Region of Peel
working with you

Finance

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

August 21, 2019

John Ballantine, Manager
Municipal Finance Policy Branch
Municipal Affairs and Housing
13th floor, 777 Bay St.
Toronto, ON M5G 2E5

Dear Mr. Ballantine,

Re: O. Reg. 82/98, under the *Development Charge Act, 1997* related to Schedule 3 of the *More Homes, More Choice Act, 2019*.

Thank you for the opportunity to comment on the *Development Charges (DC) Act* regulations, accompanying the *More Homes, More Choice Act, 2019*. The Region appreciates the Province's commitment to the principle of growth paying for growth. However, there are several unintended consequences with the proposed regulations resulting in significant financial and growth implications.

Potential consequences include reduced municipal credit ratings, reduced debt capacity and the possibility of stranded debt. For the Region, this problem is compounded, as debt capacity is a two-tier system, placing both the upper and lower tiers' credit and debt capacity at risk. To avoid these outcomes, the Region may be forced to either raise property taxes and utility rates or slow its growth through delayed investment – the opposite of the Province's desired outcome.

Our external DC consultants, Watson and Associates, project a loss of approximately **$157 million in unrealized revenue potential**, resulting from the mandatory exemption of new secondary suites and/or ancillary units from DCs (between 2020 and 2031). A significant uptake could place additional demands on supporting infrastructure. The Region has received an external legal opinion that it will be unable to roll the resulting costs forward into future DCs and will instead have to recoup costs through increased property taxes and/or utility rates.

There also exists a constitutional concern, where only the Federal government may charge an indirect tax (a tax passed on to a downstream consumer). With no link to the cost of services, the land-based Community Benefits Charge (CBC) appears to be an indirect tax. Introducing DC deferrals (and explicit recourse to a property tax lien) that may pass "hard" DCs on from the developer to a later "occupant," creates a similar problem. Both changes open the door to constitutional challenge.

Region of Peel
working with you

Finance

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

With respect to the proposed regulations, staff now estimate:

- a range of **$420-$466 million in increased debt financing requirements**, resulting from extended payment timelines and creating the risk of stranded debt (up from $346 to $393 million as a result of the extended deferral payment timelines for non-profit housing developments), between 2020 and 2031; and
- a **potential exposure of $37 million** as a result of the migration of "soft service" DCs to the new CBC regime (down from $48 million as a result of the inclusion of paramedics as a chargeable DC service), between 2020 and 2031.

In addition to immediate financial impacts, Peel is concerned the Act and its regulations:

- add considerable "red tape" to development processes, due to the significant administrative and coordination efforts required. Higher planning and building permit fees may result;
- contain no instruction as to how the Act will be implemented in a two-tier governance context; and
- lay the new CBC and the updated DC Act open to constitutional challenge, with respect to the jurisdiction of the municipalities to level such charges (that resemble an indirect tax).

Staff previously submitted comments to the Ontario Legislature's Standing Committee on Justice (May 31, 2019) and to the Province (June 1, 2019), on the *More Homes, More Choice Act* itself. The Region requests that the Province consider the recommendations provided previously (included as appendices), as well as the comments herein.

In addition to this letter, the Region supports the Municipal Finance Officers Association's *Submission on Regulatory Changes implementing the More Homes, More Choice Act, 2019*.

DEVELOPMENT CHARGES ACT RECOMMENDATIONS

Due to significant unintended financial and growth implications, we recommend the province update its proposed regulation, giving effect to the following changes as they relate to mandatory exemptions, deferrals, rate freeze and prescribed interest rate:

Region of Peel
working with you

Finance

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

MANDATORY EXEMPTION

1. **Municipalities may recover from future development, the costs incurred from the exemption of Secondary Suites and/or Ancillary Units.**
   The absence of this authority would result in municipalities having to increase property tax and utility rates, which are already strained.

2. **Developers may build a maximum of two secondary suites and/or ancillary units per property.**
   Specific limits should be outlined to control the impact of the otherwise unrestricted exemption of such development forms. A significant uptake in these units will create additional demands on infrastructure, creating additional costs.

3. **The 1% cap on other existing residential units, will be limited to affordable rental units.**
   Currently, the regulations propose that within other existing residential buildings, the creation of additional units comprising 1% of existing units, would be exempted from DCs. MFOA submission outlines that not all rental housing is affordable.

4. **Municipalities shall maintain the authority to define specific built forms within their jurisdiction, such as stacked or back-to-back townhomes or retirement and long-terms cares homes.**
   Currently, the Region treats stacked and/or back-to-back townhomes as two separate units, requiring two separate charges. Should one or the other of these be classified as a secondary suite, it would effectively halve the revenue collected. The proposed regulations also define retirement and long-term care homes as Institutional developments. Such a definition will further reduce municipal revenues.

