountability and accessibility, deleting provisions aimed at coordinating provincial planning and increasing bureaucratic procedures and uncertainty, will work against the original objectives.
- c. Incredulity that there is no provision in the Act for organized planning at the metropolitan level in the urban regions of Vancouver and Victoria, and no vehicle for either local government elected officials or staff to be involved in regional planning processes or decisions.
- d. Deep concern with the centralization of planning at the provincial level; the diminution of local autonomy; the extensive powers of the Minister to impose arbitrary and uncoordinated decisions on local government; the counter-productive and ad hoc nature of many provisions of the Act (particularly those dealing with variances and temporary and special permits), and the reduction of public access to the planning process.

C. OPTIONS AVAILABLE

Given the level of concern being expressed and the fact that the Bill is tabled in the Legislature, what options are available to Council?

1. Accept the Bill as a fait accompli and notwithstanding all the misgivings, receive it without comment and make it work as well as possible in its finally adopted form.
2. Assume that the only changes possible at this stage are those of detail rather than principle, and comment only on minor matters of detail.
3. Recognize that as the level of government most affected by the proposed Act, there is a responsibility to make municipal views known on major matters of principle and comment only on major aspects of the Act.
4. Take the view that the Act is much worse than current legislation and rather than attempt to improve it, recommend its defeat.

It is the view of the Planning Department that the most responsible position to take is a combination of options 2 and 3, which would give priority to matters of principle but include comment on detailed matters that are considered important to Burnaby.

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D. PROPOSALS

Based upon the research and review into the Land Use Act, that has been carried out by ourselves as well as others, and following a combination of options 2 and 3, the following amendment proposals are put forward for the consideration of Council:

1. That the Act make provision for a coordinated provincial planning process in which plans and policies of provincial ministries are established and made known to municipalities in order to provide a framework for local government planning; and that provincial ministries be required to respect the resultant approved policies, plans and bylaws of municipalities.
2. That the Act provide for municipalities, including the City of Vancouver, that constitute an urban region (particularly in the Greater Vancouver and Greater Victoria areas) to participate fully with the province both at a political and staff level, in meeting the comprehensive and co-ordinated planning needs of their metropolitan area.
3. That in order to maintain local accountability in land use matters, the Act be reexamined in relation to the respective powers of the Minister of Municipal Affairs and municipal councils, and be amended to reverse the move towards provincial centralization at the expense of local autonomy and local decision making.
4. That the Act make provision for increased public access to the planning process, by open public hearings on provincial and regional, as well as local, planning matters thereby precluding unsupported decision making at any level of government.
5. That the Minister authorize his staff to discuss the following specific items with municipal staff, leading to reports to the Minister and the Council on further necessary amendments to the Land Use Act.
 - a. The appropriateness of including a transit service levy in the Land Use Act and the potentially negative effect of such a levy on the municipality's objectives for Metrotown.
 - b. The possible detrimental effects of unsuitable time limits defined in the Act, on municipal development processes and the objective of orderly development with a minimum of delay.
 - c. Clarification of the intent of the Minister in giving himself the power to set regulations and servicing standards governing municipal development.
 - d. The undesirable effect of the mandatory intensive agriculture legislation on urban municipalities.
 - e. Clarification of criteria governing the use of a residence for handicapped persons, in order to avoid a potential loophole in the payment of development cost charges.
 - f. Reintroduction of proposals contained in the Planning Act, permitting a municipality to be compensated for the closure of public rights-of-way when initiated through plans cancellation procedures.

BILL 9 - LAND USE
PLANNING DEPARTMENT
1982 FEBRUARY 23

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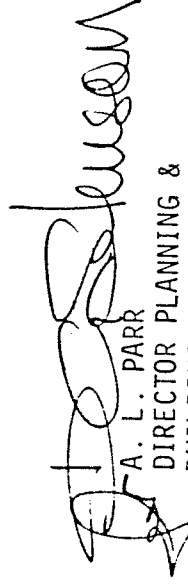
9. Confirmation that plans formally adopted by resolution of Council as part of the official plan process are still available to municipalities as an expression of Council policy and as a guide to developers and the public.
- h. A complete re-examination of the impact of temporary permits and variance permits on the municipal planning process, and the preservation of neighbourhood stability.
- i. Confirmation that provincial ministries and crown corporations will respect the official community plans of municipalities.

