



OAKVILLE

## REPORT

### Planning and Development Council

Meeting Date: May 6, 2024

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**FROM:** Community Planning Commission

**DATE:** April 23, 2024

**SUBJECT:** **Bill 185, Cutting Red Tape to Build More Homes Act, 2024, and Proposed Provincial Planning Statement, 2024**

**LOCATION:** Town-wide

**WARD:** Town-wide

Page 1

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#### RECOMMENDATION:

1. That the staff comments included in the report "*Bill 185, Cutting Red Tape to Build More Homes Act, 2024* and Proposed Provincial Planning Statement, 2024" dated April 23, 2024, be submitted to the Environmental Registry of Ontario (ERO), per their respective ERO postings.
2. That the report titled "*Bill 185, Cutting Red Tape to Build More Homes Act, 2024* and Proposed Provincial Planning Statement, 2024" dated April 23, 2024, be forwarded by the Town Clerk to the Minister of Municipal Affairs and Housing, Halton Area MPPs, Halton Region, the City of Burlington, the Town of Halton Hills, the Town of Milton, Conservation Halton and Credit Valley Conservation.

#### KEY FACTS:

The following are key points for consideration with respect to this report:

- This report is provided for information to Council regarding several initiatives announced by the Province on April 10, 2024. Namely: changes to the *Municipal Act*, *Development Charges Act* and *Planning Act*, as well as a second iteration of the proposed Provincial Planning Statement, 2024, all of which are subject to a 30-day comment period which concludes on May 10, 2024.
- The assessment and comments provided in this report are based on a preliminary review of the information by various staff within the Town.

- The assessment is provided based on the following 13 themes:
  1. Removal of regional planning responsibility
  2. Removal of third-party appeals (official plan and zoning)
  3. Private request for official plan amendment (PMTSA & settlement area boundary expansion)
  4. Prohibition of minimum parking requirements within higher-order transit areas
  5. New regulation making authority (additional residential units, ground related residential development, community service facilities, investment attraction)
  6. Exempt undertakings (university and colleges)
  7. Public notice
  8. Repeal of community infrastructure and housing accelerator
  9. Process changes (pre-consultation, complete application, no refunding of fees, lapsing provisions)
  10. Sewage and water allocation by-laws
  11. *Development Charges Act* (studies as eligible costs, no phased in fees, 18-month freeze, informal amendment)
  12. Parkland dedication requirements (*Planning Act*)
  13. Proposed Provincial Planning Statement, 2024
  
- Notwithstanding that the assessment is preliminary, staff recommend that Council endorse all comments herein for submission to the Province within the 30-day period provided (Comments are provided in relation to items 1-6, 9, and 11 – 13 from the above list.).
  
- A further report may be provided when more information becomes available and/or when proposed changes are enacted by the Province.

## **BACKGROUND:**

On April 10, 2024, the Province introduced another installment of proposed legislative, regulatory and policy changes and additions to support its on-going campaign to increase the supply of housing in Ontario. According to the Province, this most recent initiative is aimed at cutting red tape and speeding up government processes, to support the construction of 1.5 million homes by 2031. (Appendix A provides a listing of proposals and their links for which the Province is requesting comments.)

The proposed [Bill 185, Cutting Red Tape to Build More Homes Act, 2024](#) amends fifteen Acts. Of those, proposed changes to the *Development Charges Act*, *Municipal Act*, and the *Planning Act* (provided in Bill 185 schedules 6, 9 and 12 respectively) are most significant to Oakville. Some of the proposed changes to the *Development Charges Act* and *Planning Act* repeal changes that were introduced

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via *Bill 23, More Home Built Faster Act, 2022*, which had been reported on by Town staff at the [December 5, 2022 Planning and Development Council](#) meeting.

Complementing these changes are proposals for new regulations and amendments to existing regulations, as well as a new version of the Proposed Provincial Planning Statement. As was noted with the previous version of this policy document, this new [Provincial Planning Statement, 2024](#) would replace the Provincial Policy Statement, 2020 and A Place to Grow, the Growth Plan for the Greater Golden Horseshoe, 2020. Staff had reported on the previous version of the proposed Provincial Planning Statement, 2023 at the [May 15, 2023 Planning and Development Council](#) meeting.

### **COMMENTS:**

Proposed changes to legislation, regulations and policy are summarized below in 13 categories. The summary for each is followed by an estimate of the potential impact the proposed change would have on the Town of Oakville, and where appropriate, a response to the proposed change to be shared with the Province is also given.

#### **1. Removal of Regional Planning Responsibility**

Schedule 12, Sections 1, 15 and 19, of the proposed legislation addresses matters related to regional planning. The legislation identifies Halton, Peel and York Regions as the first three Regional Municipalities that, as of July 1, 2024, will no longer have planning responsibility. Other upper-tier municipalities may have their planning responsibility removed through a future proclamation or regulation. Along with the change in definition to “upper-tier without planning responsibility”, various other provisions of the *Planning Act* wherein the term “upper-tier without planning responsibility” will also come into effect on July 1, 2024. This includes the removal of the Region’s ability to appeal or even to become a party to hearings regarding *Planning Act* matters, including official plans and official plan amendments, zoning by-laws, minor variance, plans of subdivision and consent applications, notwithstanding the Region’s interests as it relates to the provision of infrastructure, housing services, coordination and management of growth, and protection of natural heritage systems and resources, among others.

Despite the Region’s loss of planning responsibility, Halton Region may continue to have a Planning Advisory Committee, which includes at least one member of the public. Furthermore, Halton Region Council may, on conditions agreed to with its lower-tier municipalities, provide advice and assistance with respect to planning matters.

- Impact on the Town of Oakville

The Regional Official Plan will be deemed to be an Official Plan of the Town for all of the town’s lands within that Plan. For any regional official plan amendment (ROPA)

either under appeal or in draft form, the Town will be able to continue or dispose of the amendment, this includes any private application to amend the Regional Official Plan within the town boundaries.