DEFERRALS

5. **Municipalities may require submission of satisfactory security to cover the cost of the deferral, such as letters of credit.**
   Introducing deferrals (and explicit recourse to a property tax lien) that may pass DCs from the developer to a later “occupant,” weakens the defensibility of DC “hard” services, laying the deferral open to constitutional challenge.

6. **Any change to the status of Rental housing and Non-profit housing may result in the immediate payment of deferred DCs, plus appropriate interest.**
   This would help to limit tax payer subsidization of for-profit activity.

Region of Peel
working with you

Finance

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

MIGRATION OF "SOFT SERVICES" TO THE COMMUNITY BENEFITS CHARGE

7. **The CBC regime will come into force two years from the filing of the regulation.**
   This time is needed to: (1) allow municipalities to plan for an orderly transition; (2) obtain clarity regarding potentially significant financial impacts; and (3) minimize confusion and disruption at a time when so many DC by-laws are being updated.

8. **Municipalities will shall have the sole authority to provide CBC exemptions and exclusions within their jurisdictions.**
   Currently, the proposed regulation mandates exemptions from the CBC, including the development of long-term care homes, retirement homes, and non-profit housing. It also excludes services, such as cultural or entertainment facilities, hospitals, administration offices, landfill sites, etc. from CBCs.

9. **Municipalities shall have the authority to set rates for and within their jurisdiction and set maximums (caps) to achieve full cost recovery.**
   The CBC is capped at a percentage of land value. Preliminary analysis shows costs as a percentage of land values vary widely (5% to 100%+). The highest ratios are associated with high-value land. Any broadly-based cap would disproportionately reduce revenues for high-density jurisdictions – contrary to the Minister's pledge for revenue neutrality. A land value-based cap also gives the CBC the character of an indirect tax, rather than a charge, raising the question of constitutionality.

10. **Municipalities may recover the additional costs associated with administration of the CBC regime.**
    The cost of developing, monitoring and implementing the CBC program will be high, and will likely involve the building of additional internal capacity.

RATE FREEZE

11. **The DC rate shall be maintained for no more than one year prior to development taking place.**
    This will reinforce the province's encouragement to developers to begin building quickly, while preserving the intent of the freeze and lessening the detrimental impact on municipal finances.

12. **Municipalities may apply a rate that corresponds with a change in development type.**
    Without this clarity, it is possible that some developers may attempt draw out the freeze by making minor adjustments to their original applications.

Region of Peel
working with you

Finance

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

13. **The recovery of municipal costs shall take precedence over other liabilities against a property.**
    The risk to municipal credit ratings, and debt capacity requires that municipalities be given some additional guarantee of payment to cover capital infrastructure costs.

PRESCRIBED INTEREST RATE

14. **Municipalities may apply an indexing rate to compensate for any change in the capital cost environment.**
    This will ensure that the "interest rate" charged on the rate freeze reflects the changing cost environment faced by municipalities and developers alike over the course of the freeze.

15. **Municipalities may apply an indexing rate from the point at which the first payment would normally have become due (building permit).**
    Without this, it is hard to understand how municipalities can apply interest on a charge that has not yet come due.

16. **Municipalities may recover additional costs incurred as a result of deferred payment through future charges.**
    The cost differential between what the Region can recoup through interest and the actual cost of the deferral should be recoverable from future DCs.

We look forward to continuing to work with the Province to increase the housing supply and address the issue of housing affordability in the Region of Peel. Staff would be pleased to provide clarifications or provide additional comments as required.

Sincerely,

Stephen VanOfwegen, CPA, CMA
Commissioner of Finance and Chief Financial Officer
Region of Peel
10 Peel Centre Drive, Suite A, 5th Floor
Brampton, Ontario, L6T 4B9
Stephen.VanOfwegen@peelregion.ca

Appendix: June 1, 2019 Submission to the Province on the proposed *More Homes, More Choice Act, 2019*.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

June 1, 2019

Planning Act Review
Provincial Planning Policy Branch
13th floor, 777 Bay St.
Toronto, ON
M5G 2E5

John Ballantine, Manager
Municipal Finance Policy Branch
Municipal Affairs and Housing
13th floor, 777 Bay St.
Toronto, ON
M5G 2E5

Allyson Switzman
Ontario Growth Secretariat, Ministry of Municipal Affairs
c/o Business Management Division, 17th floor, 777 Bay St.
Toronto, ON
M5G 2E5

Dear Provincial Planning Policy Staff, Mr. Ballantine and Ms. Switzman,

Re: Bill 108 – (Schedule 12) – the proposed More Homes, More Choice Act: Amendments to the Planning Act (ERO #019-0016), Bill 108 – (Schedule 3) – the proposed More Homes, More Choice Act: Amendments to the Development Charges Act, 1997 (ERO #019-0017) and Proposed Modifications to O. Reg. 311/06 (Transitional Matters - Growth Plans) made under the Places to Grow Act, 2005 to implement A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 (ERO # 019-0018)

