

Consolidated Recommendations from Staff Report “City of Markham Comments on Proposed Bill 108, More Homes, More Choice Act 2019”, dated May 27, 2019 (in response to ERO 019-0016, ERO 019-0017, 019-0021, 013-5018, 013-5033)

Recommendation 1: That the deadline for comments on Bill 108 be extended to a minimum of 30 days after the Regulations are released to allow for sufficient time to assess financial impacts, planning and development approval impacts, and impacts to provision of community services resulting from growth.

Planning Community Services and Amenities and Collecting Development Charges (Proposed Changes to the *Development Charges Act* and *Planning Act* from Schedules 3 and 12 of Bill 108)

Recommendation 2: That the Province defer consideration of the community benefits charges by-law until such time as the proposed Regulations are released so that the financial impacts, planning and development approval impacts, and impacts to provision of community services resulting from growth can be determined and analyzed with a view to ensure that growth pays for growth.

Recommendation 3: That the cap on the community benefits charge should be set to include the full recovery for soft infrastructure costs and parkland dedication as now obtained under the current statutes. To ensure that growth pays for growth, a municipality should be allowed to levy both the community benefits charge and receive parkland in a residential development.

Recommendation 4: That a transition provision be adopted to allow for a 3-year term from the date of enactment of Bill 108, or until a community benefit by-law is enacted, as the implementation timeline is a concern given the number of municipalities that will have to study, develop and enact a community benefits charge by-law.

Recommendation 5: That for developments and secondary plans that were approved by Council prior to the enactment of Bill 108, the existing *Planning Act* provisions for height/density bonusing and parkland dedication continue to apply.

Recommendation 6: That if the development charges reserves are currently negative due to the pre-emplacement of facilities, municipalities should be allowed to use existing Reserve balances for *Planning Act* density bonusing provision (section 37) and Cash-in-Lieu to offset current development charge debt.

Recommendation 7: That the proposal to not permit parkland dedication and a community benefits charge at the same time is not supported as municipalities may be forced into a position to choose either obtaining parkland or collecting contributions towards facilities and services (e.g. soft services) as it is not clear if Regulations prescribing services would include parkland.

Recommendation 8: That where a parkland dedication by-law is applied to a development, the City retain the authority under *Planning Act* section 42 (3) and 51.1 (2), and to apply an alternative parkland dedication rate.

Recommendation 9: That for development charge rates set earlier in the development process, there should be a sunset clause on the length of time permitted between a site plan and/or zoning application and building permit issuance – this could be in the range of 2 years to act as a disincentive for landowners who may want to apply but not proactively proceed with their development. Municipalities should also be allowed to index or charge interest from the date an application is deemed complete until a building permit is issued for all applications held for over a year.

Recommendation 10: That for developments subject to the six annual installment payment regime, the sale of the property should result in the immediate requirement to pay the remaining development charges due, by the original owner. Municipalities should be allowed to register the obligation on title to prevent transfer without the City being notified.

Recommendation 11: That the interest rate to be prescribed in the Regulations should be one that provides reasonable compensation to the City for the timing delay in receiving cash, as this may result in borrowing to fund growth-related requirements.

Permitting Up to Three Residential Units on a Lot (Proposed Changes to the Development Charges Act and Planning Act from Schedules 3 and 12 of Bill 108)

Recommendation 12: That municipalities retain their current authority to review and determine appropriate locations for dwelling units in ancillary buildings on a lot and within the municipality.

Recommendation 13: That municipalities retain their current authority to refuse additional dwelling units where there are insufficient services to support the increased density, or apply appropriate development charges to facilitate construction of the required services.

Recommendation 14: That municipalities retain their current authority to apply minimum parking requirements, to primary and accessory dwelling units.

Recommendation 15: That municipalities retain their current authority to apply zoning provisions to construction accommodating additional dwelling units, to ensure the proposed development is compatible with the built form of the neighbourhoods in which they are located.

Recommendation 16: That second units should be subordinate to, or accessory to, a main residential building in order to be identifiably differentiated from other residential development such as stacked townhouses.

Inclusionary Zoning Permitted in Only Major Transit Station Areas and Areas Subject to a Development Permit System and Removing Provision for Upper-Tier Municipalities to Require a Local Municipality to Establish a Development Permit System (Proposed Changes to the *Planning Act* from Schedule 12 of Bill 108)

Recommendation 17: That municipalities should continue to have ability to apply inclusionary zoning to development in areas other than protected major transit station areas or areas subject to a development permit system.

Application Review Timelines and Local Planning Appeal Tribunal Practices and Procedures (Proposed Changes to the *Local Planning Tribunal Act* and *Planning Act* from Schedules 9 and 12 of Bill 108)

Recommendation 18: That the proposed reduction in timelines for decisions on development applications is not supported as appeals for non-decisions to the LPAT removes decision making authority on development applications from Council, and may result in potentially longer decision timelines.

Recommendation 19: That rather than reducing timelines for Council decisions on applications, the Province provide sufficient resources to provincial ministries and agencies to allow for timely comments on development applications, thereby ensuring expedient reviews.

