



Report to: Development Services Committee

Meeting Date: December 12, 2023

SUBJECT: Comments on York Region's Draft Regional Planning Transition Plan

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RECOMMENDATION:

- 1) THAT the report dated December 12, 2023 entitled "Comments on York Region's Draft Regional Planning Transition Plan" be received;
- 2) THAT Council endorse the following Staff recommendations:
 - a) That York Region continue its forecasting work in a supportive role to assist local municipalities in preparing local forecasts and the forecasts approved by local Council be used to inform Regional master and capital plans and phasing.
 - b) That additional support to interpret and administer the York Region Official Plan be an optional service that could be provided by York Region given that Markham will be responsible for making decisions regarding conformity.
 - c) That York Region comments on Official Plan Amendments be focused to matters where the Region has authority (i.e., servicing, regional transportation systems, assisted and affordable housing, etc.).
 - d) That York Region's role as a commenting agency should also include providing support on City-led initiatives and studies related to matters where York Region has authority (e.g., local transportation and servicing master plans, housing strategies, etc.).
 - e) That a memorandum of understanding between York Region and Markham be prepared to confirm the Regional services to be provided by York Region.
- 3) THAT York Region provide additional detail and clarification on the matters identified in Appendix 'B';
- 4) THAT this report be forwarded to York Region as the City of Markham's Comments on the Draft Regional Planning Transition Plan; and

- 5) THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

This report provides Markham's comments on York Region's approach to transition Regional planning services due to the legislative changes introduced through the More Homes Built Faster Act, 2022 (Bill 23).

BACKGROUND:

On October 25, 2022, the Province of Ontario introduced a suite of legislative changes through the [More Homes Built Faster Act, 2022 \(Bill 23\)](#) intended to advance the Province's goal of increasing housing supply and affordability. The legislative changes proposed removing planning responsibilities from certain upper-tier municipalities, including York Region, to streamline the planning approvals process, among other things. More specifically, the changes would remove York Region as the planning approval authority for local municipal official plans, amendments, and plans of subdivision; deem the York Region Official Plan (YROP) to be a part of a local municipality's official plan until the local municipality updates its own official plan, and; remove York Region's right to appeal land use planning decisions.

The City provided [comments on the More Homes Built Faster Act, 2022 \(Bill 23\) and Associated Registry Postings](#) in November. The legislative changes received royal assent on November 28, 2022, however they have not been proclaimed and are not in-effect. The anticipated timing for proclamation of the legislative changes is winter 2024 at the earliest according to transition provisions outlined in the [Proposed Approach to Implementation of the Proposed Provincial Planning Statement](#).

In June 2023, York Region staff provided York Region Council with a memorandum entitled "Regional Planning Transition Plan" that included a summary of approaches to transition existing Regional planning services and responsibilities in light of Bill 23 (see Appendix 'A'). York Region Council directed staff to consult with local municipalities on the memorandum.

OPTIONS/ DISCUSSION:

The discussion section is organized according to information in the draft Regional Planning Transition Plan relating to: 1) the proposed changes to York Region's planning services and 2) activities to prepare for proclamation. Detailed staff comments on the draft Regional Transition Plan are provided in Appendix 'B'.

1. Proposed Changes to York Region's Planning Services

The draft Regional Planning Transition Plan identifies seven (7) planning roles and responsibilities and the associated services provided by York Region. It also outlines the

planned approach for each service leading up to and after proclamation. Comments about the key changes to York Region's responsibilities and services that will have an impact on Markham are provided below.

Markham will be responsible for undertaking future municipal comprehensive reviews

As an upper-tier municipality, York Region is currently responsible for undertaking a municipal comprehensive review (MCR) to inform the preparation of a new official plan, or official plan amendment, that addresses the policies and schedules of A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019. This includes planning matters such as land need assessments, population and employment growth forecasts, employment conversion requests, intensification and density targets, and settlement area boundary expansions.

York Region recently completed an MCR and adopted a new York Region Official Plan (YROP) in June 2022, which was subsequently approved by the Minister of Municipal Affairs and Housing ("the Minister") in November 2022.

The legislative changes introduced through Bill 23, if enacted, will result in York Region having their planning responsibilities removed, and lower-tier municipalities, including the City of Markham, would be responsible for undertaking the planning requirements for MCRs. Through the MCR process, much of the work undertaken by the Region was supported or informed by local planning undertaken by Markham.

