

Meeting Date: September 17, 2019

Subject: Comments regarding Proposed Regulations related to Bill 108 - More Homes and More Choices Act, 2019

Submitted By: Peggy Tollett, General Manager, Community Services
Heather Haire, Treasurer, Finance and Infrastructure Services

RECOMMENDATION

That the overview of comments regarding proposed Bill 108: More Homes and More Choices Act, 2019, outlined in Staff Report 2019-0112 be endorsed;

That a copy of staff report 2019-0112 be forwarded to the Region of Peel and the Ministry of Municipal Affairs and Housing.

REPORT HIGHLIGHTS

- The revision of the LPAT process to de novo hearings will increase costs associated with planning appeals and undermine Council's decision-making authority.
- The changes to the *Development Charges Act* (DC Act) and the implementation of the Community Benefits Charge regulations will likely negatively impact Town staff resources and require additional, unaccounted for, studies, policy development and funding.
- Shifting funding for "soft services" from the DC Act into a Community Benefits Charge may result in negative financial impacts for the Town if the legislative changes do not continue with the policy that growth continues to pay for growth.
- The Town will likely see an added administrative burden as a result of the Minister's proposed regulations.

DISCUSSION

Background

Since January 2019, the Province has brought forward numerous initiatives and legislation with impacts to the land use planning system. The Town has provided comments to the Province in response to each initiative and legislation to highlight how these changes would likely impact the Town.

On January 31, 2019, the Town submitted comments to the Province regarding its Increasing Housing Supply in Ontario consultation. This consultation was based on five

broad themes, including speed, mix, cost, rent and innovation, all related to increasing housing supply in Ontario. It was the first step in developing the Housing Supply Action Plan.

On February 28, 2019, the Town submitted comments to the Province on various proposals including:

- Proposed Amendment to the Growth Plan for the Greater Golden Horseshoe, 2017 (ERO #013-4504)
- Proposed Modifications to O. Reg. 311/06 (Transitional Matters – Growth Plans) (ERO #013-4505)
- Proposed Framework for Provincially Significant Employment Zones (ERO #013-4506)
- Proposed Modifications to O. Reg. 525/97 (Exemption from Approval – Official Plan Amendments) under the *Planning Act*, 1990 (ERO #013-4507)

This consultation was the first step in developing the new Growth Plan.

On May 2, 2019, the Province released More Homes, More Choice: Ontario's Housing Supply Action Plan and the accompanying Bill 108 – the *More Homes, More Choice Act*, 2019 (Bill 108). The Action Plan set out a series of coordinated initiatives aimed at increasing housing supply and streamlining development approvals, and this included a commitment to review the Provincial Policy Statement. Bill 108 proposed to amend thirteen different statutes which included:

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| • <i>Planning Act</i> | • <i>Environmental Assessment Act</i> |
| • <i>Development Charges Act, 1997</i> | • <i>Cannabis Control Act</i> |
| • <i>Local Planning Appeal Tribunal Act</i> | • <i>Labour Relations Act</i> |
| • <i>Conservation Authorities Act</i> | • <i>Occupational Health & Safety Act</i> |
| • <i>Endangered Species Act</i> | • <i>Workplace Safety & Insurance Act</i> |
| • <i>Ontario Heritage Act</i> | • <i>Environmental Protection Act</i> |
| • <i>Education Act</i> | |

On May 18, 2019, the Province released A Place to Grow – Growth Plan for the Greater Golden Horseshoe (*A Place to Grow*, 2019). The changes to the Growth Plan allowed for the designation of employment lands and settlement boundary expansions outside of a municipal comprehensive review (MCR) and reduced the density targets for development to 2041 from 80 persons and jobs per hectare to 50 persons and jobs per hectare. The Growth Plan also changed the definition of undelineated built-up areas to small rural settlements and adjusted the process of applying Provincial mapping of agricultural and natural heritage lands.

On June 21, 2019 the Province released proposed new regulations and regulation changes under the *Planning Act*, *Development Charges Act, 1997* and *LPAT Act* related to Schedule 12 and Schedule 3 of Bill 108 – the *More Homes, More Choice Act*, 2019.