CONCLUSION

The Land Use Act is an extremely important piece of legislation, impacting as it does on so many municipal activities in the area of growth and development. It is clear that the Act should not be passed in its present form; that major changes are required; and that a great deal more discussion and work is required before it can meet the objectives originally prescribed by the Minister when he released the "Planning Act - A Discussion Paper".

This is a complex subject, and the proposed legislation has many implications and ramifications. For this reason, should Council consider it desirable, Planning staff would be pleased to attend a special meeting to discuss the Act in some depth.

Respectfully submitted,



A. L. PARR
DIRECTOR PLANNING &
BUILDING INSPECTION

ALP:1f

cc: Municipal Solicitor

RELATIONSHIP BETWEEN THE PLANNING ACT - A DISCUSSION PAPER AND BILL 9 - LAND USE ACT

SUBJECT	PURPOSE		MINISTERIAL RESPONSIBILITIES
<p>Comments and issues contained in 1980 October 01 report to Council on the Planning Act Discussion Paper.</p> <p>Effect of Bill 9 - The Land Use Act - on issues raised in the 1980 October 01 report.</p>	<p>The Planning Act primarily addressed the use of land by incorporating most of Part 21 of the Municipal Act; with the result that local government planning was rather narrowly defined with no reference to social, economic and environmental factors.</p> <p>The land use nature of the legislation has been recognized by renaming the Act - "Land Use Act", with the result that the purpose of planning is even more narrowly defined and restricted than proposed in the original discussion paper.</p>	<p>The Planning Act proposed increasing involvement of the Provincial Government in local government; but the resultant loss of local autonomy was balanced by provisions for increased coordination at the provincial level, a clearer understanding of provincial policies, and a requirement that provincial ministries respect municipal plans.</p> <p>The Land Use Act by deleting the provisions for coordinated provincial planning and removing the requirement that provincial ministries not only declare their own plans but also respect municipal plans has removed the balance inherent in the Planning Act. The result is increased ad hoc involvement of the province in local planning matters, greater loss of local autonomy, and no accountability by provincial ministries for their actions in relation to land use matters.</p>	<p>Under the Planning Act, the following questions were raised: The extent to which the Minister would involve himself in local government decision making.</p> <ul style="list-style-type: none"> Would the GVRD be established as an urban region and be given responsibility for preparing the provincial regional plan. What would the Minister consider as provincial interest, or the public interest of the province when considering municipal official plans. Will the Minister's regulations for subdivision and land use bylaws apply within municipal boundaries. Can a municipality continue to use unofficial community plans as guide plans or does every document referring to growth and development have to be "official". <p>Clarification was required as to the extent the Minister intended to use his powers under the Planning Act to involve the province on a day-to-day basis in municipal planning or whether he would literally concern himself only with the broad provincial interest.</p>
<p>Effect of Bill 9 - The Land Use Act - on issues raised in the 1980 October 01 report.</p>	<p>The land use nature of the legislation has been recognized by renaming the Act - "Land Use Act", with the result that the purpose of planning is even more narrowly defined and restricted than proposed in the original discussion paper.</p>	<p>The Land Use Act by deleting the provisions for coordinated provincial planning and removing the requirement that provincial ministries not only declare their own plans but also respect municipal plans has removed the balance inherent in the Planning Act. The result is increased ad hoc involvement of the province in local planning matters, greater loss of local autonomy, and no accountability by provincial ministries for their actions in relation to land use matters.</p>	<p>The Land Use Act has increased the number of opportunities available to the Minister to become involved in municipal planning on a day-to-day basis; eliminated the role of the GVRD in regional planning; made no provision for its replacement to meet the special planning needs of urban regions; removed the requirement for the preparation of provincial regional plans, and made it clear that the Minister can impose subdivision and land use bylaws upon municipalities.</p> <p>Clarification is therefore still required on the extent to which the Minister intends the role of the GVRD to be replaced by a centralized provincial bureaucracy, and the extent to which the Minister or his staff will be come involved in municipal planning on a day-to-day basis. The "provincial interest" needs to be defined in the Act.</p>

