Report
Committee of Council
The Corporation of the City of Brampton
2019-05-29

Date: 2019-05-09

Subject: **City of Brampton's Comments Regarding the proposed Bill 108 - More Homes, More Choice Act, 2019 and Amendments to the Places to Grow Act, 2005**

Contact: Bob Bjerke, Director, Policy Planning, Planning & Development Services, bob.bjerke@brampton.ca

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David Sutton, Treasurer, Corporate Services, david.sutton@brampton.ca

Recommendations:

1. **That** the report from Bob Bjerke, Director, Policy Planning, Allan Parsons, Director Development Services, and David Sutton, Treasurer, dated May 29, 2019, to the Committee of Council Meeting of May 29, 2019, **City of Brampton's Comments Regarding the proposed Bill 108 - *More Homes, More Choice Act*, and Amendments to the *Places to Grow Act*, 2005**, be received;

2. **That** the proposed comments responding to the relevant Environmental Registry of Ontario (ERO) notice regarding *Bill 108 – More Homes, More Choice Act*, included as appendices to this report, be submitted as the City of Brampton's formal response;

3. **That** the Mayor immediately write to the Premier of Ontario and the Minister of Municipal Affairs and Housing to highlight the City's serious concerns with Bill 108 as currently drafted, including the following:
    a. Based on initial review and analysis, it is the City's position that Bill 108 is unlikely to achieve its stated goals;
    b. A formal request that the Minister of Municipal Affairs and Housing extend the consultation period for Bill 108, and conduct a meaningful consultation with municipalities and other stakeholders, as the Bill progresses and prior to Royal Assent; and
    c. A formal request that Bill 108 be amended to reflect the City's recommendations, attached to this report as Appendix III;

4. **That** the Mayor and/or designate be authorized to make a written and/or a verbal submission on *Bill 108*, when it is referred, to the appropriate Legislative Committee for review;

5. **That** staff develop a robust communications and advocacy strategy to educate and inform Brampton residents and businesses of the significant impact *Bill 108*, in its current form, will have on the community;

6. **That** a copy of this report and any associated Council resolution be submitted to the Province, through the ERO, the Minister of Municipal Affairs and Housing, Brampton Members of Provincial Parliament, and to the Region of Peel and the Association of Municipalities of Ontario.

Overview:

- **On May 2, 2019, the Province of Ontario introduced *Bill 108, More Homes, More Choice Act,* 2019 (Bill 108), and subsequent public consultation on various Schedules of the Bill through the Environmental Registry of Ontario (ERO), with the comment period ending June 1, 2019.**

- **The legislation proposes significant changes that will impact the City of Brampton's planning related decisions-making process and reduce the collection of development charges.**

- **The proposed changes to the Planning Act and Development Charge Act will have significant impacts on the City's finances and may severely limit the City's ability to provide parkland and community facilities to support the needs generated by development.**

- **Municipalities will not be able to use development charges to fund Community Infrastructure, which will impact the City's ability to plan for complete communities.**

- **Provincial changes made under the Places to Grow Act, 2005 to implement A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 are found to be acceptable to City staff.**

Background:

Bill 108 - the proposed More Homes, More Choice Act

On May 2, 2019, the Province of Ontario introduced *Bill 108, More Homes, More Choice Act,* 2019 ("Bill 108"), currently in second reading. The omnibus bill contains proposed amendments to 13 different statutes and has broad implications for municipalities.

Many of the most significant details have been left to the yet to be released regulations, placing municipalities at a disadvantage in terms of understanding the full impact of the proposed changes.

Public consultations, through the Environmental Registry of Ontario (ERO), specifically regarding amendments to the *Planning Act*, *Development Charges Act, 1997*, *Ontario Heritage Act,* and *Local Planning Tribunal Act, 2017*, will conclude on June 1, 2019.

On May 8, 2019, Council directed staff to report back to Committee of Council on May 29, 2019, prior to providing comments to the Province.

This report will provide an overview of the proposed legislative changes, and explain how they may not lower housing prices at all, will increase approval timelines, and render municipalities unable to use development charges to pay for the services that must be constructed, improved or increased as a result of the increased demands caused by Brampton's growth.

Places to Grow

Concurrent to the introduction to Bill 108, the Province introduced proposed modifications to O. Reg. 311/06 (Transitional Matters - Growth Plans) made under the Places to Grow Act, 2005 to implement *A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019*. The comment period also ends June 1, 2019.

The City previously provided comments to the Proposed Changes to the Growth Plan in February 2019. (RM 24/2019). The City's submission is available online (http://www.brampton.ca/EN/City-Hall/Relations/Pages/Latest.aspx

An evaluation of the revised modifications indicates that the Province adopted the City's recommendations on exclusions from these zones. It remains unknown exactly what a "Provincially Significant Employment Zone" is, but staff are satisfied that based on the information available, no further comments are needed at this time.