The following postings were published on the Environmental Registry of Ontario website:

- ERO # 019-0181
Proposed new regulation and regulation changes under the Planning Act
- The proposed regulations for the LPAT were posted on Ontario's Regulatory Registry: Proposal #: 19-MAG007
- ERO #019-0184
Proposed changes to O. Reg. 82/98 under the Development Charges Act
- ERO #019-0183
Proposed new regulation pertaining to the community benefits authority under the Planning Act

On September 3, 2019 the following regulations came into force:

- Ontario Regulation 299/19 – “Additional Residential Units”
- Ontario Regulation 296/19 – amending Ontario Regulation 174/16 “Transitional Matters - General”
- Ontario Regulation 297/19 – amending Ontario Regulation 543/06 “Official Plans and Plan Amendments”
- Ontario Regulation 298/19 – amending Ontario Regulation 544/06 “Plans of Subdivision”
- Ontario Regulation 301/19 – amending Ontario Regulation 173/16 “Community Planning Permits”
- Ontario Regulation 300/19 – amending Ontario Regulation 232/18 “Inclusionary Zoning”

These regulations have brought items pertaining to the LPAT transition, community planning permits, and additional units into effect.

A detailed description is provided below of what changes have been brought forward in the proposed and in effect new regulations and regulations changes, as well as what anticipated impact to Caledon these changes will incur.

Planning Act:

ERO # 019-0181, Ontario Regulation 299/19, Ontario Regulation 296/19, Ontario Regulation 297/19, Ontario Regulation 298/19, Ontario Regulation 301/19, Ontario Regulation 300/19

1. Transition

The transition matters established under O.Reg 296/19 stipulate that all LPAT cases not scheduled for hearing at which evidence is to be brought forth (which does not include “a case management conference, pre-hearing conference, preliminary hearing, settlement conference, motion or other hearing event held to consider preliminary matters”) are now subject to the revised rules put forward under Bill 108.

Impact:

The Town has several cases under appeal that, according to the transition regulations, will be shifted to the revised LPAT hearing rules. The shift of at least one of these cases (appeal from MJJJ Developments Inc. regarding the proposed asphalt plant, case number: PL190106) to the new rules represents a considerable loss of staff efforts, as staff will need to review the work already undertaken and reconsider their approach and considerations already applied to this case. Having cases still under review from the two previous OMB/LPAT rules may also cause confusion regarding decisions moving forward.

2. Community planning permit system

The regulations pertaining to Community Planning Permits stipulate a municipality is not permitted to appeal a Community Planning Permit instituted by the Minister.

Impact:

Without being permitted an appeal process a municipality has no ability to object to the imposition of a Planning Permit System, regardless of the impacts that might result due to its implementation.

3. Additional Residential Unit Requirements and Standards

The implementation of O.Reg 299/19 sets requirements and standards for additional units required by municipalities. These requirements and standards primarily focus on parking provisions required for each additional residential unit. Municipalities are also prohibited from restricting who is able to reside in an additional unit and prohibit municipalities from

restricting the construction of an additional unit according to a primary or ancillary building's construction date.

Impact:

It is likely that the changes to the *Planning Act* and the accompanying O.Reg 299/19 will require the Town to allow significantly more additional units in pre-existing and newly developed neighbourhoods. These additional units could result in significant increases to neighbourhood densities, which may place unexpected stress on service provision and parking allocation in many of the Town's communities. The increased density from additional units may also be beneficial towards realizing complete communities and additional stability for local commercial hubs.

LPAT Act: Proposal #19-MAG007

Proposed changes to both the *Local Planning Appeal Tribunal Act* and the *Planning Act* remove a number of provisions introduced under Bill 139 and return to a process similar to the Ontario Municipal Board.