The draft Regional Planning Transition Plan proposes that York Region will continue to assist local municipalities with official plan conformity work leading up to proclamation. Post proclamation, York Region would continue to gather and analyze data, forecast growth and infrastructure needs, and provide support to local municipalities and Regional Council to determine phasing, as well as master and capital plans. Staff are concerned that York Region's plan to continue forecasting population and employment growth may lead to a duplication in planning services between upper-tier and lower-tier municipalities, and that Regional forecasts may not be aligned with the forecasts approved by local councils.

Recommendation #1: That York Region only continue its forecasting work in a supportive role to assist local municipalities in preparing local forecasts. Further, the forecasts approved by the local Council should be used to inform Regional master and capital plans and phasing.

Responsibility for implementing the 2022 York Region Official Plan will shift to Markham

York Region is currently responsible for developing and implementing the 2022 YROP. Should the provisions in Bill 23 come into effect that remove York Region's planning responsibilities, the 2022 YROP would be deemed to be part of Markham's official plan, until the City updates the 2014 Markham Official Plan. This means Markham will be

responsible for implementing both the YROP along with the 2014 Markham Official Plan and subsequently integrating both documents into one Official Plan. The City would also no longer be required to circulate development applications to York Region for the purposes of determining conformity with the policies in the 2022 YROP.

In the draft transition plan, York Region has committed to continue working with the City as it assumes responsibility for implementation of the 2022 YROP. York Region also intends to continue providing support administering and interpreting the 2022 YROP post-proclamation.

Recommendation #2: That additional support specifically related to interpretation and administration of the YROP be an optional service provided by York Region given that Markham will be responsible for making decisions regarding conformity.

The Minister of Municipal Affairs and Housing will replace York Region as the approval authority for local official plans and amendments

York Region is currently the approval authority for local official plans and amendments, including secondary plans. York Region has exempted official plan amendments (OPAs) that meet criteria in the 2022 YROP from approval (i.e., amendments that are of local significance, do not adversely affect Regional interests, and conform with Provincial plans and YROP policies). However, in cases where the Region does not exempt an OPA, additional process requirements extends the timeline for approval.

The implication of the legislative changes introduced through Bill 23 is that upon proclamation, the Minister will replace York Region as the approval authority for local municipal official plans and amendments. The Minister's decisions will not be subject to appeal. In addition, the City would request that certain approvals be exempted from the Minister's approval.

The draft Regional Planning Transition Plan indicates that during the transition period leading up to proclamation, York Region will continue to apply the exemption criteria where possible to streamline the approval process. In situations where amendments may still be subject to Regional approval, York Region staff and Council will strive to provide a decision within prescribed timelines. Following proclamation, York Region will no longer collect decision fees, and intends to continue commenting on OPAs.

Recommendation #3: York Region comments on OPAs should be focused to matters where the Region has authority (i.e., servicing, regional transportation systems, assisted and affordable housing, etc.). All comments on Regional matters must be provided in a timely manner.

York Region should continue to provide support in City-led initiatives and studies related to Regional matters post-proclamation

York Region currently participates in the review of official plans, OPAs, secondary plans and related background studies as a commenting stakeholder prior to the approval of

these planning instruments. York Region will continue to provide this support until proclamation. Post-proclamation, York Region's comments will focus only on matters where York Region has authority.

Staff support York Region's continued involvement in the review of official plans, amendments, secondary plans and associated studies for Regional matters to assist with cross-boundary issues, coordinating growth management, and to align land use and infrastructure planning.

Recommendation #4: York Region's role as a commenting agency should also include providing support on City-led initiatives and studies related to matters where York Region has authority (e.g., local transportation and servicing master plans, housing strategies, etc.).

York region will lose the right to appeal local planning decisions which will give local municipalities enhanced autonomy and authority

Currently, York Region has the ability to appeal decisions of local planning matters to the Ontario Land Tribunal (OLT) subject to Regional Council direction. Although this rarely occurs, once Bill 23 is proclaimed, York Region will no longer have the ability to appeal local planning decisions. During the transition period, York Region will not exercise its right to appeal, except for circumstances where public and resident interests are critically impacted.