Current Situation:

Overview: More Homes, More Choice: Ontario's Housing Supply Action Plan

Upon its release, Bill 108 was accompanied by a document entitled "More Homes, More Choice: Ontario's Housing Supply Action Plan", which opens with a message from Steve Clark, Minister of Municipal Affairs and Housing:

> *"Government cannot address the housing crisis on its own. We can make it easier for municipalities, non-profits and private firms to build housing. We can help to boost supply and give people more choice.*
>
> ***More Homes, More Choice** outlines our government's plan to tackle Ontario's housing crisis and encourages our partners to do their part by starting now, to build more housing that meets the needs of people in every part of Ontario."*

Brampton City Council supports the goal of housing affordability and looks to implement it through various strategic documents including:

The 2040 Vision states that in the envisioned Town Centres, a complete profile of mixed housing is encouraged, while nurturing the existing range of housing options and introducing new housing types to meet residents needs and to support sustainable growth and community resiliency.

The Official Plan contains policies that promote a wide mixture and range of housing within neighbourhood districts as a key objective of the Official Plan. The focus of the Official Plan's housing policy is to provide the opportunity to accommodate the entire housing continuum to meet the needs of a diverse community.

The Priorities for this term of Council include the Creation of Complete Communities through a range of housing types and responding to various demographics, as well as "Embedding diversity and equity" in everything we do including housing supply and development.

The advancement of *Housing Brampton,* the City's first housing strategy, which responds to the varying needs of our residents and identifies means to improve housing choices for all, resulting in high quality of life, and making the City an attractive place to live, work and raise a family.

As demonstrated in Appendix I, the reason for the housing shortage in the City is not a lack of municipal approval of housing development. The map provided illustrates areas in the City that have received planning approvals, including zoning and draft approvals for plans of subdivision, with some plans having been registered, but which are not yet built. Staff estimates that there are approximately 30,000 units (of various residential types) that are approved, but where the owner has not undertaken the work required to complete final registration or construction.

Bill 108 will likely reduce the cost to developers significantly through the proposed changes to development charges, parkland dedication/cash-in-lieu of parkland, and section 37 of the *Planning Act*. However, a very significant omission in the legislation is any means by which these savings are required to be passed along to prospective purchasers.

Similarly, based on initial review and analysis of Bill 108, as proposed, the introduced changes are unlikely to result in an increase in housing supply or result in more affordable housing. It is anticipated that the results of Bill 108 proposed changes may have an adverse impact by increasing opportunity for appeals to the Local Planning Appeal Tribunal, and limiting housing flexibility through policies such as restrictions on the use of Inclusionary Zoning.

Below is a preliminary analysis of the most significant changes proposed by Bill 108. Brampton's detailed comments are included in Appendix II, and a consolidated list of recommendations can be found in Appendix III.

Planning Act

Changes to Section 37: Introduction of a Community Benefits Charge

Section 37 is proposed to be repealed in its entirety and replaced with a Community Benefits Charge ("CBC"), which would be imposed by municipal by-law. As currently set out in Bill 108, the CBC is a cash payment requirement that can be imposed in the case of applications for:

- a zoning by-law amendment;
- draft plan of subdivision or condominium approval;
- consent to sever and convey;
- minor variance;
- part lot control exemption; or
- issuance of a building permit.

Unlike the current provisions regarding Section 37*,* no in-kind services, facilities or matters can be required in lieu of the cash payment, but they may be provided at the developer's option. It is important to note that there is no authority for municipalities to enter into agreements regarding in-kind contributions to ensure such requirements are registered on title and are binding on future owners.

CBCs may be used to pay for capital costs of certain facilities, services and matters no longer permitted to be captured within a development charge by-law (more details are provided below) and for other facilities as may be prescribed through regulations; yet to be released. Unlike development charges, which are based on a background study assessing the actual cost of services, CBCs will be based on a percentage of the value of the land to be developed as of the day before the building permit is issued. It is unclear how the value of land relates to the cost of delivering infrastructure, and therefore staff are concerned that the land valuation approach to calculating the CBC may result in a shortfall in revenue.

The following matters are to be provided for through future regulations, and this lack of detail prevents the City from fully analyzing the financial impact of the changes:

- Requirements for a CBC strategy which must be adopted prior to passing a CBC by-law;
- "Other facilities" for which a CBC may be levied;
- Percentage of land value that may be imposed as a CBC; and
- Developments the Province may exempt from the requirement to provide CBCs.

The provision of parks, libraries, recreational facilities and cultural facilities contribute to a complete community with convenient access to services. The imposition of a CBC that generates less funding than the existing tools in the *Planning Act*, including Section 37, 42 and 51, will have significant impacts on the livability of the City.

Repeal of the Alternative Parkland Dedication Requirement

Section 42 (parkland) and Section 51 (plan of subdivision) of the *Planning Act* allow municipalities to require, as a condition of development, a dedication or payment in lieu of dedication of 2% for commercial and industrial and 5% for all other uses for park purposes. In

addition to these base rates, municipalities can require parkland dedication or cash-in-lieu thereof at the rate of 1 hectare per 300 units (if land is dedicated), and 1 hectare per 500 (for cash-in-lieu payments).