Proposed Changes:

- Returning to “de novo” hearings based on wider grounds of appeals (no longer limited to inconsistency with provincial policy statement, provincial plans or official plans)
- Providing the Tribunal with the authority to approve, approve with modifications or reject municipal decisions
- Reverting to a single hearing from the two-stage appeal process established through Bill 139
- Eliminating the rights of third parties (i.e. private citizens, corporations) to appeal both subdivision approvals and non-decisions on official plans
- Allowing new evidence and the examination of witnesses at an LPAT hearing
- Scheduling of an appeal hearing with the tribunal will be the transitional indicator
- Proposing shorter timelines for processing of development applications before they can be appealed to LPAT for a non-decision:
 - For Official Plan Amendments, from 210 days (7 months) to 120 days (4 months)
 - For Zoning By-law Amendments, from 150 days (5 months) to 90 days (3 months)
 - For Plans of Subdivision, from 180 days (6 months) to 120 days (4 months)

Anticipated Impacts:

- Less emphasis on council decisions in the LPAT decision process
- More authority given to tribunal members
- Lengthy and costly hearings
- Loss of staff work done in anticipation of case management conferences as a result of transition regulations
- Increased back log of cases at the Tribunal
- Less available time for public consultation due to the reduced processing timelines
- Increase in the number of appeals due to non-decisions
- Attempting to meet the shorter timelines in order to avoid appeals of non-decision may result in less time for an applicant to respond to technical comments prior to a report being brought forward to Council for a decision
- Require an increase of staff to reduce the processing timelines; however, the external agencies would also need to consider doing the same

Development Charges Act: ERO #019-0184

Bill 108 proposes to change the administration of Development Charges (DC), with all DCs being frozen at an earlier stage in the planning process, at the application date. Moreover, DCs would be deferred for five types of buildings. Rental housing, institutional, industrial and commercial DC's which can be paid in six installments and non-profit housing can be paid over 20 installments. In any deferral option, the first DC installment is to be paid at occupancy. The contents of the Development Charges provisions are largely set to be directed by regulations, for which ERO #019-0184 contains preliminary considerations and intended policy direction from the Province. The attached to this report is the submission from the Municipal Finance Officers' Association of Ontario (MFOA) to the Ministry provides detailed comments on these considerations (Schedule A).

The regulation provides the following information and direction:

- Municipalities to transition to a new/amended DC By-law by Jan 1, 2021.
- DC deferrals for commercial developments are now limited to offices and shopping centres.
- DCs are fixed/calculated at site plan application date and are frozen for two years from site plan approval.
- Deferred fees and frozen fees can have interest rates applied, and the Province has advised municipalities can establish their own rates.
- Exemptions are provided (based on current DC Act), where DC funds cannot be spent.

1. Transition

The transition provision is intended to provide some flexibility for municipalities as they migrate to the Community Benefits Charge Authority (discussed in more detail later in this report). Municipalities would be able to transition to the Community Benefits Charge Authority once the legislative provisions come into force (as will be set out in proclamation). It is proposed that the legislative provisions related to Community Benefits Charges would come into force on January 1, 2020, however municipalities have until January 1, 2021 to implement the charge and would no longer be able to charge Development Charges (DC) for soft services after this date.

Impact:

Town Staff recommend an alternative to the January 1, 2021 prescribed date could be either of the following dates:

- The date the DC by-laws come to a natural expiry, or are repealed by Council;
- 3 years after the Regulations detailing the proposed cap, and the requirements of the Community Benefits Strategy are finalized.

The changes from Bill 108 are significant and drastic when compared to the 1997 amendment to the DC Act which allowed municipalities two years to transition into the revised regulations (within the same Act). Now municipalities must operate under a completely new regime, under a different Act which is why a longer transition period is being recommended by Staff. Staff are concerned that it will not be possible to effectively complete a Community Benefit Charge (CBC) strategy and adopt a by-law prior to January 2021 while ensuring revenue neutrality.

The draft Regulations do not describe any of the requirements that municipalities must follow to complete a Community Benefits Strategy. It is reasonable to assume that a CBC strategy will require the same transparency, effort, detail and public consultation that a DC Background Study requires. It took approximately a full year to complete the Town of Caledon's 2019 DC background Study under the same rules and regulations since 1997. There are currently only two prominent consulting firms in Ontario that provide professional services to complete the DC process. These firms will likely undertake the CBC process for over 200 Ontario municipalities which will cause resource issues unless more transition time is provided.

