

The Regional Municipality of York

Committee of the Whole
Finance and Administration
June 13, 2019

Report of the Commissioner of Finance
and the Chief Planner

Bill 108, More Homes, More Choice Act, 2019: Implications for the Development Charges Act and the Planning Act

1. Recommendations

1. Council endorse this report and Attachment 1 as the Region's submission to the Province in response to the Environmental Registry of Ontario (ERO) postings: Bill 108 – (Schedule 3) – the More Homes, More Choice Act: Amendments to the Development Charges Act, 1997 (ERO # 019-0017) and Bill 108 – (Schedule 12) – the More Homes, More Choice Act: Amendments to the Planning Act, 1990 (ERO # 019-0016).
2. The Regional Clerk circulate this report and Attachment 1 to:
 - a. The Clerks of the local municipalities
 - b. The local Members of Provincial Parliament
 - c. The Minister of Municipal Affairs and Housing
 - d. The Building Industry and Land Development Association – York Chapter (BILD)
 - e. The Association of Municipalities of Ontario (AMO) and the Municipal Finance Officers' Association of Ontario (MFOA)

2. Summary

This report seeks Council endorsement of staff responses to Schedules 3 and 12 of [Bill 108, the More Homes, More Choice Act, 2019](#) ("Bill 108"). Schedule 3 pertains to the *Development Charges Act, 1997*. Schedule 12 pertains to the *Planning Act, 1990*. Detailed staff comments are provided in Attachment 1.

Key Points:

- Bill 108 was tabled on May 2, 2019 and proposed amendments to 13 statutes
- Staff responses to Schedules 3 and 12 were submitted to Ontario's Environmental Registry on May 31, 2019 prior to the June 1, 2019 deadline

- Bill 108 is pending Royal Assent in June
- Bill 108 makes changes to municipal land use planning and how growth-related infrastructure and community services are funded
- York Region shares the Province’s commitment to ensuring housing supply and improving affordability. However staff have significant concerns that the Bill could undermine the Province’s central objective of bringing housing online faster, and restrict the ability for municipalities to pay for vital infrastructure
- The regulatory framework necessary to implement Bill 108 should be developed in partnership with municipalities

3. Background

On May 2, 2019 the Province tabled Bill 108, the cornerstone of its Housing Supply Action Plan

In November 2018, the Province announced its intention to develop a Housing Supply Action Plan (“Action Plan”) aimed at addressing challenges and barriers to new home ownership and rental housing.

On May 2, 2019, the Province tabled Bill 108, as the cornerstone to the Action Plan. The Bill contains extensive legislative changes to the planning approval process and mechanisms for funding growth-related infrastructure. Bill 108 amends 13 statutes including those dealing with conservation authorities, development charges, environmental assessments, the Local Planning Appeal Tribunal (previously known as the Ontario Municipal Board - OMB), and land use planning.

Staff comments on changes to the *Environmental Assessment Act, 1990* and the *Conservation Authorities Act, 1990*, were provided separately and Council is receiving memoranda on those comments on this agenda. Neither consolidated staff comments, nor a consolidated report to Council, on Bill 108 was possible as there was no formal consultation mechanism on the overall Bill. Individual parts and schedules were released for comment on the Environmental Registry with different commenting periods.

Staff comments on Schedules 3 and 12 of Bill 108 were submitted to the Province on May 31, 2019 to meet the comment deadline

The Province provided a 30 day commenting period for Schedules 3 and 12 of the Bill, which dealt with development charges and land use planning respectively. York Region responded with a joint letter from the Commissioner of Finance and Regional Treasurer and the Chief Planner (Attachment 1). Due to the short timeframe, it was not possible to bring the staff response to Regional Council for endorsement prior to submission through the Environmental Registry on May 31, 2019. Should Council have any additional comments, staff will forward them to the Province.

An interdepartmental effort was undertaken to provide feedback on those Schedules of the Bill. In addition, staff consulted with local and neighboring municipalities, the Association of Municipalities of Ontario (AMO), and the Municipal Finance Officers' Association of Ontario (MFOA) and the Regional Planning Commissioners of Ontario (RPCO) in developing the responses.

York Region has also submitted comments on other schedules of Bill 108

Attachment 2 to this report summarizes staff comments on other sections of the Bill. Staff are supportive of some changes, such as removing the requirement for low risk projects to undertake environmental assessments (under the *Environmental Assessment Act, 1990*).