In the case of Section 42, Bill 108 proposes to delete the alternative rates, and the base rates of 2% or 5% will only be authorized if there is no CBC by-law in-force. For plans of subdivision, only the base rates remain, and where parkland dedication has been imposed as a condition of subdivision approval, CBC by-laws will not apply.

As stated above, the Province has not released the regulations that would allow municipalities to determine whether the CBC will result in a payment adequate to replace both the facilities services and matters removed from development charges and the current parkland dedication/cash-in-lieu requirements.

The City is concerned these proposals will undermine the principle that growth pays for growth, and municipalities will be left choosing between the services previously collected as "soft DCs", and parkland. This will have a negative impact on future and current communities. Cities are more than just housing and with the proposed CBC, the City may have to choose between parkland or collecting fees for community benefit – which will not result in delivering complete communities to its citizens.

The table below summarizes the fees and parkland collected with respect to an example subdivision approval in North West Brampton.

Subdivision in NW Brampton (21T-10012B)	
Revenue Tool	Current Planning Act and DC Act
Parkland Dedication (# acres)	10.836
Cash-in-lieu of Parkland ($)	$4,751,902
Soft DCs ($)	$13,979,895

Under Bill 108, the City of Brampton would be faced with the following choice:

1. Collecting 10.836 acres in parkland, plus $4,751,902 in cash-in-lieu of parkland; or

2. Collecting a capped dollar amount through the Community Benefits Charge, in lieu of the $13,979,895 Soft DCs.

Essentially, municipalities will be under-funded in either land for community facilities, or revenue to build community facilities.

It will be impossible to determine the impact until the Province advises what the amount of the CBC will be. However, growth paying for growth may not be realized under Bill 108 and new neighbourhoods may not have the same level of service as those built before Bill 108, without the municipality receiving the planned for community infrastructure funding. These issues are outlined in the *Development Charges Act, 1997,* section of this report.

Shorter Decision Timelines

The amendments to the *Planning Act* significantly reduce the time that Council will have to consider applications. Below is a comparison of the timelines before the *Building Better Communities and Conserving Watersheds Act, 2017* ("Bill 139") came into effect in 2018, under Bill 139, and as proposed under Bill 108:

	Pre-Bill 139	Bill 139 (current)	Bill 108 (proposed)
Official Plan Amendment	180 days	210 days	120 days
Zoning By-law Amendment	120 days	150 days	90 days
Draft Plan of Subdivision	180 days	180 days	120 days

The timelines above set out the maximum time for municipalities to review proposed development, and where they are not met, applicants are entitled to appeal to the Local Planning Appeal Tribunal ("LPAT"). The reduction in review time is significant and may result in more applications being appealed because Council failed to make a decision in time, or in Council refusing more applications prior to the expiry of the timelines to ensure that the City has a position before the LPAT. Either way, more development proposals are likely to be decided by the LPAT, as the timeliness are considerably shorter than they were even prior to Bill 139.

Another proposed amendment that could have the effect of delaying projects is the deletion of subsections 34(11.0.0.0.3) and 22(7.0.2.1), which provide that Council does not refuse an Official Plan or Zoning By-law application where it approves an Official Plan or Zoning By-law amendment that differs from the application.

These provisions were recently relied upon by Brampton City Council in response to the proposed development at 122-130 Main Street North, 6 & 7 Nelson Street East, 7 & 11 Church Street East (Northeast corner of Main and Nelson). There were concerns with the applicant's proposal for a three tower development, so Council directed staff to bring forward a zoning by-law that would permit two towers. This means the owner will not be forced to appeal a refusal and could in fact get started with construction of what Council approved.

The reduced timelines are impractical, limit the time for meaningful negotiations with the applicants, and significantly reduce the level of consultation with stakeholders and citizens. At the same time, they create appeal rights sooner than is the case under the current legislation.

Return to De Novo Hearings

Currently, land use planning decisions can only be appealed if they do not comply with applicable Provincial and municipal planning policies. Bill 108 proposes to revert to the Ontario Municipal Board ("OMB") rules and return to "de novo" hearings based on wider grounds of appeal (not limited to inconsistency with the Provincial Policy Statement, a provincial plan or Official Plan). The proposed changes, together with shortened decision-making timelines, are likely to result in a significant increase in the number of appeals. With the existing backlog of appeals, proposed development projects can have longer timelines for approval. This is contrary to the Provincial objective to speed up housing development.

Further, de novo hearings put less weight on the established planning frameworks and do not give deference to local elected councils when it comes to planning in their communities. "De

novo" hearings permit developers to propose revisions to their applications through the appeal, resulting in a development scheme that could be significantly different than the plan that Council had considered. Returning to the de novo appeal process fails to recognize the valuable contributions to community building that municipalities, citizen groups and other stakeholders provide through the land use planning process.

Elimination of third party appeals of subdivision approvals and Official Plan non-decisions

Currently, third parties (i.e. private citizens, ratepayers groups, corporations) can appeal both subdivision approvals and non-decisions on Official Plans. Bill 108 would eliminate these rights of appeal. Staff support these proposals.