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<p>The Land Use Act has not changed the mandatory requirement to prepare an official plan and requires that it cannot be adopted by the municipality until it has been approved by the Minister. The Land Use Act also spells out in some detail what shall be contained in the official plan, and the relationship of the plan to municipal land use bylaws.</p> <p>The issue of flexibility versus rigidity of community plans and its impact on the ability of local government to cope speedily with growth and development matters remains unchanged. Should the municipality be required to prepare official plans with all that is entailed or should it remain a permissive piece of legislation as at present? It should be noted that even though the province has to approve the official plan, there is now no requirement that provincial ministries respect the official plan</p>	<p>The key issue raised under the Planning Act discussion paper was the requirement that it be mandatory for a municipality to prepare and adopt official plans, and that such plans were subject to provincial approval. This raised the long-standing question of the flexibility of a guide plan versus the rigidity of an official plan, the extent of provincial involvement in community plans, and the status of unofficial community plans and policy documents.</p>	<p>LOCAL GOVERNMENT AUTHORITIES (OFFICIAL PLANS)</p>
<p>The Land Use Act has deleted the provision for an appeal board.</p>	<p>The Planning Act proposed the creation of an appeal board with wide powers, raising the question of the extent to which the value of an appeal board in correcting land use decisions would be balanced against the potential for additional cost and delay in land use activity; and the likelihood of the board being an outlet for irresponsible appeals.</p>	<p>LAND USE APPEAL BOARD</p>
<p>Under the Land Use Act, the mandatory disclosure of ministerial land use policies and objectives is no longer required and in its place the Land Use Act proposes permissive legislation allowing a regional co-ordinating committee to prepare regional planning statements. This is the only part of the Land Use Act which deals with a provincial or regional planning system, and there is no mandatory provision that there be consultation with local governments; that local governments be represented on the regional co-ordinating committee; that there be public hearings; or that such statements be binding on provincial ministries; and yet the Minister may require that municipalities be bound by such statements and require them to alter their plans or bylaws accordingly.</p>	<p>Under the Planning Act, statements were to be prepared containing objectives and policies for the land use responsibilities of ministries and crown corporations as the basis for provincial regional plans. The intent was to ensure thorough review by the Environment and Land Use Committee that provincial land use objectives and policies are consistent.</p>	<p>PROVINCIAL POLICY STATEMENTS</p>

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<p>PROVINCIAL PLANS</p> <p>The Planning Act described who would prepare provincial regional plans and required that they be prepared in consultation with local government, who would use the plan as a framework for their own programs. It was assumed that in the Vancouver area this intent would be covered by the GVRD being designated as an urban region.</p>	<p>URBAN REGIONAL PLANS</p> <p>The Planning Act provided for the designation of an urban region, the appointment of committees and authorization to prepare an urban regional plan. Local government was to have elected and staff representation on committees, and the urban regional plan was to provide an integrated framework for official plans and land use bylaws of local government. This proposal was assumed to be a replacement for the planning function of regional districts, with new names applied to the regional plan and the technical planning committee. It proposed new relationships between the provincial government, the G.V.R.D. and the local municipalities. It raised the question of whether this was better or worse than existing regional planning legislation.</p>	<p>URBAN REGIONAL PLANS</p> <p>The Land Use Act completely removes any reference to urban regional plans or the need for any vehicle to enable local municipalities to get together for the purpose of preparing an integrated framework to guide their own planning endeavours. The Land Use Act appears to establish two levels of planning: a provincial level, where without consultation policies are established and approvals granted or withheld; and a municipal level, at which centralized provincial policy making is to be implemented by the mandatory creation of provincially-approved official plans and the passage of bylaws which must comply with such plans.</p>	<p>APPROVING OFFICER</p> <p>Under the proposed Planning Act, the approving officer was to be appointed by the Lieutenant Governor in Council on the recommendation of the municipal council and, as well as being administratively responsible for approval procedures in subdivision, zoning and development permits, he was also to prepare procedure manuals related to the use of the land.</p>	<p>SUBDIVISION APPROVAL</p> <p>The Planning Act made no change in the legislation governing subdivision approvals except for providing for the conditional approval of a subdivision plan.</p>
<p>Essentially no change between the proposed Planning Act and the Land Use Act.</p>	<p>APPROVING OFFICER</p> <p>The Land Use Act has not changed the proposed duties of the approving officer but it has returned the duty of appointing the approving officer to the municipal council where it belongs under the current legislation.</p>	<p>Essentially no change between the proposed Planning Act and the Land Use Act.</p>	<p>APPROVING OFFICER</p> <p>Under the proposed Planning Act, the approving officer was to be appointed by the Lieutenant Governor in Council on the recommendation of the municipal council and, as well as being administratively responsible for approval procedures in subdivision, zoning and development permits, he was also to prepare procedure manuals related to the use of the land.</p>	<p>SUBDIVISION APPROVAL</p> <p>The Planning Act made no change in the legislation governing subdivision approvals except for providing for the conditional approval of a subdivision plan.</p>