2. Development Charges Deferrals

The Bill amended the *Development Charges Act, 1997* ("Act") to provide for the deferral of DC's for specified types of development, until occupancy. The rationale for this deferral

is the alleviation of cashflow pressure on cost-sensitive developments (e.g. purpose-built rentals), with the hope that this will lead to an increase in these types of development.

The Act provides for the payment of development charges in six (6) equal annual installments commencing on the date of building occupancy for rental housing, institutional, industrial and commercial development. It also provides for twenty (20) equal annual installments commencing on the date of occupancy for non-profit housing development.

Impact:

Deferrals:

The proposed list of development types that will be subject to the DC deferral deviates significantly from what municipalities have chosen to support in current practice (e.g. institutional or non-profit housing). There is a case to be made for non-profit housing, legions, long term care homes, and some rental housing developments, however, providing this flexibility to the remainder of the proposed development types does not further the housing initiative or municipal finance perspective.

Municipalities are best positioned to determine if a development charge deferral on office buildings and shopping centres, aligns with economic development priorities and local planning circumstances. As with industrial developments, the need for municipalities to provide the requisite infrastructure to service these developments will still exist. Without available cash flow, an undue burden will be placed on the municipal resources, and ultimately the local taxpayers will be subsidizing these developments.

The definition provided for rental housing under the proposed regulation is vague and the intent is unclear. Rental housing needs to be encouraged, however, growth in rental development is still growth; and growth needs to pay for growth. This broad definition of rental housing for development charge payment deferral will potentially expose municipalities and taxpayers to unnecessary risk. Staff recommends the province provide a mechanism to ensure affordable rentals are not converted into market housing at occupancy.

Staff recommend non-profit housing developments qualify as a non-profit organization as per Canada Revenue Agency to be eligible for a DC deferral. Staff also recommend only non-profit institutional developments should be eligible for a DC deferral.

Collection:

Staff are concerned with the collection issues the DC deferrals will cause municipalities between the period when a building permit is issued and when the final DC installment payment is due. With respect to the remaining payments (owing over the next 5 to 20 years, depending on the development type), a municipality has no mechanism to ensure that the developer ultimately pays the full amount of the DCs. A further complication is when the ownership changes during the payment period; how will municipalities be able to track the changes in ownership? Staff recommend the following collection tools be provided to municipalities:

- Municipalities should be given authority to register deferral agreements on title to the development lands.
- Any unpaid DC's that are added to the tax roll be given priority lien status to increase recovery in a bankruptcy/power of sale scenario (pursuant to s 1(2.1) and (3) of the *Municipal Act, 2001*).
- Municipalities should be provided with clear legislative authority to implement other methods to secure the deferral payments.
- Staff recommend amending the Building Code to allow the CBO to withhold the occupancy permit until the first installment of the development charges are paid. The *Building Code Act, 1992*, currently allows the CBO of the municipality to withhold the building permit until all fees and charges (including development charges) are paid. There is nothing in the current *Building Code Act, 1992* that speaks to withholding the occupancy permit until all fees and charges are paid.

3. Period of time for which a Development Charge freeze would be in place

The Minister is proposing that DC's would be frozen until two years from the date the site plan application is approved, or in the absence of the site plan application, two years from the date the zoning application was approved.

Impacts:

Bill 108 provides that the DC rates be calculated at the time Council receives a site plan application or a rezoning amendment application. A time period in which the DC rates will be frozen is now proposed by the Minister; two years from the date the application is approved. There could potentially be a significant time lapse between the date the DC rate is frozen (application date) and approval date. Staff recommend the following:

- Freezing the DCs at site plan application stage encourages applicants to apply for site plan approval early with no intention to proceed to Building Permit. Staff recommend that DCs be frozen at the site plan approval date, otherwise there is no incentive to resolve comments in a timely manner for premature submissions.
- The length of the DC rate freeze should be limited to a maximum of one year from the complete application date to permit issuance, to better provide revenue certainty.

4. Interest rate during deferral and freeze of development charges

The amendment to the *Act* will, upon proclamation of Bill 108, provide municipalities with the ability to charge interest on development charges payable during a deferral of the charges, as well as during a development charge 'freeze' from the date the applicable application is received, to the date the development charge is payable. The amended *Act* in both cases, states that interest cannot be charged at a rate above a prescribed maximum rate. The minister is not proposing to prescribe a maximum interest rate in the proposed regulations which Staff support.