Official Plan non-decisions:

Permitting third party appeals of non-decisions regarding Official Plans is not efficient or expedient. Third party appellants do not have a legitimate interest in forcing developers or municipalities into an appeal. There are many reasons that final approval of an Official Plan might be delayed, including that the municipalities and developers may be engaged in discussions around the final form of the plan to be adopted and approved. The proper time for third party appeals is after a new Official Plan has been approved, because this is the time at which their interest may be affected. This right to appeal decisions has been maintained.

Subdivisions:

By the time a subdivision has been draft plan approved by a municipality, the Official Plan and Zoning must permit the use. Subdivision is simply the implementation of development rights that have already been approved, and deals with largely technical matters. Third parties do not typically appeal subdivisions because of technical issues – these are addressed through municipal conditions of approval that are cleared by developers leading up to registration. Third parties typically object to the use of the subdivision lands, and their rights of appeal of re-zoning and Official Plan amendment decisions are maintained to ensure they have adequate rights to object if they believe an inappropriate use has been approved.

Community Planning Permit System

Bill 108 proposes to enable the Minister to mandate the use of the community planning permit system (previously referred to as development permit system) in areas specified by the Minister (e.g. specified major transit station areas and provincially significant employment zones), and removing appeals of the implementing official plan amendment and, subject to regulation, the related by-law.

While City staff supports the use of community planning permit systems in certain areas, Brampton's position is that municipalities are in the best position to determine where these should be implemented. The City already has one in effect (Main Street – generally between Church Street and Vodden Street) and another area under review (Queen Street). These are areas where the City anticipates and encourages growth. Brampton also supports the removal of appeal rights respecting OP policies for this purpose.

Inclusionary Zoning

According to the Ministry of Municipal Affairs and Housing, Inclusionary zoning (IZ) is a land-use planning tool that a municipality may use to require affordable housing units (IZ units) to be included in residential developments of 10 units or more."

Proposed changes to the provisions in the *Planning Act* that authorize the use of IZ will limit the City's ability to determine areas where IZ could apply, which may reduce the potential number of IZ units that can be required overall. Under Bill 108, IZ can only be implemented in major transit station areas, where the local municipality has adopted a development permit system and in locations where the Minister orders a development permit to be in place. The current IZ permissions are preferred as municipalities can currently require IZ units to be provided in broader situations rather than those ordered by the Minister. On its face, this change appears to be contrary to the stated intentions of Bill 108.

Secondary Units

The Province has indicated that Bill 108 is intended to support a range and mix of housing, which Brampton supports. Brampton permits second units within detached, semi-detached and townhouse dwellings subject to specific zoning requirements meant to ensure that the property can support an additional unit.

The Province has indicated an intention through Bill 108 to authorize an additional residential unit in both primary dwellings and ancillary buildings or structures. This proposal causes a number of concerns, including for neighborhood character and the suitability of the property for the additional units. The City does not currently permit second units within accessory structures, but it is reviewing this option as part of the Comprehensive Zoning By-law Review. Permitting more than two residential units on detached, semi-detached and townhouse lots without any review by municipalities will have significant impact on neighbourhoods, including altered character, increased density and added parking.

Provincial Usurpation of Municipal Discretion

Under Bill 108, there is a limit on the discretion of municipal councils to make decisions regarding implementation of provincial policy and good land use planning. While the Province is authorized to set policy in place, it is beneficial for municipalities to have the freedom to decide how to implement policy based on local context. The Province is limiting municipal authority as follows:

- Requiring that additional residential units in both primary and ancillary buildings be permitted;
- Permitting the use of inclusionary zoning by-laws, which impose requirements to provide affordable housing on developers, only in Major Transit Station Areas; and
- Requiring that sixty percent of CBCs collected be spent within a year, regardless of the timing of delivery of services; and
- Providing that provision of in-kind services with respect to CBCs be at the option of developers.

Further, Bill 108 gives the Provincial authority to direct:

- That a municipality adopt a community planning permit system ("CPPS"), including the authority to direct the location and content of the CPPS;
- That other forms of development not yet identified be exempted from payment of CBCs.

Development Charges Act, 1997

Elimination of Development Charges for Soft Services

In concert with the changes to the *Planning Act* that introduce the CBC by-law, Bill 108 identifies many items for which development charges ("DCs") can no longer be collected – these are what are commonly known as "soft services". It appears to be the intention of the Province that CBCs, as described in the *Planning Act* section above, would replace DCs for the services in the third column below. Brampton's concerns about this approach are outlined in its comments to the Province.