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<p>CANCELLATION OF PLANS</p> <p>The Planning Act provided municipalities with additional powers to cancel plans and to require compensation for cancelled highways, a provision pursued by Burnaby for several years.</p> <p>The Land Use Act has deleted the proposed provisions and simply restates the existing legislation contained in the Plans Cancellation Act. There is therefore no provision for municipalities to be compensated for cancelled rights-of-way.</p>	<p>COVENANTS</p> <p>The proposed Planning Act included legislation from the Lands Title Act, presumably as a part of consolidating relevant land use legislation into one Act.</p>	<p>BYLAW ENACTMENT</p> <p>The Planning Act required that no land use bylaw be contrary to an official plan and that a single bylaw be adopted governing zoning, subdivision and development permits. The bylaw was to be adopted within 6 months of a public hearing and all land use bylaws were required to be deposited with the Inspector of Municipalities.</p>	<p>BLAW ENACTMENT</p> <p>The Planning Act required that no land use bylaw be contrary to an official plan and that a single bylaw be adopted governing zoning, subdivision and development permits. The bylaw was to be adopted within 6 months of a public hearing and all land use bylaws were required to be deposited with the Inspector of Municipalities.</p>	<p>ZONING AND SUBDIVISION</p> <p>With a few exceptions, the Planning Act carried forward the provisions of the Municipal Act. Additions include:</p> <ul style="list-style-type: none"> • allowance for vertical zoning • density variations in designated areas • regulation of building setbacks • landscape screening • parkland criteria to be contained in official plan. 	<p>No substantive change between the proposed Planning Act and Bill 9 - Land Use Act.</p>
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<p>ITEM 8</p> <p>MANAGER'S REPORT NO. 13</p> <p>COUNCIL MEETING 1982 03 01</p>	<p>ITEM SUPPLEMENTARY 14</p> <p>MANAGER'S REPORT NO. 49</p> <p>COUNCIL MEETING 1982 09 07</p>
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<p>SPECIAL PERMITS</p>	<p>The Planning Act repeated the provisions of the Municipal Act as they applied to development permits, and added a provision for intensive agriculture permits. There was no particular policy shift from the current Municipal Act in respect to the use of these permits.</p>	<p>The Land Use Act is similar to proposals contained in the Planning Act, and the Planning Act provisions were similar to the provisions of the Municipal Act.</p>	<p>NON-CONFORMING PROVISIONS AND BOARD OF VARIANCE</p> <p>The Land Use Act is similar to proposals contained in the Planning Act, although it is less stringent about approving additions to a building or structure.</p>
<p>DEVELOPMENT APPROVAL PROCESS</p>	<p>The Planning Act provided for the development approval process to be spelled out in the land use bylaw, including steps, times, fees, officials involved, etc. The approval of the Inspector of Municipalities was required and no land use bylaw could take effect until that approval had been given.</p>	<p>The Land Use Act still requires that a procedure manual form a part of the land use bylaw but approval of the Inspector of Municipalities is no longer required. However, where a municipality fails to prepare such a manual, the Inspector may order a manual prepared; and, if this is not complied with, the Inspector may prepare the manual and impose it on the municipality.</p>	<p>DEVELOPMENT APPROVAL PROCESS</p>