As part of the Official Plan update, Council will need to determine whether to maintain, amend or repeal the Halton Region Official Plan as its official plan to guide community building in Oakville. Staff will report back on this transition later this year.

This change in the *Planning Act* also means that the Town is authorized to identify other Protected Major Transit Stations Areas that meet the *Planning Act* definition of station area on an existing or planned “higher-order transit” corridor.

Any future amendments to either the Town’s official plan or the ROP will be approved by the Minister, unless the Minister identifies Oakville as a municipality that is exempt from the Minister’s approval. To date, the Ministry has not indicated that lower-tiers within “upper-tiers without planning responsibility” would be listed in the current Ontario Regulation 525/97 Exemption from Approval. However, the *Planning Act* prohibits the exemption for the approval of official plans and official plan amendments that are subject to the Minister’s approval that are related to an Official Plan review in accordance with section 26 of the *Planning Act* or are introducing or amending certain policies related to Protected Major Transit Station Areas, such as delineating boundaries and/or are assigning minimum densities.

The *Planning Act* also authorizes the Minister to suspend the required approval time of such OPAs, subject to certain specified notice provisions. The Province has exercised this authority for several official plans and official plan amendments over the last few years, thereby delaying municipal efforts to update local planning direction.

Meanwhile, the Region will continue its other planning related functions such as managing and planning major sewer and water infrastructure, as well as providing Housing Service Manager functions. As such, the Town will need to continue to consult with the Region regarding planning matters that rely on such services. Furthermore, as contemplated in the proposed Provincial Planning Statement, 2024 (see commentary below), the Town will likely still work with the Region to coordinate inter-jurisdictional growth management matters such as population, job and housing forecasts, watershed planning, natural heritage system protection, and resource management. Further discussion with the Region, fellow lower-tier municipalities, as well as neighbouring municipalities outside of Halton (i.e. Mississauga) and relevant conservation authorities is required to determine how a new type of coordination might work.

In the meantime, Halton Region, in anticipation of this change in responsibility has convened meetings with its local municipalities and conservation authorities. The

regional [staff report dated April 17, 2024](#) indicates that in preparation for July 1, 2024 proclamation date, staff will work to finalize a Memorandum of Understanding among the Region and local municipalities regarding roles and responsibilities.

- Comments to the Province:
  - a) While Town staff have yet to understand what, if any, outstanding ROPAs are in process, it would be prudent to have the Region conclude those amendments, as opposed to passing them along to Town staff mid-process. As such, transition provisions should be included within Bill 185 to minimize or eliminate the transfer of incomplete amendment processes.
  - b) To minimize the volume of official plans or official plan amendments that will be forwarded to the Province for approval, the Town of Oakville should be identified as a municipality exempt from approval within O. Reg. 525/97.
  - c) Ministry staff should provide information, prior to July 1, 2024, regarding protocols and expectations in relation to the Ministry's role as direct approval authority, so that the Town may update its processes accordingly.

## **2. Removal of Third-Party Appeals (Official Plan and Zoning By-law)**

Schedule 12, Sections 3 and 5 of the proposed legislation removes the right of appeal for official plan, official plan amendments, zoning by-law and zoning by-law amendments for "persons." It is proposed that only "specified persons," public bodies (not including upper-tiers without planning responsibility), the Minister, the appropriate approval authority, and the applicant (where applicable) may appeal a decision to approve these proposals. "Specified persons" are generally defined as entities responsible for utilities, such as power, telecommunications, railways, natural gas, etc.

It should also be noted that "persons" who made submissions to Council, continue to have the right to seek party status, should the matter be appealed to the Ontario Land Tribunal by any of the other entities that continue to have appeal rights.

Furthermore, the legislation proposes to retroactively impose these provisions to any appeals wherein the only appellant was a "person" and no merit hearing has yet taken place. In those instances, the appeal is deemed dismissed.

Complementary amendments to Ontario Regulations related to official plans and zoning by-laws are proposed to be made to clarify right of appeal information within public notices.

- Impact on the Town of Oakville

Presently, the Town of Oakville has a total of 19 official plan and zoning by-law matters before the Ontario Land Tribunal. Of those, five are subject to an appeal by

only a third-party and/or have not yet had a merit hearing. As such, this would mean the closure of those cases (these are municipally initiated and Council approved official plan amendments<sup>1</sup> related to Palermo Village) and Council decisions would come into effect.

With the Minister as the approval authority for Town of Oakville Official Plan or Official Plan Amendment, the *Planning Act* removes all appeal rights. As such, an OPA related to a PMTSA like Midtown Oakville, would not be subject to appeal. With these new provisions, other Council decisions for municipally initiated matters (that are exempt from the Minister's approval in the case of official plan amendments), and zoning, would not be subject to appeal either by development proponents or the general public. Decisions on private applications (even those that seek to amend a newly approved municipally initiated amendment), may still be subject to appeal by the applicant, but not other "persons." Those "persons," however, may seek party status, should the matter be appealed.

- Comments to Province
  - a) It is noted that through various amendments to the *Planning Act* over the last few years, a "person's" right of appeal on *Planning Act* matters has been reduced. With the enactment of these proposed provisions, "persons" would not have the right of appeal on any matter. This, in theory, would reduce the number of matters that are addressed by the Ontario Land Tribunal, but would require much more public and stakeholder engagement prior to decision-making, in order to ensure that the purpose of the *Planning Act* as stated in section 1.1 (d) "to provide for planning processes that are fair by making them open, accessible, timely and efficient" is upheld. Accordingly, regulations associated with these *Planning Act* tools wherein direction is provided regarding the giving of notice and engaging with the public, should be updated to ensure a consistent approach to engagement across the Province; and,
  - b) Notwithstanding that the provisions prohibiting upper-tiers without planning responsibility from having appeal or party status rights was proposed via Bill 23, a further change to the *Planning Act* wherein the Region's appeal rights be reinstated warrants consideration. As noted above, the Region continues to have responsibility for housing, major infrastructure, and its own land-holdings. In preserving the Region's appeal and party status rights (as is the case with any other public body) relieves the Town's responsibility to defend matters of Regional interest and ensures that the subject matter experts are properly represented at the Tribunal, whether in hearings or mediation opportunities. This is especially important when matters are appealed for lack of decision or refusal by the Town in support of the Region's interests.

