



City of Hamilton

GOVERNMENT RELATIONS SUB-COMMITTEE ADDENDUM

Meeting #: 19-001
Date: June 27, 2019
Time: 3:00 p.m.
Location: Council Chambers, Hamilton City Hall
71 Main Street West

Loren Kolar, Legislative Coordinator (905) 546-2424 ext. 2604

7. CONSENT ITEMS

7.1 City of Hamilton Priorities for the 2019 Federal Election (CM19004)

*7.1.a Information Report

7.2 Bill 108 (PED19150) (City Wide)

*7.2.a Information Report

7.3 Response to the Proposed Provincial Restructuring of Local Public Health Agencies (HSC19038) (City Wide)

*7.3.a Information Report

*7.4 Bill 108 " More Homes, More Choice Act, 2019" Regarding Development Charges Act Amendments (FCS19061) (City Wide)



INFORMATION REPORT

TO:	Chair & Members Government Relations Sub-Committee
COMMITTEE DATE:	June 27, 2019
SUBJECT/REPORT NO:	City of Hamilton Priorities for 2019 Federal Election (CM19004) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Hertel (905) 546-2424 Ext. 2739
SUBMITTED BY:	John Hertel Director, Strategic Partnerships & Communications City Manager's Office
SIGNATURE:	

COUNCIL DIRECTION - NA

INFORMATION

The 2019 Canadian federal election is scheduled to take place on or before October 21, 2019. The October 21 date of the vote is determined by the fixed-date procedures in the Canada Elections Act, but the Act does not preclude the Governor General of Canada from issuing the writs of election at an earlier date.

The Government Relations Sub-Committee provides a forum for determining the advocacy priorities of the City of Hamilton, to be shared and promoted with all parties leading up to the election.

After the Government Relations Sub-Committee confirms the themes and priorities, staff will prepare a more detailed document for the purpose of advocating on behalf of the City. The document will be sent to all Federal Election candidates by Mayor Eisenberger. In addition, staff will look for other engagement forums, and working with key community groups and organizations to help promote our priorities. The Sub-Committee may also wish to suggest ideas to ensure maximum impact of the City's advocacy such as hosting a debate.

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SUBJECT: City of Hamilton Priorities for 2019 Federal Election (CM19004) (City Wide) - Page 2 of 4

Advocacy Themes for Consideration by the Government Relations Sub-Committee

1. Housing Funding

- Capital repair backlog for social housing is approximately \$221 Million in 2018 and will grow to over \$600 Million in the next 25 years unless more resources are made available.
- Opportunities to access National Housing Co-Investment funds for repair and renewal of existing social housing stock will be critical in tackling this backlog.
- Almost 50% of our Family Shelter capacity is being used by families seeking asylum in Canada. The increasing costs of asylum seekers accessing shelter and housing subsidies is not sustainable without additional funding.
- Annualized funding for programs that move individuals and families from homelessness to housing have had minimal increases in financial support, placing unsustainable pressure on municipal funds to keep local programs going.
- In December 2013, Council approved the 10-year Housing and Homelessness Action Plan. The Five-Year Review of the Plan is nearing completion. Key concepts include:
 - Housing Continuum: outlines the supports needed for people who are homeless, ensuring emergency shelters are available, social housing needs and affordable rental and affordable home ownership.
 - Equity: recognizing that people do not have the same level of access to services and that some people might need different services to find and stay in their homes.
 - Homelessness: providing supports to people who are absolute homeless, hidden-homelessness (staying with friends and family) and those at risk of being homeless because of inadequate affordable housing.
 - Affordable Housing: Affordable housing is housing that costs 30% or less of gross household income for households with low to moderate income.
 - Housing First Strategy: The Housing First strategy is being recognized as a means to end homelessness which entails quickly providing homeless people with housing and then providing the support services as needed.
- In September 2017, the City of Hamilton committed \$50 Million over 10 years to address pressures related to new affordable rental housing construction (\$20 Million) social housing repairs and renovations (\$20 Million) as well as poverty reduction programs for the Indigenous community (\$10 Million).

2. Infrastructure Funding

- The City of Hamilton is one of the oldest cities in Ontario. The costs of maintaining and replacing existing infrastructure accounts for a significant portion of the City's annual capital budget.
- The City currently operates and maintains a portfolio of infrastructure worth more than \$23 Billion, including:
 - Roads

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- Bridges & Structures
- Alleyways
- Street Lighting
- Traffic Systems
- Water
- Wastewater & Stormwater
- Waste
- Facilities: Corporate, Police, Fire/EMS, Housing/Long-term Care
- Parks, Cemeteries, Open-spaces
- Forestry
- Transit
- Fleet: Central, Police, Fire/EMS
- The current annual gross capital expenditure is approximately \$510 Million which includes growth related works. That translates to an annual infrastructure reinvestment of \$258 Million; a rate of 1.09% versus a best practise rate of 1.5% or approximately \$354 Million annually, equating to an infrastructure reinvestment shortfall of \$96M annually.
- Bilateral agreements between the Government of Canada and the Government of Ontario, such as the Clean Water & Wastewater Fund, Public Transportation Infrastructure Fund, and the Disaster Mitigation & Adaptation Fund have been important contributions to our infrastructure management.
- “Clean & Green” is one of the City of Hamilton’s strategic priorities as identified by the community in the Our Future Hamilton vision. Recently, City Council declared a ‘Climate Emergency’ setting a target to achieve net zero carbon emissions by 2050.
- The City continues to deal with extreme weather events that have caused severe flooding, shore erosion, wind damage, and air quality issues among others.
- In April of 2019 the Federal Government partnered with the City and announced \$12.7 Million for shoreline rehabilitation and for the installation of new backflow devices in the city's sewer system, which are designed to prevent lake and harbour water from entering sewers during extreme storms, and therefore lessen basement flooding.
- Funding will continue to be a challenge for the City to not only react to severe weather events but also to create preventive infrastructure measures to minimize damage and impacts on citizens.

3. Transit Funding

- On February 27, 2013 Rapid Ready Expanding Mobility Choices in Hamilton was approved by Council and was submitted to Metrolinx as Hamilton’s funding requirement for 100% capital and any upset net levy impact for light rail transit, growth funding for the overall public transportation program necessary to support a successful light rail transit system.

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- In March of 2015 Council approved the 10 year local transit strategy that included specific route recommendations and a financial strategy with reference to the role played by rapid transit and with a goal reaching 80 to 100 rides per capita by 2025 as prescribed in the 2007 Transportation Master Plan. In order to achieve the target the plan also included a strategy to increase modal split from 7% to 12% by 2031 by building an express over local service on each of the BLAST rapid transit corridors. The financial strategy included a request to the provincial government (Metrolinx) to fund the capital requirements of the plan.
- As of 2019 four (4) years of the 10 Year Local Transit Strategy have been implemented. Considerable capital investments (\$358 million) are required to continue with the remaining six (6) years of the strategy with the largest items being an additional Maintenance and Storage Facility (\$250 Million) and 85 additional buses (\$68 Million).;
- As part of Hamilton's overall rapid transit strategy; the 14-kilometre B-line, is the first rapid transit corridor to be fully developed as a Light Rail Transit line. It will also serve as a catalyst for economic growth and infrastructure renewal e.g. roads, sidewalks, bridges, water mains, sewers, electrical distribution, telecommunications, natural gas, traffic control signals and streetlights.
 - The B-line corridor accommodates approximately 40% of all transit trips in the city with over 9 Million rides annually
- On March 14, 2018, the Honourable Amarjeet Sohi, Minister of Infrastructure and Communities, and the Honourable Bob Chiarelli, Ontario Minister of Infrastructure, announced the signing of a bilateral agreement that will provide funding through the Investing in Canada Plan over the next decade in federal funding dedicated to infrastructure projects and includes Investing in Canada Infrastructure Program, ICIP, (formerly called Public Transit Infrastructure Fund Phase II) with investments in public transit in Hamilton of \$511.0M with funding support from Canada of \$204.4M (40%), Ontario of \$168.6M (33%) and City of Hamilton of \$138.0M (27%).
- Under the current Government of Ontario, no commitment has been announced to provide the previously announced 33% of the cost share with the Government of Canada. The bilateral agreements between the Government of Canada and the Government of Ontario is integral to the overall City of Hamilton's Transit Strategy. Delays in the announcement and the uncertainty around whether the original commitment will materialize significantly jeopardizes the City's ability to develop and expand the transit system as planned if funding is not supported by both levels of senior government.


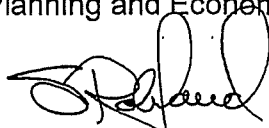
APPENDICES AND SCHEDULES ATTACHED

N/A

9.1



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Legal and Risk Management Services Division
and
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 4, 2019
SUBJECT/REPORT NO:	Bill 108, <i>More Homes, More Choice Act, 2019</i> – Ontario Proposed Changes to Land Use Planning, Heritage and Appeals Systems (LS19020/PED19125) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joanna Wice (905) 546-2424 Ext. 4638 Anita Fabac (905) 546-2424 Ext. 1258
SUBMITTED BY:	Nicole Auty City Solicitor Legal and Risk Management Services
SIGNATURE:	 Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department 

RECOMMENDATIONS

- (a) That Council adopt the submissions and recommendations as provided in Report LS19020/PED19125 regarding Schedules 5, 9, 11, and 12 of Bill 108, *More Homes, More Choice Act, 2019*;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix "A" to Report LS19020/PED19125;
- (c) That the Director of Planning and Chief Planner and the City Solicitor be authorized to make submissions on Bill 108, *More Homes, More Choice Act*,

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2019 and any associated regulations consistent with the concerns raised in Report LS19020/PED19125.

EXECUTIVE SUMMARY

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, was introduced at the Ontario Legislature. If enacted, this Bill would made amendments to 13 different statutes; the purpose of this Report is to provide information on the changes proposed to be made to the *Local Planning Appeal Tribunal Act, 2017*, the *Ontario Heritage Act*, the *Planning Act* and the *Endangered Species Act*.

Changes to the *Ontario Heritage Act* include new timeframes and notice provisions including when a property is added to the Register and permitting property owners to object to their property being included in the Register, to permit demolition or removal of a property in a Heritage Conservation District only if it would not affect the property's heritage attributes as listed in the Heritage Conservation District Plan, and that all municipal heritage appeals will be heard by the LPAT instead of the Conservation Review Board.

Changes to the *Planning Act* include restricting where Inclusionary Zoning can be applied, reduced development application processing timelines, deletion of Section 37 and replacement with a Community Benefits Charge and deletion of the alternative parkland dedication requirements based on density.

Further changes to the *Planning Act* relate to changes to the *Local Planning Appeal Tribunal Act, 2017*. Those amendments remove previous changes made to the planning appeals process that introduced a threshold test for appealing from major land use planning decisions, reducing the first appeal to a summary hearing on the threshold test, and providing municipalities the opportunity to make a second decision. Those changes were made as part of Bill 139 which reformed the Ontario Municipal Board process; Bill 108 reverts the planning appeal process back to the OMB *de novo* hearing procedures.

Changes to the *Endangered Species Act* include broadening the Committee on the Status of Species at Risk in Ontario (COSSARO) member qualifications to include members with expertise in "community knowledge", requiring COSSARO to consider a species' condition around its broader biologically relevant geographic area, inside and outside of Ontario before classifying a species as endangered or threatened and increased discretionary powers to be given to the Minister.

Staff do not support the proposed changes to the *Ontario Heritage Act*, *Planning Act*, *Endangered Species Act*, and *Local Planning Appeal Tribunal Act, 2017*.

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The Province has not released information on the regulations required for implementation of Bill 108 and therefore it is not possible to fully understand the implications of the changes proposed by this Bill.

The deadline for comments on Bill 108 is June 1, 2019. As such and given the timing, staff-level comments have been submitted to the Province and through this Report and are contained at Appendix "A" to Report LS19020/PED19125. If the recommendations of this Report are approved by Council, the Director of Planning and Chief Planner will notify the Province that the submissions that were made have been adopted by Council for the City of Hamilton.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Bill 108 will have financial implications on the City. The degree and magnitude are unknown at this time, but largely implicate the changes to section 37, parkland, and the development charges regime. Some of these implications are more fully described in the May 14, 2019 Information Report provided by Finance and Corporate Services.

Staffing: At this time, Bill 108 only proposes changes and there are no staffing implications at this time. However, if Bill 108 is enacted as currently drafted, there will be staffing resourcing implications associated with the changes.