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<p>The power to set fees is similarly contained in the Land Use Act. However, there is one major addition to the Land Use Act which could have serious consequences for Burnaby and that is the power given to the Minister to designate an area of a municipality as a "transit facility benefit area" and impose a levy on all new development within the area. The amount of the levy is at the Minister's discretion but it has to be collected by the Municipality and paid to the Urban Transit Authority.</p> <p>A major factor in the development of the ALRT system is the servicing of regional town centres, considered essential to the management of urban growth in the region. To impose an additional financial burden on developers through a "transit service levy" could be seriously counter-productive to Burnaby objectives by discouraging rather than encouraging development focussed on the Metrotown ALRT stations.</p>	<p>FEES</p> <p>The Planning Act made provision in the land use bylaw. development applications in the land use bylaw.</p>	
<p>At the time the Planning Act discussion paper was released, Burnaby's approach to its Planning Commission was compatible with the proposed Act; namely, that advice was received on policy matters only. Since that time, the Burnaby Advisory Planning Commission has been given the authority to report on individual rezoning applications, which will now be incompatible with the intent of the Land Use Act.</p>	<p>Both the Planning Act discussion paper and Bill 9, Land Use Act, permit municipalities to establish Advisory Planning Commissions to advise Council on official plan matters.</p>	<p>ADVISORY PLANNING COMMISSION</p>
<p>The transitional provisions have been removed from the Land Use Act. At some point, it will be necessary to have details of transitional legislation in order to analyze the impact of the Act on existing policies, plans and bylaws of the municipality.</p>	<p>The Planning Act discussion paper included provisions for the transition from the existing plans and bylaws of local governments to the new enactments of Councils required under the Act coming into effect.</p>	<p>TRANSITION AND REPEAL</p>

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Planning Department
1982 February 24
ALP:lf

OVERVIEW COMPARISON OF BILL 9 and BILL 72:
The Land Use Act

- Bill 72 is in 216 sections, compared to 165 sections in Bill 9.
- 54 new sections deal with transition and consequential amendments.
- 88 sections remain unchanged from Bill 9.
- 34 sections have minor rewordings.
- 23 sections have undergone minor changes in their substance.
- 9 sections have undergone major changes.
- 8 new sections.

MAJOR DELETIONS

1. All Provision for provincial regional planning has been dropped.
2. The Minister no longer has the power to assume planning powers in Electoral Areas.
3. The Transit Service Levy is dropped.
4. The Inspector no longer would have the power to review intensive agricultural or soil removal permits.
5. The Islands Trust is to be abolished.

MAJOR NEW PROVISIONS

1. A Regional land-use study function (advisory) in the GVRD and CRD (s.17).
2. Provision for intermunicipal planning agreements (s.16).
3. Provision that the Minister can order a local plan amended to accommodate what cabinet considers an "important development" (s.19).
4. The Minister must have the consent of local government before he amends a plan submitted for approval (s.8).
5. A single land use by-law must be prepared within 18 months or the by-laws can be struck down (s.22).
6. Local government can only recover 80% of the capital costs through development cost charge by-laws. The exemption from cost charges is extended to schools and to subdivisions for the exempted uses. (s.73).

OTHER SIGNIFICANT CHANGES

1. The City of Vancouver is included in the regional study, intermunicipal planning, important development and development approval provisions.
2. Highways retains approval of rezoning for commercial or industrial buildings over 400 m² (s.12).
3. Fire inspection provisions included in the Building Code sections. Cabinet may exempt certain areas from complying with the Building Code (s.155-6).
4. Public hearings in Electoral Areas may be delegated (s.24).
5. Land use matters can be referred to the APC with a 2/3 council approval (s.83).
6. Subdivision for relatives in the ALR is permitted (s.83). Floodplain elevations can now be specified in a land use by-law (s.38).
8. Notice to adjacent municipalities is required when adopting an official plan (s.7).
9. Content of official plans is not left to the Minister's discretion (s.5).
10. Minister's reconciliation of plans is replaced by binding arbitration (s.15).

