

August 21, 2019

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Public Works

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Dear Mr. Ballantine,

Re: Proposed New Regulation Pertaining to the Community Benefits Authority Under the Planning Act (ERO #019-0183)

Thank you for the opportunity to review and comment on the above noted Environmental Registry of Ontario posting. The following comments are provided by Region of Peel staff as input into the proposed regulation under the *Planning Act* as a result of *Bill 108 – the More Homes, More Choice Act, 2019*. This letter provides staff level comments. If additional comments are provided through a Regional Council resolution, they will be forwarded to Ministry staff for further consideration.

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, it is not clear how the changes proposed through Bill 108 and the above-noted regulation make progress towards this goal. Regional staff have assessed the proposed changes and are concerned that they may have the reverse effect and negatively impact housing supply.

The proposed changes could jeopardize the Region's ability to maintain the "growth pays for growth" principle and ensure the burden of paying for growth does not fall on existing taxpayers. As outlined in previous correspondence to the Province on Bill 108 and reiterated in the comments being provided on the proposed changes to O. Reg. 82/98 under the *Development Charges Act*, the changes may result in reduced municipal credit scores, debt capacity and the possibility of stranded debt, leading to a combination of increased property taxes and utility rates, and in turn, potential reductions in the services and infrastructure required to support growth.

Should upper tier municipalities not receive the community benefits charge (CBC) for soft services, Regional staff project an exposure of \$37 million (down from \$48 million as a result of the inclusion of paramedics as a chargeable DC service), between 2020 and 2031, due to the migration of soft service DCs to the new CBC regime.

The details of these and other previously noted concerns are outlined in the letter from the Region of Peel dated June 1st, 2019 and attached as Appendix 1 for reference.

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Community Benefits Charge Recommendations:

Regional staff have identified the following matters of concern or areas where clarification is requested on the proposed new regulation pertaining to the community benefits authority:

Community Benefits Formula

In the letter from Minister Clark to the Heads of Council dated June 7, 2019, the Minister advises that one of the goals of the community benefits approach is to maintain municipal revenues at the level collected through development charges for discounted soft services, density bonusing and parkland dedication.

As the formula for collecting the CBC is proposed to be based on a different methodology than was previously in place, it is not clear how the Province can state with certainty that implementing this new system will result in similar revenues for parkland, community facilities, and Regional soft services.

The Region is supportive of the Province's further consultation with municipalities before finalizing the community benefits formula. It is critical that any formula and cap implemented for the CBC result in equivalent funds to those previously collected through development charges for soft services provided at the Regional and local level, as well as parkland funding.

To achieve this outcome, it is recommended that both upper and lower-tier municipalities be authorized to pass community benefits charge by-laws, or alternatively the Regional requirements must be included in local community benefits charge by-laws.

In establishing the formula and cap, the Province must sufficiently provide funds for soft services at both the Regional and local level, as well as parkland funding.

The cost of developing, monitoring and implementing the CBC program will be high, and will likely require additional internal capacity. It is recommended that municipalities be able to recover the additional costs associated with administration of the CBC regime.

Community Planning Permit System

As proposed, the CBC cannot be collected in an area subject to a Community Planning Permit System (CPPS), regardless of whether the CPPS includes conditions requiring community facilities or services.

It is recommended that the regulation provide flexibility by specifying that a community benefits charge by-law cannot be assessed for any in-kind value (facility or service) that is acquired through the implementation of a CPPS. This would eliminate the ability for the CBC to assess a charge of a facility or service already accounted for in a CPPS.

Further, it is recommended that the regulation not include any geographic limitations on where funds collected through the CBC can be used. Municipalities require the flexibility to direct funds as they see appropriate to support their programs and services and to benefit

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areas of greatest need. As currently proposed, a CBC can not be charged within areas subject to a CPPS. The regulation should not include any limitations on spending CBC funds within a CPPS area. From a Regional standpoint, CBC funds for soft services must extend across the Region to provide funding for Transhelp (the Region of Peel's paratransit service), shelters, etc. In addition, funds collected for soft services within a CPPS should be permitted to be directed outside of the CPPS area for the same reasons identified above.