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<sup>1</sup> The OPA numbers are as follows: 34, 37, 38, 289 and 306.

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### 3. Private Request for Official Plan Amendment (PMTSA & Settlement Area Boundary Expansion)

Schedule 12, Sections 4 and 5, of Bill 185 proposes to increase appeal rights for certain matters. Presently, the *Planning Act* precludes private applications from requesting to amend permitted uses within Protected Major Transit Station Areas, Bill 185 would permit such applications to be made. Similarly, current provisions in the Act prohibit appeals regarding the refusal or lack of decision on official plan amendment and zoning by-law amendment applications that propose to alter the boundary of a settlement area. Bill 185 would allow such appeals on lands outside of the Greenbelt Area.

It is not clear why requests to amend permitted uses within PMTSAs should be entertained, where Council would not otherwise resolve to consider this change, nor why requests to alter the boundary of a settlement area, when not supported by Council, should be considered by the Ontario Land Tribunal. These proposed provisions appear to be at odds with the thrust of the overall legislation which is intended to speed up government processes and cut red tape. These proposed changes, on the other hand, are likely to result in hundreds of hours to prepare applications, review them, and then have them adjudicated at the Ontario Land Tribunal.

- Impact on the Town of Oakville

The proposed changes could result in the Town having to address appeals to the Ontario Land Tribunal, that under the current legislation it would not. Presently, there is a small portion of land that is not in the Town's settlement area and is outside of the Greenbelt Area. A request to expand the settlement area that is not supported by Town Council and/or the Minister (if the OPA is exempt from their approval), may now be subject to appeal, whereas currently, it is not.

The Town adopted the Bronte GO PMTSA official plan update in 2023, the OPA was not appealed, however, if the *Planning Act* is amended to allow requests to amend permitted uses and the requested uses are not supported by Council, then the Town may have to address this matter via the Ontario Land Tribunal. The same holds true for any forthcoming PMTSA official plan permitted use policies.

- Comment to Province
  - a) These proposed changes should be removed from Bill 185. These changes are inconsistent with Provincial direction to streamline planning approval that meets local and provincial objectives for compact, transit supportive community building. PMTSA decisions approved by the Minister should not be undermined by private applications that could be advanced at any time. Similarly, unwelcome settlement area expansions, for which municipalities

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will have to be responsible for its ongoing servicing, should not be permitted to be referred to the Ontario Land Tribunal for adjudication.

#### **4. Prohibition of Minimum Parking Requirements within higher-order transit areas**

Schedule 12, Sections 2, 5 and 13, relate to provisions that prohibit official plan policies and zoning by-law provisions that would require a minimum number of parking spaces for anything other than bicycles, on lands that are located within a Protected Major Transit Station area. This prohibition would also apply to lands associated with a higher-order transit station area or stop where a provincial plan or policy directs the official plan to identify a minimum number of residents and jobs per hectare collectively. This provision may also apply to prescribed areas, however no such regulation is presently proposed. Furthermore, the legislation proposes that this prohibition trump any existing policies and provisions of official plans, zoning by-laws, or Minister's zoning orders within those areas. The proposal also removes the right for the Minister to establish regulations that either prescribe minimum parking standards or prohibit them.

- Impact on the Town of Oakville

Municipalities establish minimum and maximum parking requirements for development to address parking demand for residents, visitors, workers and/or customers based on parking analysis and traffic impact studies. However, these prohibitions on required minimum parking would apply irrespective of the findings from such reports.

Without minimum parking standards imposed, development may choose not to provide parking on site, thereby increasing demand for transit, active transportation facilities, and the use of public streets or other parking facilities to satisfy parking needs, where alternative transportation modes are not presently sufficient and may not be provided within the timeframe required to meet demand.

It is understood that minimum requirements for parking may be costly to new development, preclude transition of existing facilities to new uses, and create undue strain on existing road capacity; however, these challenges may be mitigated on a site-by-site basis. This context appropriate method would better serve an existing or planned higher-order transit area than simply removing the ability for municipalities to impose minimum parking requirements from where they are warranted.

Should this legislation come into effect, the Town may need to consider other means to ensure that parking needs are met over the short and/or long term. Alternative approaches may include an increase in on-street parking capacity and/or the creation of public parking lots, which would mean having to increase the Town's land acquisition for public realm in those areas. Without these measures in lieu of



minimum parking requirements, the Town risks having additional strain on the existing parking supply in and adjacent to these higher-order transit areas, and also may experience impacts on the operations of municipal transit and parking enforcement.

On the other hand, while some development proponents seeking to construct affordable housing may have concerns regarding the provision of minimum parking spaces, the Town has experienced situations wherein development proponents are not satisfied with the maximum parking rates provided in the Town's by-laws, and request higher rates. Having reasonable maximum parking rates is a means to support the use of active transportation and reduce traffic congestion. These maximum parking rates also support the Town's climate change mitigation strategies.

- Comment to Province
  - a) All PMTSAs and station areas on higher-order transit corridors are not alike. Some of these transit station areas are based on a planned service where the transit facility is not yet provided; however, the proposed legislation would apply to those locations, and as such put undue pressure on transit providers, including Metrolinx, to expedite the provision of the service. Parking requirements are best determined based on holistic studies that consider the context of the site, existing and future services. Accordingly, provisions that prohibit minimum parking requirements in official plans and zoning by-laws should be removed from Bill 185.
  - b) As noted above, the provision of maximum parking rates is a means to mitigate traffic congestion as well as climate change. To reduce disputes over maximum parking rates established via traffic impact studies and transportation management plans, consideration should be given to proposing a change in legislation that supports maximum parking rates to assist in streamlining development.