TRANSITION PROVISIONS

1. The Lower Mainland ORP stays in effect until a local government adopts an official plan.

APPENDIX 2

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DETAILED COMPARISON OF BILL 9 AND BILL 72:
THE "OLD" AND "NEW" LAND USE ACTS

COMPARABLE SECTIONS

OLD	NEW	TITLE	CHANGE
1	1	Interpretation	Several minor wording change to clarify definitions. Definition of a "member municipality" added and definition of a "subdivision plan" does not now include a strata plan under the Condominium Act.
2	2	Application	Sections dealing with reconciliation of plans, intermunicipal planning, regional planning studies, important developments, development approval process and the remainder of the subdivision approval functions now apply to the City of Vancouver.
3	3	Time and Voting	No Change
4-11	-		
12	4	Official Plans	Provincial planning provisions have been dropped. Elements of old s.5 (major resource developments) and s.11 (altering a local plan to accommodate projects of provincial significance now appear in new s.19.).
13	5	Content	The Minister must now consult with the regional board before designating an official plan area in an Electoral Area.
14	6	Public Hearing	Subsection 13(2)m allowing the Minister to specify additional requirements has been dropped. Subsection 13(5)c dealing with special siting conditions has been dropped. Other minor rewordings.
15	7	Adoption	No change.
16	8	Approval by Minister	New Requirement for consultation with adjacent areas now required. Consent of the local government now required before the Minister may amend the plan. Subsection 16(3) concerning consideration in plan preparation is deleted.

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COMPARABLE SECTIONS

CHANGE

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OLD	NEW	TITLE	CHANGE
17	9	Limitation	No change.
18	10	Effect	No change.
19	11	Time limit for Amendment to land use by-law.	Minor sectional references added.
20	-	Exception of Minister Approval	Section dropped.
21	12	Exemption	The exemption from Highway approval for commercial and industrial building over 4500 m ² is removed.
22	13/14	Amendment and Review	Section 22 is divided into two sections but the content is unchanged.
23	15	Reconciliation	Major Rewrite: The Provision that the Minister may reconcile conflicting plans is replaced by a system of binding arbitration.
-	16	Intermunicipal	New Section: Municipalities can now enter into an agreement with respect to subjects that can be dealt with under an official plan.
-	17	Regional Studies	New Section: Empowers the CRD and GVRD Board to undertake a regional land use study function for a five year period if 2/3 of the member municipalities with 2/3 of the votes agree.
24	18	Urban Fringe Areas	No change
-	19	Important Developments	New Section: Provides that cabinet may declare an "important development" and the Minister can order a local plan that may restrict the development to be altered. A consultation process and provision that local government may be reimbursed for its costs are included.

DETAILED COMPARISON OF BILL 9 AND BILL 72
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COMPARABLE SECTIONS

CHANGES

OLD	NEW	TITLE	
25	20	APC	Councils may on a 2/3 majority vote refer land use by-laws to the APC; members must be residents of the area; members cannot be council members or staff (does not apply to RD's); and only persons who have an interest in property can appear at the discretion of the APC.
26	21	Prohibition of Imposts	No Change
27	22	Single By-law	Aside from minor rewording s 22(1), a major requirement that a single by-law must be adopted within 18 months (or a period extended by the Minister) or the owner in an official plan area can apply to the Supreme Court to declare the existing by-law invalid. Subsection 22(7) concerning forest lands has been reworded.
28	23	Matters to be Considered	No change.
29	24	Public Hearing	Hearings in Electoral Areas can be delegated to the Electoral Area Director or to the Director, members of the APC or staff. They must report to the full Board.
30	25	Notice of Public Hearing	Date of last publication of notice reduced to 3 days before the hearing; a sign must only be erected if the property fronts on a public highway and the exemption mailing or posting notice is clarified.
31	26	Opportunity to be Heard	Minor rewording to 26(b)ii.