As the right to appeal is rarely used, this will have minimal impact on the City of Markham, but will provide enhanced autonomy and authority in its decision making ability.

Additional information is needed with regards to Regional support to the City for future OLT hearings

York Region is currently a party to many active files under litigation at the OLT. Upon proclamation of Bill 23, York Region will no longer be able to be a party to a hearing at the OLT on new files. During the transition period, York Region will limit its involvement as a party at new OLT hearings unless matters of critical importance to Regional Council are an issue.

However, Markham staff will continue to require support and expertise from York Region for OLT matters that involve regional infrastructure and servicing provisions. Therefore, more detailed information on the level and mechanisms of support York Region will provide to local municipalities on OLT matters related to Regional infrastructure (e.g., York Region's right of way requirements, design specifications, etc.) post proclamation, is needed. It is noted that the Bill 23 transition provisions allow York Region to remain a party to an appeal, if the status was granted prior to proclamation.

2. Activities to Prepare for Proclamation

The draft Regional Planning Transition Plan includes a list of eleven (11) activities that are underway or planned to prepare for proclamation. City staff request to be circulated as more information about the activities such as timelines, resourcing and financial implications becomes available in addition to the comments about the key activities with implications to Markham.

City staff support York Region's plan to continue providing data products and services for use by the Province and local municipalities

York Region will continue developing dashboards and growth analysis products for use by Provincial and local municipal partners leading up to and after proclamation. The City currently uses a variety of data sources and products prepared by York Region (e.g., Population and Household Estimate, York Region Employment Survey, Development Activity Summary, Affordable Housing Measuring and Monitoring, woodland inventories, source water protection data, etc.) to inform annual monitoring and reporting programs, as well as other City-led initiatives. York Region has many years of experience preparing these high quality data products, and City staff support York Region's plan to continue to provide this information.

Clarification is requested about the specific types of data products York Region will continue to provide and when they will be made available.

Further consultation with York Region is recommended to confirm the services that will be provided to Markham based on the City's needs

An important action identified in the list is defining the services that will be provided by York Region to local municipalities through memorandums of understanding (MOU). City staff agree an MOU between York Region and Markham should be prepared, and recommend further discussion through one to one meeting(s) to confirm which Regional services should be included based on Markham's needs and interests and how they will be funded.

Recommendation #5: That an MOU between York Region and Markham be prepared following further discussion to confirm the Regional services to be provided.

The City is well positioned to provide environmental plan review functions but is assessing additional needs for technical peer review support

The activity list includes exploring options for environmental plan review to ensure local municipalities have consistent professional natural heritage advice without incurring additional costs or delays. The City has natural heritage staff who provide environmental plan review functions. However, as a result of the City's inability to access certain technical expertise from the Toronto Region Conservation Authority, there may be the need for the City to retain additional technical peer review support in terrestrial and aquatic ecology for non-routine and complex applications. Staff will continue to assess

whether additional environmental plan review and/or technical peer review resources, including alternative service delivery options with York Region, are necessary to meet legislated review timelines.

NEXT STEPS:

The City is well prepared to take on more planning responsibility as much of the planning work undertaken by the Region is informed by local planning. City staff will engage with York Region on matters of transition as outlined in this report. A subsequent report will be prepared once there is further clarity from the Province and York Region on the transition and planning responsibilities, the report will address financial and human resource considerations.

FINANCIAL CONSIDERATIONS

There are no direct financial implications resulting from this report. However, should those provisions of Bill 23 come into effect, additional resources and funding may be needed by the City to undertake planning responsibilities formerly carried out by York Region.

HUMAN RESOURCES CONSIDERATIONS

There are no direct human resource implications related to this report, however additional human resources may be needed to undertake planning responsibilities formerly carried out by York Region should those provisions of Bill 23 come into effect.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The recommendations in this report support Goal 3 – Safe, Sustainable and Complete Community in Building Markham’s Future Together, 2020-2023.

BUSINESS UNITS CONSULTED AND AFFECTED:

Staff from Development Planning, Urban Design, Policy & Research, Transportation, Engineering, Legal, and Finance were consulted in the preparation of this report.

RECOMMENDED BY:

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ATTACHMENTS:

Appendix A - Regional Planning Transition Plan Memo

Appendix B - City of Markham Comments on the Regional Planning Transition Plan