## **5. New Regulation Making Authority (Additional Residential Units, Ground Related Residential Development, Community Service Facilities, Investment Attraction)**

Bill 185 introduces an amendment to the current authority to make regulations associated with additional residential units and several new regulation making authorities.

### Additional Residential Units

Section 7 of Schedule 12 proposes to change the authority to issue regulations associated with additional residential units (ARU), clarifies that the content of the regulation only applies to the ARU, not the primary residence, and also proposes that the permission for the ARU is only valid for one time on the subject lands, such

that if the unit is converted or the building is demolished the as-of-right permission for the ARU no longer applies. To date, no rationale is provided for the proposed change to the authorization of this regulation.

#### Ground Related Residential Development

Sections 9 and 12 of Schedule 12 propose a new regulation making authority related to ground related residential development. This authority proposes to make regulations which would override zoning by-laws, Minister's Zoning Orders, site plan controls and community planning permit by-laws. The ERO explains that this authority is intended to enable: "The establishment of criteria to facilitate planning approvals for standardized housing." The ERO further states that: "The proposed changes would only apply on certain specified lands, of a minimum lot size, such as urban residential lands with full municipal servicing outside of the Greenbelt Area." Furthermore, the "backgrounder" provided with the announcement of this legislation indicates that this regulation could be used to exempt planning approvals (i.e., zoning) where development is proposed in accordance with "standardized housing designs" that are yet to be established. (See Next Steps below for more information regarding the Building Code and standardized housing designs.)

#### Community Service Facilities

Sections 11 and 12 of Schedule 12 authorize a regulation that would exempt "community service facilities" from any provision of the Act or from the regulation that authorizes community planning permit system, or set out restrictions or limitations with respect to their application, and that this regulation would prevail over the provision of any other Act as specified in the regulation. "Community facilities" are defined as undertakings by a school board per the *Education Act*, long-term care home as defined in the *Fixing Long-Term Care Act, 2021*, and a hospital as defined by the *Public Hospital Act*. ERO 019-8369 notes that the proposed change would "create regulation-making authority to enable a streamlined approvals pathway for prescribed class(es) of "community service facility" projects (public schools K-12, hospitals and long-term care facilities) that support the creation of complete communities." This explanation, however, does not seem consistent with the proposed provisions in Bill 185.

#### Investment Attraction

Section 2 of Schedule 9 proposes to amend the *Municipal Act* by adding provisions that would authorize making regulations that would allow a municipality to grant assistance to specified manufacturing business or other industrial or commercial enterprise and may exempt such enterprise from levy, charge or fee required under *Development Charges Act* or *Building Code Act*. The regulation may also have set timeframes, conditions, and location, wherein this yet to be defined assistance would occur. Similar to provisions in the *Planning Act* under section 28 (Community Improvement Plans) this regulation would override section 106 of the *Municipal Act*

which prohibits municipalities from directly or indirectly providing assistance to private entities.

- Impact on the Town of Oakville

Presently, the proposed language in the Act and the clarification provided in the ERO regarding the *Planning Act* related regulations are quite vague and/or inconsistent with each other. As such, it is not clear what impact, if any, these proposed changes would have on the Town.

With respect to the *Municipal Act* regulation intended to incentivise investment, the description provided in the [Ontario Regulatory Registry](#) states:

“If the proposed regulation-making authority is created and used, and if a municipality provides this assistance to a business:

- The municipality may forgo some revenue that it may otherwise have collected from the business. Depending on the assistance provided, the municipality may be required to raise this forgone revenue from other sources.
- There could also be many benefits to the local community and the province, including direct and indirect job creation.
- Businesses that receive the assistance would benefit as it would help to lower their costs of establishing their business in the specified municipality, which could translate into more investments and job creation for the local community and the province.
- There may be some increased administrative costs for municipalities to track the assistance that is provided.”

As such, while the Province may establish the regulation to address its investment interests, the onus appears to be on the Town to provide the incentive. It is not clear that the intent is for this regulation to apply only where a municipality requests it and where there is capacity to provide proposed incentives.

- Comments to the Province
  - a) To facilitate meaningful consultation on these proposed legislative and regulatory changes, more information needs to be provided.
  - b) With respect to the proposed regulation to incentivize investment, the Act should clarify that this regulation may only be imposed per the request of the host municipality.

## 6. Exempt Undertaking (University and Colleges)

Schedule 12, Section 11 proposes to add new provisions to the *Planning Act* that would exempt any undertaking by publicly assisted universities<sup>2</sup> from the *Planning Act*, except in lands that are within the Greenbelt Area. The proposed addition to the Act also contemplates regulations associated with this provision, which seem to be specific to further defining the term “publicly assisted university” for the purpose of this provision. The ERO notes that this authority would exempt university-led student housing projects on- and off-campus.

- Impact on the Town of Oakville

The proposed provisions and explanation in the ERO are quite vague. It is understood that Sheridan College in Oakville would qualify as a college that would benefit from this regulation. Should this regulation come into effect, it appears that the college could advance development on or off its campus, without municipal planning permission.

- Comment to the Province
  - a) Other undertakings in the *Planning Act* that are currently exempt from the Act are ones that are subject to an *Environmental Assessment Act* approval process, for example: a project of Hydro One or Ontario Power Generation and other energy projects. Presently, the proposed provisions related to colleges and universities do not identify an alternative process to which these projects would be subject that would ensure adequate protection, and where possible enhancement, of natural features as well as other planning considerations. Furthermore, if the intent is to only exempt projects that provide student housing, then that too should be specified in the legislation.

## 7. Public Notice

Amendments are proposed to regulations regarding the procedure to notify the public on matters related to *Planning Act* and *Development Charges Act* initiatives. Presently, the regulations require that notice be issued by mail or through a local newspaper. The proposed change would also permit a municipality to give notice via its website, where there is no local (print) newspaper.

