

SUBJECT: Comments on the Cutting Red Tape to Build More Homes Act (Bill 185) and Proposed Provincial Planning Statement

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REVIEWED BY: Engineering, Environmental Services, Building Standards, Legal, Finance, Economic Development

RECOMMENDATION:

- 1) That the report dated May 7, 2024, titled "Comments on the Cutting Red Tape to Build More Homes Act (Bill 185) and Proposed Provincial Planning Statement" be received;
- 2) That this report be forwarded to the Minister of Municipal Affairs and Housing and York Region as the City of Markham's comments;

Planning Act

- 3) That Council support the proclaiming date of July 1, 2024 to remove upper-tier planning responsibilities and request that the province pass an order exempting local municipalities from provincial approval for official plan amendments and secondary plans to support the goal of faster decision making;
- 4) That Council support the removal of the fee refund requirement for development applications;
- 5) That Council support limiting third party appeals on Council decisions to improve timelines for the delivery of development projects;
- 6) That Council not support the exemption of Universities from the *Planning Act*;
- 7) That Council not support proposed changes that would allow applicants to appeal decisions made by Council to refuse official plan and zoning by-law amendments for settlement area boundary expansions;
- 8) That the province provide further consultation on Additional Residential Units with the City's operations and environmental services departments, utility companies and emergency services to ensure appropriate standards are maintained and in place to provide appropriate levels of service for infrastructure, utilities, and life safety measures;
- 9) That Council support the removal of the Community Infrastructure and Housing tool from the *Planning Act* and replacement with a more transparent process for Ministers Zoning Orders and recommend that the Minister be provided the ability to impose conditions on the approval of MZO for community benefits and infrastructure;

- 10) That the province clarify the scope of the proposed regulation making authority to streamline approvals for community service facilities including public schools, hospitals, and long-term care facilities and how priority project would be identified and expediated;
- 11) That Council support reduced parking minimums in principle and recommend the addition of policies to support and strengthen the ability of municipalities to manage the time gap until the higher order transit and other supportive services are available. Specifically, additional policies and investments from senior levels of government are required, in the interim, to support the delivery and operation of higher frequency bus service and public infrastructure such as active transportation networks, public parking, and Transportation Demand Management programs as a part of any development;

Development Charges Act

- 12) That Council support the proposed changes to the *Development Charges Act* as they apply to the following matters:
 - a. Repeal the 5-year phase-in of development charges for by-laws passed on or after January 1, 2022
 - b. Re-instating studies as an eligible capital cost for Development Charges
 - c. Reduce the timeframe for the DC rate freeze from 2 years to 18 months
 - d. Streamline the process for municipalities to extend existing Development Charges by-laws;

Proposed Provincial Planning Statement

- 13) That Council support the re-introduction of a definition for Affordable Housing and Low to Moderate Income and Affordable Housing policies;
- 14) That the province provide clarification on how the Ministry of Finance projections would inform population and employment forecasting for lower tier municipalities;
- 15) That the province include policies requiring municipalities to meet minimum intensification targets and minimum density targets in designated greenfield areas to support the development of compact and complete communities and the efficient use of infrastructure;
- 16) That the province include policies for the creation of new settlement areas or settlement area boundary expansions to only occur as part of a comprehensive process through a municipally initiated official plan amendment;
- 17) That the province maintain the existing definition of employment area, including the discretionary consideration of institutional and commercial uses (retail and office) to support economic growth. Should the proposed definition be

- proclaimed, policies should be included permitting the protection and continuation of existing employment areas;
- 18) That the province include policies to restrict employment conversions to those initiated by a municipality;
- 19) That the province include policies that allow for the incorporation of development approved through a Minister's Zoning Order as a part of the current planning horizon, and not in excess;
- 20) That the province provide additional policies that would allow for the protection of the commercial function of re-developing malls and commercial plazas while supporting more compact built forms;
- 21) That the province develop clear guidelines to support policy directions for the delivery of urban format and vertical schools in a compact built form, including a process to advance the construction of schools to align with the phasing of growth and community needs;
- 22) That the Province revise the policies and definitions applying to ARUs and lot creation in prime agricultural areas to ensure that ARUs are considered accessory uses so that it does not lead to unintended severances that could negatively affect the protection of agricultural resources;
- 23) That the province re-introduce policies on Strategic Growth Areas that would require planning authorities to identify and plan for Strategic Growth Areas as a focal point for growth and development based on the appropriate scale and built form;
- 24) That Council support the change to require watershed planning and recommend the province finalize watershed planning guidance for municipalities to support the implementation of water resource policies in the PPS;
- 25) That the province provide training to municipalities prior to the Proposed Provincial Planning Statement coming into effect as the changes represent a significant shift in the land use planning framework in Ontario;

Municipal Act

- 26) That Council support in principle the proposed incentive tool that municipalities could leverage to attract specified manufacturing, industrial or commercial investments and the province consult with municipalities to clarify the regulations and criteria that would govern the exemption process;