Legal: Legal Services and the Planning Division will continue to monitor the status of Schedules 5, 9, 11 and 12 of Bill 108 and report back where necessary with recommendations for the implementation of Bill 108, if enacted.

HISTORICAL BACKGROUND

Under the previous Provincial government, the planning system was reviewed, and changes were made through Bill 139 that resulted in various changes to the *Planning Act* and with the creation of the Local Planning Appeal Tribunal. (It should be noted that at that time, there were no changes to the *Ontario Heritage Act* ("OHA") other than technical amendments or to the *Endangered Species Act*). Those changes came into force on April 4, 2018.

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, was introduced in the Legislative Assembly and received first reading. This Report serves to provide an update on the proposed legislative changes only as they relate to Schedule 5 (changes to the *Endangered Species Act*), Schedule 9 (changes to the *Local Planning Appeal*

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Tribunal Act, 2017), Schedule 11 (changes to the *Ontario Heritage Act*), and Schedule 12 (changes to the *Planning Act*). Changes made through other schedules will be discussed in separate reports brought to the attention of Council by other divisions.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Changes to the *Ontario Heritage Act, Planning Act* and *Endangered Species Act*

In summary, staff are not supportive of the proposed changes to the *Ontario Heritage Act*, the *Planning Act* or the *Endangered Species Act*. The proposed changes will have an impact on the City's finances, the ability to secure parkland, the evaluation of development applications, the conservation of heritage resources and the protection of endangered species. The proposed changes should not proceed without the appropriate regulations and meaningful consultation with municipalities.

An analysis of the proposed changes, including implications and recommendations, is included in Appendix "B", "C" and "D" to Report LS19020/PED19125.

Should the Province proceed with the proposed changes, staff will report back to Council on any development application process changes and staffing implications expected.

Changes to Planning Appeals Processes and Procedures

Bill 108 proposes a number of changes to the *Planning Act* and the *Local Planning Appeal Tribunal Act, 2017* that make significant changes to the land use planning appeals process. Largely, these have the result of returning the process to that of the former Ontario Municipal Board. It is unclear how these changes would support the stated goal of bring more homes to market faster. Some of those changes are noted below:

Shortened timelines for municipal decisions, no timeline for LPAT decisions

In order to file for an appeal of a non-decision, the time periods are proposed to be reduced significantly. The power of the Minister to create regulations setting a time period for LPAT decisions to be made within is also proposed to be deleted, which means that the regulation that sets out the time periods for LPAT decisions will likely be repealed. The result of this change is that while the time for a municipality to consider an application has shrunk, the period of time in which the LPAT may consider a matter will be unfettered. These changes will likely result in a greater number of non-decision appeals, creating an increased workload for the LPAT, resulting lengthy periods for the resolution of appeals.

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Return to “good planning” test and *de novo* hearings

One of the significant aspects of the Bill relates to the reform of the LPAT’s hearing process to restructure the hearing process, remove the deferential test established by Bill 139, and return to the pre-LPAT OMB *de novo* hearing. As a result of Bill 139, a “first appeal” process was created that requires an appellant to base its appeal on Provincial policy/plan consistency/conformity, with the matter being returned to Council for further consideration. This step was created to give greater weight to municipal decisions and to deter appeals.

Bill 108 would remove that process and revert to the *de novo* style hearing. The *de novo* hearing was the lengthy hearing that included submissions by the parties along with the calling and examining of witnesses and evidence. The test in those appeals is merely “good planning”, which sometimes results in municipal decisions being overturned, despite the municipal position being good planning, because another position was regarded as “better” planning.

Certain appeals limited

There were a few changes made that would limit certain types of appeals: there is no appeal related to parts of an official plan that are necessary to establish a develop permit system that was required to be created by the Minister.

For matters where the City needs approval from the Ministry for an official plan amendment, if the Ministry fails to make a decision within 120 days, those decisions may now only be appealed by the City or the applicant (if the amendment is in response to an application).

Potential for mandatory mediation

Bill 108 introduces changes to the legislation that would allow the Tribunal to create rules that would require mandatory mediation or other alternative dispute resolution in proceedings. Mandatory mediation has the potential to result in mediations where one or more parties are forced to participate where they are unable or unwilling to compromise. This then could result in wasted time and resources in these proceedings.

Limitations on community involvement in hearings

One of the proposed changes would result in the limitation of a participant in a hearing to only written submissions being filed. Previously, under the Ontario Municipal Board process, a participant to a proceeding had the ability to make

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oral submissions to the Board, as well as provide written material. The participant could have been subject to questioning by the parties. Given this proposed new restriction, this may result in a greater number of participants seeking party status in proceedings to protect their right to participate more fully in the proceeding.

Ability to set differential fees for different types of proceedings

One of the changes made to the *Local Planning Appeal Tribunal Act, 2017* permits the Tribunal to set different fees for different types of proceedings and “different classes of persons”. It is unknown at this time how the LPAT may exercise this power, but the fee structure for various types of appeals would have an impact on the ability for some to participate in proceedings.

Transitioning of existing appeals

It is unclear at this time how the Province would transition existing appeals before the LPAT if Bill 108 is enacted. Currently, there are two “streams” of appeals at the LPAT: matters commenced under the OMB process, known as “OMB legacy appeals”, as well as appeals commenced under the LPAT system.

There has been an existing backlog of both types of matters: the OMB legacy appeals have been somewhat stalled as the Province had frozen the LPAT’s ability to fill vacant positions resulting the LPAT not having a full complement of adjudicators to handle those appeals. These appeals are currently being scheduled as far out as late-2020. Current LPAT process appeals have been slowed down given the conflicts that have arisen regarding the proper interpretation and implementation of the amended legislation.

Nevertheless, the provisions in Bill 108 permit the Minister to create transition regulations that contain rules for the transitioning of appeals that were commenced before, on or after the Bill comes into force.

Given the re-creation of the OMB process, this could result in three streams of appeal types, adding to the complexity of the procedures for matters currently before the Tribunal.

Changes to Heritage Appeals Processes and Procedures

Bill 108 makes significant changes to the objections and appeals proceedings for heritage matters. Most of these types of matters currently proceed typically before the Conservation Review Board (“CRB”), with demolition matters proceeding to the LPAT.

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The CRB considers matters and reports back to municipal councils who have the power of the final decision; the CRB does not issue binding decisions on municipalities.

The changes proposed would result in the elimination of the CRB's involvement in municipal heritage objections and appeals and instead those matters would be sent to the LPAT for final determination. The changes would introduce new appeals related to designations and alterations.

Generally speaking, the changes proposed to the *Ontario Heritage Act* collectively result in a more rigid and litigious process for heritage matters. While there are still quite a number of unknowns, what has been drafted so far in the Bill will likely result in an increase in challenges to heritage matters for the City.

Procedural Next Steps

At the time of the drafting of this Report, Bill 108 was being debated at Second Reading at the Legislative Assembly. Should the Province wish to proceed with this Bill, it may be subject to further discussion at a standing committee and may be debated further in Third Reading. If it passes Third Reading, it can receive Royal Assent whereupon Bill 108 becomes law. However, the Bill's changes would only come into force upon each individual schedule's proclamation.

There are a significant number of proposed changes that necessitate the creation of regulations. As indicated, no regulations have been proposed at this time, making it difficult to understand the implications of the changes. It is unknown whether the City will be consulted as a stakeholder in the creation of those instruments.

Given the short time in which staff had to review this Bill, and in addition to the unknowns with respect to the regulations necessary to implement the changes proposed in the Bill, a further report discussing the changes in further detail along with implementation measures will be prepared for Council's consideration if the Bill is enacted.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Letters submitted to the Province with comments

Appendix "B" – Proposed Changes to the *Ontario Heritage Act*

Appendix "C" – Proposed Changes to the *Planning Act*

Appendix "D" – Proposed Changes to the *Endangered Species Act*

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Hamilton

City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning Division, Planning and Economic Development Department

Physical Address: 71 Main Street West

Phone: 905.546.2424 Ext. 4281 Fax: 905.546.4202

Email: Steve.Robichaud@hamilton.ca

May 30, 2019

Ministry of Environment, Conservation and Parks
c/o Macdonald Block Mailing Facility
77 Wellesley Street West
PO Box 200
Toronto, ON
M7A 1N3

Re: Bill 108 - (Schedule 5) – The Proposed More Homes, More Choice Act:
Amendments to the Endangered Species Act

Dear Sir or Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 5 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the Endangered Species Act. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Robichaud".

Stephen Robichaud
Director of Planning and Chief Planner
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

City of Hamilton Submissions on Bill 108 – Changes to the *Endangered Species Act*

Staff are not supportive of the proposed changes as they will have the effect of adding additional processes and delay to the classification, listing, and protection of species at risk. Changes are also being proposed which may undermine the role of COSSARO. The proposed changes are not detailed therefore it is difficult for staff to fully assess the implications without the details.

- Staff recommends that "community knowledge" be deleted.
- Staff recommends that the consideration of species condition in a broader geographic context be deleted.
- Staff recommends that the extension of timing to add species to the Species at Risk list be deleted.
- Staff recommends that the reconsideration of classifications be deleted.
- Staff recommends that the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and temporary suspension to protect of up to three years be deleted.
- Staff recommends that the discretion remain with the Lieutenant Governor in Council.
- Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the SAR Conservation Fund, the details of the agency, including who would be on the board, and where and funds would be dispersed.
- Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the Landscape Agreements.



Hamilton

City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning Division, Planning and Economic Development Department
Physical Address: 71 Main Street West
Phone: 905.546.2424 Ext. 4281 Fax: 905.546.4202
Email: Steve.Robichaud@hamilton.ca

May 30, 2019

Lorraine Dooley
Ministry of Tourism, Culture and Sport
401 Bay Street
Suite 1800
Toronto, ON
M7A 0A7

Re: Bill 108 - (Schedule 11) – The Proposed More Homes, More Choice Act:
Amendments to the Ontario Heritage Act

Dear Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 11 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the Ontario Heritage Act. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

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Stephen Robichaud
Director of Planning and Chief Planner
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

City of Hamilton Submissions on Bill 108 – Changes to the *Ontario Heritage Act*

Staff are not supportive of the proposed changes as it will have an impact on how the City administers the Act and its current processes. The proposed changes in some case will lengthen the process, delaying projects, and will require additional staff resources with added complexity to processes. The changes proposed by Bill 108 may result in increased appeals to the LPAT as the addition of properties to the Register can now be appealed to the LPAT.

The *Ontario Heritage Act* is a tool for managing change of heritage resources that balances both public and private interests. The proposed changes to the Act tip the balance away from public interest to the interest of private owners/developers. In particular, the City is not supportive of the transfer of objections on heritage matters to the Local Planning Appeal Tribunal.

The following are the City's comments and recommendations:

- Staff advises the Province to consult with municipalities on the "prescribed principles" and that the regulation should clearly describe what constitutes a "prescribed principle".
- Staff advise the Province that a time limit for filing an objection for a property added to the Register with the Clerk be included.
- Staff requests the Province to remove the requirement that the property be on the Register before the building permit application is made.
- Staff advise the Province that there should be no limitations as to when Council may provide notice of an intention to designate. Should the Province proceed with including this requirement, the Province should consult with municipalities on the "prescribed event" and the regulation should clearly describe what constitutes a "prescribed event" prior to proceeding with these proposed changes to the Act.
- Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report and Council as the final decision making authority on objections to designations.
- Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.
- Staff advises the Province to consult with municipalities on the "prescribed" information and that the regulation should clearly describe what constitutes "prescribed" information.
- Staff requests that the Province delete this regulation to continue to provide protection from demolition of heritage resources in a Heritage Conservation District Plan area.



Hamilton

City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

Planning Division, Planning and Economic Development Department
Physical Address: 71 Main Street West
Phone: 905.546.2424 Ext. 4281 Fax: 905.546.4202
Email: Steve.Robichaud@hamilton.ca

May 30, 2019

Planning Act Review
Provincial Planning Policy Branch
777 Bay Street
13th Floor
Toronto, ON
M5G 2E5

Re: Bill 108 - (Schedule 12) – The Proposed More Homes, More Choice Act:
Amendments to the Planning Act

Dear Sir or Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Schedule 12 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the *Planning Act*. The City is also submitting comments on the other Schedules of Bill 108 under separate letter and City staff will be taking a report to Planning Committee on June 4, 2019 and to Council on June 12, 2019 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 108. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Robichaud".