Thank you for the opportunity to review and comment on the Province's Housing Supply Action Plan, including the above noted ERO postings. The following comments are provided by Region of Peel staff as input into proposed changes to the *Planning Act*, *Development Charges (DC) Act* and *Local Planning Appeal Tribunal (LPAT) Act*, as well as transition regulations for A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019). Staff provided comments on proposed changes to the *Environmental Assessment Act, Conservation Authorities Act* and *Endangered Species Act* in May.

A Report on the Housing Supply Action Plan is also planned to be brought to Regional Council on June 13, 2019. This letter should be viewed as subject to Council endorsement, and a copy of the Report and Council resolution will be forwarded to Ministry staff for further consideration.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

The Region supports the goals of the Housing Supply Action Plan to make housing more affordable and to provide increased housing choice for Ontario residents. However, Regional staff has significant concerns that the changes proposed in Bill 108 would have adverse impacts that result in reduced DC revenues, increased debt risk, increased property taxes and utility rates, and reductions in services and infrastructure required to support growth.

DCs ensure that growth pays for growth. They are a dedicated revenue source for the municipal investments in growth capital infrastructure required before housing development can begin. If Bill 108 is adopted as currently drafted, it would reduce DC revenue for municipalities. For the Region, it could result in an estimated $346 to $393 million in deferred, $48 million in removed and $157 million in exempted DCs.

Municipalities must be kept whole. Risks to the Region's dedicated revenue stream for funding growth infrastructure could force the Region to take on additional debt and raise property taxes and utility rates to recover lost revenue. In the long term, such an outcome would reduce the pace of growth and housing development.

Many of the proposed changes would also add considerable "red tape" to development processes, causing higher planning and building permit fees. These outcomes could have implications for the Region's Triple A credit rating and financial flexibility over the long term and could ultimately reduce housing supply as communities respond to financial challenges.

A series of recommendations to assist the Province as it finalizes the Action Plan are summarized below. Detailed comments are attached in Appendix I. In general, Regional staff continues to recommend that any proposed changes to the *Planning Act* and *DC Act* retain the principle that "growth pays for growth" and avoid shifting costs to tax payers.

***Planning Act* Recommendations**

- That the Province retain existing Section 37 density bonusing legislation and Section 42 parkland dedication/cash-in-lieu legislation.
- That, should a community benefit charge framework be implemented, it be voluntary for municipalities, that there be a direct link for growth to pay growth related costs and no cap be put in place that would result in a transfer of growth-related costs to the property tax base.
- Regional staff supports proposed changes to the *Planning Act* to permit additional residential units in primary residences and ancillary structures, subject to the additional recommendations laid out below with respect to DC exemptions.
- That the Province include permissions for a more flexible approach to inclusionary zoning that allows municipalities to develop policies that reflect local need and context.
- That the Province make inclusionary zoning a mandatory tool to be utilized across the Greater Golden Horseshoe, providing consistency across

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

municipalities. This recommendation aligns with previous comments submitted by the Region as part of the Housing Supply Action Plan consultation.

- That the Province return to the planning application review timelines that are currently in effect under Bill 139, the Building Better Communities and Conserving Watershed Acts, 2017 (Bill 139).
- That the Province introduce accountability measures to ensure development applications are complete at the time of submission.
- That the Province retain existing legislation permitting, but not requiring the use of community planning permit systems.

***Development Charges Act* Recommendations**

- That any changes that are made to the *DC Act* and the *Planning Act* retain the principle that "growth pays for growth". Regulations should make clear that any revenue not collected from the exemptions of secondary units will be recouped from future developments for which DCs can be charged.
- That the regulations limit the size and number of second units and prescribe the residential classes that they can be constructed in.
- That the Province retain existing legislation that allows municipalities to provide deferred DCs/grants-in-lieu, while not making it mandatory.
- That should this proposal move forward, non-residential developments be removed from the deferral as they do not increase the residential housing supply.
- That should the proposed deferral payment plan go ahead, then the first payment should start at the issuance of building permit, not at occupancy, in particular for ICI development.
- That should the proposed deferral payment plan go ahead, the cost be recoverable from future DCs.
- That infrastructure required for long term care, social housing, shelters, TransHelp and growth studies not be excluded as eligible for DCs.
- That should the CBC be approved as proposed, Paramedics be included in the list of hard services eligible for DCs, and further that the *DC Act* provide municipalities with the flexibility to tailor "other services as prescribed" to local circumstances mentioned under Subsection 2(4) "What services can be charged for".
- That should the CBC be approved as proposed, any collected funds based on current needs be shared proportionately between upper and lower tier municipalities.
- That should the recovery of growth-related costs for most soft services be outside of the *DC Act*, the prescribed transition date in the regulations under the *DC Act/Planning Act* provide municipalities at least 2 years to fulfill the additional requirements.
- That DCs be paid either prior to registration of a plan of subdivision for all hard services, or at the time of building permit issuance, as it is done currently.
- That a 1-year maximum time limit be placed on locked in DC rates, with a reset occurring at that point.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

- Regional staff supports the proposed change to remove the 10% DC reduction on capital costs for waste diversion.