- 27) That Council support enhanced policies that will allow the municipality to ensure infrastructure is directed to developments to support housing;

Municipal Data Reporting

- 28) That the province consult with municipalities on the necessary resourcing and timelines to implement the new reporting requirements and provide clear instructions to guide municipalities for summary table data requirements to avoid misinterpretation and duplication of data;

- 29) That the province recognize residential units in Official Plan and Zoning By-law Amendments may change at Site Plan and Plan of Subdivision and may need to be reconciled to avoid double counting units;

Newspaper Notice Requirements

- 30) That Council support the proposal to allow for notices to be issued through a municipality's website and further, that the province remove the requirements where this new measure is only limited to municipalities that do not have a local paper; and

- 31) That Staff be authorized and directed to do all things necessary to give effect to this resolution

PURPOSE:

This report is to provide comments to the Province on the Cutting Red Tape to build More Homes Act (Bill 185) and updated [Proposed Provincial Planning Statement](#).

EXECUTIVE SUMMARY

The release of the Cutting Red Tape to Build More Homes Act (Bill 185) and the Proposed Provincial Planning Statement signals some positive change from the government in response to comments from municipalities and stakeholders on previous legislative changes approved by the province in recent years.

While the intent of the legislation is aimed at housing measures to get homes built faster. Key changes proposed will better position the municipalities to prioritize and fund infrastructure delivery, plan for Affordable Housing, and streamline the development approvals process.

Based on the assessment by City staff, there are key measures that staff are supportive of in the legislation and Proposed Provincial Policy Statement including:

- Removal of requirements for Development Application Fee Refunds

- Making changes to the Development Charges Act to re-introduce capital studies as an eligible charge.
- The re-introduction of a definition for Affordable Housing for Low to Moderate Incomes in the Proposed Provincial Planning Statement
- Setting an enactment date of July 1, 2024 for York Region to no longer have upper-tier planning authority.
- The issuance of Public Notices for *Planning Act and Development Charges Act* matters through the municipalities website where no local paper is available.

Overall, staff are recommending support for most of the proposed legislative changes. However, there remain outstanding comments by City staff that were previously not addressed, new policy changes that staff do not support, and matters that require further clarification and consultation.

BACKGROUND:

On April 10, 2024, the Province released [Bill 185, the Cutting Red Tape to Build More Homes Act 2024](#) as a part of Ontario's Spring 2024 Red Tape Reduction Package. The intent of the Bill is to support the advancement of the province's goal to build 1.5 million homes by 2031.

The province is undertaking consultation on Bill 185 and other measures and has posted 8 items on the Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ORR) with a commenting deadline of May 10, 2024. The Bill impacts key legislation including but not limited to:

- the Planning Act, R.S.O 1990;
- the Development Charges Act, 1997; and
- the Municipal Act, 2001

According to the province, the legislation and targeted housing measures are intended to help municipalities and other partners by:

- Building homes faster at a lower cost, including by letting homebuyers and homebuilders decide on the number of parking spaces for new residential development in major transit station areas based on market needs and by making it easier to build more garden, laneway and basement suites.

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- Prioritizing infrastructure for ready-to-go housing projects with a new “use it or lose it” process to address stalled development.
 - Improving consultation and providing municipalities and builders with greater certainty to get homes built faster, including limiting third-party appeals to the Ontario Land Tribunal.
 - Building more types of homes for more people by streamlining approvals for student housing, supporting standardized designs to reduce delays and costs, including for modular homes, and supporting innovative construction methods such as for mass timber.

For an overview of the proposed changes, you can review the [Cutting Red Tape to Build More Homes – Backgrounder](#).

At the time of this report, Bill 185 has passed second reading and has been referred to a Standing Committee.

OPTIONS/ DISCUSSION:

Overall, the proposed legislation signals some positive changes from the province as a number of the proposed changes are in line with comments the City provided to the province previously through consultation on various pieces of legislation (i.e. Bill 109, Bill 23, Bill 134, and Proposed Provincial Planning Statement 2023). However, there are still several areas where City comments have only been partially addressed or not addressed at all.

While the City recognizes that there is a housing crisis and housing supply needs to increase, it should not come at the cost of other matters of provincial interests, and it should not limit the ability of municipalities to plan for complete and healthy communities while supporting the principle of growth paying for growth.

The discussion on the proposed changes introduced through Bill 185 and the Provincial Planning Statement is organized based on the impacts to specific acts or proposals. Detailed staff comments on the proposed changes are provided in Appendix A.

Bill 185, Cutting Red Tape to Build More Homes Act

This omnibus Bill proposes changes to 15 pieces of legislation. This report focuses on key changes to the *Planning Act*, *Municipal Act*, and *Development Charges Act* to support the housing objectives of the government.