Stephen Robichaud
Director of Planning and Chief Planner
Planning and Economic Development Department

Copies to:

Anita Fabac, Manager of Development Planning, Heritage and Design

City of Hamilton Submissions on Bill 108 – Changes to the *Planning Act*

In general, the City is not supportive of the proposed changes. The changes will provide municipalities with less time to adequately review development applications and impact the City's ability to increase the supply of affordable housing. Furthermore, the changes will decrease the deference given to municipal decision-making in achieving these and other goals.

The following are the City's comments and recommendations:

- Staff supports the proposed change that expands the opportunities for second units throughout the City. Issues such as compatibility, context and appropriate zoning standards need to be evaluated.
- Staff do not support the proposed change to restrict inclusionary zoning to limited areas in the City. This proposed change will restrict the City's ability to increase the supply of affordable housing. Staff requests the Province to permit municipalities to utilize the inclusionary zoning provisions City wide.
- Staff do not support the Minister requiring a development permit system to be put in place as this should be up to municipalities.
- Staff do not support the proposed change to delete the grounds for appeals. Staff requests the Province to retain the existing *Planning Act* grounds for appeals given that the Official Plan is the tool for translating provincial plans and policies into a local land use vision.
- Staff do not support the proposed changes to the timeframe for non-decision appeals. Staff requests the Province to retain the existing *Planning Act* timeframes.
- Staff do not support the proposed changes. Staff requests the Province to retain the existing criteria for parkland dedication.
- Staff do not support the proposed changes to who may appeal a decision on a Plan of Subdivision. Staff requests the Province to retain the existing *Planning Act* appeal rights.

Schedule 11 – Changes to the Ontario Heritage Act

The following is a summary of the proposed changes to the *Ontario Heritage Act*.

- Establishing "prescribed events and principles" that shall be considered when making decisions.
- New timeframes and notice provisions including when a property is added to the Register. Municipalities will need to provide notice within 30 days of a property being added to the Register and property owners will be able to object to their property being included in the Register.
- With respect to Heritage Conservation Districts, Bill 108 will permit demolition or removal only if it would not affect the property's heritage attributes as listed in the Heritage Conservation District Plan. If the heritage attributes are not specifically listed, the Act does not prohibit demolition or removal.
- Bill 108 will now require that all appeals be heard by the LPAT instead of the Conservation Review Board and has expanded the powers of the LPAT from the power the Conservation Review Board previously had. The power to make a final decision on designating a property has been removed from Council and now rests with the LPAT which will be final and binding.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and staff recommendations to the Province. Staff are not supportive of the proposed changes as it will have an impact on how the City administers the Act and its current processes. The proposed changes in some case will lengthen the process, delaying projects, and will require additional staff resources with added complexity to processes. The changes proposed by Bill 108 may result in increased appeals to the LPAT as the addition of properties to the Register can now be appealed to the LPAT.

The *Ontario Heritage Act* is a tool for managing change of heritage resources that balances both public and private interests. The proposed changes to the Act tip the balance away from public interest to the interest of private owners/developers.

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Prescribed Principles	N/A	<p>Section 26.0.1</p> <p>The proposed changes would establish "prescribed principles" that shall be considered when making decisions under Part IV or V.</p>	<p>What constitutes a "prescribed principle" has not been provided. Clearer direction of "prescribed principle" is needed and in the absence of these details it is not possible to fully assess the implications of this proposed change.</p> <p>Staff advises the Province to consult with municipalities on the "prescribed principles" and that the regulation should clearly describe what constitutes a "prescribed principle".</p>
Adding Properties to the Register	N/A	<p>Section 27(5) and (6)</p> <p>The Act now requires notice be given to a property owner within 30 days of a property being added to the Register.</p> <p>The notice is to include a statement explaining why the property is of cultural heritage value or interest, a description of the property, a statement that if the owner objects</p>	<p>Staff currently has a process for adding properties to the Register. Individual properties are not added without a detailed review of the heritage value of the property.</p> <p>In addition, Staff currently provides a notice to an owner prior to the recommendation to add the property to the Register.</p> <p>The proposed changes will require a revision to the City's process from notifying an owner before</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>they may serve the Clerk with a notice of objection setting out the reasons and relevant facts, and an explanation of the restriction concerning demolition or removal.</p>	<p>to after it has been added to the Register.</p> <p>The proposed change will require municipalities to undertake a more robust assessment before adding a property to the Register. There must be a statement explaining why the property is of cultural heritage value or interest. This is currently not required by the Act.</p> <p>These proposed changes will impact the amount of time and cost it takes to add a property to the Register and will result in additional staff resources.</p> <p>This proposed change may have an impact on the heritage inventory work that the City currently undertakes as each property on the inventory will require an assessment of the properties cultural heritage value or interest given that the methodology and subsequent analysis must be robust enough to defend the decision in the event the decision is made to designate the property.</p> <p>The proposed change permits a property owner to object to the property being added to the Register. The proposed change does not identify</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<p>a timeframe for when an owner may serve a notice of objection and is open-ended.</p> <p>Staff advise the Province that a time limit for filing an objection for a property added to the Register with the Clerk be included.</p>
Notice of Objection to adding Property to the Register	N/A	<p>Section 27 (7) and (8)</p> <p>The Act now requires that if a notice of objection has been served, the municipality shall consider the notice and make a decision as to whether it should continue to be included on the Register and provide notice of the council's decision to the owner within 90 days of the decision.</p>	<p>The proposed change would require that Council consider an owners objection and make a decision as to whether it wishes to continue to include the property on the Register.</p> <p>Notice of council's decision must be given to the owner within 90 days of the decision.</p> <p>The proposed change will require a revision to the City's processes and will require additional staff resources to address the additional work and report preparation required.</p>
Restriction on demolition	N/A	<p>Section 27(9), (10) and (11)</p> <p>The owner shall not demolish or remove a building or structure for a property on the Register unless the owner gives Council at least 60 days</p>	<p>This notice would only apply if the property is on the Register before a building permit application to demolish is made. If it is not on the Register, but may have cultural heritage value, notice by the owner is not required.</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>notice in writing of the owner's intention. This only applies if the property is on the Register before a building permit application is made.</p>	<p>The notice must also be accompanied by plans and information that Council may require.</p> <p>The Act does not include provisions by which a property owner may withdraw their notice of intent to demolish.</p> <p>This proposed change would limit the City's ability to add a property to the Register after a building permit application has been made in order to provide interim protection.</p> <p>Properties that are listed on the Inventory are afforded no protection and cannot be added to the Register to provide interim protection. Heritage resources will be lost because of this proposed change.</p> <p>Where previous research on a property has not been done, this puts the City in a difficult position which may result in proceeding directly to designating a property.</p> <p>Staff requests the Province to remove the requirement that the property be on the Register before the building permit</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			application is made.
Designation Limitation	N/A	<p>Section 29(1.2)</p> <p>A new section has been added to the Act that proposes that Council will not be permitted to give notice of an intention to designate a property more than 90 days after a "prescribed event" has occurred.</p> <p>There are currently no limitations on when a Council may provide notice of an intention to designate.</p>	<p>The new section now includes a limitation as to how much time a Council has to give notice for an intention to designate a property after a "prescribed event" has occurred. Under the current Act, Council is not restricted.</p> <p>The new section does not describe what constitutes a "prescribed event" nor were regulations provided for clarification. As such, in the absence of details it is not possible to fully assess the implications of this proposed change.</p> <p>Staff advise the Province that there should be no limitations as to when Council may provide notice of an intention to designate.</p> <p>Should the Province proceed with including this requirement, the Province should consult with municipalities on the "prescribed event" and the regulation should clearly describe what constitutes a "prescribed event" prior to proceeding with these proposed changes to the Act.</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Objection to Designation	<p>Subsections 29(6) to (17) currently outline the process for notice of objections to a designation and that objections would be referred to the Conservation Review Board (CRB). A person who objects currently has 30 days after the publication of the notice in the newspaper to serve the Clerk with a notice of objection. Previously, an appeal to the CRB was non-binding and resulted in a report to Council setting out its findings and recommendations. Council could then</p>	<p>Subsections 29(6) to (17) have been replaced with new notice requirements for objections.</p> <p>A Council will now be required to consider the objection and make a decision whether or not to withdraw the intention to designate 90 days after the end of the 30 day objection period.</p> <p>If an objection is not served, Council may pass a by-law in the following circumstances:</p> <p>By-law is passed within 120 after the publication of the notice of intention to designate;</p> <p>It must include a statement explain the heritage value or interest and the heritage attributes;</p> <p>Must provide the owner or anyone who objected with a copy of the By-</p>	<p>Additional opportunities have been included for decisions of Council on designating a property to be reconsidered (within 90 days of receiving an objection).</p> <p>Additional timeframes have been included for passing a by-law. If a by-law is not passed within 120 days, Council has the option to restart the process.</p> <p>Power to designate has been removed from Council and transferred to the LPAT. Decisions should be made by Heritage experts such as the Conservation Review Board.</p> <p>The proposed changes will lengthen the process and add to the volume of appeals before the LPAT which may result in delays in decision making.</p> <p>Proposed changes will require modifications to the City's designation process and will require additional staff resources.</p>

	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	pass a by-law designating the property or withdraw the notice of intention to designate. The decision of Council would be final.	<p>law;</p> <p>Notice must be published in the newspaper of the passing of the by-law; and,</p> <p>The notice must include that the by-law may be appealed within 30 days after the date of publication of the notice.</p> <p>Objections would now be appealed to the LPAT.</p> <p>For an appeal, the record of the decision must be forwarded to the LPAT within 15 days of the notice of appeal.</p>	Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report and Council as the final decision making authority on objections to designations.
Powers of the LPAT	N/A	<p>Section 29 (15) and (16)</p> <p>After holding a hearing the LPAT shall dismiss the appeal or allow the appeal in whole or in part.</p> <p>The LPAT may dismiss all or part of an appeal without holding a hearing if</p>	<p>The powers the Conservation Review Board currently has are proposed to be expanded for the LPAT including the ability to dismiss all or part of an appeal.</p> <p>Decisions should be made by heritage experts such as the Conservation Review Board on</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>the LPAT is of the opinion that there are no grounds to allow all or part of the appeal or that the appeal is not made in good faith, is frivolous or vexatious or is made only for the purpose of delay, appellant has not provided a written reason in support of the objection, has not paid the fee or has not responded to a request by the LPAT.</p> <p>Before dismissing an appeal, the LPAT shall notify the appellant and give the appellant an opportunity to make representations with respect to the dismissal.</p>	<p>heritage matters. It is also not clear on what basis the LPAT will be making decisions. For planning matters there is the "best planning" equivalency test, but a similar test does not exist for heritage matters before the LPAT.</p> <p>Using the LPAT will lengthen the process and add to the volume of appeals before the LPAT which may result in delays in decision making.</p> <p>Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.</p>
Amending By-laws	Appeals were previously heard by the Conservation Review Board	<p>Section 30.1(7) to (16)</p> <p>The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT.</p>	Currently the Conservation Review Board hears these matters. Decisions should be made by heritage experts such as the Conservation Review Board.
Repealing By-laws by	Appeals were previously heard by	Section 31(5) to (14)	Using the LPAT will lengthen the process and add to the volume of appeals before the LPAT which

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Council	the Conservation Review Board	The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT. The powers of the LPAT have been expanded.	may result in delays in decision making. Staff requests that the Province reinstate referral of objections to the Conservation Review Board for a hearing and report.
Repeal of by-law by owner	Appeals were previously heard by the Conservation Review Board	Section 32(2) to (18) The Act proposes a more robust process for objections to an appealing by-law and appeals are to be heard by the LPAT. The powers of the LPAT have been expanded.	
Heritage Permits (Alteration of Property)	Appeals were previously heard by the Conservation Review Board	Section 33(2) to (16) The Act now outlines that for a heritage permit application, it must be accompanied with "prescribed" information and material. Appeals will now be heard by the LPAT. The powers of the LPAT have been expanded.	Currently a heritage permit application is to include information as set out by a Council. The proposed change indicates that the Province will identify what information must be included in an application through reference to "prescribed" information. As discussed previously, these matters should continue to be heard by the Conservation Review Board. Staff requests that the Province reinstate

