

Planning, Zoning and Permitting in Manitoba

Recommendations

June 11, 2019

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Background

- In response to Order in Council 157/2019, on May 28, 2019 Treasury Board Secretariat (TBS) released a document entitled *Planning, Zoning and Permitting in Manitoba – Findings*
- This report provided a summary of:
 - Provincial legislative frameworks
 - Municipal by-laws and policies
 - Planning districts and economic development organizations
 - Known permitting authority service delivery standards and metrics
 - Jurisdictional review and best practices
 - The Manitoba and National Building Codes and related legislation and regulations
 - Process maps, policies and procedures
 - Stakeholder input, which includes representation from provincial and municipal governments, professional and trades associations, construction associations, developer groups, homebuilders, and Manitobans
 - Economic and statistical data and development of economic models

The Costs of Delays

- The Findings concluded that **every day** we can reduce unnecessary permitting delays
 1. Our provincial GDP would grow by \$17M
 2. Municipal tax base revenues would grow by \$400K
 3. Provincial tax revenues would grow by \$1.7M
- At the same time, we are aware of projects that have been stalled for years (not days), as well as a series of projects that have never come

Further Consultation

- Following the release of our Findings, government conducted additional information gathering through the creation of a dedicated email account, through which Manitobans and stakeholders were encouraged to provide additional input and feedback at ManitobaPermitReview@gov.mb.ca
- We would like to thank the Manitobans who submitted their comments. In addition, a number of Manitobans proactively reached out and asked to be interviewed by TBS staff
- The comments we received were entirely consistent with what we reported in our Findings
 - The consultation process did not alert the review team of any inconsistencies with our earlier findings
 - This consultation process confirmed that the 50 individuals we interviewed in creating our Findings were representative of Manitobans' concerns

City of Winnipeg Response

- On June 6, 2019, we received a two-page, written response from City of Winnipeg Interim Chief Administration Officer Michael Ruta. We considered this letter a highly constructive request for better collaboration and engagement
 - The City noted that it has made efforts to improve process and to develop efficiencies, which supplements Slide 50 our Findings detailing recent improvements at the City
- The City of Winnipeg made four specific requests to be considered by the Province in its recommendations:
 1. Adopt the 2015 National Building Code
 2. Develop modified building code requirements to allow for more cost efficient conversion options for small scale multi-tenancy dwellings with four or fewer tenants
 3. Formally adopt the “Richardson Report” to allow for more flexibility in enforcing safety requirements when applying the code to existing buildings
 4. Amend *The City of Winnipeg Charter* to allow the City to apply development agreements to building permits, or be a condition of a variance order or for the approval of a conditional use as is the case for other jurisdictions governed by the Manitoba Planning Act
- We met with City staff on June 10, 2019 to discuss the letter

Formation of Recommendations

- We have made our Recommendations based on
 - Our Findings report, including the extensive jurisdictional scans and review of best practices
 - Feedback received via ManitobaPermitReview@gov.mb.ca
 - The June 6, 2019 letter from the City of Winnipeg
- The recommendations contained herein have been developed solely by public servants within TBS. Staff did not operate under any instructions from Treasury Board or other elected officials

Recommendations

TBS makes 12 specific recommendations to Cabinet, broken into three parts:

- **Part 1 - Co-ordinated Development Model**
- **Part 2 - Enhanced Provincial Processes**
- **Part 3 - City of Winnipeg Support**

Part 1 - Co-ordinated Development Model

Recommendation #1

1. **Accelerate the pace at which the Winnipeg Metropolitan Region (WMR) is moving towards adopting a co-ordinated approach to development**

Establish a Working Group comprised of representatives from municipalities, metropolitan region, province and the private sector. Appoint a collaborative facilitator to chair the Working Group

- In particular, focus should be given to the best practices already implemented in the Edmonton Metropolitan Region as referenced on page 71 of the *Findings* report

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Recommendation #1 cont'd

The Working Group would be tasked with accelerating the adoption of a regional approach to development applicable to Winnipeg and the metropolitan region based on the following principals:

- a. Winnipeg and metropolitan region municipalities should have a regional approach to development to promote co-operation between area planning districts and municipalities in the delivery of services, economic development strategies and development of infrastructure in the region
 - The unified model should conform to processes used by those capital region municipalities who are delivering superior development outcomes
 - The Manitoba Government may want to consider using the framework contemplated under *The Capital Regional Partnership Act* (C.C.S.M. c.C23), or the *regional strategies* section of the *Planning Act* to require co-operation among municipalities, to implement the same
 - A *potential, theoretical* architecture of this model is included in the appendices for illustrative purposes and not to pre-suppose any decisions of the Working Group