- **Upper-tier Planning Responsibilities**

In October 2022, the Province of Ontario introduced Bill 23 – The More Homes, Built Faster Act. One of the provisions in the Bill was the removal of upper-tier planning responsibilities for the Planning Act for Regional municipalities such as York Region. Bill 23 received royal assent in December 2023, however the provisions to remove upper-tier Planning Act responsibilities were to be proclaimed by the Minister at a later date.

Bill 185 proposes to set a proclamation date of July 1, 2024, in the *Planning Act* for the removal of upper tier planning responsibilities for Halton Region, York Region, and Peel Region. On the effective date, the portions of the York Region Official Plan 2022, that are in-effect and apply to Markham will be deemed to be a part of the Markham Official Plan. The official plan will remain in effect until the City of Markham revokes it or amends it.

A [staff report](#) was presented to the Development Services Committee (DSC) in December 2023 on York Region’s proposal to transition upper-tier planning responsibilities to local municipalities in response to Bill 23. Staff noted that once a proclamation date was established, further analysis would be required on resourcing implications as a result of new planning responsibilities. Staff will also be seeking clear direction from the Region on how growth will be coordinated across the local municipalities in York Region, including the delivery of regional services (i.e. water and wastewater, transportation, and allocation) to sustain development and infrastructure in the City.

Further, with the removal of upper-tier Planning Act responsibilities and further changes proposed by the province in the Proposed Provincial Planning Statement, staff will have to re-evaluate the scope of the Markham Official Plan Review and report back to Council.

Recommendation – Staff support the *Planning Act* changes that would provide the City of Markham with more planning autonomy and remove duplication. Further, it is requested that the province pass an order exempting local municipalities from provincial approval for official plan amendments and secondary plans to support the goal of faster decision making.

- **Fee Refund**

In 2022 the province introduced the More Homes for Everyone Act, 2022 (Bill 109). The Bill proposed changes to the *Planning Act* that required municipalities to issue the refund of development application fees for zoning by-law amendment and site plan applications if a decision was not made on the application within timelines.

In June 2023, the City of Markham presented its response to Bill 109 which outlined a new process for development review that would position the City to meet the new timelines prescribed in Bill 109 and to avoid/mitigate the need for development fees to be refunded. It should be noted that since July 1, 2023 when the fee refund provisions of Bill 109 came into effect, the City has not issued any fee refunds to date.

Bill 185 proposes to remove the fee refund provisions from the *Planning Act*, as a result of consultation with municipal and housing sector partners. The stated intent is to speed up approvals as the response from some municipalities was to add pre-application requirements which may have resulted in a lengthy application process. While the refund component is proposed to be removed, the legislated timelines to make decisions are still in place. City staff intend to maintain the development application processing efficiencies created as a part of the City's response to Bill 109.

There are elements that have not been revisited in the refunds that include aligning site plan approval timelines with other applications or the extension of timelines that would have allowed for deliberation on applications. Furthermore, the province could have explored consent mechanisms between the applicant and city to drive better outcomes. In the absence of this, however, staff support the changes.

Recommendation – Staff support the removal of the development application fee refund requirement from the *Planning Act*.

- **Third Party Appeals**

The province is proposing changes to the *Planning Act* to streamline certain third-party appeals to the Ontario Land Tribunal to support quicker planning approvals. The proposed changes will focus on third-party appeals to Official Plans, Official Plan Amendments, Zoning By-laws, and Zoning By-law amendments to key participants in the process including the applicant, specified persons, and public bodies (i.e. utility providers).

This provision was previously proposed through Bill 23 and was carried forward for minor variances and consent decisions. Bill 185 expands the provision to official plan amendments and zoning by-law amendments. Third party appeals filed prior to the legislation coming into force where the hearing has not been scheduled before April 2024, would also be dismissed.

There are currently appeals to the 2014 Markham Official Plan that may be affected if the legislation is passed as proposed. Further, staff will review the implications of these provisions should they come into force relative to other appeals before the OLT (i.e.

development applications and the Comprehensive Zoning By-law. These changes, if implemented, have the potential to significantly increase the timelines on the delivery of growth-related policies such as new secondary plans and implementing zoning.

Recommendation – Staff support limiting third party appeals on Council decisions to improve timelines for the delivery of development projects. However, the removal of appeal rights represents a significant shift in public participation throughout the planning process and will place greater emphasis on the need to participate through the consultation process so that the decisionmaker has all available information to inform decisions.

- **Exempt Universities from the Planning Act**

To accelerate the building of new student housing, Bill 185 proposes changes to the *Planning Act* to exempt publicly assisted universities. The provision's intent is to speed up approvals and avoid planning application fees and barriers to building higher-density student residents. With the proposed changes, publicly assisted universities would not be subject to the requirements of the *Planning Act* such as rezoning and site plan applications. In lieu of these requirements, universities and colleges would be required to publish student housing policies to ensure students have access to and awareness of student housing options that are safe, affordable and within an easy commute to campus.