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			referral of objections to the Conservation Review Board for a hearing and report.
Heritage Permits (Demolition of Designated Property)	<p>Previously restricted demolition or removal to a building or structure on the property</p> <p>Appeals will continue to be heard by the LPAT</p>	<p>Section 34(1) to (4.4) and 34(3) to (7)</p> <p>The Act now outlines that for a heritage permit application, it must be accompanied with "prescribed" information and material.</p> <p>The Act proposes to permit the demolition or removal whether or not the demolition or removal would affect the property's heritage attributes set out in the designating by-law.</p> <p>The application for demolition or removal must be deemed complete and the applicant must be informed.</p> <p>The Act now includes revised notice requirements for a Heritage Permit.</p> <p>The powers of the LPAT have been expanded.</p>	<p>Currently a heritage permit application is to include information as set out by a Council. The proposed change indicates that the Province will identify what information must be included in an application through reference to "prescribed" information.</p> <p>Changes to our process will be required as this is a new requirement.</p> <p>Staff advises the Province to consult with municipalities on the "prescribed" information and that the regulation should clearly describe what constitutes "prescribed" information.</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Heritage Conservation Districts		<p>Section 39.1.2</p> <p>A new section has been proposed that a Council shall consider the "prescribed principles, if any" when council exercises a decision making authority.</p>	<p>The new section does not describe what constitutes "prescribed principles" nor were regulations provided to provide clarification. Clearer direction of "prescribed principles" is needed.</p> <p>Staff advises the Province to consult with municipalities on the "prescribed principles" and that the regulation should clearly describe what constitutes a "prescribed principle".</p>
Heritage Conservation Districts		<p>Section 42 (1)</p> <p>A new section has been proposed that requires property heritage attributes to be included in a heritage conservation district plan. These are needed with respect to demolition or removal.</p>	<p>This change is more restrictive and requires specific heritage attributes to be listed for a property in a Heritage Conservation District Plan. Demolition or removal would not be permitted if it would affect the heritage attributes included in the Heritage Conservation District Plan. If the heritage attributes are not listed, demolition or removal is permitted in a Heritage Conservation District.</p> <p>This would impact the City's existing Heritage Conservation District Plans that do not contain specific heritage attributes for each property and</p>

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	CURRENT ONTARIO HERITAGE ACT REQUIREMENT	PROPOSED CHANGE TO THE ONTARIO HERITAGE ACT	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			<p>could result in the demolition or removal of properties with the Plan area.</p> <p>There is no transition for existing Plans that may not have been developed in accordance within the proposed changes.</p> <p>Future Heritage Conservation District Plans will require more time and more money to prepare as the proposed change is similar to the detail required to designate a property.</p> <p>Staff requests that the Province delete this regulation to continue to provide protection from demolition of heritage resources in a Heritage Conservation District Plan area.</p>

Schedule 12 – Changes to the *Planning Act*

The following is a summary of the proposed changes to the *Planning Act*:

- Inclusionary zoning restricted to major transit station areas or where a development permit system is in place.
- Decrease in timeframes for non-decision appeals for Official Plan Amendments, Zoning By-law Amendments, and Plans of Subdivision.
- Appeals for Plans of Subdivision and Condominium limited to applicant, municipality, Minister or public body.
- Repeal of Section 37 and replacement with a Community Benefits Charge.
- Parkland dedication by-law is no longer in effect once a Community Benefits Charge By-law has been passed.
- The alternative parkland dedication requirements based on density have been removed.
- Removal of the threshold test for consistency/conformity with relevant policies and plans, returning to "good planning" review powers by Local Planning Appeal Tribunal.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and staff recommendations to the Province. In summary, with the exception of second unit policies, Staff are not supportive of the proposed changes.

	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Second Unit Policies	"The use of two residential units in a detached house, semi detached house or row house if no building or structure ancillary to the detached house, semi	"if no building or structure ancillary to the detached house, semi detached house or rowhouse contains a residential unit" has been	Currently the UHOP permits second units within a single and semi detached. The UHOP will need to be amended to allow second units in row houses and within

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	detached house or rowhouse contains a residential unit"	deleted	<p>accessory structures.</p> <p>Staff are currently developing consolidated zoning regulations regarding secondary units.</p> <p>Staff are supportive of the proposed change in urban areas. For the rural areas, the City should have the opportunity to review the feasibility of second units in the context of servicing and source water protection.</p> <p>Staff supports the proposed change as it expands the opportunities for second units throughout the City. Issues such as compatibility, context and appropriate zoning standards need to be evaluated.</p>
Inclusionary Zoning	<p>An Official Plan shall contain policies that authorize inclusionary zoning with no geographic restriction as to where it may be used.</p> <p>It is a prescribed requirement through the use of the word</p>	An Official Plan may contain policies that authorize inclusionary zoning in respect of a protected major transit station area or within a development permit system area.	<p>The use of inclusionary zoning is proposed to be restricted to only a major transit station area, where a development permit system is in place or where the Minister orders a development permit system be put in place.</p> <p>The City does not have a development permit system in place therefore this proposed change would be not applicable.</p>

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	"shall".		<p>The application of inclusionary zoning would be restricted to the LRT corridor from McMaster University to Queenston Rd.</p> <p>Under the Growth Plan, Go Stations are not major transit stations and therefore inclusionary zoning would not apply.</p> <p>The proposed change will reduce the opportunities to create new affordable housing units.</p> <p>Staff do not support the proposed change to restrict inclusionary zoning to limited areas in the City. This proposed change will restrict the City's ability to increase the supply of affordable housing. Staff requests the Province to permit municipalities to utilize the inclusionary zoning provisions City wide.</p> <p>Staff do not support the Minister requiring a development permit system be put in place as this should be up to municipalities.</p>
Grounds for	An appeal on an Official Plan or	This section has been	The existing grounds for appeals provides

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Appeals	Zoning By-law Amendment may only be made on the basis that the decision is inconsistent with a policy statement or conflicts with a Provincial Plan.	deleted in its entirety.	greater emphasis to the decision-making powers of Council. Staff do not support the proposed change to delete the grounds for appeals. Staff requests the Province to retain the existing Planning Act ground for appeals given that the Official Plan is the tool for translating provincial plans and policies into a local land use vision.
Development Review Timeframes	Currently appeals for non-decision may be issued as follows: Official Plan Amendment: 300 days (210 + 90 day extension) Zoning By-law Amendment: 150 days Plan of Subdivision: 180 days	The proposed timeframes for non-decision appeals are as follows: Official Plan Amendment: 120 days Zoning By-law Amendment: 90 days Plan of Subdivision: 120 days	The proposed timeframes are proposed to be significantly reduced requiring the City to make decisions based on the information initially submitted with the application that in most cases requires additional details or further refinement. It will also limit opportunities for public consultation. It also may create an adversarial process, instead of a collaborative process. In addition, the reduced timeframes may result in a greater number of appeals to the LPAT, delaying projects. Reducing the timeframes can result in the exclusion of community consultation and

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			refinement of development proposals. Staff do not support the proposed changes to the timeframe for non-decision appeals. Staff requests the Province to retain the existing Planning Act timeframes.
Community Benefits Charge	Section 37	Deletion of Section 37 and replaced with a new Community Benefits Charge	An information report was previously prepared by Finance staff providing a summary of the proposed changes. Detailed comments on the new charge will be further discussed in a future report to be prepared by Finance staff. <i>In general, City staff are not supportive of the proposed Planning Act changes and the removal of Section 37.</i>
Conveyance of Land for Park Purposes	Currently the Planning Act permits land in the amount not exceeding 2% for commercial or industrial purposes and 5% for all other purposes, be dedicated for park or other public recreational purposes.	Parkland dedication by-law is no longer in effect once a Community Benefits Charge By-law has been passed. Repeal the alternative parkland dedication requirements based on	Detailed comments on the proposed change will be further discussed in a future report to be prepared by Finance staff. <i>In general, City staff are not supportive of the proposed changes.</i> Staff do not support the proposed

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	<p>If an Official Plan contains policies related to the provision of land for park or other public recreational purposes, the municipality may, in the case of a subdivision for residential purposes, require that land be conveyed at a rate of 1 hectare for each 300 dwelling units, or at a lesser rate determined by the municipality.</p> <p>In lieu of land, the <i>Planning Act</i> permits a municipality to require payment of lieu of land.</p> <p>The <i>Planning Act</i> currently requires the municipality to prepare and make available to the public a parks plan that examines the need for parkland.</p>	<p>density.</p> <p>Plans of subdivision that are approved with a condition of parkland are not subject to a Community Benefits Charge By-law.</p> <p>The requirement to complete a parks plan that examines the need for parkland has been deleted.</p>	<p>changes. Staff requests the Province to retain the existing criteria for parkland dedication.</p>
Appeals for Plans of Subdivisions and Condo	Currently the Planning Act allows the applicant, a person or a public body that made oral or written submissions, the	Changes are proposed that would limit third-party appeals of a plan of subdivision. Only the	The proposed change would restrict appeals to those public bodies and persons identified in the <i>Planning Act</i> and not allow a person who gave oral or written submissions the

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	CURRENT REQUIREMENT	PROPOSED CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
	<p>Minister, or a municipality in which the land is located, to appeal the decision of the approval authority to the LPAT.</p>	<p>applicant, municipality, Minister, public body or prescribed person, or municipality in which the land is located will have the right to appeal a decision of an approval authority.</p>	<p>opportunity to appeal.</p> <p>This proposed change would prohibit a third party appeal, such as an appeal from a resident or neighbourhood association. For joint applications, a Zoning By-law or Official Plan Amendment may be appealed to the LPAT but not the subdivision application.</p> <p>Details of the subdivision such as tree preservation and grading are addressed after the application has been submitted but the community will not be able to participate in the LPAT hearing or on refining the sub</p> <p>Staff do not support the proposed changes to who may appeal a decision on a Plan of Subdivision. Staff requests the Province to retain the existing Planning Act appeal rights.</p>

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Schedule 5 – Changes to the Endangered Species Act, 2007

Summary of proposed changes to the *Endangered Species Act*:

- Broaden Committee on the Status of Species at Risk in Ontario (COSSARO) member qualifications include members with expertise in "community knowledge".
- Requiring COSSARO to consider a species' condition around its broader biologically relevant geographic area, inside and outside of Ontario, before classifying a species as endangered or threatened.
- Increased discretionary powers to be given to the Minister.
- Once a new SAR is listed, the Minister may make an order that temporarily suspends all or some of the protections for a period of up to three years.
- New landscape agreements and a SAR Conservation Trust are proposed.

The following is a detailed summary of the proposed changes, implications for the City of Hamilton and recommendations to the Province. Staff are not supportive of the proposed changes as they will have the effect of adding additional processes and delay to the classification, listing, and protection of species at risk. Changes are also being proposed which may undermine the role of COSSARO. The proposed changes are not detailed therefore it is difficult for staff to fully assess the implications without the details.