Summary of DCs and proposed CBCs		
Pre-Bill 108 DCs	**Bill 108 - DCs**	**Bill 108 – CBCs?**
General Government	Water supply services	General Government
Fire Protection	Waste water services	Emergency Medical Services
Police Protection	Storm water drainage and control services	Homes for the Aged
Roads and Structures	Services related to a highway	Daycare
Transit	Electrical power services	Housing
Waste Water	Policing services	Parkland Development
Stormwater	Fire protection services	GO Transit
Water	Toronto-York subway extension (TYS)	Library
Emergency Medical Services	Transit services other than the TYS	Recreation
Homes for the Aged	Waste diversion services	Development Studies
Daycare	Other services as prescribed	Parking
Housing		Animal Control
Parkland Development		Municipal Cemeteries
GO Transit		
Library		
Recreation		
Development Studies		
Parking		
Animal Control		
Municipal Cemeteries		

While it is difficult to quantify exactly what this change will mean in terms of the ability of municipalities to ensure that growth pays for growth, especially when the limits on CBCs has not been communicated publicly yet, the following chart illustrates the overall potential impact of these changes:

Service	Potential DC Dollars at Risk (2019-2028)
General Government (Animal Services and Studies)	$10,855,000
Library	$23,529,000
Recreation (including Parks)	$353,473,000
Subtotal	**$387,857,000**

The above table represents the potential ten-year DC revenue collections as recently calculated in the 2019 DC Background Study. Under the new rules, if the City requires parkland to be conveyed to the City as part of the Subdivision approval process, no revenue can be collected for parks, recreation, library or general government services. This will result in a major shortfall in funding for facilities that have been historically funded by DCs, like community centres, sports fields and libraries, that in the future will need to be funded by the tax base (or not provided at all).

Deferral of DC Calculation and Collection

Under the current legislation, DCs are calculated and collected at the time of building permit issuance. Under Bill 108, the DC rates will be crystallized at the time of site plan or rezoning application (or building permit if there are no earlier applications) and collected at a later time. Many months and even years can elapse between the filing of an application for rezoning/site plan approval, and issuance of a building permit. These proposed changes will incentivize developers to crystallize their DC rates early, resulting in lower DC collections while the cost of providing services is always increasing.

Additionally, it is proposed that applications for rental housing, institutional, industrial, commercial, and non-profit housing be paid in 6 annual instalments over five years, beginning at the earlier of issuance of an occupancy permit or first occupancy, resulting in what is effectively a loan from municipalities to developers. As DC deferral agreements are not registered on title and therefore do not run with the land, there is no mechanism to ensure that the developer ultimately pays the full amount of the DCs. Although Brampton does not have a need to incentivize commercial development, these favourable payment terms are required to be extended to such development. This change points to the unsuitability of the Province to make decisions that have impacts at the local level, as local circumstances, not Provincial ones, dictate when development incentives are needed or desired.

Secondary Units

The proposed *Planning Act* amendments described above, would permit additional suites in detached, semi-detached, and row houses in dwellings and structures such as coach houses and laneway houses.

The proposed changes within the DC Act would prevent municipalities from charging DCs for these units.

Transition

It is currently unclear when current DC by-laws will expire, and what happens where old by-laws expire after the date of May 2, 2019 provided in the current legislation. Brampton will be enacting a new DC By-law in June 2019 and requires assurances that it will be able to collect DCs. Furthermore, the changes are so significant that a minimum of four years is recommended to allow municipalities time to make the legislative and administrative changes needed to implement the new requirements.

***Local Planning Appeal Tribunal Act, 2017,* Amendments**

In addition to the proposed changes to the *Planning Act* regarding to appeal rights and de novo hearings outlined above, the changes to the *Local Planning Appeal Tribunal Act, 2017,* ("LPAT Act") implement the *Planning Act* changes by giving the Tribunal the authority to make a final determination on appeals of major land use planning matters, removing existing restrictions on a party's ability to introduce evidence, and allowing the Tribunal to call and examine witnesses at hearings.

More specifically, through the combined changes to the *Planning Act* and the LPAT Act, the Province is proposing to repeal the conformity and consistency tests with respect to Provincial plans and municipal policies introduced by Bill 139. These tests made it much more difficult to successfully appeal a municipal decision on a major land use planning application. These amendments remove the deference to municipal decision making in local planning matters that Bill 139 instituted.

***Ontario Heritage Act* Amendments**

Bill 108 proposes major changes to the *Ontario Heritage Act* ("OHA") which will affect the conservation of Brampton's cultural heritage resources. It is not possible to fully assess the impact of the changes at this time, as many details have been left to regulations that have not yet been released. It is clear, however, that there will be a significant impact to the process of 'listing' and designating properties, administration of heritage permits, and a reduction in the authority of municipalities over heritage matters.

In Brampton there are:

- 386 properties 'listed' on Brampton's *Municipal Register of Cultural Heritage Resources*;
- 259 properties designated under Part IV and/or Part V of the OHA; and,
- 22 properties in the process of being designated under Part IV of the OHA.

The changes proposed to the OHA in Bill 108, particularly with regards to the appeals process, would direct appeals to the LPAT, making decisions binding on Councils. This new appeals process, as well as proposed limitations on the designation of individual properties following prescribed events yet to be defined by regulation and the introduction of mandatory timelines for designation, will likely significantly reduce the ability of municipalities to determine what heritage conservation means and to protect the cultural heritage assets within their own boundaries.

Previous City of Brampton's Consultation Responses.