Recommendation – Staff do not support the exemption of Universities from the *Planning Act*, as it would limit the ability of the municipality to protect its interests through the development review process, further clarification is required on how public health and safety concerns, transportation and servicing requirements, and context would be addressed.

- **Reduced Parking Minimums**

The province is proposing to remove the requirement to have a minimum amount of parking spaces for developments in prescribed areas. The proposed change to the *Planning Act* would apply to lands, buildings or structures within Protected Major Transit Station Areas or other areas identified in Official Plans around subway, rail, and rapid bus stations that identify a minimum number of residents and jobs per hectare. Further, the legislation will also give the Minister the ability to make regulations prescribing other areas where minimum parking spaces will be set by provincial regulations.

Staff believe removing vehicular parking standards in MTSA's will put pressure on municipalities to provide on-street or off-street public parking. A major transit station area does not mean that all transit infrastructure and the necessary service level is in place to support new development. Further, the policies proposed do not address the need for

viable alternative solutions to the automobile in the interim and should consider the methodology to determine and provide for accessible parking and micro-mobility devices, as only bicycle parking is required.

Recommendation – Staff are generally supportive of reduced parking minimums, but additional policies are required to support and strengthen the ability of municipalities to manage the time gap until the higher order transit and other supportive services are available. Specifically, additional policies and investments from senior levels of government are required, in the interim, to support the delivery and operation of higher frequency bus services and public infrastructures such as active transportation networks, public parking, and Transportation Demand Management programs as a part of any development.

- **Community Infrastructure Housing Accelerators/Minister’s Zoning Order Framework**

One of the changes to the *Planning Act* introduced through Bill 109 was the addition of a new section 34.1 that provides authority and sets out a process whereby a lower or single-tier municipality may request the Minister of Municipal Affairs and Housing (the “Minister”) to issue a zoning order a Community Infrastructure Housing Accelerator order”) for expedited zoning outside of the Greenbelt Area.

In late 2023 the province issued a new release and Environmental Registry of Ontario post outlining a number of measures that the government was looking at including the revocation of certain Minister’s Zoning Orders (MZO) and the development of an enhanced process for MZOs. A [staff report](#) was presented to Development Services Committee on January 23, 2024.

Through Bill 185, the province is proposing changes to the *Planning Act* to remove the Community Infrastructure Housing Accelerator tool.

The province has also launched a new [go-forward framework](#) for how requests for ministers zoning orders will be received and considered. The new process for requesting a MZO, removes the need for the Community Infrastructure and Housing Accelerator (CIHA) as it incorporates elements of the CIHA.

Recommendation – Staff support the removal of the Community Housing Accelerator tool from the *Planning Act* given that it has been replaced with an enhanced MZO framework that is clearer and more transparent. Further, staff recommend that the minister be provided the ability to impose conditions on the approval of MZOs for community benefits and infrastructure.

- **Settlement Area Boundary Expansion Appeals**

The proposed changes would also allow proponents to appeal to the Ontario Land Tribunal when a municipality refuses an application or does not make a decision on a settlement boundary change outside the Greenbelt Area, arguing that decisions over boundary changes would be subject to an “independent and neutral process”.

Municipalities undertake comprehensive processes such as official plan review to determine the amount of growth needed to accommodate population and employment forecasts to the planning horizon. This included identifying the lands that are appropriate for the expansion of settlement boundaries in a comprehensive and logical manner and adequately planning for infrastructure, capital programs, and the amenities needed to support new communities. The proposed changes may result in piecemeal settlement area boundary expansions and lengthy and costly appeals between the municipality and applicants as municipalities may have to re-defend expansion decisions previously made and approved.

Recommendation – Staff do not support the proposed changes to the *Planning Act* that would remove the ability for municipalities to refuse settlement area boundary expansions and not be subject to appeals.

Use it or Lose it Tools

Ontario is proposing to create a new “use it or lose it” process to enhance and expand a municipality’s ability to address this obstacle and to support the efficient allocation of housing-enabling infrastructure.

The proposed changes to the *Planning Act* and *Municipal Act, 2001* would:

- enable municipalities to adopt policies setting out how water and wastewater servicing may be allocated and reallocated so that developments ready to proceed encounter fewer barriers and delays prior to construction;
- establish a three-year timeframe for conditions on draft plans of subdivision approvals before March 27, 1995. If existing conditions are not met within the timeframe, the approval would expire or lapse;
- require a lapsing condition on all new draft subdivision and condominium approvals; and

- allow municipalities to apply lapsing conditions on new or previous site plan applications.

Recommendation – Staff support enhanced policies that will allow the municipality to ensure infrastructure is directed to developments to support housing.