	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
Assessment, Listing and Protection of	The Committee on the Status of Species at Risk in Ontario (COSSARO), an independent	Broadening COSSARO Member Qualifications:	"Community knowledge" has not been defined and there is concern that broadening the COSSARO membership

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
SAR	committee comprised of experts with scientific backgrounds and Aboriginal Traditional Knowledge, classify species as extirpated or extinct, endangered, threatened or special concern. Each species added to the Species at Risk in Ontario (SARO) list is through regulation. Once the species is added, it receives general habitat protection. Currently, COSSARO can submit a report to the Minister at any time and the species must be added to the list within 3 months.	The proposed changes will broaden COSSARO member qualifications to include members with relevant expertise in "community knowledge".	would allow non-scientific input into a species classification. It is unclear why the membership of COSSARO needs to be altered. Staff recommends that "community knowledge" be deleted.
		<p>Consideration of Species Condition in a Broader Geographic Context:</p> <p>It is proposed that COSSARO consider a species' condition around its broader biologically relevant geographic area, inside and outside of Ontario, before classifying a species as endangered or threatened. If the overall risk to a species in the broader relevant geographic area is lower, COSSARO would be required to adjust the species' classification to the lower category.</p>	<p>This conflicts with the preamble of the Act, which references the precautionary principle (where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize protection). This approach relies on other jurisdictions to protect SAR and does not consider that species at the northern limit of their range may receive little or no protection, which is particularly important with climate change impacts.</p> <p>Staff recommends that the consideration of species condition in a broader geographic context be deleted.</p>

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>Extension of Timing to add Species to SARO List:</p> <p>The revised ESA proposes to extend the timeframe for making regulations from 3 months to 12 months after receiving the COSSARO Report (Section 7(4)).</p>	<p>It is unclear how this would improve the current process since it would further delay the protection of SAR. Also, it is contrary to the Province's intended purpose of "streamlining processes" and improving "outcomes for the species and its habitat".</p> <p>Staff recommends that the extension of timing to add species to the Species at Risk list be deleted.</p>
		<p>Reconsideration of Classifications:</p> <p>The revised ESA proposes to allow the Minister to reconsider the classification of a species if it is determined that the classification may no longer be appropriate (opinion is to be based on scientific information). For species that are not yet on the list or are listed as special concern, the species would not be added to the SARO list or listed to a more endangered status during COSSARO's re-assessment.</p>	<p>This means that if a party provides scientific opinion which differs from COSSARO's, the classification must be reconsidered if the Minister agrees. Since COSSARO uses the best available knowledge (including emerging trends) to evaluate species, it is unclear what new evidence could be provided that would change the classification. This allows for competing scientific opinions, undermines the role of COSSARO, and delays listing and protection of species.</p>

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
			Staff recommends that the reconsideration of classifications be deleted.
Assessment, Listing and Protection of SAR	The Province has 12 months from the time of listing to prepare a Recovery Plan or Management Strategy for the species and to identify the regulated portions of its habitat.	<p>Removal of Mandatory Requirement for Developing Habitat Regulations:</p> <p>Currently, the legislation requires that the habitat regulation (which protects SAR and their habitat) be made within 12 months of listing. The proposed ESA removes the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and retains the option to develop a regulation "when needed".</p> <p>Within the proposed ESA, once a new SAR is listed, the Minister may make an order that temporarily suspends all or some of the protections for a period of up to three years. During this time, the species will be on the SARO list, but may not</p>	<p>This would result in delays in identifying the SAR protected habitat, which would create uncertainty for proponents and negatively impact SAR.</p> <p>For some listed species, a 3-year delay in protection could result in further decline, and the species may not recover. This delay in protection of listed species does not meet the Province's intent to improve outcomes for SAR and their habitat.</p>

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		be fully protected (Section 8 (1)).	Staff recommends that the mandatory requirement and timeline to develop a habitat regulation for each newly listed species and temporary suspension to protect of up to three years be deleted.
Greater Minister Discretion	Currently, the Lieutenant Governor in Council (LGIC) is responsible for developing and approving habitat regulations.	<p>The proposed revisions to the ESA include new sections which provide the Minister of Environment, Conservation and Parks (MECP) with "greater Minister discretion on protections, while keeping the assessment as a science-based process". While the role of classifying species would remain with COSSARO, the proposed changes would provide the Minister with the following new powers:</p> <ul style="list-style-type: none"> • Currently, the Lieutenant Governor in Council (LGIC) is responsible for developing and approving habitat regulations. The new ESA proposes giving this responsibility to the Minister. • The Minister would no longer need to consult with an 	<p>This may result in delay or uncertainty for City Environmental Assessment projects, since there would be increased opportunities for Minister discretion on SAR habitat regulations.</p> <p>The change to clarify that recovery strategies are advice to government are concerning as advice does not have to be taken or acted upon which may lessen the importance of recovery strategies.</p> <p>Staff recommends that the discretion remain with the Lieutenant Governor in Council.</p>

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<p>independent expert for the "D" permit process and would replace the LGIC in this role.</p> <ul style="list-style-type: none"> • A change is proposed to clarify that recovery strategies are advice to government. • Once a SAR is listed, the Minister may make an order that temporarily suspends all or some of the SAR protections for a period of up to three years if certain criteria are met. These criteria include non-scientific reasons, such as "if applying the prohibition would have significant social or economic implications". If the species is listed and warrants protection, delaying SAR protection for up to three years could negatively impact the species. This proposed process does not reflect the "precautionary principle" in the Preamble or the Province's intent to streamline processes and achieve improved outcomes for SAR. 	

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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		<ul style="list-style-type: none"> The Minister would have the power to make regulations limiting the application of the prohibitions for a species. Limitations may be applied to the prohibitions (examples given are: only applying to geographic areas, or certain stages of the species development). 	
SAR Conservation Fund and Trust	N/A	<p>Sections 20.1 to 20.18 provide for the establishment of the SAR Conservation Fund and an agency (SAR Conservation Trust) to manage and administer this Fund. This would give proponents the option to pay a charge instead of completing certain on-the-ground activities (such as habitat restoration or compensation) required by the ESA. The payment-in-lieu funds would be used to support "strategic, coordinated, and large-scale actions that assist in the protection and recovery of SAR". The new agency would receive the funds and disburse them to third parties in</p>	<p>This approach encourages the loss of more habitat and reduced habitat protection. If proponents are provided with the option of payment-in-lieu, they may be reluctant to avoid or mitigate impacts to SAR habitat within the affected municipality. This reduces the accountability that proponents have to protect SAR. In addition, the implementation details of the agency are not clear, including who would be on the board, and where and how funds would be dispersed.</p> <p>Staff advises the Province not to proceed until the Province consults</p>

Appendix "D" to Report LS19020/PED19125
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	CURRENT ACT REQUIREMENT	PROPOSED ACT CHANGE	IMPLICATIONS FOR HAMILTON AND RECOMMENDATIONS
		order for activities to be completed.	with municipalities and other key stakeholders on the SAR Conservation Fund, the details of the agency, including who would be on the board, and where and how funds would be dispersed.
Landscape Agreements	N/A	<p>Section 16.1 allows the Minister to enter into Landscape Agreements. A Landscape Agreement allows people who undertake "multiple activities" to be able to pursue limited conservation banking. Conservation banks allow compensation when a species or habitat is affected during development by providing credits that can be purchased to offset their negative impact.</p> <p>The agreement would require that the person take reasonable steps to minimize adverse effects on the species, consider all reasonable alternatives, and undertake beneficial actions.</p>	<p>This approach reduces accountability and does not lend itself to addressing site or species-specific concerns. This approach could result in reductions to species diversity in Hamilton, with compensation provided in other parts of Ontario.</p> <p>Staff advises the Province not to proceed until the Province consults with municipalities and other key stakeholders on the Landscape Agreements.</p>



INFORMATION REPORT

TO:	Chair and Members Government Relations Sub-Committee
COMMITTEE DATE:	June 27, 2019
SUBJECT/REPORT NO:	Bill 108 (PED19150) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Jason Thorne (905) 546-2424 Ext. 4339
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

INFORMATION

Planning and Economic Development staff has reviewed the Bill 108 provisions, related to the Planning Act and the Heritage Act. Attached is Report LS19020/PED19125, which was presented as Agenda Item 9.1 at the June 4, 2019 Planning Committee, for your information.

APPENDICES AND SCHEDULES ATTACHED

Appendix 'A' – LS19020/PED19125 – June 4, 2019



INFORMATION REPORT

TO:	Chair & Members Government Relations Sub Committee
COMMITTEE DATE:	June 27, 2019
SUBJECT/REPORT NO:	Response to the Proposed Provincial Restructuring of Local Public Health Agencies (HSC19038) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Paul Johnson (905) 546-2424 Ext. 5647
SUBMITTED BY:	Paul Johnson General Manager Healthy and Safe Communities Department
SIGNATURE:	

COUNCIL DIRECTION

A motion presented by Councillor Partridge at Council on May 22, 2019 (attached) provided several directions in response to the proposed Provincial restructuring of Local Public Health Agencies.

INFORMATION

At the time of writing this report there is no further information from the Province regarding the proposed restructuring of the Local Public Health Agencies from 35 Public Health units to 10 new Regional Public Health entities, governed by autonomous Boards of Health.

Staff continue to seek out opportunities to provide input through the Association of Municipalities of Ontario (AMO) and the Association of Local Public Health Agencies (aIPHa) according to the principles of the motion.

APPENDICES AND SCHEDULES ATTACHED

Appendix 'A' to Report HSC19038 - Motion 7.4 – May 22, 2019

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

CITY OF HAMILTON

MOTION

Council Date : May 22, 2019

MOVED BY COUNCILLOR J. PARTRIDGE.....

SECONDED BY COUNCILLOR

Response to the Proposed Provincial Restructuring of Local Public Health Agencies

WHEREAS the Provincial Government has made announcements about restructuring local Public Health agencies from 35 public health units to 10 new Regional Public Health Entities, governed by autonomous boards of health;

WHEREAS the Province expects to reduce provincial spending on local public health by \$200 million by 2021-22 from a current provincial budget for local public health of approximately \$750 million;

WHEREAS the Province is adjusting the cost-sharing formula with municipalities for local public health retroactive to April 1, 2019, and increasing in proportion through 2021-22;

WHEREAS municipalities such as Hamilton, Peel and others have been contributing more than their 25% share under Provincial policy for many years in order to ensure community needs are met based on the Province's Ontario Public Health Standards;

WHEREAS the announcements do not contain sufficient detail to be able to fully understand the costs and implications of the proposed restructuring;

WHEREAS the announcements were made without any consultation after cities had already approved their 2019 budgets;

WHEREAS the scale of the proposed changes to the governance, organization and funding of local public health is unprecedented in Ontario;

WHEREAS the role of municipal councils is not clear in the proposed restructuring;

WHEREAS public health units that are part of local government such as Hamilton already achieve significant administrative efficiencies and benefit from significant collaboration with social service, planning, recreation and transportation services all of which address the social determinants of health;

WHEREAS separating public health units that are part of local government may have unintended negative consequences such as reducing municipal leadership on public health

issues, reducing transparency and public scrutiny, as well as reducing effectiveness in collaboration on the social determinants of health;

WHEREAS the announcements appear to have a significant impact on the delivery of local public health services;

WHEREAS Hamilton City Council confirms its support of its public health staff in all the work that they do;

WHEREAS lessons from the past show that when the public health system is weakened, serious consequences occur;

WHEREAS expert reports, such as those following Walkerton's drinking water contamination and the outbreak of Severe Acute Respiratory Syndrome (SARS), have highlighted the need for a strong and independent public health sector to protect the health and safety of the public;

WHEREAS local public health has a unique mandate that focuses on upstream approaches to prevent injuries and illness before they occur, as well as health protection measures that contribute to the safety of our food, water, and environment, and protect us from infectious diseases;

WHEREAS the evidence shows that the success of prevention is largely invisible, but the social and economic returns on these investments are immense with every dollar invested in public health programming saving on average eight dollars in avoided health and social care costs;

WHEREAS to achieve health and reduce "hallway medicine" both a strong health care and a strong public health system are needed;

WHEREAS the independence of the Board of Health and the Medical Officer of Health as the doctor for the community are essential parts of a strong and transparent public health system;

WHEREAS local perspectives add value to provincial priority-setting and decision making;

WHEREAS significant advances in public health have been led through local action, such as the development of tobacco control bylaws; and

WHEREAS the Province has indicated a willingness to consult with boards of health and municipalities on the phased implementation of the proposed changes.

THEREFORE BE IT RESOLVED:

- (a) That the Mayor write to the Minister of Health & Long Term Care to request that any implementation of these funding cuts and restructuring be postponed to at least 2020 to allow for proper discussion with municipalities, existing boards of health and communities;
- (b) That the letter include, that any restructuring or modernization of local Public Health ensure adherence to the following principles:

- (i) That its unique mandate to keep people and our communities healthy, prevent disease and reduce health inequities be maintained;
 - (ii) That its focus on the core functions of public health, including population health assessment and surveillance, promotion of health and wellness, disease prevention, health protection and emergency management and response be continued;
 - (iii) That sufficient funding and human resources to fulfill its unique mandate are ensured;
 - (iv) That the focus for public health services be maintained at the community level to best serve residents and lead strategic community partnerships with municipalities, school boards, health care organizations, community agencies and residents;
 - (v) That there be local public health senior and medical leadership to provide advice on public health issues to municipal councils and participate in strategic community partnerships;
 - (vi) That local public health services be responsive and tailored to the health needs and priorities of each local community, including those of vulnerable groups or those with specific needs such as the indigenous community;
 - (vii) That representation of municipalities on any board of health be proportionate to both their population and to the size of the financial contribution of that municipality to the Regional Public Health Entity; and
 - (viii) That any transition be carried out with attention to good change management, and while ensuring ongoing service delivery;
- (c) That the Mayor work with MARCO/LUMCO and AMO to describe the benefits of Public Health remaining fully integrated with other City of Hamilton functions;
 - (d) That the Medical Officer of Health continue to report to the Board of Health in a timely manner as any new developments occur;
 - (e) That at a minimum, the Chair or Vice Chair of the Board of Health participate in Ministry consultations with boards of health on public health restructuring, and through the Association of Local Public Health Agencies (aLPHa); and
 - (f) That this resolution be provided to the Minister of Health & Long Term Care, the Minister of Municipal Affairs and Housing, all municipalities, all Boards of Health, AMO, MARCO/LUMCO and the Association of Local Public Health Agencies.