Planning Appeals System (*LPAT Act* and *Planning Act*) Recommendations

- That the Province retain the scoped grounds for appeal introduced through Bill 139 to matters that are inconsistent with a provincial policy statement, fail to conform to or conflict with a provincial plan or fail to conform with an Official Plan and retain the ability of a municipal council to reconsider a decision in the event that the Tribunal finds such an inconsistency.
- Staff supports retaining the legislation that shelters Official Plans and Official Plan Amendments completed as part of a municipal comprehensive review (MCR) from appeal.
- That the Province retain the current Tribunal processes established through Bill 139 that limits evidence, streamlines processes and gives primary consideration to Council decisions.

Growth Plan, 2019 Transition Regulations Recommendations

- That the Region be permitted to expand the settlement area boundary to include the Mayfield West Phase 2 Stage 2 and Ninth Line Lands prior to the Region's next Municipal Comprehensive Review, through an exemption in the transition regulations.

We also request that any regulations associated with the proposed changes be released as soon as possible with extended comment deadlines, to allow for a comprehensive review of impacts and implications.

We look forward to continuing to work with the Province to increase housing supply and address the issue of housing affordability in Peel Region and across Ontario. Regional staff would be pleased to discuss any clarifications or provide additional comments as required.

Sincerely,

Steve Jacques, MScPI, MCIP, RPP
Director and Chief Planner, Regional Planning and Growth Management
10 Peel Centre Drive, Suite A, 6th Floor
Brampton, Ontario, L6T 4B9
Steve.jacques@peelregion.ca

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Appendix I: Detailed Region of Peel Staff Comments on the More Homes, More Choice: Ontario's Housing Supply Action Plan and Bill 108, More Homes, More Choice Act, 2019

Planning Act – Proposed Changes

Community Benefits Charge

Staff has concerns with the proposed change to the *Planning Act* that would remove the Section 37 density bonusing framework, parts of the parkland dedication and cash-in-lieu provisions and DCs for soft services, replacing these with a single community benefits charge (CBC). As proposed, this change presents a significant risk of downloading costs to municipalities that would directly threaten their ability to operate on the principle that "growth pays for growth". The Region notes that the CBC framework was not included in the Province's housing consultation in January, 2019.

As currently proposed, the CBC would be capped at a specific percentage of appraised land value, at the time of building permit. There is no apparent mechanism for the CBC cap to be updated in a changing cost environment (whereas DC rates are indexed twice per year, and infrastructure costs are updated every 5 years through the DC background study). It is unknown what level of cap would be applied and how market fluctuations in land prices would be managed given growth-related costs are not subject to the same price fluctuations.

If CBCs become the only source of funding for a wide range of services and community benefits, including parkland, municipalities will be required to prioritize which uses will receive a limited amount of funds, and this may result in affordable housing being overlooked. The requirement to spend or allocate at least 60 per cent of the monies in the CBC account annually may limit the ability of municipalities to save for medium- and long-term projects and services.

Removing the Section 37 density bonusing framework also eliminates a useful tool that is available to municipalities to facilitate intensification while managing growth related impacts, which is an important and longstanding Provincial and municipal policy objective.

The CBC would require extensive administrative resources and costs associated with managing and mediating land value appraisals, along with potential disputes about land value (the proposed basis of the CBC calculation). There are also several issues and unknowns with respect to the broad framework proposed to implement CBCs. For instance, more information is required on the CBC strategy, such as whether it would require a capital plan. Staff also requires clarity on the implementation of the CBC in a regional and local government system, and the distribution of funds.

Additional discussion of the removal of DCs for soft services is included in the *DC Act* section, below.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Recommendations

- That the Province retain existing Section 37 density bonusing legislation and Section 42 parkland dedication/cash-in-lieu legislation.
- That, should a community benefit charge framework be implemented, it be voluntary for municipalities, that there be a direct link for growth to pay growth related costs and no cap be put in place that would result in a transfer of growth-related costs to the property tax base.