- **Removing Barriers to Additional Residential Units**

The province is proposing changes to the *Planning Act* that, if passed, would help create Additional Residential Units (ARU), such as garden, laneway or basement suites, by providing regulation making authority to eliminate zoning barriers to these units being built, which may include maximum lot coverage and limits on the number bedrooms allowed per lot.

The enhanced abilities would provide the Minister with broader authority to remove municipal zoning by-law barriers that may be limiting the development of ARUs.

While staff support improvements to improve access to ARUs to accommodate housing options across the community, these efforts must not contravene applicable laws aimed at protecting public health and the requirements of operations, environmental, utility and/or emergency services.

Recommendation – Further consultation required with the City’s operations and environmental services departments, utility companies and emergency services to ensure appropriate standards are maintained and in place to provide appropriate levels of service for infrastructure, utilities, and life safety measures.

- **Community Service Facilities Priority Projects**

Bill 185 proposed changes to the *Planning Act* to allow regulations making authority that would allow for the expedited approval of community service facilities starting with kindergarten to grade 12 public schools and potentially expanding to long-term care and hospitals.

Recommendation – Further clarification is required on how priority projects would be identified and expedited. Staff support a process where the City’s interests can be protected that provides certainty to ensure public health and safety concerns, servicing requirements, and character and compatibility would be addressed.

Enhancing Municipalities Ability to Invest in Housing and Enabling Infrastructure

After consultations with its municipalities and stakeholders, the province is proposing to eliminate changes proposed in Bill 23 that negatively impacted municipal finances. These changes include:

- Repeal the 5-year phase-in of development charges for by-laws passed on or after January 1, 2022
- Re-instating studies as an eligible capital cost for Development Charges
- Reduce the timeframe for the DC rate freeze from 2 years to 18 months
- Streamline the process for municipalities to extend existing Development Charges by-laws.

On June 1, 2024, Ontario will also bring into force municipal development-related charge exemptions and discounts for affordable residential units to provide incentives for the development of affordable housing across the province. These provisions were previously proposed in the Affordable Homes and Good Jobs Act, 2023 (Bill 134). A [staff report](#) on Bill 134 was presented to DSC in October 2023, outlining that staff did not support the proposed changes in the *Development Charges Act* for ‘Additional Residential Unit’ until additional details including a ‘Housing Bulletin’ was provided by the Minister.

The Housing Bulletin has been released by the province as a part of a [webpage](#) that provides direction on how municipalities can predict and recover costs of development related to Municipal Development and Community Benefits Charges, and Parkland. The Housing Bulletin establishes requirements for agreements that the affordable residential units remain affordable for 25 years and the following affordable ownership and rental thresholds for Markham:

- Affordable Ownership
 - Detached, Semi-detached, Row/townhouse, Condo Apartment - \$456,300
- Affordable Rental
 - 1-Bachelor - \$1,022
 - 1-Bedroom – \$1,541
 - 2-Bedroom - \$1,677
 - 3 Bedroom - \$1,880

The bulletin comes into effect on June 1, 2024, and will apply until a new bulletin is prepared. The government has indicated a desire to update the bulletin annually. For comparison, the affordable rates in the City of Markham based on the 2022 York Region Measuring and Monitoring Report is \$538,377 for Affordable Ownership and \$1,310 to \$2,354 for Affordable Rental. Staff are analyzing the details in the bulletin to confirm the methodology.

Further, changes to the *Development Charges Act* would reduce the time that the development charge rate would be frozen from two years to 18 months after approval of the relevant application. This would give homebuilders an incentive to obtain a building permit earlier and get shovels in the ground faster.

Recommendation – Staff support the proposed changes to the *Development Charges Act* as this will positively impact the ability of municipalities to deliver the infrastructure required as a result of growth.

Municipal Pre-application Process

The province is proposing to make pre-application consultation with municipalities a voluntary option instead of a mandatory requirement. Further, new provisions would allow an applicant to file an appeal to the Ontario Land Tribunal at any time during a pre-consultation process to determine whether the requirements for a complete application are reasonable or have been met.

The introduction of a voluntary pre-application process will create uncertainty in the development application process as the application may not have all of the required information to make a fully informed decision, which could ultimately delay the development review process and increase the number of appeals to the OLT to further exacerbate timelines for approval.

Recommendation – Staff recommend the province maintain the ability to require mandatory pre-application consultation processes to ensure complete application submissions are made that will facilitate a faster and more efficient review.

New Provincial Planning Statement

The province has issued an update to the proposed Provincial Planning Statement in response to feedback received from consultation that was undertaken in the Spring of 2023. The PPS sets out the land use planning policy framework that applies across Ontario and covers policies about managing growth, using, and managing natural resources, protecting the environment, and public health and safety.

The City previously provided comments on the Proposed Provincial Planning Statement in a [staff report](#) that went to Development Services Committee in May 2023. Comments on proposed natural heritage policies to be included in the PPS were provided in a separate subsequent [report](#) in July 2023.