INFORMATION REPORT

TO:	Members of the Government Relations Sub-Committee
COMMITTEE DATE:	June 27, 2019
SUBJECT/REPORT NO:	Bill 108 " <i>More Homes, More Choice Act, 2019</i> " Regarding <i>Development Charges Act</i> Amendments (FCS19061) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joseph Spiler (905) 546-2424 Ext. 4519
SUBMITTED BY:	Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

N/A

INFORMATION

Attached to this Information Report is Report FCS19057 / LS19023 and its Appendix "A" which was received at the June 6, 2019 Audit, Finance and Administration Committee and June 12, 2019 City Council.

Report FCS19057 / LS19023 and its Appendix "A" provide a summary on the changes proposed to be made to the *Development Charges Act, 1997*, S.O. 1997, c. 27 (DC Act) and the associated amendments through to Section 37 of the *Planning Act*, R.S.O. 1990, c.P.13 (Planning Act). These changes were introduced by the Province on May 2, 2019 through Bill 108, *More Homes, More Choice Act, 2019*. To date, the Province has not released information on the regulations required for implementation of Bill 108.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report FCS19061 - Report FCS19057 / LS19023 and its Appendix "A"

JS/dt



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division
and
Legal and Risk Management Services Division

TO:	Chair and Members Audit, Finance and Administration Committee
COMMITTEE DATE:	June 6, 2019
SUBJECT/REPORT NO:	Bill 108 <i>"More Homes, More Choice Act, 2019"</i> - Schedule 3 Comment Submission (FCS19057 / LS19023) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 2790 Joseph Spiler (905) 546-2424 Ext. 4519 Michael Kovacevic (905) 546-2424 Ext. 4641
SUBMITTED BY: SIGNATURE:	Mike Zegarac General Manager, Finance and Corporate Services Corporate Services Department
SUBMITTED BY: SIGNATURE:	Nicole Auty City Solicitor Legal and Risk Management Services

RECOMMENDATION(S)

- (a) That Council endorse the draft comments, recommendations and requests submitted to the Province on May 29, 2019 in response to Schedule 3 (Development Charges Act, 1997) of Bill 108, *More Homes More Choice Act, 2019* attached as Appendix "A" to Report FCS19057 / LS19023, as the City's official comments;
- (b) That the General Manager of Finance and Corporate Services be authorized and directed to confirm the submissions made to the Province attached as Appendix "A" to Report FCS19057 / FCS19023, as the City's official comments;
- (c) That the General Manager of Finance and Corporate Services, in consultation with the City Solicitor, be authorized to make submissions on Bill 108, *More Homes, More*

Choice Act, 2019 and any associated regulations consistent with the concerns raised in Report FCS19057 / LS19023 and Appendix "A" to Report FCS19057 / LS19023;

- (d) That the Clerk forward this report to the Ministry of Municipal Affairs and Housing; and the Ministry of Environment, Conservation and Parks; Hamilton's Members' of Provincial Parliament (Donna Skelly - Flamborough—Glanbrook, Andrea Horwath - Hamilton Centre, Paul Miller - Hamilton East—Stoney Creek, Monique Taylor - Hamilton Mountain and Sandy Shaw - Hamilton West—Ancaster—Dundas) and the Association for Municipalities Ontario.

EXECUTIVE SUMMARY

On May 2, 2019, Bill 108, *More Homes, More Choice Act, 2019*, (Bill 108) was introduced at the Ontario Legislature. If enacted, this Bill would make amendments to 13 different statutes. The purpose of Report FCS19057 / LS19023 is to provide information on the changes proposed to be made to the *Development Charges Act, 1997*, S.O. 1997, c. 27 (DC Act) and the associated amendments through to Section 37 of the *Planning Act*, R.S.O. 1990, c.P.13 (Planning Act).

The commenting period, provided by the Province of Ontario, for Bill 108 closed at 11:59 pm on June 1, 2019. Given the short timeline and as communicated to Council through an Information Update on May 14, 2019, staff assembled a letter (attached as Appendix "A" to Report FCS19057 / LS19023) that highlights initial requests along with concerns and pressures that have the potential to impact Hamilton taxpayers in an unfavourable fashion, as well as, constrain the financial sustainability of the City. Report FCS19057 / LS19023 seeks to have Council endorse the draft comments forwarded to the Province as the City's official comments.

The Province has not released information on the regulations required for implementation of Bill 108 and therefore, it is not possible to fully understand the implications of the changes proposed by this Bill.

Key changes to the DC Act through Bill 108:

- Removal of "soft services" from the DC Act;
- Expand the mandatory exemption for secondary or ancillary dwelling units in a manner that has not yet been prescribed;
- Delay the payment of DCs for several forms of development;
- Freeze the DC rate at the later of site plan or zoning application; and
- A proposed new Planning Act Section 37 which removes density bonusing provisions and combines the soft services being removed from the DC Act and parkland

dedication collected under Section 42 of the Planning Act into one new consolidated charge.

These changes have been proposed without tools to allow a municipality to protect itself from collection risk, without regard for cash flow implications and municipal debt levels, without regard for the added administration and systems enhancement needed to implement such changes and without regard for the impact on services or property taxes.

In some instances, the proposed changes through Schedule 3 of Bill 108 support efforts that the City has taken steps to implement such as the exemption of secondary suites. The City also acknowledges and supports the need to improve the diversity and affordability of housing.

Staff have prepared draft comments and requests included as Appendix "A" to Report FCS19057 / LS19023. These comments were forwarded through the Environmental Registry of Ontario commenting portal for Schedule 3 of Bill 108 on May 29, 2019. Report FCS19057 / LS19023 seeks to have Council endorse the draft comments forwarded to the Province as the City's official comments.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no financial implications related to the endorsement and submission of comments which is what Report FCS19057 / LS19023 recommends.

Related to the changes that Bill 108 proposes to the DC Act, the impacts are to be determined after a review of the regulations. The regulations have not been released by the Province. Staff will report back to Committee once the regulations are released and the Bill has received Royal Assent; or earlier as appropriate.

Staffing: There are no staffing implications related to the endorsement and submission of comments which is what Report FCS19057 / LS19023 recommends.

Related to the changes that Bill 108 proposes to the DC Act, it is expected that additional administration support, in the form of full-time equivalent positions (FTEs), will be required to support the effective implementation and management of the proposed Bill 108 changes. The specific details on these costs will be assessed once the regulations are released by the Province and will be presented through a staff report later this year or as part of the 2020 budget process.

Legal: There are no legal implications related to the endorsement and submission of comments which is what this Report recommends.

Legal Services and the Financial Planning, Administration and Policy Division will continue to monitor the status of Schedules 3 and the related section of Schedule 12 of Bill 108 and report back as necessary.

HISTORICAL BACKGROUND

On May 2, 2019, the Ontario Government released the Housing Supply Action Plan that is intended to "cut red tape to create conditions that make it easier to build housing." To implement the Housing Supply Action Plan, the Province of Ontario is proposing legislative changes. Bill 108 was tabled in the Ontario Legislature on May 2, 2019 to give effect to many of the measures outlined in the Housing Supply Action Plan. Bill 108 proposes changes to the DC Act as well as 12 other Acts.

On May 14, 2019, staff provided the Mayor and Members of City Council an Information Update that provided an initial summary of the proposed changes impacting the fees currently levied under the DC Act. Specifically, the proposed changes contained in Bill 108 through Schedule 3, amendments to the DC Act and the associated amendments through Schedule 12 to Section 37 of the Planning Act. Changes made through other schedules of Bill 108 will be discussed in separate reports brought to the attention of Council by other divisions.

The Province of Ontario has not yet released regulations to clarify how the broad changes through the proposed Bill 108 would be implemented. As part of the City's submission, staff requests further consultation to provide feedback on all aspects of Bill 108, inclusive of the regulations.

At the time of the drafting of Report FCS19057 / LS19023, Bill 108 had completed its Second Reading at the Legislative Assembly and had been referred to Standing Committee. The Bill may then be debated further in Third Reading. If it passes Third Reading, it can receive Royal Assent whereupon Bill 108 becomes law. The Bill's changes would come into force upon each individual schedule's proclamation.

There are a significant number of proposed changes that necessitate the creation of regulations. As indicated, no regulations have been proposed at this time, making it difficult to understand the implications of the changes. Through the comments, attached as Appendix "A" to Report FCS19057 / LS19023, which staff are asking Council to endorse, the City requests a thorough stakeholder consultation process and further consultation to provide feedback on all aspects of Bill 108, inclusive of the regulations.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

There are no policy implications or legislative requirements related to the endorsement and submission of comments attached as Appendix "A" to Report FCS19057 / LS19023 which is what Report FCS19057 / LS19023 recommends.

The City will need to take a cross-departmental approach in reviewing the impacts of the legislation as regulations are released to determine how to support the effective implementation and management of the changes arising through Bill 108.

RELEVANT CONSULTATION

- Planning and Economic Development Department
- Public Works Department

Upon receipt of the legislation, a further cross-departmental review and assessment is required in order to assess and quantify the impacts of the proposed changes to the DC Act.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The commenting period, provided to municipalities by the Province of Ontario, for Bill 108 More Homes, More Choice Act, 2019 (Bill 108) closed at 11:59 pm on June 1, 2019. Given the short timeline and as communicated to Council through an information update on May 14, 2019, staff assembled a letter that highlights initial requests along with concerns and pressures that have the potential to impact Hamilton taxpayers in an unfavourable fashion, as well as, constrain the financial sustainability of the City. Report FCS19057 / LS19023 seeks to have Council endorse the draft comments forwarded to the Province as the City's official comments.

The changes proposed in Bill 108 are a significant departure from the current legislative framework. Staff comments and concerns are detailed in the draft comments submitted to the Province, attached as Appendix "A" to Report FCS19057 / LS19023.

If Bill 108 is enacted without maintaining full revenue neutrality, the changes proposed through Bill 108 have the potential to impact the financing of growth projects. In addition, the Bill adds significant administrative requirements, delays the cash flow of DCs and exposes municipalities to unnecessary financial risks.

ALTERNATIVES FOR CONSIDERATION

None.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – City of Hamilton Submission on Bill 108: *More Homes, More Choice Act*, 2019 Schedule 3

LG/JS/MK/dt



City of Hamilton
City Hall, 71 Main Street West
Hamilton, Ontario
Canada L8P 4Y5
www.hamilton.ca

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General Manager, Finance and Corporate Services
Corpora Services Department
71 Main Street West, 1st Floor
Phone: 905.540.6150
Email: mike.zegarac@hamilton.ca

May 29, 2019

ERO Number: 019-0017

Honourable Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, ON MSG 2E5

Dear Minister Clark:

Subject: City of Hamilton Submission on *Bill 108: More Homes, More Choice Act, 2019 Schedule 3*

Thank you for the opportunity to provide comments on the proposed Bill 108 - *More Homes, More Choices Act, 2019* (Bill 108). Please accept the following draft comments, for consideration, with respect to Schedule 3 of Bill 108.

As communicated by the Province of Ontario, the Provincial commenting period closes at 11:59pm on June 1, 2019. Given the short timeline provided to municipalities to comment on Bill 108, City of Hamilton (City) staff has assembled a letter that highlights initial requests along with concerns and pressures that have the potential to impact Hamilton taxpayers in an unfavourable fashion as well as constrain the financial sustainability of the City. The City's final comments will be forwarded to the Province once they have been endorsed by Council in June 2019.

The Province states that:

"If passed, the proposed changes to the Development Charges Act, 1997 would:

- Support a range and mix of housing options, and boost housing supply;*
- Increase the certainty of costs of development;*
- Make housing more attainable by reducing costs to build certain types of homes; and*
- Make other complementary amendments to implement the proposed reforms, including in relation to transitional matters."*

In some instances, the proposed changes through Schedule 3 of Bill 108 support efforts that the City has taken steps to implement such as the exemption of secondary suites.