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CHANGE

COMPARABLE SECTIONS

OLD	NEW	TITLE	
33	28	Procedure After Public Hearing	The provision that local government may consult with staff etc is moved to s.33(e).
32	27	Adjournment	No change
34	29	Voting by Member Absent	No change
35	30	Time limit	No change
36	31	Approval by Minister	No change
37	32	Deposit	No change
38	33	Limitation or Quality	See comments on new s.28
39	34	Development Approval Procedures	No change
40	35	Zoning	No change
41	36	Density Variation	Minor Clarification
42	37	Setbacks	Section is renamed and provision to specify setbacks from railways is added.
-	38	Floodplain Elevation	New Section:
43	39	Signs	No change
44	40	Parking	No change
45	41	Drainage	No change
46	42	Mobile Home Parks	No change
47	43	Screening	No change
48	44	No Discrimination	Minor rewording
49	44 ⁵	No Compensation	No change
50	44 ⁶	Appeal to Minister	No change

DETAILED COMPARISON OF BILL 9 AND BILL 72
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COMPARABLE SECTIONS

CHANGE

OLD	NEW	TITLE	CHANGE
51	47 47	Development Variance Permits	Filing and binding provisions moved to s.56
52	48	Residential Variance Permits	No change
53	49	Temporary Dwelling Unit Permits	No change
54	50	Temporary Industrial Use Permits	Filing and binding provisions moved to s.56.
55	51	Development Control Areas	Siting provisions deleted.
56	52	Development Control Permits	Provision to control exterior finish in heritage or theme commercial areas is provided (s.52(4)m). Provision that the permit must be complied with is moved from old s.60.
57	53	Security Development	Minor word change.
58	54	No variation in Use or Density	No change
59	55	Permit to Lapse	No change
60	56	Filing	New Section: Filing in land titles office and provision that the permit is binding on all owners is included in one section and now applies to all special permits. Local government is responsible to file any amendments or cancellatin of permits. Fees can now be charged for filing.
61	57	Highway Act	No change
62	58	Form of Permits	No change
63	59	Accurate Record	No change
64	60	Intensive Agriculture	No change

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COMPARABLE SECTIONS

CHANGE

159

OLD	NEW	TITLE	CHANGE
65	-	Review by Inspector	The Inspector can no longer review and order intensive agriculture permits to be issued.
66	61	Amendment of land use Contracts	No change
67	62	Non Conforming Use	No change
68	63	Damaged buildings	No change
69	64	Repairs and Alterations	No change
70	65	Effect of Expropriation	No change
71	66	Soil Removal and Deposit	The Inspector can no longer review and order soil removal and deposit permits to be issued.
72	67	Board of Variance	The provision that a successor shall only hold office for the balance of the term and provision that procedures for making decisions and giving notice have been removed.
73	68	Expenses	No change
74	69	Jurisdiction	No change
75	70	Certain order may not be Made	No change
76	71	Decisions of the Board	Decisions to be transmitted 14 days after the decision is made.
77	72	Withholding Permits	Opportunity for the applicant to be heard is now provided.

DETAILED COMPARISON OF BILL 9 AND BILL 72:
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COMPARABLE SECTIONS

OLD	NEW	TITLE	CHANGE
78	73	Development Cost Charges	Development cost charges can only apply to 80% of the capital costs; subdivisions for the exempted uses are included; the exemption of handicapped residences is clarified; public and independent schools are now included in the exempted uses; parkland dedications now must be considered before charging; and criteria where the Inspector may refuse to approve a charge by-law are included.
79	-	Transit Service Levy	Dropped
80	74	Application Fees	No fees can be charged for changes to sign, parking, and loading, drainage, and mobile home by-law requirements. Section 74(2) has been clarified.
81	75	Publication Fees	No change
82	76	Restrictions on Subdivision	No change
83	77	Subdivision Regulations	Minor wording change in s.77(4)
84	78	Excess Capacity	No change
85	79	General Agreements	No change
86	80	Provision of Highways	Minor deletion
87	81	Completion of Works and Services	Subsections (old 2 and 3) dealing with vesting ownership of completed services in local government is dropped. The requirement to produce drawing of the proposed works has been moved to s.92. The owner will have the option to determine the type of security provided not local government.