The revised PPS partially or fully addresses some of the City's comments previously provided to the province. This includes some key changes such as the re-introduction of a definition for Affordable Housing for Low to Moderate income individuals and the return of affordable housing policies in the PPS, limiting the planning horizon for managing growth, adds reference to providing guidance on projected population and land requirements, and infrastructure considerations for settlement area boundary expansions.

While most of the City's comments have been addressed, staff are still of the opinion that the province should address the City's outstanding comments that were previously submitted. This includes recommendations on matters such as the definition of Employment Areas, Cultural Heritage, Settlement Area Boundary Expansion, and Employment Conversions. Appendix B to this report provides a summary of how staff comments from the 2023 Proposed Provincial Planning Statement was captured in the 2024 Proposed Provincial Planning Statement and identifies the matters that still need to be addressed.

Further there are several new areas of interest that have been identified in the plan that are of importance:

- Ministry of Finance Projections

The province introduces new policies that require municipalities to use projections from the Ministry of Finance (MOF) to inform land use planning and the municipality may modify the projections as appropriate. The current iteration of MOF projections are not broken down by census subdivision (i.e. lower-tier municipality) and it does not include employment projections.

Recommendation – Staff request clarification from the province on how the Ministry of Finance projections would be updated to reflect local forecasting needs for land use planning.

- Updated criteria for Settlement Area Boundary Expansion

The province has updated the policies for consideration of Settlement Area Boundary Expansion including the addition of the demonstration of need to support the evaluation which is a positive addition.

- Intensification of Malls and Commercial Plazas

New policies direct municipalities to support the appropriate intensification of malls and commercial plazas. While staff support the intent of this provision, appropriate

policies are required to allow for commercial and retail GFA to be preserved in a new built form. For many communities' malls and commercial plazas service an important community function and a destination and space for congregation. These functions must be preserved to support a complete community but may take a new built form.

Recommendation – the province provides additional policies that would allow for the protection of the commercial function of re-developing malls and commercial plazas while supporting more compact built forms.

- Collaborate with publicly supported post-secondary institutions on planning for student housing

New policies will support municipalities coordinating with post-secondary institutions to support the development of student housing strategies to address the need for student housing in communities.

- Additional Residential Units in Prime Agricultural Areas

Prime Agricultural Areas include lands that have the best soils and highest capability to support agriculture. In accordance with provincial policy, prime agricultural areas are to be protected for long-term agriculture use. While the new policy permitting up to two additional residential units (ARUs) on an agricultural lot supports rural housing, it has the potential to introduce additional land use conflicts in farming areas if it is also the intent of the policy to allow additional units to be severed in addition to their primary dwellings as part of future farm consolidations. This aspect of the policy is unclear and seems to contradict the prime agricultural area policies' purpose.

Recommendation – staff recommend the province revise the policies and definitions applying to ARUs and lot creation in prime agricultural areas to ensure that ARUs are considered accessory uses so that it does not lead to unintended severances that could negatively affect the protection of agricultural resources.

- Strengthened requirements for Watershed Planning

New policies will require large and fast-growing municipalities to undertake watershed planning, replacing the previous direction that was encouraged and not mandatory. The change is an important improvement as it provides an ecologically meaningful scale for integrated and long-term planning to be undertaken and facilitates a consistent approach across large and fast-growing municipalities. As part of the transition relating to upper-tier planning responsibilities, staff will need to

assess how watershed planning will be undertaken and coordinated in the future in consultation with the Region and Toronto Region Conservation Authority.

Recommendation – staff support the change to require watershed planning and recommend the province finalize watershed planning guidance for municipalities to support the implementation of water resource policies in the PPS.

- Integrated planning with school boards

New policies will require municipalities and school boards to integrate planning for schools with planning for growth and promote opportunities to locate schools near parks and open spaces.

Staff have always considered the need for schools through the planning process and work collaboratively with school boards on the review of development application and secondary plan studies.

Recommendation – Staff recommend the province develop clear guidelines to support policy directions for the delivery of urban form and vertical schools in a compact built form, including a process to advance the construction of schools to align with the phasing of growth and community needs.

- Strategic Growth Areas

Revised policies remove the requirement for planning authorities for large and fast-growing municipalities to plan for Strategic Growth Areas as the focal point for growth and development and to identify the areas and establish minimum density targets. Under the proposed policies, planning authorities are encouraged to identify these areas as focal points for growth to support the achievement of complete communities. Further policy considerations in Strategic Growth Areas include direction to support affordable, accessible, and equitable housing and consideration of a student housing strategy.

The current 2014 Markham Official Plan identifies a City structure that is based on Key Development Area and Intensification Areas to guide growth and development. This structure goes beyond Major Transit Station Areas to re-affirm the City's historical commercial nodes and destinations supported by transit.