Recommendation 20: That the proposed Local Planning Appeal Tribunal process that reverts back to a “de novo” hearing process is not supported. The Province should carry forward the current test for the appeal of a Planning Act application requiring the Local Planning Appeal Tribunal to evaluate a municipal decision on a planning application based on its consistency with the Provincial Policy Statement, and conformity with Provincial Plans, as well as Regional and local Official Plans, or if the Province is unwilling to restore the appeal test, the Province should revise Bill 108 to provide for more deference to Council’s decisions.

Recommendation 21: That there be a provision in the Local Planning Appeal Tribunal Act permitting oral testimony for participants (non-parties); otherwise, written submissions by participants should be given the same consideration as in-person testimony by the Local Planning Appeal Tribunal in the hearing of an appeal.

Proposed Changes to the *Ontario Heritage Act* (Schedule 11 of Bill 108)

Recommendation 22: That the Province provide direction through enhanced educational materials to better guide heritage conservation objectives, including updating the Ontario Heritage Toolkit, as opposed to introducing principles by Regulation.

Recommendation 23: That the Province consider the option of requiring notice to property owners prior to the matter being considered by Council with the condition that once notification of listing is given, the property owner would be prevented from submitting a demolition permit

application until after Council has considered the recommendation for listing the property on the Register.

Recommendation 24: That the provision of enhanced guidance to municipalities on best practices for listing properties through education materials is supported.

Recommendation 25: That if the Province proceeds with the option of requiring notification to the property owner after Council has listed a property on the Register, the legislation should be amended to provide a time limit on the period when an objection to the listing can be submitted (as opposed to in perpetuity).

Recommendation 26: That the Province defer consideration of the amendment concerning prescribed requirements by Regulation for designation by-laws until such time as the Regulation has been drafted and available for consultation.

Recommendation 27: That the Province consider providing clarity in the *Ontario Heritage Act* by further defining what constitutes “heritage attributes”.

Recommendation 28: That the protection and incorporation of a cultural heritage resource should be considered as part of the final report on a planning application that is presented to a council so it can be considered in a holistic manner and not in a piecemeal approach (within the first 90 days).

Recommendation 29: That at a minimum, the Province maintain the Conservation Review Board as the non-binding appeal body for individual designation and amendments to the content of designation by-laws with the municipal council having the final decision on what is considered to be of heritage value in the local community. The Local Planning Appeal Tribunal could address objections related to requested alterations and demolition requests (as it does currently for properties within heritage conservation districts).

Recommendation 30: That if the Conservation Review Board is replaced by the Local Planning Appeal Tribunal, the Province should ensure that Tribunal members assigned to *Ontario Heritage Act* appeals possess cultural heritage expertise and an understanding of the *Ontario Heritage Act*.

Recommendation 31: That the amendments regarding the introduction of complete application provisions and specified timelines for alteration and demolition applications are supported.

Recommendation 32: That the identified clarification in the legislation indicating that “demolition and removal” will also include demolition and removal of heritage attributes is supported, but that Section 69(5) which deals with offences and restoration costs should be amended to remove the reference to “altered” to ensure that a municipality can recover restoration costs associated with the removal or loss of heritage attributes if a property has been impacted by a contravention of the Act.

Recommendation 33: That the changes to the *Ontario Heritage Act* be removed from Bill 108 or deferred to allow the Ministry to undertake meaningful consultation with all stakeholders on both improvements to the legislation and allow feedback on the future content of the identified Regulations.

Proposed Changes to the *Environmental Assessment Act* (Schedule 6 of Bill 108)

Recommendation 34: That the proposed exempted categories are supported as long as environmental protection measures are maintained.

Proposed Changes to the *Conservation Authorities Act* (Schedule 2 of Bill 108)

Recommendation 35: That Provincial efforts are supported to clarify the role and accountability of conservation authorities and that the Province is urged to support the Ministry of Natural Resources and Forestry, Ministry of Environment, Conservation and Parks and municipalities with enhanced natural heritage protection and watershed planning tools to fill the potential gap in natural resource, climate change and watershed planning services resulting from the proposed modified mandate of the TRCA.

Proposed Changes to the *Endangered Species Act* (Schedule 5 of Bill 108)

Recommendation 36: That refinements be made to section 16.1(2) of the proposed *Endangered Species at Risk Act* to ensure that landscape agreements are required to result in an overall net benefit to each impacted species at risk.

Recommendation 37: That the Species at Risk Conservation Trust be required to publish a regular report to provide an open and transparent accounting of the collection and spending of species conservation charges.

Recommendation 38: That the changes proposed for the *Endangered Species Act* (proposed sections 5(4)(b), 8.1, 9(1.1)) be carefully reviewed in consultation with experts to ensure the purpose and intent of the *Endangered Species Act* is not compromised.

Proposed Changes to the *Education Act* (Schedule 4 of Bill 108)

Recommendation 39: That if a landowner and a school board enter into an agreement for an alternative project, the municipality should be consulted on the alternative project.