- Impact on the Town of Oakville

Presently, there is no local (print) newspaper that serves Oakville public. For *Planning Act* matters that are townwide or address a large portion of the town, advertisements are being placed in the *Globe and Mail*, as well as posting the same

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<sup>2</sup> “publicly-assisted university” means a university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education (*Ministry of Training, Colleges and Universities Act*)

and more information on the Town's website. The Town's website is a resource for information, work is underway to improve its accessibility, including a means to provide automated notices on various matters to subscribers. Furthermore, the Town presently uses social media as another means to direct people to its website regarding specific matters. These types of efforts ensure that the public has access to timely information and are broadly accessible.

## **8. Repeal of Community Infrastructure and Housing Accelerator**

Section 6 of Schedule 12 proposes to repeal all of the provisions related to the Community Infrastructure and Housing Accelerator (CIHA) tool that was added to the *Planning Act* via Bill 23. (This tool was explained in the White Paper: *Planning Act Tools to Facilitate Affordable Housing* that was shared with Council at the March 18, 2024 Planning and Development Council meeting.) It is noted that in its stead, the Province has provided new requirements on its website regarding [Minister's Zoning Orders](#) in the event that a municipality may wish to request that the Minister issue a Minister's Zoning Order to address a planning matter.

- Impact on the Town of Oakville

To date, the Town has not expressed an interest in using the CIHA, as such the repeal of it is of little consequence.

## **9. Process Changes (Pre-Consultation, Complete Application, No Refunding of Fees, Lapsing Provisions)**

Several process changes are proposed with respect to planning applications:

### Pre-Consultation Meetings

While presently the *Planning Act* permits municipalities to mandate pre-consultation meetings with applicants proposing official plan or zoning by-law amendments, and/or making applications for site plan or subdivision, Sections 4, 5, 8, and 10 of Schedule 12 of Bill 185 propose to remove provisions in the *Planning Act* that authorize municipalities to pass a by-law requiring pre-consultation for those matters. Furthermore, changes are proposed regarding the timing of when the Town or applicant can request a motion for directions from the Ontario Land Tribunal in relation to the completeness of an application. Similar to a development permit application under a Community Planning Permit System, this motion for direction can be requested at any time, whereas presently the *Planning Act* requires waiting 30 days after an application is submitted for these other application types.

### No Refund of Fees

Bill 109 amended the *Planning Act* to require municipalities to refund fees associated with zoning by-law amendment and site plan applications, where decisions were not issued within prescribed time-frames. This change in the

*Planning Act* resulted in the Town modifying its processes to meet timelines without giving refunds. Sections 5 and 8 of Schedule 12 in Bill 185 proposes to repeal those fee refund provisions.

#### Lapsing Provisions

Sections 8 and 13 of Schedule 12 also propose new “use it or lose it” provisions which authorise the approval authority to impose a time within which a building permit must be issued before the approval of a site plan application lapses or it will be deemed no longer valid. It is also proposed that these lapsing provisions may be applied retroactively to site plan applications, at the discretion of the “authorized person” (i.e., Director of Planning).

Bill 185 also authorizes making “use it or lose it” regulations wherein minimum and maximum site plan and draft plan of subdivision approval timeframes may be established. In the meantime, the legislation provides a minimum period of three years for both site plan and draft plan of subdivision approval.

Furthermore, the legislation also establishes a timeframe of 3 years from the time these provisions of Bill 185 come into effect after which draft plans of subdivision approved prior to March 28, 1995 will lapse, without the right of renewal.

These lapsing provisions align with the proposed *Municipal Act* by-law regarding the allocation, withdrawal of allocation and reallocation of servicing capacity (see below Sewage and Water Allocation by-law).

- Impact on the Town of Oakville

In accordance with the *Planning Act*, the Town has policies in its official plan and has adopted a by-law which requires pre-consultation prior to submitting applications regarding those matters. Pre-consultation meetings help to scope complete application requirements for a development proposal and often identify potential issues early in the development application process. Many applicants attend these meetings to streamline planning approval.

With respect to Complete Application requests for direction from the OLT, since those provisions were added to the *Planning Act*, the Town has had only one such request, which was resolved prior to the Tribunal being involved in the matter. As noted above, since application requirements are discussed during pre-consultation meetings, this mitigates the need for dispute resolution after an application is submitted.

With respect to the repeal of fee refund requirements, this proposed change should lead to more opportunities to work with a development proponent in order to be able to issue a positive decision.

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Presently, the Town of Oakville has units that are approved through site plan applications and in draft approved plans of subdivision but for which a building permit has not yet been issued or a draft plan has yet to be registered. It is possible that the proposed lapsing provisions could hasten building permit requests, however, it is understood that there are many extenuating circumstances that preclude an applicant from taking the next step within the development process.

- Comment to the Province
  - a) The pre-consultation process established by the Town provides an opportunity to identify necessary application types in support of a development proposal, scope application requirements prior to submission of applications, and identify preliminary issues and/or concerns. These meetings benefit the Town, commenting agencies and development proponents. Furthermore, these meetings assist with reducing or eliminating the need for resubmissions, thereby reducing the overall approval timeframe. Accordingly, Bill 185 should be amended to maintain a municipality's authority to require pre-consultation.
  - b) The repeal of *Planning Act* provisions regarding refunds for site plan and zoning by-law amendment applications is consistent with Town comments sent to the Province regarding Bill 109.

#### **10. Sewage and Water Allocation By-law**

Section 70.3 of the *Planning Act* that authorizes making a regulation to authorize municipal by-laws that may be used to allocate sewer and water capacity to development is proposed to be removed and replaced with new provisions in the *Municipal Act* (see Schedule 12, Section 14 and Schedule 9, Section 1). The proposed addition to the *Municipal Act* permits municipalities to adopt by-laws which establish policy for the allocation of sewer and water capacity to support approved development and identify types of criteria to be used when allocating water and sewer capacity in terms of its approval, withdrawal of approval, and later reallocation. The by-law may apply to the entire municipality or may be different depending on the location within the municipality. The Act assigns approval authority for allocation to an officer, employee or agent of the municipality, whose decision is final. The proposed provisions also permit the Minister to make a regulation exempting approved development or a class of approved development from such a by-law.