Recommendation – Staff recommend that the province re-introduce policies on Strategic Growth Areas that would require planning authorities to identify and plan

for Strategic Growth Areas as a focal point for growth and development based on the appropriate scale and built form.

- Cultural Heritage

There were no changes to address previous policy concerns regarding cultural heritage resources.

One of the concerns involves the issue of new lot creation on rural and agricultural lands in support of conservation of a cultural heritage resource that often is abandoned on a large land holding. Markham had suggested a policy be considered to specifically allow lot creation on larger rural parcels to create a smaller lot to support the acquisition and restoration of the heritage resource by others.

Secondly, PPS policy regarding the type of built heritage resources and cultural landscapes that must be conserved has been weakened. The current policy refers to conserving significant resources which included properties that were not already protected, such as listed heritage resources, noting that their significance could only be determined after evaluation. This has been revised in the proposed PPS to only require conserving existing ‘protected heritage property’. Markham previously indicated that if this new policy is to be introduced, then a new policy should be added that focuses on resources that are identified but unprotected requiring that they be evaluated to determine if they should be a protected heritage resource and conserved. Also, the definition of “adjacent” in reference to protected heritage property has been changed to mean land that is contiguous. Markham has suggested that reference to ‘contiguous’ be replaced by ‘within 60m of’ as per our Official Plan to ensure a more accountable review of the impact of development on a protected heritage resource.

Newspaper Notice Requirements and Consequential Housekeeping

The province is proposing to enable municipalities to give notice of planning instruments, community benefits charge by-laws and development charge matters on a municipal website if there is no local newspaper so that the public is well-informed about proposed changes in their communities. The province is also proposing to enhance public engagement for new planning applications by developing municipal best practices for public notice in partnership with municipalities, including multilingual notices to support culturally diverse communities.

Recommendation – Staff support the proposal to allow *Planning Act* and *Development Charges Act* notices to be issued through a municipality’s website should they not have a

local paper. Further, staff request clarification on the definition of a local paper and recommend the province expand this provision to all municipalities and not limit it to those that do not have a local newspaper.

Supporting Municipal Incentives for Economic Growth

The Municipal Act currently prohibits municipalities from providing direct or indirect assistance to manufacturing, industrial, or commercial business. The province is proposing amendments to streamline the province's process for granting exemptions to municipalities for this prohibition to support provincial investment and attraction. The proposal includes empowering the Lieutenant Governor to authorize municipalities to provide assistance to a prescribed recipient.

The legislation presents a positive opportunity/incentivizing tool for municipalities to leverage and attract investments/support development projects (commercial, industrial, or advanced manufacturing). Making available this incentive tool will allow Markham to explore its application. The presentation of this incentive mechanism is currently at a high level with no details on the type of assistance being contemplated.

In terms of activating this incentive tool, municipalities would need to evaluate the financial impacts in line with the related pros/cons to evaluate the true benefits and determine if utilization of the incentives will be financially prudent.

Recommendation - In principle the new tool may be valuable as a part of a suite of incentive tools that municipalities could leverage to attract investments. However, further clarification and consultation is required on the regulations and criteria that would govern the exemption process.

Other Initiatives and Measures

Standardizing Housing Designs to Build More Homes: Ontario is proposing to create a regulation-making authority to exempt standardized housing designs (once created) from certain sections of the *Planning Act* (e.g. zoning) and from planning provisions under the *City of Toronto Act, 2006*. If passed, this would allow the province to make regulations that would speed up approvals and allow Ontario to potentially partner with British Columbia and the federal government on a catalog of housing designs that could also be delivered even faster using modular construction.

Staff note that modular construction should include designing and building homes to be energy efficient (i.e. increased air tightness, thicker insulation, energy efficient heating

and cooling, solar readiness) which will avoid homeowners from having to retrofit their home in 10-20 years.

Updating the Building Code: Ontario released the next edition of Ontario's Building Code with a focus on increasing housing supply, supporting public safety and innovation. The new Building Code will be in effect January 1, 2025.

Consultation – Surety Bonds: The province has indicated that they will be consulting on types of instruments (including pay-on-demand surety bonds) that could be prescribed in regulation that landowners could stipulate to be used to secure obligations that are municipal conditions of planning approvals. Municipalities generally require developers to use Letters of Credit to secure these municipal conditions/obligations.

The province's rationale is that if a regulation is made providing landowners with a choice of stipulating an alternative instrument to be used, such as pay-on-demand surety bonds, this could free up this capital for investment in housing. The City's perspective is that landowners should not be empowered to stipulate the type of security that they will provide. Securities are used to protect against the default of landowners in meeting the conditions of their approvals (e.g. building infrastructure), and it should be within the municipality's authority to make decisions on the type of securities it will accept from landowners.

If municipalities are to be obligated to accept surety bonds, in lieu of Letters of Credit, they should be vested with the authority to decide on the terms, conditions, and wording of the bond and which issuers are acceptable from a risk management perspective. This is consistent with how letters of credit are currently administered.