Second/Additional Residential Units

Regional staff supports the proposed change to the *Planning Act* that would require permissions for additional residential units in primary residences and/or ancillary structures. Second/additional units make efficient use of existing private housing stock to increase the supply of affordable and rental housing being delivered to the market, while also making homeownership more affordable (by providing an opportunity for rental income).

In Peel, permitting second/additional residential units complements the Region's efforts to provide affordable housing through construction and purchase of units, and through rent supplements. Additional residential units may serve as housing for extended families, allowing for improved family-based supports and offsetting Regional costs for services such as childcare and TransHelp. Additional residential units may also support residents who wish to "age in place".

The proposed introduction of additional residential units combined with the proposed DC exemptions for additional units in new homes means that the Region would have to manage potential stressors on services and infrastructure. This could result in added strain on water and wastewater infrastructure as well as the loss of revenue that pays for such growth. This risk is discussed under proposed changes to the *DC Act*, below.

Recommendation

- Regional staff supports proposed changes to the *Planning Act* to permit additional residential units in primary residences and ancillary structures, subject to the additional recommendations laid out below with respect to DC exemptions.

Inclusionary Zoning

Staff does not support proposed changes that would limit the use of inclusionary zoning to specified areas (MTSAs and community planning permit system areas). Municipalities are in the best position to identify appropriate areas and requirements for inclusionary zoning, given their knowledge and understanding of local context and affordable housing needs.

The proposed change would prevent municipalities from broadly using this tool to increase the supply of affordable housing throughout Peel, thereby eroding their ability to develop complete communities with a range and mix of housing types and affordability.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Recommendations:

- That the Province include permissions for a more flexible approach to inclusionary zoning that allows municipalities to develop policies that reflect local need and context.
- That the Province make inclusionary zoning a mandatory tool to be utilized across the Greater Golden Horseshoe, providing consistency across municipalities. This recommendation aligns with previous comments submitted by the Region as part of the Housing Supply Action Plan consultation.

Decision Timelines

Staff does not support proposed changes to decision timelines for official plans and official plan amendments, zoning by-laws and by-law amendments, and plans of subdivision. These changes would add pressures to the Region when reviewing materials from local official plan reviews (for which the Region is the approval authority) and commenting on development applications. It would also impact municipalities' ability to consult and engage in public participation around proposed planning changes.

Recommendations

- That the Province return to the planning application review timelines that are currently in effect under Bill 139, the Building Better Communities and Conserving Watershed Acts, 2017 (Bill 139).
- That the Province introduce accountability measures to ensure development applications are complete at the time of submission.

Community Planning Permit System (CPPS)

Staff has concerns about the "red tape" that would result from the increased ability of the Province to direct the use of community planning permit systems (CPPS) proposed in the *Planning Act*. Creating a CPPS is currently a rigorous process, therefore increasing and/or requiring the use of this tool would place an increased administrative burden on municipalities. Permitting the Minister to enact a CPPS would also impact ongoing planning work, for example in areas where major transit station area (MTSA) planning is already underway.

Further, this change could eliminate the ability of municipalities to request specific reports or materials such as the Healthy Development Assessment, which would negatively impact the achievement of complete communities in these areas. It also remains unclear how this tool would be implemented in a two-tier system.

Recommendation:

- That the Province retain existing legislation permitting, but not requiring the use of community planning permit systems.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Development Charges Act – Proposed Changes

General

The *DC Act* is a financing tool to help "growth pay for growth". Existing and proposed revenue tools should strengthen this over-arching goal. Unfortunately, the proposed changes to the *DC Act* would reduce DC revenue and could force municipalities to recoup revenue losses by taking on additional debt or raising property taxes and utility rates.

The proposed change could impact the Region's financial flexibility over the long term and its Triple A credit rating. With reduced DC revenue, municipalities would likely be forced to slow the building of new capital infrastructure that is required before new development can occur. Over the longer-term, without this needed infrastructure, many new housing developments would ultimately be delayed or stopped altogether.

In addition, considerable "red tape" would be added to the development process because of the proposed changes. For example, the 5-year deferred payment plan may cause higher planning and building permit fees and ultimately be reflected in higher DC rates.

Development charges do not affect the market price of housing. Prices are impacted by market factors such as income growth, population growth, housing supply and interest rates. While development charges do not affect market prices, they are an important, dedicated revenue source for municipal investments in the growth capital infrastructure that is required before housing development can begin.

With respect to non-profit and purpose-built affordable rental housing, specific DC agreements are put in place to ensure relief from fees and charges results in lower rents. However, these exemptions come at a cost to the tax payer that the Province and municipal councils should be aware of and able to consider. Even when Federal and Provincial grants are provided to support these types of affordable housing developments, often the strict rules mean the money does not flow until after occupancy, requiring municipalities to cover these costs in the interim. This must be managed in the larger context of planning for growth.