Over the last several months, the City of Brampton proactively participated in previous provincial consultations. On May 15, 2019, Committee of Council endorsed (CW207-2019) proposed comments to:

- 10th Year Review of the Ontario Endangered Species Act: Proposed Changes;
- Modernizing Conservation Authority Operations: Conservation Authority Act;
- Focusing Conservation Authority Development Permits on the Protection of People and Property.

On May 22, 2019, City Council endorsed the City's submission to:

- Modernizing Ontario's Environmental Assessment Program: Discussion Paper.

The City's response is available online at https://www.brampton.ca/EN/City-Hall/Relations/Pages/Latest.aspx

Interestingly, given Bill 108 was introduced on May 2, 2019, it is very clear that the Province did not consider any of the public input received through the consultation on these matters.

Corporate Implications:

Financial Implications:

The financial impacts to the City of Brampton arising from Bill 108, *More Homes, More Choices Act* cannot be fully understood at this time. The City requires full details, including regulations, to be released by the Province to completely understand the financial impact. It is imperative that the Community Benefits Charge allow municipalities to raise sufficient revenue to cover growth-related costs. If it does not, municipalities would be faced with delaying the construction of infrastructure, transferring the cost burden to tax payers, or simply not being able to deliver the service at all.

In order to meet the proposed timelines on development applications, additional resources would be required to process the applications and prepare relevant agreements. Additionally, returning to the more time-consuming OMB hearing format will have staffing implications due to an anticipated increase in the number and length of hearings.

Staff will continue to report on the financial impact of this proposed legislation as more detail becomes available.

Strategic Plan:

This report achieves the Strategic Plan priorities of Good Government by participating in the provincial consultation regarding the initiatives described within this report.

Conclusion:

Bill 108, *More Homes, More Choice Act, 2019* proposes significant changes that will have far-reaching impact in a variety of areas including planning related decisions and reducing the collection of development charges. The City's recommendations in response to the various ERO postings are included as appendices to this report.

Staff will continue to monitor the Legislation and provide updates to Council as appropriate. A communications plan will be developed to educate Brampton residents on the impact Bill 108 will have on the community.

Approved by:

Richard Forward,
Commissioner
Planning and Development
Services

Approved by:

David Sutton, Treasurer,
Corporate Services

Attachments:

Appendix I – Approved but not Registered Development
Appendix II – City of Brampton Comments Full Comments to Bill 108
Appendix III – City of Brampton Consolidated Recommendations to Bill 108

Report authored by: Andrea Wilson-Peebles, Legal Counsel, Corporate Services

Appendix I - Approved but not Registered Approvals

TOWN OF HALTON HILLS

TOWN OF CALEDON

CITY OF VAUGHAN

CITY OF MISSISSAUGA

CITY OF TORONTO

MAYFIELD RD
WANLESS DR
COUNTRYSIDE DR
COLERAINE DR
CREDITVIEW RD
SANDALWOOD PKY W
MCLAUGHLIN RD
HURONTARIO ST
KENNEDY RD
HEART LAKE RD
SANDALWOOD PKY E
GOREWAY DR
MCVEAN DR
CLARKWAY DR
ADAMSON ST N
BOVAIRD DR W
BOVAIRD DR E
CASTLEMORE RD
CHINGUACOUSY RD
HERITAGE RD
MISSISSAUGA RD
MCLAUGHLIN RD N
WILLIAMS PKY
MAIN ST N
KENNEDY RD N
DIXIE RD
BRAMALEA RD
TORBRAM RD
AIRPORT RD
HUMBERWEST PKY
THE GORE RD
HIGHWAY 50
COTTRELLE BLVD
WINSTON CHURCHILL BLVD
EMBLETON RD
JAMES POTTER RD
QUEEN ST W
QUEEN ST E
CENTRAL PARK DR
CLARK BLVD
MCLAUGHLIN RD S
MAIN ST S
KENNEDY RD S
RUTHERFORD RD S
WEST DR
STEELES AVE W
STEELES AVE E
FIRST GULF BLVD
ADVANCE BLVD
WESTCREEK BLVD
TOMKEN RD
FINCH AVE
MAVIS RD
410
407
427