Inclusionary Zoning

ERO posting #019-0181 proposed to make housekeeping changes to amend *O. Reg. 232/18: Inclusionary Zoning* to remove the restrictions and prohibitions in respect of the municipal authority under section 37 (Increased Density) with inclusionary zoning.

It is recommended that the housekeeping changes not include limitations or restrictions on the use of inclusionary zoning by municipalities. Permissions should be included that allow for a more flexible approach to inclusionary zoning that enables municipalities to develop policies that reflect local needs. In addition, municipalities should continue to have the option to collect CBCs when inclusionary zoning units are being provided based on specific municipal circumstances.

Transition

It is recommended that the date for transition to the CBC be a minimum of two years from the filing of the regulations to allow municipalities to properly plan for an orderly change, obtain clarity regarding the potentially significant financial impacts of the removal of soft services from the *Development Charges Act*, implement land appraisal processes and prepare community benefits charge by-laws.

Regional staff support the recommendation of the local municipalities that the repeal of the alternative parkland rate in the *Planning Act* should not occur prior to the transition to a CBC approach.

Exemptions from Community Benefits

The proposed regulation lists several exemptions from the CBC, including the development of long-term care homes, retirement homes, and non-profit housing. It continues to be the position of the Region that the discretion to exempt developments from development charges should be with Municipal Councils and a similar approach is requested with the new CBC.

It is therefore recommended that exemptions from the CBC not be provided through the regulation and that Municipal Councils be given the authority to consider and provide exemptions.

Should the list of uses exempt from the CBC be maintained in the final regulation, then the following changes are requested:

- That the exemption be limited to non-profit developers of these facilities;

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- That the list of exemptions only include non-profit purpose built rental housing.

If non-profit home ownership housing is to be included in the exemption, the municipalities could lose the ability to collect the CBC at the development stage with no guarantee that the housing will remain affordable over the long term.

Appraisals for Community Benefits

Staff has also identified concerns about the administrative burden created by the appraisals process. Given the number of appraisals that may be required under the proposed regulation, the payment of the CBC could be delayed until long after building permit issuance. Further, land values can vary considerably over short periods of time, which may create uncertainty and disputes regarding the calculation of the CBC.

In order to standardize appraisals, Regional staff recommend that the regulation include a requirement that all appraisals must be completed by appraisers holding the Accredited Appraiser Canadian Institute (AACI) designation from the Appraisal Institute of Canada (AIC), and all appraisals must conform to the Canadian Uniform Standards of Professional Appraisal Practice (CUSPAP).

The regulation should also clarify that in the event a landowner does not agree with the initial CBC, the cost of any appraisals required by the owner and/or the municipality shall be at the expense of the landowner.

As proposed, should the municipality not agree with the landowner's appraisal, a 45-day window is provided for the municipality to provide an appraisal. It is anticipated that there will be a significant number of developments requiring appraisals and therefore it is recommended that this window be extended to 60 days.

The regulation should provide direction on coordination of appraisals between the upper and lower tier municipalities in two-tier environments (such as Peel) to ensure owners receive a single, consistent opinion of land value.

The regulation should provide a clear dispute resolution mechanism as to how the third appraisal will be used to resolve the differing opinions of land value, particularly if that third appraisal is intended to arbitrate a solution.

Excluded Services for Community Benefits

As proposed, the regulation excludes some services, such as cultural or entertainment facilities, hospitals, administration offices, landfill sites, etc. from the community benefits charge.

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It is recommended that no limits be placed on the facilities, services or matters for which community benefits can be charged. This would provide municipalities with the flexibility to incorporate local needs into the CBC strategy.

It is recommended that municipalities be provided the flexibility to charge CBCs for cultural or entertainment facilities, tourism facilities, hospitals, and administration offices.

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,



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Appendix I: Letter Dated June 1, 2019, 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)

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APPENDIX I

June 1, 2019

Planning Act Review
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Allyson Switzman
Ontario Growth Secretariat, Ministry of Municipal Affairs
c/o Business Management Division, 17th floor, 777 Bay St.
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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.

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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

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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.

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- 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,



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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.

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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.

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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.

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.

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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.

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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

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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.

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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.

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.

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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.

- 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.

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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.

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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.

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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.