- Impact on the Town of Oakville

Presently, the Town of Oakville participates in Halton Region's allocation program, which is a financing tool used to ensure adequate funding is available to support growth-related infrastructure throughout the Region. As it relates to Oakville, the

program identifies the extension of servicing infrastructure needed for residential land uses in designated greenfield areas in the north.

The ERO notes that the tool explicitly authorizes municipalities to adopt by-law (where they do not already exist) to formalize how water and sewage servicing of an approved development is managed. The intent of this by-law is to enable servicing capacity to be allocated/reallocated to other projects if the approved development has not proceeded after a specified timeline and the servicing is needed elsewhere in the service area. As such, should this regulation come into effect, they Town may choose to formalize its current process by way of this by-law, which would be under the authority of the *Municipal Act*.

### **11. *Development Charges Act (Studies as Eligible Costs, No Phased in fees, 18-month Freeze, Informal Amendment)***

Several changes are proposed to the *Development Charges Act* that repeal legislative changes introduced by Bills 23 and 108. Bill 185 proposes to reinstate certain studies, including the Development Charges Background Study, as eligible costs for which DCs may be charged. DC discounts in the first four years of the by-law coming into effect are proposed to be repealed, subject to transition rules. And the freeze of the Development Charge rate for site plan and rezoning applications is limited to 18 months after the application is approved. Furthermore, a process for minor amendments to DC By-laws is proposed which would allow a municipality to amend their existing DC by-law to address the prescribed changes to the Act without having to complete required formal steps, as long as the amendment is passed within 6 months of the applicable provisions of Bill 185 coming into effect.

In addition to the changes in Bill 185, the Province announced that Section 4.1 of the DC Act “Exemption for affordable residential units” will be proclaimed on June 1, 2024. These exemptions were originally introduced through Bill 23, and the definition for affordable and attainable units was later amended as part of Bill 134. Residential units that meet the definition of affordable will be exempt from the town’s growth funding tools of DCs, parkland dedication and community benefits charges. The definition of affordable relies on an “Affordable Residential Units Bulletin” that has not been released, however, the Province stated that this will be posted on its website when it comes into effect.

- Impact on the Town of Oakville

The proposed changes address several concerns that were raised by staff and Council with respect to Bill 23 and Bill 108 over the last couple of years.

The reinstatement of studies as an eligible capital cost for DCs is positive for the town. The exclusion of studies has not yet impacted the town, as the 2022 Development Charges by-law pre-dated Bill 23. The proposed change would allow



for the continued inclusion of studies at the time of the town's next Development Charges By-law.

The removal of the new DC by-law phase-in (discount) provisions is another positive change. As of the end of March 2024, these discounts have resulted in \$8 million loss in DC revenue for the town. The removal of these discounts will mean that the town may collect at the full rate under the DC by-law; however, based on the transition rules, developments with a rate freeze prior to this change coming into effect will continue to pay at the discounted rate.

The town is supportive of the reduction of the rate freeze period from 2 years to 18 months from planning application approval. As of the end of March 2024, the rate freeze provisions have resulted in \$13 million in lower DC revenue for the town. The reduction of this time period will hopefully incentivize faster construction and may also reduce this impact. The prescribed purposes for which a municipality can complete a minor amendment to their DC by-law does not include the purpose of amending the rate freeze period. The town's DC By-law includes the current expiration date of 2 years from planning application approval, which may mean that the town must continue to provide for the 2 year time period until the DC By-law is amended or a new DC By-law is brought forward.

The proposed changes would reduce the financial impact associated with Bill 23 and Bill 108, and ensure that the Town recovers more growth-related costs through development.

The impact of the Province's announcement regarding the proclamation of section 4.1 of the DC Act remains unknown. There are a number of concerns that were discussed in the report titled *Bill 131, Transportation for the Future Act, 2023* and *Bill 134, Affordable Homes and Good Jobs Act, 2023* at the [November 13, 2023 Planning and Development Council](#) meeting. These concerns included the challenges with administering and enforcing exemptions in line with the intent of the legislation, and the potential financial implications. Staff submitted these concerns to the ERO posting (shown in Appendix A of the report). There has been no further information or clarity on the issues raised. The definitions for affordable rely on an "Affordable Housing Units Bulletin" that is not yet released.

- Comments to the Province
  - a) The proposed changes address some of the Town's concerns raised with respect to changes in the *Development Charges Act* over the last couple of years. To further address Town concerns, the following changes are warranted:
    - i. Apply the removal of the new DC by-law discounts to developments that have received a rate freeze at the discounted amounts.

- ii. Keep the Town whole for the reduced revenue that result from DC by-law discounts.
  - iii. Allow the process for minor amendments to DC By-laws for the purpose of amending the rate freeze timeframe, and that this be applicable DC By-laws passed before or after November 28, 2022.
- b) Furthermore, it is reiterated here that the proclamation of section 4.1 of the *Development Charges Act* for the exemption of affordable and attainable residential units from DCs, parkland dedication, and community benefits charges could have a significant financial impact on the Town. The Town's concerns regarding administration and enforcement as communicated in the ERO posting should be addressed prior to proclamation of this section. The Province has not yet indicated how they will keep municipalities whole, which could result in delays in key infrastructure required due to growth or impacts to property taxes.