BRAMPTON Flower City
brampton.ca

0 0.75 1.5 3 Kilometres

User Name: TRDORN Date: 2019/05/09

Approved but not Registered Development

- Registered
- Approved Development Applications

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
1	**Planning Act**		
1.1	Streamline development approvals processes and facilitate faster decisions by reducing decision timelines for municipalities and the province to 120 days for official plans and amendments, 90 days for zoning by-laws and amendments (except where there is a concurrent official plan amendment) and 120 days for plans of subdivision.	The proposed new timelines would not provide sufficient time for municipalities to comprehensively review an application and effectively consult the public. City staff may choose to bring forward a refusal recommendation report to Council in order to meet the timeline. The applicant may or may not appeal the decision. Either way, the project timeline would be delayed. Another proposed amendment that could have the effect of delaying projects is the deletion of subsections 34(11.0.0.0.3) and 17(7.0.2.1), which provide that Council does not refuse an Official Plan or Zoning By-law application where it approves an Official Plan or Zoning By-law amendment that differs from the application. This means that currently, if Council approves something different from what the owner applied for, the owner will not be forced to appeal a refusal and could in fact get started with construction of what Council approved. Removing those sections limits Council's options – it can only refuse an application it's not completely satisfied with.	Recommendations: (1) that the existing timelines prescribed in the Planning Act not be changed; and (2) that Bill 108 be amended to add a provision allowing a suspension of the timelines upon agreement of the municipality and the applicant. (3) that Bill 108 be amended to reinstate subsections 34(11.0.0.0.3) and 17(7.0.2.1), so that Council can approve something different from what was applied for and be deemed to given an approval of the alternative proposal.
1.2	Increase the certainty and predictability of the planning system by:		
1.3	enabling the Minister to mandate the use of the community planning permit system in areas specified by the Minister (e.g., specified major transit station areas and provincially significant employment zones), and removing appeals of the implementing official plan amendment and, subject to regulation, the related by-law;	While Brampton supports the use of the CPP (DPS) in certain areas, Brampton's position is that municipalities are in the best position to determine where DPSs should be implemented. The City already has one in effect (Downtown Brampton) and another area under review (Queen Street). These are areas where the City anticipates and encourages growth. Brampton also supports the removal of appeal rights respecting OP policies for this purpose.	Recommendations: (1) that the Province create a list of criteria/parameters for the establishment of the CPPS's to guide municipal decisions to implement a CPPS, rather than the Ministry directing adoption of a CPPS; (2) that all CPPS OP policies not subject be to appeal, instead of only those adopted as a result of Ministry direction.
1.4	focusing the discretionary use of inclusionary zoning to protected major transit station areas and areas where the community planning permit system has been required by the Minister, which would facilitate the supply of affordable housing in areas that are generally subject to growth pressures, higher housing demand, and in proximity to higher order transit; and	The proposed change recognizes that affordable housing is better supported within high growth areas that are compact, provide multiple amenities for urban living and are serviced by higher order transit. As such, the proposed change should be supported, subject to the recommendation below.	Recommendations: (1) That the authority implement inclusionary zoning policies should be expanded to include other areas that are "subject to growth pressure, higher housing demand and in proximity to higher order transit".
1.5	limiting third party appeals of plans of subdivision and approval authority non-decisions on official plans and official plan amendments.	Development Planning: Brampton supports the proposal to limit certain appeals.	
1.6	Support a range and mix of housing options and boost housing supply by requiring municipalities to authorize an additional residential unit in both the primary dwelling and an ancillary building or structure.	Brampton permits second units within detached, semi-detached and townhouse dwelling subject to specific zoning requirements. The City does not currently permit second units within accessory structures, but it is reviewing this option as part of the Comprehensive Zoning By-law Review. Permitting more than two residential units on detached, semi-detached and townhouse lots will have significant impact on neighbourhoods including altered character, increased density and added parking.	Recommendations: (1) That municipalities be empowered, rather than required, to permit additional residential units in both primary and ancillary buildings based on local affordability needs and land use plans given the variations in each municipality's urban fabric; (2) That municipalities be granted authority to apply restrictions and requirements to second units and accessory units to ensure orderly and proper intensification.

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
1.7	Make charges for community benefits more predictable by establishing a new authority that would enable municipalities to collect funds / contributions for community benefit purposes (e.g. libraries, daycare facilities and parks). This tool would replace the existing density bonusing provisions known as section 37, development charges for discounted (soft) services under the *Development Charges Act, 1997* and, in some cases, parkland dedication.	This proposed change will have far reaching financial implications to the City. The Province has yet to release the proposed Regulations and until such time, the financial impacts cannot be quantified. It is noted that details of the new authority will be specified in regulations. The City supports enabling regulations that empower the City to acquire community benefits through development reviews, however, it is recommended that the tool be flexible enough to apply to a range of benefits, including all the matters that will not longer qualify for funding through DCs. Additionally, Brampton is very concerned about being required to choose between parkland/cash-in-lieu, and CBCs. The requirement to use 60% of the funds in the CBC account within one year may cripple municipalities' ability to acquire parkland through purchase, and to properly plan for large, multi-year projects.	Recommendations: (1) That the Province refrain from implementing this change until sufficient detail has been released to determine the impact on municipalities' ability to fund the growth-related services that were previously paid for through collection of development charges. (2) That parkland dedication, cash-in-lieu of parkland dedication, and library/recreation be removed from the CBC and that both be applicable to development, as is the case currently. (3) That current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs, remain in effect until the later of four years from the date of passing of regulations relating to CBCs, or the expiry of the development charges by-law. (4) That the Bill be amended to provide for municipalities to enter into agreements respecting delivery of in-kind facilities, services or matters, and that such agreements be registered on title to the property, and enforceable against future owners. (5) That the parkland dedication rate of 1ha per 300 units be retained to ensure adequate provision of parks to all neighbourhoods. (6) That the requirement to spend or allocate at least 60% of the funds in the special CBC account be removed.
1.8	A cornerstone of the new authority is that community benefit charges would be capped based on a portion of the appraised value of the land. The details of this cap would be set in regulation.	Currently, the matters proposed to be addressed through the CBCs are collected as "soft" DCs. The charges are based on the actual costs to the municipality as determined in a DC background study every 5 years. Imposing a cap based on the value of the development land has the potential to significantly underfund the services required by development and is not an appropriate tool to determine the required CBC. Land value varies geographically in a manner that the cost to provide services does not.	Recommendation: 1) As above, this change should not be implemented until the full impact is understood. 2) CBC rates should be based on the actual cost of the services, rather than land values. 3) That the process for disputes regarding land values between municipalities and applicants be streamlined to provide that the owner shall select an appraiser from the list referred to in proposed subsection 37(22), and the land value so provided shall be determinative. 4) That owners be required to immediately provide any additional payment to the municipality where such additional payments are appropriate.