The Municipal Finance Officers' Association (MFOA) has suggested that, should changes to the *DC Act* be adopted as proposed, municipalities should have at least 2 years following the filing of the regulations to:

- allow municipalities to properly plan for an orderly transition;
- obtain clarity regarding the potentially significant financial impacts of the removal of soft services from the *DC Act*; and
- minimize confusion and disruption at a time when so many development charge by-laws are being updated.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

DC Exemptions

Building on the comments on second/additional residential units above, there is uncertainty about the impacts of these developments on infrastructure and service provision.

More information is needed on the actual cost of second units, and the financial impacts of incentivising second/additional residential units in new developments. Currently, second units are commonly built in already serviced areas in homes with lower than average persons per unit, which balances costs of servicing, but the proposed changes could impact this trend. Should there be significant uptake of this newly prescribed class, it would create risks for the collection of DC revenue and the need for additional growth infrastructure to be established ahead of development.

Municipalities must be kept whole. Such risks to the Region's dedicated revenue stream for funding growth infrastructure could create financial and infrastructure lags that force the Region to take on additional debt and raise property taxes and utility rates to pay for these exemptions. Based on an uptake of 15%, Watson and Associates predict a missed revenue opportunity of $157 million ($39 million in tax, $118 million in rates, between 2020 and 2031). In the long term, such an outcome would slow the growth needed for development and ultimately reduce housing supply.

Recommendations

- That any changes that are made to the *DC Act* and the *Planning Act* retain the principle that "growth pays for growth". Regulations should make clear that any revenue not collected from the exemptions of secondary units will be recouped from future developments for which DCs can be charged.
- That the regulations limit the size and number of second units and prescribe the residential classes that they can be constructed in.

DC Deferral

Staff is concerned about the proposed deferral of DC payments for industrial, commercial, and institutional (ICI) developments, along with rental housing and not-for-profit housing until occupancy, with payment occurring in six annual installments over five years. The Region notes that ICI developments were not included in the Province's housing consultation in January, 2019.

Deferral of ICI DCs pose risks to the Region's debt capacity, financial flexibility and Triple A credit rating. The Region instituted a growth management strategy in 2013 which has resulted in a reduction in the need for debt by $728 million, and Bill 108 adversely affects the growth strategy and the resulting debt savings.

With respect to non-profit and rental housing development, municipalities already have the authority to provide grants in lieu of DCs or defer DCs as necessary, which is an important tool for encouraging non-profit and rental developments. For example, if the Region chooses to support non-profit organizations, spreading out repayment of these fees helps to smooth their cash flow, mitigating potential shortfalls. However, there is a

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

cost to the tax payer for providing these incentives that municipal councils should be able to consider on a project-by-project basis.

Staff estimates a range of $346 million to $393 million in increased debt risk resulting from staggered DC payments for non-profit and rental housing and ICI property types. The proposed deferral framework is likely to reduce the provision of infrastructure required to support growth, risking longer term reductions in housing supply.

The proposed change could also increase "red tape" and the administrative burden on municipalities, causing higher planning and building permit fees; as well as shifting deferred DCs occurring later in the payment schedule to the building occupants. This would represent a cost transfer from developers to new home owners.

Staff requires clarity on the implementation of this proposed change, expected to come through regulations, including the meaning of "occupancy", what happens to DC deferrals in the event of a change of use, and how the interest rate will be established.

Recommendations

- That the Province retain existing legislation that allows municipalities to provide deferred DCs/grants-in-lieu, while not making it mandatory.
- That should this proposal move forward, non-residential developments be removed from the deferral as they do not increase the residential housing supply.
- That should the proposed deferral payment plan go ahead, then the first payment should start at the issuance of building permit, not at occupancy, in particular for ICI development.
- That should the proposed deferral payment plan go ahead, the cost be recoverable from future DCs.

DCs for "Soft Services"

As discussed above, Regional staff has serious concerns about removing DCs for "soft services" from the *DC Act* and rolling them into a single CBC, which would replace Section 37, density bonusing provisions, and parts of the parkland dedication and cash-in-lieu charge provisions.

Removing DCs for "soft services" restricts the Region's ability to build complete communities that offer a range of services and community benefits to residents. These services include improvements to shelters, TransHelp, long-term care, growth studies, and affordable housing (including incentives and implementation of inclusionary zoning).

Based on the proposed changes, staff estimates $48 million in lost revenue for Peel community services and infrastructure by 2031. This estimate assumes the Region, as an upper tier municipality, would not receive a share of the CBC.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

As the lower tier municipalities have already completed their latest DC by-law updates, the Region would be the first to implement these proposed changes. However, it would still require the cooperation of the lower tier municipalities to collect its share of DCs for soft services.