Recommendation #1 cont'd

- b. The integrated planning model should encourage responsible investment and development, and aim to enhance the tax base and ability to fund local services
- c. The new planning process must be accountable and transparent. Local politicians can be encouraged to be advocates in the planning process, however should not be given a veto with regard to developments within their own wards, either directly or indirectly
- d. Greater reliance on professional “stamps” to avoid duplication of, or unwarranted second-guessing of, professional services, which will require the completion of Recommendation #5 as a pre-condition. Adoption of this approach should result in considerable cost savings to some municipal governments
- e. The Airport Vicinity Protection Area Overlay applicable to the Winnipeg Airport Authority (WAA) should be reconsidered with a view to exploring whether it is possible to allow for **responsible** densification in some areas around the airport, including the former stadium site, in a manner that protects the 24-hour operations of WAA and continues to comply with all federal safety requirements

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Recommendation #1 cont'd

- f. Better alignment / co-ordination of long term land use planning and development review processes
- g. Involved municipalities could proportionately increase their funding of the WMR to reflect the greater, value-add shared services received, which would be offset from internal savings created by efficiency gains

Recommendation #2

- 2. Create a new quasi-judicial tribunal, or broaden and enhance the mandate of the existing municipal board, to allow it to hear a wide range of planning, zoning and permitting appeals across the entire province**

This tribunal should:

- a. Be staffed by independent professionals (with strict minimum qualifications and an appointment process that mitigates against politicization)
- b. Follow best practices identified by the jurisdictional scan, as referenced on page 99 of the *Findings* report
- c. Operate on a cost-recovery basis, funded through costs assessed against the unsuccessful party, which follows best practices

Recommendation #3

- 3. Enact legislation that establishes “service standards” (including specified and enforceable timelines) for all levels of permitting and zoning applications across the entire province**

This legislation will be based upon the best practices adopted in other jurisdictions throughout Canada, as referenced in the jurisdictional scan on page 98 of the *Findings* report

The statutory provisions could serve four purposes:

1. Providing a unified, province-wide reporting and tracking mechanism
2. Giving developers visibility into how their timelines are being reported
3. Allowing municipalities and municipal planning districts a consistent performance tracking system
4. Allow developers to see “where their projects are in the system”

Recommendation #4

4. Make inspections more consistent across the entire province

In conjunction with the Working Group, explore whether there is opportunity to achieve consistency among inspectors, including:

- a. Licensing all inspectors in Manitoba as a designated professional class
- b. Requiring the publication of a single, provincial code interpretation manual (e.g., building upon the City of Winnipeg's interpretive bulletins), applicable for all inspectors across the Province
- c. Allowing appeals of inspectors' work to the new quasi-judicial tribunal, such as a reformed municipal board, referred to in Recommendation 2, and potentially allow this tribunal to sanction or discipline inspectors

These steps will contribute to the accuracy, consistency and predictability of development across all of Manitoba, and open the possibility of alternative or shared service delivery of inspection services as an option available to municipalities

Recommendation #5

5. Enhance self-regulatory frameworks for engineers and architects

Consult with the professional associations for engineers and architects to learn what further statutory tools they may require, if any, in order to manage the transition to a greater the reliance on stamps, including by way of potential examples:

- Require larger minimum insurance levels
- Give their governing bodies more powers to enforce discipline and codes of professionalism amongst its members
- Reduce the role of municipalities to risk-based “spot audits”, and/or
- Eliminate other technical barriers to an efficient and responsible development process
- Consider benefits of broadening application to appraisers, land planners and interior designers

At the same time, consider whether municipalities require legislative changes in order to eliminate municipal liability in situations where municipalities have relied on stamps

Part 2 - Enhanced Provincial Processes

Recommendation #6

- 6. Adopt the latest version of the national building code, and materially reduce the number Manitoba amendments**

This supports Manitoba's commitments through the Regulatory Cooperation and Reconciliation Table (RCT) under the Canadian Free Trade Agreement, and provides an opportunity for Manitoba to accelerate its efforts on RCT 2019/20

Specifically, the Province should:

- Carry out the intention of this recommendation with the objective of reducing red tape, decreasing construction costs (without compromising safety) and improving interprovincial trade
- Develop a mechanism that prevents unnecessary customizations of the national building code in the future
- Presumptively adopt revisions to the national building code in Manitoba within a fixed period of time (e.g., one year), unless the Province has introduced legislation to the contrary

Recommendation #7

7. Provide necessary interim support to developers and potential developers during the transition period

Until the efforts of the Working Group are complete, the Manitoba Economic Development Office should form an *ad hoc* centralized “conciierge” or “navigator” service for large private sector investments to serve as advocates when dealing with municipalities, Manitoba Hydro or the Office of the Fire Commissioner