Impact:

Since municipalities will be able to charge interest, staff will manage this process and apply a rate appropriate to the circumstances to ensure that the Town is not negatively impacted. It will be a challenge to determine what an appropriate and justifiable interest rate to charge would be and how to administer such a process.

5. Additional Dwelling Units

The amendment to the *Act* will, upon proclamation of the Bill, provide that the creation of an additional dwelling in prescribed classes of residential buildings and ancillary structures do not trigger a development charge. The creation of a second dwelling unit in prescribed classes of new residential buildings, including ancillary structures, is exempt from development charges as well. It is also proposed that within other existing residential buildings, the creation of additional units comprising 1% of existing units would be exempt from development charges.

Impact:

The *More Homes, More Choice Act, 2019* further reduces the number of units eligible for the DCs needed to recover the cost of growth-related infrastructure. If this type of intensification becomes significant (i.e. additional units), it will mean that there will be a shortfall in DC revenues in comparison with the amounts needed to recover growth related

capital costs. Staff are concerned that this provision could be used to evade the payment of development charges for single detached or semi-detached dwellings. For instance, creativity in the design of “stacked” dwellings could blur the lines and leave the Town open to challenges on whether a unit is a stacked townhouse or a single dwelling with a second dwelling unit (which would avoid paying DCs on the “second” stacked unit). There should be a clearly established process for identifying stacked townhouses or other form of main dwelling unit, from dwelling units with additional or second dwelling units.

In addition, ancillary structures may take different forms in different municipalities. Accordingly, Staff recommends providing municipalities with the flexibility to define the term to fit within their local context.

In regard to other residential dwellings can further clarification be provided by the ministry to understand whether a condominium building is intended to be included as an 'other residential building.' What happens when an apartment is converted to a condo, and what is meant by 1% of units?

Community Benefits Authority: ERO #019-0183

The changes resulting from the Province bringing the *Planning Act* into law, under Bill 108, included a complete transformation of section 37 (formerly the *Increased density, etc., parkland provision by-law*) into a provision for municipalities to create a Community Benefits Charges (CBC) by-law. The Community Benefits Charges provisions are set to take effect according to a prescribed transition period, which will be included in the Community Benefits Charges regulations, once finalized. The contents of the Community Benefits Charges provisions are largely set to be directed by regulations, for which ERO #019-0183 contains preliminary considerations and intended policy direction from the Province, and towards which the attached staff comment letter is addressed.

The provisions outlined in the draft regulations include:

1. Transition

The Minister has suggested the transition period to move “soft services” from municipalities DC by-law into a CBC by-law will be between January 1, 2020 and January 1, 2021, after which municipalities will not be permitted to collect for “soft services” under the DC by-law.

Impact:

The Town will be required to undertake the development of a CBC strategy, a CBC by-law and develop internal processes for the change in calculation and collection of fees for soft services during the transition period. Developing the procedures and documentation will be a significant undertaking for Town staff that will require additional resources, unaccounted for studies, and funding. There may be significant legal challenges to the CBC by-law regime as it will be completely new with no existing precedents. These potential legal challenges will take significant time and expense to resolve. The transition of “soft service” funding provisions from the *DC Act* into the *Planning Act* also complicates the departmental responsibilities in administering and funding the studies required to undertake the collection of Community Benefit Charges.

The proposed regulatory regime also proposes to “cap” the maximum that can be collected under a CBC by-law based on the appraised land value of a development. Draft regulations that detail the cap have not been provided for review. Due to the complexity of the cap on CBCs, staff recommend that the province consult on the draft regulations to provide municipalities with the opportunity to test the proposed caps in their local communities. The transition time should be the same as the DC Act changes.

The Town also has pre-existing agreements with developers entered into prior to these legislative changes with respect to parklands and other services which may be impacted unfavourably for the Town. Staff recommend the province formally recognize these pre-existing agreements, to avoid the potential of protracted legal action, if the status of these agreements are challenged.