Recommendations

- That infrastructure required for long term care, social housing, shelters, TransHelp and growth studies should not be excluded as eligible for DCs.
- That should the CBC be approved as proposed, Paramedics be included in the list of hard services eligible for DCs, and further that the *DC Act* provide municipalities with the flexibility to tailor "other services as prescribed" to local circumstances mentioned under Subsection 2(4) "What services can be charged for".
- That should the CBC be approved as proposed, any collected funds based on current needs be shared proportionately between upper and lower tier municipalities.
- That should the recovery of growth-related costs for most soft services be outside of the *DC Act*, the prescribed transition date in the regulations under the *DC Act/Planning Act* provide municipalities at least 2 years to fulfill the additional requirements.

DC Rate Calculation

Staff has concerns that the proposed change to the timing of DC rates calculation (at the time of zoning by-law amendment adoption) could lead to reduced revenues, as there is no time limit attached to the lock in or "reset" of rates after a specified time.

This proposed change may create a perverse incentive for developers to approach municipalities with zoning by-law amendment applications for lands outside of a site plan control area to lock in a lower DC rate, but refrain from proceeding to the building permit stage, leaving properties undeveloped for an extended period.

This outcome would impact the Region's ability to achieve complete communities and growth forecasts through residential and non-residential development. It would also transfer the cost of debt previously funded by DCs to tax payers, as debenture by-laws set fixed payment schedules for municipalities that cannot be altered.

Additionally, administration systems and processes to monitor properties with locked-in DC rates would be required, which would likely add significant costs.

Recommendations

- That DCs be paid either prior to registration of a plan of subdivision for all hard services, or at the time of building permit issuance, as it is done currently.
- That a 1-year maximum time limit be placed on locked in DC rates, with a reset occurring at that point.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

DC Reduction

Staff supports the proposed change to remove the current 10% DC reduction on capital costs for waste diversion. Staff estimate that this proposed change would yield approximately $2 million more in DC revenue for the Region. The Region has historically called on the Province to amend the *DC Act* to allow municipalities to collect DCs to fund all waste management capital growth requirements, as waste management is a service that is clearly linked to growth.

Recommendation

- Regional staff supports the proposed change to remove the 10% DC reduction on capital costs for waste diversion.

Local Planning Appeal Tribunal – Proposed Changes

This section discusses proposed changes to the *LPAT Act* and *Planning Act* that would impact the planning appeals system in Ontario.

Tribunal Authority and Grounds for Appeal

Staff does not support the proposed change that would repeal the section of the legislation limiting grounds for appeal of Municipal Council decisions to matters that are inconsistent with a provincial policy statement, fail to conform to or conflict with a provincial plan or fail to conform to an Official Plan. The proposed change would broaden the LPAT's jurisdiction over major land use planning matters and weaken Council's decision-making authority.

Changes to the LPAT introduced through Bill 139 were the result of extensive, years-long consultation with stakeholders and the public across Ontario. Staff believes the changes introduced effectively streamlined development processes and reduced "red tape", while ensuring that good planning principles are upheld and community and Council decisions are respected.

The proposed change may lead to many more applications being processed through the lengthy LPAT appeals process, which presents a risk to efficient housing development and planning approvals. For example, the Region's Housing Master Plan is focused on the development/redevelopment of lands that are either owned by the Region of Peel or Peel Housing Corporation. Based on recent feasibility work conducted on a number of these sites, at a minimum Official Plan Amendments and possibly some rezoning will be required. Any delays that result from appeals would impact our development costs and delay our efforts in creating new affordable housing stock.

Recommendation

- That the Province retain the scoped grounds for appeal introduced through Bill 139 to matters that are inconsistent with a provincial policy statement, fail to conform to or conflict with a provincial plan or fail to conform with an Official Plan and retain the ability of a municipal council to reconsider a decision in the event that the Tribunal finds such an inconsistency.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

- Staff supports retaining the legislation that shelters Official Plans and Official Plan Amendments completed as part of a municipal comprehensive review (MCR) from appeal.

Tribunal Processes

Staff does not support proposed changes that would remove restrictions on the introduction of evidence and calling of witnesses that would effectively return the LPAT to a "de novo" system. This proposed change would weaken councils' authority to make planning decisions and takes final planning decisions out of the hands of elected municipal councils, who are representatives of their communities.

Further, experience demonstrates that de novo appeals extends the length of hearings, which could increase the Region's time, resources and costs, and slow the development process.

Recommendation

- That the Province retain the current Tribunal processes established through Bill 139 that limits evidence, streamlines processes and gives primary consideration to Council decisions.

Growth Plan 2019 Transition Regulations

In response to the draft transition regulations for the Growth Plan, 2019, the Region urges the Province to permit settlement area boundary expansions for Mayfield West Phase 2 Stage 2 and Ninth Line lands, prior to the next MCR.