## 12. Parkland Dedication Requirements (*Planning Act*)

Presently, Bill 185 does not propose amendments to Section 42 of the *Planning Act* regarding parkland dedication. Per Bill 23, there are amendments to the *Planning Act* that have not yet been proclaimed regarding dedication of encumbered land for park purposes. In line with the proposed Bill 185 changes that seek to streamline planning processes and support a municipality's ability to ensure that public infrastructure is commensurate with the growth, it is important to reiterate a few of the Town's past comments to the Province, that remain a concern and could be revisited through Bill 185 or subsequent legislation:

- Comments to the Province:
  - a) Either through Bill 185 or subsequent legislation, the Province should ensure that the *Planning Act*:
    - i. Allows municipalities the ability to determine parkland locations to ensure the delivery of complete communities.
    - ii. Allows municipalities to determine an appropriate value for crediting privately owned publicly accessible open space (POPS) towards parkland dedication requirements.
    - iii. Allows municipalities to establish the criteria for POPs and/or stratified parkland, rather than these matters being prescribed by a provincial regulation, and further,
    - iv. Not allow applicants to appeal to the OLT on any disputes related to parkland dedication requirements.
  - b) Furthermore, while it is recognized that parkland dedication caps for high-density development are already in force and effect, the Town continues to re-iterate its request that these caps be removed from the *Planning Act*. As was determined via the Town's recent Council endorsed Parks Plan, having

these caps in place means an overall service standard reduction as it relates to high-density development that is proposed in grey-field and brown-field areas (such as Midtown Oakville), where the provision of new parkland is most needed. It is in locations like these, that any parkland dedication that is received will need to be supplemented by town-owned land and/or additional town purchase/expropriation of land to achieve the needed parkland requirements for the anticipated growth in those areas.

### **13. Proposed Provincial Planning Statement, 2024**

Further to feedback received in relation to the proposed Provincial Planning Statement, 2023, the Province has made revisions and is now seeking comments on the proposed Provincial Planning Statement, 2024. This Statement is still intended to replace the Provincial Policy Statement, 2020 and A Place to Grow, the Growth Plan for the Greater Golden Horseshoe, as noted in [staff's report](#) to Planning and Development Council on May 15, 2023.

The Growth Plan is authorized by the *Places to Grow Act* and is intended to provide clear planning direction for a large inter-connected multi-regional area in the most populated area of Ontario. The Provincial Policy Statement is authorized by the *Planning Act* and is intended to provide province-wide policy direction to ensure that matters of provincial interest as itemized in section 2 of the *Planning Act* are appropriately addressed. All decisions are required to be in conformity with the Growth Plan, where it applies, while all decisions are required to be consistent with the Provincial Policy Statement. Where there is a conflict, the Growth Plan prevails, with the exception of matters related to human health and safety.

The revised Provincial Planning Statement is proposed to be authorized by Section 3 of the *Planning Act* and as such is considered to be a policy statement under the *Planning Act*, and all decisions must be consistent with it.

With the repeal of the Growth Plan and its replacement by the Proposed Provincial Planning Statement, almost two decades of growth management planning, wherein plans to identify a regionwide urban structure and strategic growth area hierarchy, goods and people movement corridors, provincially significant employment zones, natural heritage system (outside of the Greenbelt Area), agricultural system, and a land needs methodology would be abandoned.

Instead, the proposed Provincial Planning Statement, 2024, provides minimal directional policy in terms of how to manage and accommodate growth while protecting the environment and resources. As such, with the replacement of the Growth Plan, the level playing field it had provided across the Greater Golden Horseshoe, in terms of certain requirements that needed to be met, is left much looser with only a handful of directional policies that now apply provincewide.

Nevertheless, the proposed Provincial Planning Statement, 2024 (PPS2024), continues to advance direction to prioritize growth and development within settlement areas by directing growth to areas where there is existing infrastructure that can be optimized and/or used more efficiently. The revised PPS2024 requires planning for municipalities to be a minimum of 20 years and maximum of 30 years. The PPS2024 now directs that growth projections be based on those prepared by the Ministry of Finance. (It should be noted, however, that the Ministry of Finance projections, to date, only provide population (not jobs, nor housing units) and these projections are not land-based, as were the ones prepared for the Growth Plan.)

The PPS2024 provides policy direction regarding settlement area boundary expansions, however, unlike the Growth Plan, these expansions can occur at any time and there is no requirement for a land needs assessment in accordance with provincial guidelines. This coupled with proposed changes to the *Planning Act* wherein private settlement area boundary applications may be appealed for lack of decision or refusal (as noted above) will make holding fast to boundaries more difficult.

Employment area policy protection is tied to employment areas as defined by the *Planning Act*, meaning business parks or office-parks are not considered to be employment areas, and may become areas where a broader mix of land use is permitted. Should these policies come into effect, the Town will need to undertake a comprehensive review of its employment areas in order to distinguish those that are in accordance with the *Planning Act* definition, which are areas that mainly accommodate manufacturing, warehousing, logistics, etc., and those that are not. In the case of employment areas as defined by the *Planning Act*, their conversion is only permitted subject to meeting criteria, one of which is the demonstration of need for the conversion, this may have implications for the town's current urban structure.

The revised PPS2024 reinstates policy direction to establish affordable housing targets, and defines affordable in accordance with the PPS 2020 definitions. Planning for affordable housing continues to be reliant on the regional market area wherein the upper-tier or single-tier (even in areas where the upper tier may no longer have planning responsibilities per the *Planning Act*) are generally considered to be the market area. As such, ongoing implementation requires the assistance of the Region and its Housing Service Manager in particular. Further to that, policies in the PPS2024 encourage coordination and collaboration with different levels of government, conservation authorities and neighbouring municipalities, school boards, and publicly assisted post secondary schools on a variety of matters, including allocation of population and jobs to municipalities, watershed planning, natural heritage system development and protection, provision of housing, economic development, climate change resiliency, and infrastructure planning.

The PPS 2024 provides minimum standards, and municipalities are encouraged to go beyond those minimum standards so long as doing so does not conflict with other policies or applicable Provincial Plans. As such, municipalities may choose to uphold many of the policy directions provided in the Growth Plan and PPS 2020, even after they are repealed. This may be necessary to preserve policy guidance that collectively addressed climate change, whether explicitly where clear direction is provided regarding green infrastructure, stormwater management, and resilient built form, and implicitly where policy direction is focused on curbing urban sprawl and creating more compact complete communities.