Staff have also expressed concern to the Minister that under the current regulations parkland dedication provisions (S. 42, alternative parkland rates) cease to exist immediately upon proclamation. Staff recommend there should be no gap in this transition, and that the Province should not repeal alternative parkland rates until CBC By-laws are in place.

2. Reporting on community benefits and parkland

The Minister has indicated that annual reporting on community benefits and parkland funds collection and spending will be required under the regulations, including reporting on account details such as:

- Opening and closing balances of the special account
- A description of the services funded through the special account
- Details on amounts allocated during the year

- The amount of any money borrowed from the special account, and the purpose for which it was borrowed
- The amount of interest accrued on money borrowed

Impact:

The Town currently prepares reports for these items to provide transparency on how DCs are collected and utilized by the Town.

3. Exemptions from community benefits

Several housing types have been identified for exemption from CBCs by the Minister, with the intention of allowing needed affordable housing developments to be created at a reduced cost.

- Long-term care homes
- Retirement homes
- Universities and colleges
- Memorial homes, clubhouses or athletic grounds of the Royal Canadian Legion
- Hospices
- Non-profit housing

Impact:

The impacts of this provision to the Town are unclear, as the current proposed regulation lacks specificity regarding the identification/definition of exempt developments. There is a risk that these exemptions will not only be applicable to long-term affordable housing solutions, and ultimately have a negative impact on the Town's ability to fund "soft services" if the regulations do not provide sufficient specificity regarding which developments are exempt from CBCs. It also remains unclear how municipalities will be expected to calculate CBCs for mixed use developments (i.e. if only a portion of a development is not-for-profit housing while the rest is market housing).

The Province proposes that retirement home developments be exempt from a charge for community benefits. This development type is not defined in the proposal, and the intent is unclear. Without parameters, for-profit retirement homes and condominium developments marketed at seniors stand to benefit from this exemption. At the same time, municipalities will still need to build the community facilities that will service and benefit this segment of the population, but without the financial compensation to provide the appropriate services.

Staff recommend caution and consideration of unintended consequences of exempting retirement homes from a charge for community benefits due to the significant loss of revenue expected. These exempted properties will still rely heavily on soft services to support quality of life, and residents will still expect the Town of Caledon to provide these services. Staff also recommend that only non-profit organizations should be exempt.

4. Community benefits formula

The introduction of CBCs in the changes made to the *Planning Act* under Bill 108 included direction that CBCs must be collected as a prescribed percentage of property value of lands being developed. The Minister has indicated that the transition of “soft service” funding collection from DCs to CBCs should not have a negative impact on municipalities’ “soft services” revenue (i.e. be “revenue neutral”), and that it should allow for more predictable “soft services” charges.

Impact:

The effects of the CBC formula are still largely unknown, as the Minister has not yet released any specific details regarding the contents of the calculation formula. Staff have conducted analysis and determined that there is a significant risk of the CBC formula incurring a negative impact on the Town’s ability to collect sufficient funding for “soft services” and that the additional processes included in a CBC calculation will ultimately increase the complexity of determining development fees.

Further uncertainty exists in how the Town will plan for “soft services” as land values in Caledon can vary widely, depending on housing market conditions, property location, site servicing, or any number of other variables. Likewise, higher unit density of developments will require higher percentage cap rates, as a Community Benefits Charge will need to charge for providing “soft services” for an increased population on a piece of property that will likely not increase in value proportionally to the increase in density.

If the formula delivered by the Minister in the regulations is not flexible enough to provide certainty in a dynamic and constantly changing housing market, the Town will likely face decreased funding for “soft services” and increased uncertainty in its ability to have growth pay for growth.

5. Appraisals for community benefits

The Minister’s proposed process of determining the land value for a Community Benefits Charge is outlined as a multi-stage approach. The Minister is proposing that a property

owner has 30 days to appeal a municipality's Community Benefits Charge and conduct an independent appraisal, which a municipality subsequently has 45 days to counter with an appraisal of their own, which (if the Town's appraisal differs by more than 5% compared to the property owner's appraisal) the property owner can appeal to a third and final appraisal, selected from a municipality's list of approved appraisers, which must be completed with 60 days.