Municipal Planning Data Reporting

In April 2023 the province introduced a municipal data reporting program for up-to-date data that the province uses to measure commitments made under the [More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022–2023](#), including the construction of 1.5 million homes over the next 10 years through Ontario Regulation 73/23) under the *Planning Act*. The province is now proposing to extend the data reporting program to 21 additional municipalities and is requesting additional data points to be captured including registration of a plan of subdivision and plan of condominium and housing units proposed across all planning applications submitted. There is another proposal to prepare a summary table with key statistics for each quarter and publish the summary to their municipal webpage each quarter beginning October 1, 2024.

Recommendation – Staff recommend that the province consult with municipalities on the necessary resourcing and timelines to implement the new reporting requirements and provide clear instructions to guide municipalities for summary table data requirements to avoid misinterpretation and duplication of data.

Recommendation - That the province recognize residential units in Official Plan and Zoning By-law Amendments may change at Site Plan and Plan of Subdivision and may need to be reconciled to avoid double counting of units.

Next Steps

To provide comments in advance of the ERO deadline of May 10, 2024. Staff will submit this report to the Ministry and Municipal Housing as staff level comments. Following the May 15, 2024 Council meeting, the Council resolution will be forwarded to the Ministry of Municipal Affairs and Housing.

FINANCIAL CONSIDERATIONS

There are no direct financial implications associated with this report. However, the proclamation of legislation (Bill 185) by the province (tracking for June 1, 2024) will have financial impacts. Staff had estimated the potential impact of Bill 23 to be as much as \$136M annually. Changes under Bill 185 will mitigate this impact, but there remain anticipated financial pressures.

- Bill 185 repeals the 5-year Development Charge (DC) phase-in requirement and reinstates growth-related studies (inclusive of DC Background studies) as an eligible cost that can be recovered from DCs. The DC phase-in and removal of studies from the DC Act were estimated to cost the City approximately \$12.6M per year, a pressure that has now been relieved as a result of Bill 185. However, the phase-in requirement, which took effect on November 28, 2022, has already resulted in a loss of \$12.57M in development charge revenue (as at March 31, 2024), which the City is unable to recover in totality as part of future studies. If planned capital projects are to proceed, the revenue shortfall will have to come from alternative sources such as taxes, grants etc.
- Bill 185 does not eliminate the cap (i.e., 10% of land area) on parkland dedication/cash-in-lieu for high density developments that was introduced under Bill 23. The cap results in a 90-95% reduction in parkland/cash-in-lieu from high density developments, with a possible annual financial impact of \$76M.
- The DC exemptions for developers seeking to build affordable ownership and rental housing also remain in place and will come into force when Bill 185 is proclaimed. The impact of affordable housing exemptions was anticipated to be

\$4 million annually. The Housing Bulletin was recently released, and staff are analyzing the actual impact on the municipality.

- Bill 23 also included the removal of certain lands as a cost eligible for DC recovery, with an estimated potential annual impact to the City of \$43.5M. This provision, however, remains unenforced as the province announced the appointment of an Authority to review this component of the legislation. Bill 185 does not provide any further information or impact this aspect of Bill 23.

Shortfalls in revenues (development charge and cash in lieu of parkland) as a result of Bill 23, will necessitate continued prudent financial management by the City to deliver infrastructure to support anticipated growth in the upcoming years. This revenue shortfall will need to be addressed by exploring other funding sources such as taxes etc.

Staff will continue to pursue avenues to advocate for changes to Provincial legislation in support of growth paying for growth, without reliance on existing development.

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 as a proclamation date of July 1, 2024, has been set for the removal of upper-tier planning responsibility from York Region.

Staff will bring a report to DSC in the future outlining the new responsibilities for the City of Markham as a result of the removal of upper-tier planning responsibilities and any implications for staffing or interjurisdictional coordination.

ALIGNMENT WITH STRATEGIC PRIORITIES:

Bill 185 and the Proposed Provincial Planning Statement supports some of the objectives of Goal 3.2 of Building Markham's Future Together, 2023-2023 (BMFT): Build complete communities that offer a range of housing and employment opportunities, transportation options and community amenities. The Provincial efforts to increase and accelerate the supply of housing is at the cost of undertaking comprehensive planning to support the development of complete community (e.g., employment, infrastructure, community amenities, affordable housing, etc.).

BUSINESS UNITS CONSULTED AND AFFECTED:

All impacted City departments including Engineering, Environmental Services, Building Standards, Legal, Finance, and Economic Development were consulted on this report.

RECOMMENDED BY:

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Commissioner, Development Services

ATTACHMENTS:

- A. Detailed Comment on Bill 185 and Proposed Provincial Planning Statement
- B. City of Markham Comments Proposed Provincial Planning Statement 2023 vs April 2024