



August 21, 2019

### City of Vaughan Comments Regarding Proposals:

- No. 019-0183 Re: proposed new regulation and regulation changes under the Planning Act, including transition matters

The following principles guide the City's comments:

1. Growth should pay for growth and the mechanisms to permit cost recovery should capture the full cost of growth without adding financial and administrative burden that can result in slower provision of requisite infrastructure and services.
2. A full range of hard and soft services is needed to build complete and vibrant communities that benefit everyone, however the mix of these services is unique to each municipality. Any new funding regime must ensure that revenue is sufficiently generated to finance growth related costs for the full range of services, while providing municipalities with flexibility to develop policies to shape development to meet unique needs.
3. Efforts to reduce red tape should be shared by all levels of government. Overly prescriptive processes from the Province cost municipalities time and money and limits a municipality's ability to respond to changing circumstances.
4. Provincial legislation related to municipal governance should be enabling and permissive. Restrictive legislation places distrust in local authorities to make decisions in the best interest of its residents and businesses.

### **Proposal No. 019-183 re: Proposed new regulation pertaining to the community benefits authority under the *Planning Act***

#### Transition

*It is proposed that the specified date for municipalities to transition to community benefits is January 1, 2021.*

Meeting this proposed transition date will be challenging for municipalities as there remains many areas of uncertainty and unanswered questions regarding the new legislation and the proposed regulatory framework.

The methodology/formula to calculate CBCs remains unclear, including how to maintain revenue neutrality, which varies by municipality, the treatment of negative reserve balances, and the determination of land value. The administrative process to be followed to transition to the CBC regime is also unclear, particularly as it relates to municipalities subject to a two-tiered structure. Having more clarity around these areas of uncertainty as early as possible and involving municipalities throughout the consultation process will help better prepare municipalities to meet the proposed transition date.

Additionally, it is essential that municipalities be allowed to maintain all pre-bill practices, including the continued collection of Section 37 funds for increased density and conveying parkland at the alternative rate, until such time as a new CBC bylaw has passed and DC Study updated to reflect changes from the bill, in order to ensure that there is no revenue loss during the transition period.

Clarification on whether the DC By-law must be re-opened to accommodate changes from Bill 108 is needed. If the expectation is that a CBC Strategy will be done in tandem with DC Studies, whether by requirement of transition or natural expiry, this will be especially challenging to municipalities if the CBC Strategy requires extensive consultation that is similar to the DC Study. There is a risk of lost revenues if municipalities have limited time to prepare comprehensive strategies for both DCs and CBCs and consult sufficiently with stakeholders.

The City recommends that:

1. The alternative parkland dedication rate and Section 37 provisions for increased density should not be repealed until a CBC By-law is passed.
2. The Province consult with a diverse selection of municipalities on the draft regulations to ensure that the unique needs of municipalities across the Province are considered and release the CBC calculation methodology with sufficient time to provide municipalities with the opportunity to test for revenue neutrality within their local communities.
3. The specified transition date be 18 months after the approval of the prescribed caps or the expiry date of the current DC By-law, whichever is later.
4. The Province provide support to municipalities to help mitigate administrative challenges during the transition, such as one-time transfers to offset additional staffing and IT resources required.

#### Reporting on Community Benefits

The City finds the proposal regarding the reporting requirements to be reasonable.

#### Reporting on Parkland

The City wishes to seek clarification on the intention of this provision. Would municipalities be permitted to maintain a special account for parkland provisions under Section 42 of the Planning Act if parkland is excluded under the CBC?

#### Exemptions from Community Benefits

*The Minister is proposing that the following types of developments be exempt from charges for community benefits under the Planning Act:*

- *Long-term care homes*
- *Retirement homes*
- *Universities and colleges*
- *Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion*
- *Hospices*
- *Non-profit housing*

The City wishes to seek clarification regarding the intention of exempting the proposed types of developments from CBC to ensure that future implementation of the CBC regime aligns with the Province's goals. It is the City's position that only developments by non-profit entities



should be exempt from CBCs to better position non-profit entities in providing services that benefit the public good and ensure that housing in particular remains affordable to vulnerable population groups.

Additional consideration should be given to the costs required to provide community benefits to the aforementioned development types, particularly relating to retirement homes. As the population ages, growth will be increasingly driven by an older segment of the population, and it can be argued that this population group will rely more heavily on community benefits. Mechanisms will be needed for municipalities to recover growth-related costs driven by senior populations to ensure that growth continues to pay for growth.

The City recommends that:

1. The Province define the types of development to be exempt from CBCs, and that these definitions be tied to other legislation for consistency; or allow municipalities with the flexibility to establish definitions within their own bylaws
2. Only non-profit entities for types of developments under this section be exempt from CBCs and that the Province consider the risk of sales from non-profit to for-profit entities.
3. The Province provide these definitions prior to the ERO posting dealing with the prescribed CBC caps to allow the City sufficient opportunity to assess the financial impacts of the proposed changes to better ensure that growth pays for growth.

### Community Benefits Formula

Significant consultation regarding the CBC methodology/formula is required.

Revenue neutrality should be based on projections rather than historic actual collections as municipalities may historically be under-collecting and in the process of revising policies to address growth and current trends, including high-density intensification areas such as the Vaughan Metropolitan Centre and Vaughan Mills Centre Secondary Plan Areas.