Impacts:

The property appraisal process outlined by the minister will likely require significant additional administrative time and resources to undertake when calculating charges for "soft services". Staff will be required to review additional documentation, manage appraisal processes, and draft notice letters to property owners.

It also remains unclear who will be responsible for the costs associated with the appraisal process and what authority a municipality will have to charge land owners for undertaking property appraisals. Further clarification should also be provided to ensure the appraisers are qualified and the appraisal reports are done to professional standards.

Presently, DC soft service and parkland per unit rates are known well in advance of building permit issuance, providing funding predictability. Disputes over land valuations are very common, so the proposed process could routinely require three appraisals. As such, it will be time consuming and more difficult for landowners and municipalities to estimate future CBC obligations. A per-unit based charge calculated in advance will likely provide more certainty than a land appraisal-based charge.

The time requirements for undertaking these appraisals may be challenging to meet, given that this new requirement will place strong demand on the limited number of qualified appraisers in the region.

6. Excluded services for community benefits

The Minister is proposing that the ineligible services listed under the *Development Charges Act, 1997* are also made ineligible for collection under a Community Benefits Charge, including:

- Cultural or entertainment facilities
- Tourism facilities
- Hospitals
- Landfill sites and services
- Facilities for the thermal treatment of waste

- Headquarters for the general administration of municipalities and local boards

Impacts:

There is minimal anticipated impact to the Town, as excluding these services from a Community Benefits Charge would effectively result in maintaining the status quo. However, Staff recommend there should be no excluded services included in the regulation since these facilities help municipalities service local needs and create vibrant, complete communities.

7. Community planning permit system

The minister is proposing that areas which have a Community planning permit system in effect would not be able to apply Community Benefits Charges, as Community planning permit systems may also contain requirements for “soft services” provision.

Impacts:

While the Town does not currently utilize Community planning permit systems, if a community planning permit system by-law were to be implemented in the future, having multiple “soft services” funding mechanisms would likely add complexity and uncertainty to the planning process.

8. Upper and lower tier municipal authority

The Minister has not identified what the authority structure will be for upper and lower tier municipalities to collect Community Benefits Charges.

Impacts:

Without clarity on what and how upper and lower tier municipalities are authorized to charge for Community Benefits there is uncertainty of who will be responsible for service provision or if additional complexity and administration will be required to fulfill the process at both levels of government. If a lower tier municipality is unable to collect Community Benefits Charges on behalf of an upper tier municipality (or vice-versa) there will be additional complexity and administrative processes required for both land owners and municipalities. A divided process could also result in conflicts resulting from a requirement for multiple appraisals from each municipal tier. Currently, both upper tier and lower tier municipalities are able to pass their own DC by-laws to fund growth-related services.

9. Administrative Burden

The More Homes, More Choice Act, 2019 layers new administrative processes on to municipalities. The municipal sector needs streamlined administrative processes. Adapting to new regimes requires time and money. It also introduces collection risks to municipalities.

FINANCIAL IMPLICATIONS

At this time, staff are not in a position to quantify the financial impact the regulations and Bill 108 will have on the Town. More information is required from the Ministry including the formula that will calculate the cap on CBCs. There will be a cashflow impact associated with the development charge deferral and freeze, however, the Town is allowed to charge interest on the amounts outstanding until payment is received. Staff will manage this process to endeavor to mitigate any negative revenue impact.

There are numerous other impacts that could cause financial impacts to the Town (e.g. appraisals, LPAT hearings, administrative costs etc.) however without further clarification from the Province in regard to the regulations it is difficult to quantify. Implementation of the CBC regime and DC changes will likely uncover unforeseen issues and costs. Due to the number of municipalities undertaking Development Charge background studies and amendments along with transitioning to a Community Benefit Charge, staff will submit a request in the 2020 Budget to undertake the study requirements for Council consideration.

NEXT STEPS

A copy of staff report 2019-0112 be forwarded to the Region of Peel and the Ministry of Municipal Affairs and Housing

COUNCIL WORK PLAN

Not Applicable

ATTACHMENTS

Schedule A: Municipal Finance Officers' Association of Ontario – August 19, 2019 Submission to the Ministry of Municipal Affairs and Housing