Recommendation #8

8. Assist Manitoba Hydro to be more aligned with provincial economic development activities

Issue a directive to Manitoba Hydro under *The Crowns Accountability Act* to make a proposal to Government that would:

- a. Allow industry to have enhanced access to information about power availability (such as is done by Enmax in Calgary and Lethbridge, or Fortis Alberta)
- b. Enhance the ability of industrial and commercial businesses to receive services from Manitoba Hydro to ensure that the complex power needs of commercial and industrial customers are addressed in a more timely manner
- c. Allow for greater alignment to provincial economic development priorities
- d. Identify any legislative or regulatory barriers that would need to be changed to achieve the foregoing

Recommendation #9

9. Clarify the future role of the Office of the Fire Commissioner

Conduct a comprehensive review of the Office of the Fire Commissioner with a view towards:

- a. Harmonizing inspections with other organizations such as the City of Winnipeg and Manitoba Hydro
- b. Explore alternative service delivery models, particularly in remote areas
- c. Improve the timelines of permitting in cottage country, particularly in provincial parks (which will require support from the Department of Sustainable Development)
- d. Moving to risk-based inspections
- e. Absorb the remaining functions of the OFC within central government
- f. Repurpose the excess capacity created by the above steps to support the regulation of inspectors, as contemplated in Recommendation 4

Recommendation #10

- 10. That the Manitoba Government address the backlog of elevator and boiler permit applications and inspections and to ensure timely permitting on a go-forward basis**

Instruct Manitoba Growth, Enterprise and Trade and the Office of the Fire Commissioner to develop timely solutions to address the backlogs

Recommendation #11

- 11. Review the PUB model to ensure that the regulation of all utilities, including Manitoba Hydro and Winnipeg Water & Waste, are aligned with provincial economic development objectives**

Part 3 - City of Winnipeg Support

Recommendation #12

12. The Province should work collaboratively with the City of Winnipeg to achieve rapid progress on specific, known projects or objectives of shared interest

Engage with the City of Winnipeg in productive discussions regarding shared development opportunities, as well as to addressing the four specific requests made by the City of Winnipeg on June 6, 2019 (summarized on Slide 6). Specifically, it is recommended that:

1. The Province adopt more current building codes, as set forth Recommendation 6
2. Manitoba and the City of Winnipeg further review the implications of Manitoba's building codes vis-à-vis small scale multi-tenancy dwellings, exploring whether Manitoba has unique needs compared to other provinces, or whether these are matters more properly addressed in the national building code

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Recommendation #12 cont'd

3. In relation to the Richardson Report, that the Province work with the City of Winnipeg to explore what changes, if any, are required to ensure consistent, safe and responsible province-wide standards for heritage buildings – being mindful of our desire to minimize unnecessary customizations to the national building code
4. That the Manitoba Government work with the City of Winnipeg to further explore opportunities to expedite development application processes through the enhanced utilization of development agreements. The parties should seek to obtain further industry feedback to explore what specific amendments to *The City of Winnipeg Charter* would be required to ensure that the desired outcome of shorter timelines are achieved without other adverse consequences

Appendices

Summary of Recommendations

#	Planning, Zoning and Permitting in Manitoba Review
1	Accelerate the pace at which the Winnipeg Metropolitan Region is moving to adopt a co-ordinated approach to development. Establish a Working Group that includes representatives from the municipalities, metropolitan region, province and the private sector
2	Create a new quasi-judicial tribunal, or broaden and enhance the mandate of the existing municipal board, to allow it to hear a wide range of planning, zoning and permitting appeals across the entire province
3	Enact legislation that establishes “service standards” (including specified and enforceable timelines) for all levels of permitting and zoning applications across the province
4	Make inspections more consistent across the entire province
5	Enhance self-regulatory frameworks for engineers and architects
6	Adopt the latest version of the national building code and materially reduce the number of Manitoba amendments
7	Provide necessary interim support to developers and potential developers during the transition period
8	Assist Manitoba Hydro to be more aligned with provincial economic development initiatives
9	Clarify the future role of the Office of the Fire Commissioner
10	That the Manitoba Government address the backlog of elevator and boiler permit applications and inspections and to ensure timely permitting on a go-forward basis
11	Review the PUB model to ensure that the regulation of utilities, including Manitoba Hydro and Winnipeg Water & Waste, are aligned with provincial economic development objectives
12	The Province should work collaboratively with the City of Winnipeg to achieve rapid progress on specific, known projects or objectives of shared interest

Theoretical Capital Region Model