Mayfield West Phase 2 Stage 2

The Mayfield West Phase 2 lands were identified for settlement area boundary expansion through ROPA 29 to meet the 2031A growth allocations, but the need to redistribute growth resulted in the exclusion of approximately 110 ha of land from the final expansion area. These remaining 110 ha are referred to as Mayfield West Phase 2 Stage 2 lands.

With growth allocations in the Growth Plan, 2019, and because the detailed technical background work and required supporting studies have been completed for the Phase 2 Stage 2 lands, the Region is seeking to complete the community through the settlement area boundary expansion of these remaining lands. However, under the current planning framework, the expansion cannot be approved outside of the MCR process.

Given that the technical work supporting the settlement area boundary expansion for these lands has been completed, the Ministry should permit this planning process to proceed under the Growth Plan, 2019 transition regulations. Allowing this expansion to proceed in advance of the next MCR would introduce a range and mix of housing supply, provide employment opportunities, support complete communities and provide revenue to the Region to fund infrastructure already in place.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Ninth Line

Following the annexation of the Ninth Line Lands from Halton Region, the Region of Peel has engaged in lengthy planning processes to develop a vision for the lands jointly with the City of Mississauga. The City is proceeding with planning for these lands under Section 17 of the *Planning Act*, under the Halton Region Official Plan designation. As a technical matter, the Region is still required to expand the settlement area boundary to include the Ninth Line Lands and align with the local planning process that is already underway.

Given this, the Region urges the Ministry to permit the settlement area boundary expansion for Ninth Line Lands to proceed in advance of the next MCR under the Growth Plan, 2019 transition regulations.

Recommendation

- That the Region be permitted to expand the settlement area boundary to include Mayfield West Phase 2 Stage 2 and the Ninth Line Lands prior to the Region's next Municipal Comprehensive Review, through an exemption in the transition regulations.

Previous Comments on Bill 108

Regional staff also provided comments on other Acts impacted by Bill 108 prior to the comment deadlines, including the *Environmental Assessment Act*, *Conservation Authorities Act and Endangered Species Act*. Below is a summary of Regional staff comments and recommendations on proposed changes to these Acts.

Environmental Assessment Act (EA Act)

Regional staff supports the following proposed changes in this Act:

- Exempting projects from the Environmental Assessment (EA) process that are low-risk (e.g. paved bike path) by aligning the assessment level with a project's risk level. This includes support for a list that sets out projects subject to individual or class EA.
- Improving the timeliness of Part II order decisions and timelines for EA reviews
- Eliminating duplication between EA and other planning processes.
- Reducing overlap for projects subject to federal and provincial EA processes through a 'One-project-one review' process.

While generally supporting the objectives of the proposed changes to the *EA Act*, staff request that the Province undertake stakeholder consultation as the project list is being developed, and that any efforts to streamline processes should consider possible unintended consequences and should keep both public health and environmental protection at the forefront.

Region of Peel
working with you

Public Works

10 Peel Centre Dr.
Suite A
Brampton, ON
L6T 4B9
tel: 905-791-7800

peelregion.ca

Conservation Authorities Act

Recommendations

- That the Province continue to engage conservation authorities and municipalities to clarify the interpretation and implementation of provisions defining the categories of mandatory and non-mandatory programs and services to ensure that costs for activities and programs that require equitable sharing of funding by participating municipalities are included.
- That consideration be given to including integrated watershed planning in the list of mandatory programs and services to be provided by conservation authorities.
- That the Province provide a mechanism to resolve differences in interpretations between municipalities and conservation authorities regarding mandatory and non-mandatory programs of services should any arise during implementation of the provisions.
- That the Province and conservation authorities continue discussions to resolve issues related to the calculation of capital and operating cost apportionment for mandatory programs and services that result from differing budget targets by participating municipalities to ensure costs are apportioned equitably.
- That the transition period for entering into agreements between conservation authorities and municipalities for non-mandatory programs be extended to a minimum of 36 months.

Endangered Species Act

Recommendations

- That the Ministry ensure that any revisions to the Act, including changes providing new tools and compliance options for proponents, be implemented in a way that complements the existing framework while meeting the purpose of the Act to protect species at risk and promote their recovery.
- That the Ministry include the consideration of climate change impacts in the criteria for assessing, classifying and listing species at risk including, the habitat requirements of species in Ontario in relation to their ability to adapt to a changing climate.
- That the proposed new compliance options in the Act (e.g. payment of conservation charges) be subject to criteria and considered within the established conservation hierarchy of Avoid, Minimize, Mitigate, and Compensate to ensure the purpose of the Act is achieved with emphasis on avoiding, minimizing and mitigating impacts before compensation is considered.