The ERO related to the PPS2024 notes that for lands within the Greenbelt Area, the PPS 2020 and Growth Plan 2020 will continue to apply through an administrative amendment to the Greenbelt Plan. No further details are provided.

The ERO also notes that additional guidance regarding projected population and related land requirements may be updated after finalization of the PPS2024.

- Comment to Province
  - a) While it is appreciated that the Province has taken into account comments received in relation to the Proposed PPS2023 and is now seeking new feedback on the revised PPS2024, fundamentally, making such a major policy shift at this time when municipalities are working very diligently to achieve housing targets that they have committed to both to the Province and the Federal government is not prudent. This is particularly challenging for municipalities like Oakville who will soon be the custodian of the Regional Official Plan as it relates to the town. By replacing the PPS 2020 and Growth Plan 2020 with the proposed PPS2024, the Town will not only have to reconcile the ROP with the Town's official plan, but also have to make revisions to one or the other to address policy direction of the PPS2024. A two- or three-year delay in this initiative would also provide time for the Ministry to better articulate its intentions and prepare guidelines accordingly, especially in relation to growth forecasting and land needs assessment.
  - b) The proposed repeal of the PPS 2020 and Growth Plan represents a major shift in the Provincial policy led planning system within the Greater Golden Horseshoe and should not be taken lightly. The proposed PPS2024 abandons several provincial technical initiatives that were intended to apply a regional lens and common approach to planning within the GGH. This provides a level and consistent playing field for development. The proposed PPS2024 approach removes that consistency and creates more uncertainty for development proponents, municipalities and the public.

## **NEXT STEPS:**

### **ERO Comment Submission**

Comments on the aforementioned initiatives are due to the Province by May 10, 2024.

### **Financial Tools (Surety Bonds)**

In the 'backgrounder,' the province announced that it would be consulting on financial tools to use in planning approvals. This is related to the requirement of landowners to provide financial assurance to the town to ensure performance to town standards for development related work. This takes the form of cash or letters of credit in accordance with the town's Securities Policy. The future consultation is to consider a potential regulation that would enable landowners to specify the instruments to be used to provide this assurance, including pay on demand surety bonds. The use of surety bonds was initially provided through Bill 109, and the Town provided the following comment:

“Staff support surety bonds; however, do not support the ability of the owners of land and applicants to stipulate the type of surety bonds and other prescribed instruments used. The municipality should have the authority to specify the type and structure of the surety bond. Surety bonds can be set up in a way that both provides the intended benefits to the developer while also limiting risk and administrative burden for the municipality.”

Should there be an ERO on this matter in the future, staff will review the proposal for any new details, and provide this comment, as appropriate.

### **Building Code**

In addition to its announcement regarding Bill 185 and the proposed Provincial Planning Statement, 2024, the [backgrounder](#) to the proposed changes also notes forthcoming [changes to the Ontario Building Code](#). Included in these changes, the Province intends to update provisions to more closely align with the National Construction Code. Furthermore, the Province notes that it would be consulting on expanding permission for mass timber construction from 12 storeys to up to 18 storeys (per its [news release of April 8, 2024](#)). This proposal will be further considered via a multi-province Joint Task Group.

### **Standardized Housing Design**

As noted above regarding regulation making authority, the Province is also proposing to collaborate with the Federal government and British Columbia on the

development of catalog of housing designs that may include modular construction, with the intention of having development that meets those approved designs to be exempt from certain sections of the *Planning Act*. The idea of standardized housing designs was announced by the federal government in December 2023. As part of the new federal budget, \$11.6M is allocated to the development of this catalogue, the first phase of which would be released in the fall of 2024, with a focus on ground-oriented housing, including accessory dwellings and multi-plexes.<sup>3</sup>

**CONSIDERATIONS:**

**(A) PUBLIC**

The public may provide comments on Bill 185, the proposed Provincial Planning Statement 2024 including matters and regulations discussed in this report through the related postings on the Environmental Registry of Ontario (ERO) website (<https://ero.ontario.ca/>) and Ontario's Regulatory Registry (ORR) website: <https://www.ontariocanada.com/registry>. (See Appendix A for listing of proposals.)

**(B) FINANCIAL**

There are no financial implications arising from the recommendations in this report.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

This report was prepared by staff from multiple departments.

**(D) COUNCIL STRATEGIC PRIORITIES**

This report addresses Council's strategic priority of Accountable Government by maintaining awareness of provincial initiatives that will impact the Town and preparing relevant and timely responses in relation to those initiatives, which are available to the public in an open and transparent manner.

**(E) CLIMATE CHANGE/ACTION**

The recommendations in this report speak to high-level planning policies and processes. Policies in the proposed PPS2024 encourage consideration of climate change adaptation and mitigation; however, the proposed changes remove the stronger policy language provided both in the Provincial Policy Statement, 2020 and the Growth Plan, 2020 regarding climate change mitigation and adaptation through development and infrastructure planning.

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<sup>3</sup> See Government of Canada, [Solving the Housing Crisis: Canada's Housing Plan](#), April 12, 2024.

**CONCLUSION:**

On April 10, 2024 the province released several legislative, regulatory and policy initiatives in support of its on-going mission to increase the supply of housing. Staff have provided an overview of the initiatives along with a brief assessment of how those initiatives may impact the Town.

Some of the proposed legislative changes respond to concerns raised by the Town in relation to previous Bills brought into effect by the Province. Other proposed changes raise new concerns. Accordingly, staff have provided comments in relation to those matters which is recommended to be shared with the Province and others for further consideration. In particular, staff recommend that the Province not proceed with the Provincial Planning Statement, 2024 given that it is a drastic change from the current planning framework and is being proposed at time where staff are already working diligently to meet housing target commitments. A significant policy change as is currently proposed would set-back, rather than advance planning and development approvals.

**APPENDICES:**

Appendix A – Provincial Proposal Links

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