The urban growth that various municipalities are accommodating in the GTA to achieve provincial and regional population targets are generating the necessity to build parks and other facilities that can accommodate a higher volume of people, uses, and recreational facilities that are specialized to achieve this purpose. These parks and recreational facilities are substantially more expensive than any historical collection Vaughan has to-date, thus the CBC rate that our city needs to build parks and recreational facilities in areas of urban growth as identified by the city's Official Plan and areas of intensification cannot be produced only with historical collections. The formula should reflect the context in which the park or other services are being delivered. Not achieving revenue neutrality will result in lower service level standards or increased burden on the existing taxpayers.

Furthermore, the Section 37 funds collected to date for the improvement of parkland and open space in areas of growth and the Vaughan Metropolitan Centre (VMC) are used to cover the gap between the DC collections and the cost of acquiring lands and constructing parks that meet the expected service level in urban growth areas. These investments are contributing to the realization of tangible economic and social benefits that enhance and enrich quality of life in the City.

The City recommends that the CBC should be based on projections and forecasted through proper growth planning studies to encompass all funding required from DCs, parkland, and foregone funds from the previous Section 37, including cost estimates with an escalation factor.

There are numerous questions raised by the proposed imposition of a maximum percentage cap based on land value, including, but not limited to the foregoing, and the following:

1. How will substantial differences in land value across the Province as well as within a municipality be accounted for?
2. How/when is the CBC formula, once derived, to be updated for significant fluctuations in market value (e.g., annually based on real estate board values)?
3. Will municipalities be able to develop an average land value attributable to the entire municipality or specific geographic areas (i.e. area-specific CBCs within the by-law)?
4. How will different types of development that require different services (e.g. residential services versus non-residential) be addressed?
5. How will land value that is contingent on market conditions and site quality be accounted for? Will the determination of the CBC be prior to the first “above grade” building permit to ensure that the site is remediated and ready for development?
6. How will the requirement for one CBC by-law per municipality work in a two-tier system? Will a region-wide allocation protocol based on CBC services provided by each level of government be required?
7. How will municipalities be able to capture the impact of significant unplanned density not known at the time of the CBC Strategy preparation?

Given the uncertainty regarding the CBC formula, the City recommends that:

1. The Province consult with diverse selection of municipalities on the draft regulations to ensure that the unique needs of municipalities across the Province are considered and release the CBC calculation methodology with sufficient time to provide municipalities with the opportunity to test for revenue neutrality within their local communities.
2. The Province provide clarification on the above matters prior to the ERO posting dealing with the prescribed CBC caps to allow the City sufficient opportunity to assess the financial impacts of the proposed changes.
3. The formula should build reasonable contingency to account for uncertainties and market fluctuations, and also take into consideration the increased administrative costs to ensure that those costs are to be paid for by growth.
4. Not only should the prescribed percentage take into account varying values of land, but also density and/or population.
5. That the prescribed cap should either take time value of land into consideration or allow for indexing based on construction costs to better match revenues to expenditures. The proposed regime places a cap on revenues but there is no corresponding cap on expenditures.

#### Appraisals for Community Benefits

It is the City’s position that land appraisals should be conducted fairly for all parties and that

the costs of land value appraisals should be fully borne by the developers. A full cost recovery mechanism should be established to ensure fair alignment of revenues and expenditures.

The City recommends that:

1. The regulation should set out that the appraisal be prepared by an appraiser with an AACI designation, experience in the type of property class, and the specific municipal market.
2. The regulation should provide clarifying language that the developer is responsible for any appraisal costs required beyond the preparation of the CBC Strategy
3. Additional CBC payment should be required if a developer disputes the land value and the appraisal of the land value is actually higher than the basis of the original CBC payment to ensure that the municipality can achieve revenue neutrality.

#### Excluded Services for Community Benefits

*The Minister is proposing to prescribe that the following facilities, services or matters be excluded from community benefits:*

- *Cultural or entertainment facilities*
- *Tourism facilities*
- *Hospitals*
- *Landfill sites and services*
- *Facilities for the thermal treatment of waste*
- *Headquarters for the general administration of municipalities and local boards*

The City wishes to seek clarification regarding the intention of the excluded services from community benefits to ensure that future implementation of the CBC regime aligns with the Province's goals, especially for cultural or entertainment facilities and tourism facilities.

The City recommends that:

1. Language in the regulation provides assurance that *all* services that were eligible under the three separate funding regimes from the pre-bill DC Act and Planning Act (discounted services under DC, parkland, and density bonusing), remain eligible under the CBC regime. In other words, the list of excluded services must not be the same as those under the DC Act as that would undermine those services eligible under the Planning Act.
2. There should be no restrictions on eligible services to fully ensure that growth pays for growth and that municipalities have sufficient tools to respond to their unique needs.

#### Community Planning Permit System

It is unclear what alternate conditions could be imposed by a municipality in an area subject to



a community planning permit system, notwithstanding that they would still generate the need for “soft services” and parkland. Clarification in this regard is required. If the Province were to order the City to implement a community planning permit system, the net financial impact would need to be assessed to ensure that services funded from CBC’s are not impacted by virtue of a newly created area being added to the list of CBC exemptions.

The City recommends that Provincial orders of this nature be in consultation with the municipality and consistent with the timing of new DC studies and CBC strategies when the by-laws expire.