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COMPARABLE SECTIONS CHANGE

161

OLD	NEW	TITLE
88	82	Provision of Parkland Definition of "market value" added and s.82(11)a clarified.
89	83	Subdivision for Relative Restriction that such subdivision must be outside the ALR is removed and medical health officer approval now required in certain cases.
90	84	Appointment of Approving Officer Can now appoint a person under contract to a local government.
91	85	Protection of Approving Officer Provisions for dismissal have been changed.
92	86	Function of Approving Officer Wording of s.86(a) is refined.
93	87	Descriptions of Land Minor rewording
94	88	Approval before Registration Minor rewording to subsection (1) and a new exemption section is added.
95	89	Access Requirements No change
96	90	Power of Minister Consent of Highways Minister is not now required.
97	91	Evidence of Grant of Relief No change
98	92	Conditional Approval Minor rewording in 92(5)b and requirement of engineering drawing moved from s.81.
99	93	Final Approval Minor rewording of s.93(2)a.
100	94	Inspection of Survey No change
101	95	Time Limit Approving officer is not now required to state the requirements for approval if approval is refused. (it is sufficient to give reasons not to approve).

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COMPARABLE SECTIONS

CHANGE

OLD	NEW	TITLE	CHANGE
102	96	Requirement of Approving Officer	May now require fencing as a condition for approval.
103	97	Powers of Approving Officer	Requirement that the subdivision conform to the requirements of the Surveyor-General is dropped.
104	98	Highways Consent	Minor rewording
105	9	Controlled Access	Minor rewording
106	100	Subdivisions in Improvement Districts	No change
107	101	Subdivision Subject to Flooding	No change
108	102	Alternative Descriptions	No change
109	103	Approving Officers Signature	No change
110	104	Appeal to Supreme Court	No change
111	105	Interpretation	No change
112	106	Application for Plans Cancellation	No change
113	107	Petition	No change
114	108	Notice of Hearing	Posting requirement of 108(5) extended to 2 weeks. New s.108(7) provides alternatives to mailing notices.
115	109	Power of Registrar	No change
116	110	Protection of Rights	No change
117	111	Prohibition of Cancellation	No change

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OLD NEW TITLE

163

118 112 Registrar may Order Minister of Highways power to cancel or
Cancellation refuse cancellation are removed. Owners
entitlement to public lands is reworded
s.112(2).

119 113 Preparation of Order Minor rewordings

120 114 Cancellation of Interior Lines Minor phrase added to s.114(1)b.

121 115 Appeal from Order Minor rewording

PART 7 REPLOTTING

No change to new sections: 116,117,118,121,122-5, 128-149.

Minor rewordings: 119(3), 126(1), 127(2)b(iv), 127(6),
127(7), 127(10).

126 120 Municipality Wording has been attained to reflect
Acquiring Charges intent of the section.

PART 8 BUILDING REGULATIONS

156 150 Application and Interpretation "prescribed areas" can now be exempted
from building regulations by s.150(2)a.
New definitions of "fire inspector",
"mine building", "mines inspector" and
"prescribed" are added.

157 151 Building Regulations Minor rewordings and format changes

158 152 Demolition Format changes

159 153 No By-law Conflict Minor changes to s.153(2).

160 154 Refusal of building Permit No change

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COMPARABLE SECTIONS

CHANGE

OLD	NEW	TITLE	CHANGE
-	155	Plan Approval	Fire inspector must approve plans of prescribed buldings. Inspection by building on fire inspector of prescribed buildings in prescribed areas is now required.
-	156	Powers of Fire Inspector	Powers of fire inspector to enter buildings and order construction on alterations to cease.
-	157	Application of s.154-6	Mines and buildings or areas may be exempted by cabinet from building or fire inspection.
161	158	Enforcement	Minor and consequential rewording and reformatting.
162	159	Building Code	Old s.162(a) and (b) combined into one section. Cabinet may exempt local government from building code s.159(d).
163	160	Appeal to Building Safety Standard Board	Consequential amendments.
164	161	Enforcement	Enforcement powers under building code regulation expanded.
165	162	Offence	No change