The City provides that, if passed as written, the changes to the *Development Charge Act, 1997* could also:

- increase municipal property taxes;
- increase municipal debt;

- increase municipal administration;
- increase Development Charges for the remaining services;
- reduce municipal services; and,
- if done without maintaining revenue neutrality, may slow the rate at which municipalities can afford growth.

Notwithstanding the above, the Province has not yet released regulations to clarify how the broad changes through the proposed Bill 108 would be implemented. The City's insights are broad because these regulations have not been communicated to municipalities and the public. The City requests further consultation to provide feedback on all aspects of Bill 108; inclusive of the regulations.

The City is concerned with changes proposed by Bill 108. The changes are a significant departure from the current legislative framework and undermine an effective tool for creating vibrant communities. Reducing development charges will not make housing more affordable. Restricting cost recovery tools does not guarantee lower house prices. House prices are set by the market. The changes proposed by Bill 108 would require extensive administration and expose municipalities to collection risks.

If more municipal operating revenues are needed to cover the cost of growth, it will be at the expense of maintaining existing capital assets, levels of services, or current property tax rates. In addition, municipalities may not have the funds available to put the infrastructure in place needed for development to occur in a timely manner. Further restricting cost recovery tools is counterproductive and will increase inequities within communities. These are unintended consequences that will undermine the health and vibrancy of Ontario's communities.

The City requests the Province to reconsider the entirety of Schedule 3 to Bill 108 under the guiding principles:

- Growth should pay for growth;
- Complete, vibrant communities are good for everyone;
- Provincial legislation related to municipal governance should be enabling and permissive; and
- Provincial red tape costs municipalities time and money.

These are the guiding principles used in the Schedule 3 comments being submitted by the Municipal Finance Officers' Association of Ontario (MFOA). These guiding principles are supported by the City and are not upheld within the proposed changes through Schedule 3 of Bill 108.

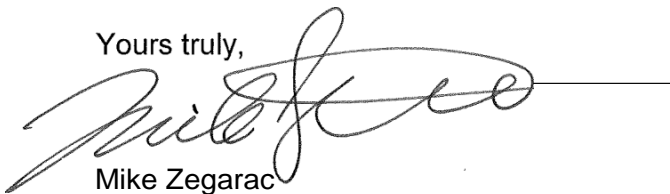
All other comments and requests have been prepared should the proposed changes to the *Development Charges Act, 1997* remain despite the previous recommendation.

The City's draft comments and requests have been detailed in the attached list which is organized by section of the *Development Charges Act, 1997*. The City requests that all comments and requests be reviewed and considered by the Province.

The changes through Schedule 3 of Bill 108 are intricately entangled with the changes to Section 37 of the *Planning Act, 1990* through Schedule 12 of Bill 108. The City of Hamilton is submitting comments through both commenting portals on the Environmental Registry of Ontario (ERO) website and has provided overlapping comments in this, Schedule 3, submission. In addition, the City will concurrently be submitting comments on other Schedules of Bill 108 such as Schedules 5, 9 and 11.

Thank you again for the opportunity to provide meaningful input into this review. We look forward to reviewing regulations and, ultimately, the final version of Bill 108. City of Hamilton staff would be pleased to meet with you to discuss these comments in greater detail.

Yours truly,

A handwritten signature in black ink, appearing to read "Mike Zegarac", with a horizontal line extending to the right from the end of the signature.

Mike Zegarac
General Manager, Finance and Corporate Services
Corporate Services Department

c.c. -

- Nicole Auty, City Solicitor
- Michael Kovacevic, City Solicitor
- Steve Robichaud, Director of Planning and Chief Planner
- Anita Fabac, Manager of Development Planning, Heritage and Design
- Brian McMullen, Director of Financial, Planning, Administration and Policy
- Cindy Mercanti, Director of Customer Service, POA and Financial Integration
- Joe Spiler, Manager of Capital Budgets and Development
- Lindsay Gillies, Senior Financial Analyst, Capital Budgets & Development

City of Hamilton Submissions on *Bill 108: More Homes, More Choice Act, 2019* Schedule 3 – Development Charges Act, 1997

Recommendation

The City requests the Province to reconsider the entirety of Schedule 3 to Bill 108 under the guiding principles:

- Growth should pay for growth;
- Complete, vibrant communities are good for everyone;
- Provincial legislation related to municipal governance should be enabling and permissive; and
- Provincial red tape costs municipalities time and money.

These are the guiding principles used in the Schedule 3 comments being submitted by the Municipal Finance Officers' Association of Ontario (MFOA). These guiding principles are supported by the City and are not upheld within the proposed changes through Schedule 3 of Bill 108.

All other comments and requests have been prepared should the proposed changes to the *Development Charges Act, 1997* remain despite the previous recommendation.

General Comments:

1. The City requests the Province to extend the June 1, 2019 timeline on the Environmental Registry of Ontario for comments on proposed Bill 108 to provide additional time for municipalities to comment on the proposed legislation.
2. The City requests the Province to consult with the City prior to issuing any draft regulations associated with proposed Bill 108, before the coming into force of the proposed Bill, such that the City can fully understand and be able to analyse the impact of the proposed Bill changes comprehensively, including the cumulative financial impacts to municipalities.
3. The City requests the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime.
4. The City requests the Province to provide a transparent and thorough stakeholder consultation process in the development of all regulations associated with proposed Bill 108.
5. The City requests the Province to provide the later of four years or the expiry of the current development charges by-law, from the date of enactment of the regulation that sets out any prescribed requirements for the community benefit charges (CBC) before a municipality must adopt a CBC By-law.

Specific Comments:

Section / Change	Description	Comments / Insights	Requests to Province
<p>2(3) Secondary Suites</p>	<p>The requirements related to exempting additional dwelling units within existing residential buildings has been reworded to include reference to additional dwellings in new residential buildings as well as ancillary structures; subject to prescriptions within the regulations (not yet released).</p>	<p>It is unknown how many additional dwellings are to be permitted according to each class of residential building.</p> <p>It is unclear how duplexes / stacked townhouses and other multiple-dwelling forms of residential development would be considered in the regulations.</p> <p>An increase in the statutory exemptions will correlate into a reduction of cash flow needed to put municipal infrastructure in place to service the same population growth.</p>	<p>The City is supportive of encouraging more and varied forms of housing.</p> <p>The City requests the Province to ensure that the regulation expressly limits the number and size of additional/secondary dwelling units and the classes of housing types that they can be located in and prevents unintended units from qualifying (e.g. stacked townhouses).</p> <p>The City requests that the Province ensure that municipalities can remain revenue neutral as a result of this exemption, and any statutory exemptions, by permitting statutory exemptions to be adjusted for through the calculation of the per unit DC.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>2(4) List of services that a DC can be collected for</p>	<p>Previously, a municipality could calculate a DC for all services except for a prescribed list. Under the proposed Bill 108, a municipality can only calculate a DC for a prescribed list of services.</p> <p>The change limits the DC to the former 'hard' services and moves waste diversion to a 'hard' service. Other services that required a 10% mandatory deduction have been removed from eligibility in the DC calculation.</p>	<p>Municipalities are expected to provide services in addition to the prescribed list; such as parks, libraries, affordable housing, recreation centres, etc.</p> <p>The changes to Section 37 of the Planning Act, through Schedule 12, may provide an alternate tool (CBC By-law) for municipalities to collect funds for the services no longer eligible for inclusion in a DC By-law. The extent to which a CBC By-law will be able to offset the revenues lost from the DC By-law cannot be assessed until the regulations are released.</p> <p>Currently, there is a link between the charge for a service and the growth-related costs for the service. The proposed CBC needs to raise sufficient revenue to cover growth related costs for services captured by the CBC. If it does not, critical infrastructure will be significantly delayed, the cost burden will be transferred to existing taxpayers and ratepayers, or the infrastructure will not be built at all.</p>	<p>The City requests the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime.</p>
<p>9.1 Transitional matters</p>	<p>Provides transitional policies that appear to provide that 'soft' services would continue to be collected through a DC By-law until the earlier that a municipality adopts a CBC By-law or a prescribed date (not yet prescribed).</p>	<p>How the transition will apply to DC By-law passed after May 2, 2019 and before Bill 108 received Royal Assent is unclear.</p> <p>It is also unclear how debt payments for soft services issued under the DC Act may be impacted by the transition to a CBC. It is also unclear how budgeted, but not yet spent, soft service DC allocations will transition to a CBC. Without knowing what is contained in the regulations, it is possible that the costs may fall to existing property tax payers.</p>	<p>The City requests the Province to provide clear transition provisions which ensures recovery of growth costs and avoids confusion to development proponents.</p> <p>The City requests the Province to prescribe the date to be the later of the expiry of the current/2019 DC By-law or four years from Bill 108 receiving Royal Assent.</p> <p>The City requests the Province to prescribe transition provisions for debt issued for soft services under the existing DC Act as well as funds approved to be spent under the existing DC Act in such a way that municipalities are able to recover the same costs from growth.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>26.1 Introduction of instalment payments ... Continued on following page</p>	<p>Payment of DCs for rental and non-profit housing, and institutional, industrial, and commercial development will be payable in equal instalment commencing at occupancy and each year for the following five years. Interest will be able to be added at a prescribed rate (not yet prescribed).</p>	<p>Other Bill 108 changes mean that only the ‘hard’ services are eligible to be included in the DC calculation. Infrastructure such as water, wastewater and storm service is required to be in place prior to development occurring. Receiving the DC to pay for this infrastructure up to six years after occupancy will necessitate an increase in municipal debt.</p> <p>Delaying the receipt of DCs does not change the types of infrastructure needed to service land. The proposed plan will hurt municipal cash flow and could result in unsustainable levels of debt. The proposed instalment plan will delay the works needed to permit development of any kind. This will adversely affect the supply of serviced land and housing supply.</p> <p>Financing costs are eligible costs in the DC Act and therefore the interest related to the required increased debt will become part of the calculated DC, thereby increasing the DC. Any financing costs that cannot be added to the DC will be a burden on existing tax and rate payers.</p> <p>The increased debt will impact a municipality’s annual repayment limit, which could lead to Councils being faced with the decision between debt to upgrade existing services or debt to service growth.</p> <p>There is no ability for a municipality to register a notice on title regarding unpaid DCs. There is no clear mechanism that municipalities can use to protect themselves from the risk non-payment. Many events can occur over an extended payment period which add complications to the collections process, including changes in ownership, bankruptcies, mergers and acquisitions of companies, and changes in use for e.g. condo conversions (rental to residential).</p>	<p>The City requests that the Province remove the mandatory instalment terms and allow municipalities to determine when and if a deferral is appropriate using Section 27 and to provide municipalities with the ability to register notice of a DC deferral on title.</p> <p>Alternatively,</p> <p>The City requests that the Province provide authority to register notice of DC instalment payments on title.</p> <p>The City requests that the Province provide clear definitions of the development types that will pay DCs in instalments, including how mixed-uses will be treated.</p> <p>The City requests the Province prescribe a threshold that where the DC payable is under the prescribed threshold (e.g. \$500 K) that the DC be payable at permit issuance regardless of the type of development.</p> <p>The City requests the Province define “person”, e.g. the person required to pay a DC and the person required to provide notice of occupancy.</p> <p>The City requests that non-residential developments be removed from Section 26.1 as it is outside the scope of increasing affordable housing and will ultimately result in increased DCs required due to increased debt.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p data-bbox="90 467 310 524">... Continued from previous page</p> <p data-bbox="90 557 338 646">26.1 Introduction of instalment payments</p>		<p data-bbox="695 467 1339 524">There is no clarity on how mixed-use development will be handled.</p> <p data-bbox="695 557 1339 922">Administering and enforcing the payment schedule will be challenging and will require the use of additional resources. Municipalities will need to keep track of rates for different developments, ensure payments are made as set out, and pursue alternative collection methods if needed. Municipalities may need to charge higher planning fees to recover the additional administrative burden. The administration of such payment system is not built within the functionality of existing development software or considered in the administration budget of a municipality; it would require a municipality to face increased costs.</p> <p data-bbox="695 954 1339 1076">There is no minimum DC to trigger this payment system, meaning that a conversion or expansion that triggers a \$1,000 DC payable would be payable in six annual instalments commencing at occupancy.</p> <p data-bbox="695 1109 1339 1166">There is no clarity as to who the "person" is that is required to inform a municipality of occupancy.</p> <p data-bbox="695 1198 1339 1255">Reduces the ability/need for a municipality to utilize Section 27 deferral agreements.</p> <p data-bbox="695 1287 1339 1377">It is not clear how the instalments for non-residential development will aid with the supply and affordability of housing stock.</p>	