In other instances the changes have little to no impact on the Region, such as those amendments to the *Education Act, 1990*, *Environmental Protection Act, 1990* or the *Workplace Safety and Insurance Act, 1997*. Some of the changes through Bill 108 directly impact the Region's local municipalities, such as those to the *Ontario Heritage Act, 1990*. Staff will continue to monitor the progress of these Schedules and any changes that may arise and update Council as necessary.

Bill 108 is pending Royal Assent following amendments at Standing Committee

At Standing Committee on Bill 108, Schedule 3 (*Development Charges Act, 1997*) was amended so that paramedic services (referred to as ambulance services) can continue to be an eligible service. In addition, development charge payments for non-profit housing will now be phased over 21 equal annual payments, beginning at the earlier of occupancy permit or first occupancy of the development. No further changes were made to Schedule 12 of the Bill (*Planning Act, 1990*). The changes at Standing Committee do not alter staff concerns with the Bill (as outlined in the report and Attachments 1 and 2).

Bill 108 is pending Royal Assent in early June. While some of the Schedules (or portions of the Schedules) will come into effect on the date of Royal Assent, others will come into effect on a date to be named by proclamation of the Lieutenant Governor.

Much of what Bill 108 changes will be clarified and come into force through regulations

Many of the changes through Schedules 3 and 12 of Bill 108 will require new or updated regulations. Through conversations with the Province, these regulations are expected to be developed over the coming summer months. Staff have asked that the Province provide a minimum 90 day commenting period once the regulations are released and to work with staff to develop the content. In the event that the commenting period is shorter than the requested 90 days, staff will work with these time constraints and report to Council after comments were submitted.

4. Analysis

York Region shares the Province's commitment to ensuring housing supply and improving affordability however the proposed changes could counter the Province's central objective of bringing housing online faster

With a five year supply of registered and draft approved housing units and a 20 to 23 year supply of designated land, York Region has a healthy housing supply to accommodate growth. Despite this, York Region currently has a shortage of affordable housing options. Increasing housing prices are largely influenced by both supply and demand based pressures, some of which are beyond a municipality's control.

While staff are supportive of some of the changes in Bill 108, much of the proposed changes do not assess and consider all factors that impact housing supply and cause affordability challenges. It is uncertain how some of the proposed changes will result in achieving the five main objectives of Ontario's Housing Supply Action Plan (Speed, Mix, Cost, Rent and Innovation). The Region is committed to working expeditiously with the development industry, the Province and its affiliated agencies and other partners in order to advance these objectives.

Regional staff are supportive of positive elements of Bill 108

Bill 108 contains extensive legislative changes focusing on the five themes of speed, cost, mix, rent and innovation aimed at improving housing supply and affordability.

Regional staff support positive changes within Bill 108 such as:

- removing the requirement for low risk projects to undertake environmental assessments
- appointing more Local Planning Appeal Tribunal adjudicators to deal with appeals
- the removal of the 10 per cent discount for determining development charges for eligible services

Bill 108 repeals significant amendments made to reform the land use planning and appeals systems

Bill 108 makes changes to the *Planning Act, 1990* including reduced approval timelines, expanded grounds for appeal and reintroduction of de novo hearings at the discretion of the Local Planning and Appeals Tribunal (LPAT). Shorter timelines and proposed LPAT changes will limit the ability to obtain meaningful public and stakeholder input and reduce the decision making authority from local councils upon appeal. In addition to staff comments, Attachment 1 to this report provides previous Council positions on OMB reform.

Staff also expressed concerns with:

- limiting the application of inclusionary zoning policies to Major Transit Station Areas (“MTSAs”) and areas where a development permit system are in place
- whether implementation of a development permit system will expedite approvals given the amount of detailed up-front work required by municipalities
- the repeal of parkland bylaws and parkland condition to approval of plan of subdivision

Improved land-use planning processes could have been achieved without the changes through Schedule 12 of Bill 108

In the staff response to the Province a number of alternative approaches to streamline the land-use planning process have been recommended by staff, including:

- consolidating *Environmental Assessment Act, 1990* and *Planning Act, 1990* approvals
- simplifying/reducing the complexity of the official plan processes
- respecting local decision making by restricting the basis of appeals to conformity matters and prohibiting de novo hearings

Changes to the *Development Charges Act, 1997* may create significant financial risks and could delay infrastructure investments

Amendments to the *Development Charges Act, 1997* manifestly change the way growth-related infrastructure is funded. These changes are anticipated to reduce development charge collections, increase financial risks, and create a greater administrative burden on the Region. By moving away from the principle of growth paying for growth, these changes could delay infrastructure investments and slow the delivery of housing supply. Specific concerns include:

- freezing development charge rates at site plan application or zoning amendment application could delay the construction of, and increase the debt risks associated with, growth-related projects not currently in the Region’s Development Charge Bylaw such as the Yonge Subway Extension
- freezing development charge rates without a deadline to construct does not encourage the timely delivery of housing supply
- delaying and phasing the payment for prescribed classes of development charges results in cash flow challenges, and creates debt pressure for municipalities
- administration of delayed and phased payments would necessitate additional staff resources. If municipalities cannot recover these costs from growth, this would be a direct impact on property taxes
- a number of Regional services would no longer be eligible for development charge funding despite being growth related and their importance to building complete communities

Staff response highlighted proposals that could achieve cost certainty for stakeholders while protecting municipal fiscal health

In response to the Province's invitation to comment, staff recommended a number of actions that could address concerns regarding cost certainty while maintaining municipal fiscal health and supporting delivery of needed infrastructure.

Some of those key recommendations are:

- ensuring a fairer sharing of risks by providing municipalities with ability to collect full or partial payment of development charges at site plan or zoning amendment application
- targeting the delayed and phased payment program to purpose-built rental and non-profit housing development, and providing municipalities with the ability to secure their interests
- addressing the funding mechanisms for the growth-related portion of Yonge Subway Extension through regulations
- ensuring municipalities have sufficient time to adopt a new development charge bylaw and community benefits charge bylaw in accordance with Bill 108

Many key details regarding Bill 108 will be provided through regulations

While Bill 108 is pending Royal Assent, a number of key issues have yet to be determined. It is expected that further clarity will be provided in the forthcoming regulations.

Some of the key issues requiring further regulatory clarity include:

- transition provisions
- rules relating to the freezing of development charge rates and phasing in of development charges for prescribed classes of development
- list of services eligible for development charge recovery
- the implementation and administration of the community benefits charge
- rules relating to development charge exemptions for secondary suites

Comments provided to the Province, under Bill 108, are aligned with a number of Vision 2051 Goal Areas

Detailed comments provided to the Province in Attachment 1 are aligned with many of the Region's Vision 2051 Goal Areas, including:

- open and responsive government
- liveable cities and complete communities
- living sustainably

- a place where everyone can thrive
- appropriate housing for all ages and stages

5. Financial

It is expected that Schedules 3 and 12 of Bill 108, once in force, will result in significant development charge shortfall and debt pressures for the Region

Development charges are a highly variable source of revenue that is dependent on the housing market and non-residential development. The level of collections is the key driver of the Region's capacity to fund growth infrastructure and its overall debt levels. The Region's current 10 year capital plan is dependent on the assumption that, on average, \$380 million of development charges will be collected annually. Of this amount, approximately \$290 million is needed annually to pay the principal and interest on existing development charges debt. The remainder of about \$90 million would be available annually to construct new growth-related projects.

While the impact of Bill 108 cannot be fully assessed until the regulations become available, early analysis suggests that, once Bill 108 is in force, there could be an estimated development charge shortfall in the order of \$300 million over five years. The impact of this shortfall could require deferrals of growth-related infrastructure projects to avoid taking on unsustainable debt levels. This could result in delayed development which would be counter to the Province's objective of accelerating housing supply.

Staff will continue to review and assess the fiscal impact of the other changes through Bill 108 and report back to Council as necessary.

6. Local Impact

Bill 108 affects all of the local municipalities

Bill 108, through its amendments to 13 statutes, impacts all of the Region's local municipalities. Specifically, Schedules 3 and 12, dealing with land use planning and development charges have a direct impact on how local municipalities will continue to grow and how they are to fund that vital infrastructure required to accommodate that growth.

7. Conclusion

Staff continue to advocate for a partnership with the Province in developing the accompanying regulatory framework associated with Bill 108

Bill 108 was an omnibus bill that, amongst other areas, changes land use planning and how growth-related infrastructure is funded. While Bill 108 is pending Royal Assent, much is still left to be determined through the enabling regulations. Staff hope to work with the Province

in order to develop a regulatory framework that strikes an equitable balance between the needs of development industry and the concerns of municipalities.

For more information on this report, please contact Edward Hankins, Director, Treasury Office at 1-877-464-9675 ext. 71644 and/or Sandra Malcic, Director, Long Range Planning at 1-877-464-9675 ext. 75274. Accessible formats or communication supports are available upon request.

Recommended by:

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Commissioner of Finance and Regional Treasurer

Paul Freeman, MCIP, RPP
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Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

June 6, 2019
Attachments (2)
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