Section / Change	Description	Comments / Insights	Requests to Province
<p>26.2 Freezing DCs - Setting the applicable DC rate at an earlier point in time</p> <p><i>... Continued on following page</i></p>	<p>The applicable DC rate will be set at the later of an application for site plan or zoning by-law, subject to a maximum period of time from approval of the relevant application (not yet prescribed); otherwise the date of building permit issuance applies.</p> <p>Interest will be able to be added from date the DC is set to date of payment, at a prescribed rate (not yet prescribed).</p>	<p>There is concern that unnecessary planning applications will be made to freeze the DC rate.</p> <p>Freezing DC rates well in advance of building permit issuance will produce a shortfall in the amounts needed to cover growth related costs. This will further move away from the concept of growth paying for growth.</p> <p>The proposal could also reduce the speed with which developers build by removing the financial incentive to move quickly to building permit.</p> <p>Freezing the DCs may have an impact on land values and increase investor speculation rather than achieving the goal of more and varied housing stock.</p> <p>Creates administrative complexity to determine what rate applies at time of permit issuance.</p> <p>Creates administrative complexities for determining DC exemption policy and necessitates a review of how DC exemption policy is used in a municipality's DC By-law.</p> <p>The City's current site plan practice is to ensure timely site plan approval. Applications are scheduled for consideration at the Development Review Team meeting within 4 – 6 weeks of receipt of a complete application. If there are no major issues or concerns with the application, conditional site plan approval is granted and the applicant has one year to satisfy the conditions of site plan approval and obtain a building permit. The City receives and considers an average of 128 site plan applications annually (excluding minor applications, applications in the rural area or infill applications for single detached dwellings).</p>	<p>The City requests the Province to limit the prescribed time period to one year.</p> <p>The City requests the Province to change the date that sets the DC rate to the same date that the prescribed amount of time applies from, i.e., the approval date versus the currently stated application date.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>... Continued from previous page</p> <p>26.2 Freezing DCs - Setting the applicable DC rate at an earlier point in time</p>		<p>The applicant controls the timing for the clearing of the site plan conditions and obtaining a building permit. If the conditions of site plan approval and issuance of a building permit cannot be obtained within the one year time frame, the applicant can apply for a site plan approval extension, and subsequent extensions for a further one year can be granted.</p> <p>The Planning Division processes approximately 10 site plan extension requests annually. This means that 93% of applicants obtain a building permit within one year.</p> <p>Based on the above, the prescribed time period should be limited to a maximum of one year.</p>	

Related Schedule 12 (Planning Act, 1990) Comments:

Section / Change	Description	Comments / Insights	Requests to Province
<p>Schedule 12</p> <p>37</p> <p>Community Benefits Charge (CBC) By-law</p>	<p>Current density bonusing provision will be replaced with new CBC provisions.</p> <p>A municipality can have only one CBC By-law.</p>	<p>Under the new s37, there is no mechanism for increasing height and density zoning of development projects, which typically enables intensification and supports the province's goal of increasing the housing supply. The removal of this mechanism, parkland under s42, and the significant changes to charges for growth-related capital (DCs and CBCs), leaves municipalities with fewer revenue tools.</p> <p>In the City's experience neighbourhood associations in and around the Downtown supported a s37 process as it provided certainty and a mechanism to achieve community benefits as a result of tall building development. There were no appeals to the s37 provisions in the new Downtown Secondary Plan or in implementing zoning by-law.</p> <p>The new s37 does not permit a CBC By-law to contain area specific rates for different parts of a municipality.</p> <p>A municipality is only permitted to have one CBC By-law and there is no ability for a municipality to provide exemptions which suggests that a municipality cannot have varying, or area specific, CBCs.</p> <p>A CBC is of no benefit to the City if the calculation does not permit a charge at a rate higher than the parkland dedication rates to ensure that the CBC is sufficient to pay for parks, libraries and other essential soft services.</p> <p>A CBC makes sense in an urban area where it isn't possible to build a traditional park but, as currently written, the legislation will pit urban vs suburban areas in terms of how the charge is calculated and the monies spent if the CBC stays at the equivalent of a parkland dedication rate.</p>	<p>The City requests the Province to enable a municipality to have a city-wide community benefit charge by-law or area-specific by-laws provided only one community benefit by-law applies in any given area;</p> <p>The City requests the Province to include the ability to set varying CBC rates for different areas/zones within a municipality.</p> <p>The City requests the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>Schedule 12 37 (4), 37 (5), Exclusions</p>	<p>A CBC will not be able to be imposed on prescribed types of development (not yet prescribed) and cannot be imposed for services collected through a DC By-law or for a prescribed list of services (not yet prescribed)</p>	<p>Limitations will be placed on what services a municipality can collect for through a CBC By-law and what types of developments are subject to a CBC.</p> <p>There is no express statement allowing municipalities to establish exemptions from CBCs.</p>	<p>The City requests the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime.</p> <p>The City requests the Province to clearly prescribe any limitations on services or types of development subject to a CBC after a transparent and thorough stakeholder consultation process.</p> <p>The City requests the Province to allow municipalities to establish their own exemption policy for CBCs.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>Schedule 12 37 (6), (7), (8) In-kind contributions</p>	<p>A municipality may allow an owner of land to provide to the municipality facilities, services or matters and the municipality shall provide a value to that provision which will be deducted from the CBC the developer is required to pay.</p>	<p>No authority to enter into or register an agreement for an in-kind contribution is included in the legislation.</p> <p>No authority to require the owner of land to provide a facility, service or matter. For certain matters (e.g., parkland) municipalities should be able to require the matter to be provided in-kind.</p>	<p>The City requests the Province to add the following provisions to Section 37 of the <i>Planning Act</i> as 37(6.1) and (6.2) in Schedule 12:</p> <p>a) "6.1 Where an owner of land elects to provide an in-kind facility, service or matter because of development or redevelopment in the area to which a community benefits charges by-law applies, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facility, service or matter."</p> <p>b) "6.2 Any agreement entered into under subsection (6.1) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the <i>Registry Act</i> and the <i>Lands Titles Act</i>, any and all subsequent owners of the land."</p> <p>The City requests the Province to add the ability for a municipality to require a facility, service or matter in-kind under agreement which may be registered on title. See related request within Section 42.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>Schedule 12 37 (9) CBC Strategy</p>	<p>Before passing a CBC By-law a municipality must prepare a strategy that identifies the facilities, services and matters that will be funded with community benefits charges; and complies with any prescribed requirements (not yet prescribed).</p>	<p>There is currently no detail as to what is required in a CBC strategy or the prescribed requirements. There is no timeline for how long a CBC By-law can be active or requirements for updating. There is no detail as to how to calculate a CBC or restriction on that calculation other than Section 37(12).</p>	<p>The City requests the Province to enshrine revenue neutrality in the proposed legislation and if not, create a municipal compensation fund to support municipalities whose revenues decline under the proposed community benefit charge regime.</p> <p>The City requests the Province to provide the later of four years or the expiry of the current development charges by-law, from the date of enactment of the regulation that sets out any prescribed requirements for the community benefit charges (CBC), before a municipality must adopt a CBC By-law.</p>
<p>Schedule 12 37 (12) Max % of land value</p>	<p>The amount of a CBC is required not to exceed a prescribed percentage of the value of the land (not yet prescribed).</p>	<p>The CBC cap will be a percentage of the land value. Different percentages for different municipalities or classes of municipalities and for different values of land may be prescribed by the Minister. The construction cost to provide parks, recreation centres, libraries, etc. is somewhat consistent across municipalities but land values vary significantly.</p> <p>Land values not only fluctuate throughout the year and between municipalities, they can also vary inside a municipality. Prescribing a percentage is tricky because:</p> <ul style="list-style-type: none"> (a) A less desirable neighbourhood will have lower land value but could have greater needs for 'soft' services; (b) Less populous municipalities can have higher growth-related costs due to the availability of fewer suppliers and fewer economies of scale; and (c) It can be very costly to provide services for new residents in built up communities. <p>This proposed one size fits all approach removes the necessary flexibility that municipalities need in order to ensure that infrastructure required by growth can be constructed in a manner that is fiscally sustainable and fair to all taxpayers.</p>	<p>The City requests the Province to remove the cap based on land values and explore other options such as the current DC methodology or a cap based on construction value.</p>

Section / Change	Description	Comments / Insights	Requests to Province
<p>Schedule 12 37 (13) to (22) Payment under protest</p>	<p>Where the owner is of the view that the required CBC exceeds the prescribed percentage of land value there is a back and forth appraisal process to settle the dispute.</p>	<p>There is no other appeal or complaint process in the legislation.</p> <p>A municipality will need to retain at least three appraisers at all times. Depending on how a CBC is to be calculated and the land values in a municipality, some municipalities may never be subject to payment under protest while others will regularly be challenged through this section. The administration of such a dispute process is not within the City's administration budget.</p> <p>The cost of an appraisal will need to be borne by municipalities and developers in resolving a payment under protest. Presently, this cost is estimated at a minimum of \$6,000 per appraisal. It is unclear if a CBC can recover this cost or if it will need to be passed to property tax payers.</p> <p>The cost of appraisals and the administration of such a dispute resolution system is not built within administration budget of a municipality; it would require a municipality to face increased costs.</p>	<p>The City requests the Province to remove the cap based on land values and explore other options such as the current DC methodology or a cap based on construction value with a corresponding revised dispute resolution process.</p>
<p>Schedule 12 37 (27) Spending requirement</p>	<p>Municipalities will be required to spend or allocate 60% of the CBC fund each year.</p>	<p>A system whereby funds are raised and immediately spent is not necessarily the most effective or financially responsible way to build a city.</p> <p>Municipalities need flexibility to plan to meet growth demands and respond to changing trends.</p> <p>The term "allocate" is not defined.</p> <p>Depending on how "allocate" is defined, this CBC requirement may not allow for the planning and construction of large dollar value facilities, services and matters with CBC funds.</p>	<p>The City requests the Province to define "allocate" such that Council approval of a proposed capital plan, in principle, meets the requirement.</p>

Section / Change	Description	Comments / Insights	Requests to Province
Schedule 12 37 (28) Reporting requirement	Municipalities shall provide prescribed reports to prescribed persons at such times as prescribed (not yet prescribed).	The reporting requirements are extremely vague.	The City requests the Province to provide clear, non-onerous, reporting regulations for one annual report.
Schedule 12 42 Parkland By-law	A Parkland By-law is no longer in effect once a CBC By-law has been passed.	If a municipality adopts a CBC By-law they lose the ability to require parkland within a subdivision.	The City requests the Province to amend Section 42 of the <i>Planning Act</i> to provide additional predictability and transparency between Sections 37 and 42, and to support the achievement of complete communities in accordance with Amendment 1 of the Growth Plan, 2017 as follows:
Schedule 12 51.1 Plan of Subdivision	Plans of subdivision that are approved with a condition of parkland dedication are not subject to a CBC By-law.	<p>This poses a financial risk to municipalities for subdivisions that are approved with Section 51.1 requirements and are developed after a municipality adopts a CBC By-law or the transition period ends.</p> <p>Subdivisions with Section 51.1 requirements will not pay a CBC meaning that the City will be short revenue for all the soft services that were removed from the DC Act. This will become a pressure on existing tax payers.</p>	<p>a) enable municipalities to secure the conveyance of land for park purposes as a condition of the development or redevelopment of land along with the ability to secure a community benefits (facilities) charge in accordance with Section 37 of the <i>Planning Act</i>;</p> <p>b) clarify that where a municipality secures the conveyance of land for park purposes as a condition of development or redevelopment, the community benefits (facilities) charge will not include a payment in lieu of parkland for the site;</p> <p>c) revise for residential development the maximum conveyance of land for park purposes to be based on a maximum per cent of the development site as determined through a community benefits (facilities) charge strategy and as established by by-law as opposed to 5 per cent of the land currently proposed in Bill 108; and</p> <p>d) allow municipalities to set different maximum rates for the conveyance of land for park purposes for residential development based on building type(s) and intensity of development to ensure equitable contributions between different types of residential development and to support parkland need generated by the development.</p>