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
1.9	There would also be regulation-making authority to exempt some types of developments from the new community benefits charge.	The City supports, in principle, the proposal to exempt some development from the CBC. Currently, Brampton's Downtown Community Improvement Program provides incentives such as DC deduction for certain types of developments located in a specific geographic area and meeting a minimum density target. The amount of deduction is calculated based on a scoring system.	Recommendation: 1. That the Province empower municipalities to exempt certain desirable forms of development from the CBC, rather than requiring it. 2. In the event that the Province intends to proceeds with excluding certain development from the CBC, Office and mixed-use developments meeting certain density target and other criteria established by the municipality would be appropriate to be exempt.
1.10	Allow the Local Planning Appeal Tribunal to make decisions based on the best planning outcome as part of a return to de novo hearings in all cases. This change would broaden the Tribunal's jurisdiction over major land use planning matters (i.e., official plans and zoning by-laws and amendments) and would give the Tribunal the authority to make a final determination on appeals of such matters.	Development Planning: The proposed changes will revert to the OMB rules and return to "de novo" hearings based on wider grounds of appeals (not limited to inconsistency with the Provincial Policy Statement, a provincial plan or Official Plan). The proposed changes, together with shortened decision making timelines, will result in a significant increase in the number of appeals. With the existing backlog of appeals, proposed development projects can have longer timeline for approval. This is contrary to the Province objective to speed up housing development. Further, the OMB process puts less weight on the established planning frameworks and does not give control to local elected councils over planning in their communities. Returning to the OMB rules fails to recognize the long term concerns from municipalities and citizen groups. It is recommended keeping the existing appeal grounds, i.e. tests for consistency with provincial policy statements, provincial plans and the Official Plan.	

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
2	**Local Planning Appeal Tribunal**		
2.1	Hire more adjudicators to help address the backlog of legacy cases by investing $1.4 million in 2019-20;	The City has been experiencing in many instances as much as a year long delay in both the receipt of decisions and the scheduling of pre-hearing and hearing events. An increase in the number of adjudicators would likely assist in resolving these issues.	That the City recommend the Province consider regulations that would support more deference for the decisions of municipal councils, including maintaining the the existing appeal grounds, i.e. tests for consistency with provincial policy statements, provincial plans and the Official Plan.
2.2	Through proposed changes to the Planning Act and the Local Planning Appeal Tribunal Act, 2017, the Local Planning Appeal Tribunal would be able to make decisions based on the best planning outcome by giving the tribunal the authority to make a final determination on appeals of major land use planning matters and removing existing restrictions on a party's ability to introduce evidence and call and examine witnesses at hearings.	The changes to the Planning Act return to the de novo hearing model based on good planning considerations. The amendments repeal the conformity and consistency tests with respect to Provincial plans and policies introduced in 2018 by Bill 139. We note that Schedule 12 of Bill 108 requires that appellant must explain in their notice of appeal how a decision is inconsistent with a policy statement, or fails to conform with or conflicts with a provincial plan or official plan, if the appellant intends to make such arguments on appeal.	
2.3	Charge different fees and move towards a cost recovery model, while allowing community groups and residents to maintain affordable access to the appeals process.	The City supports maintaining affordable access to community groups and residents.	
2.4	Speciffic propsed amandments to the **Local Planning Appeal Tribunal Act, 2017** (Bill 108 - Schedule 9)		
2.5	The Schedule makes various amendments to the Local Planning Appeal Tribunal Act, 2017. Most of the amendments are to Part VI of the Act, in relation to the practices and procedures of the Tribunal, including the following:		
2.6	1. Sections 32 and 33 are amended in relation to requirements for participation in alternative dispute resolution processes.	The proposed amendments to sections 32 and 33 provide the Tribunal powers to specify circumstance when mandatory mediation may be required, direct parties to discuss the potential for mediation to resolve or narrow issues, and provide the Tribunal to direct the parties participate in mediation.	Subject to the City's comments regarding the proposed return to the de novo hearing regime and the elimination of the conformity and consistency test (see Items # 1.10 and 2.2), it is recommended the City support the amendments to sections 32 and 33 which provide for conditions of mandatory mediation, narrowing of issues, examination of witnesses, and other hearing related matters.
2.7	2. Subsection 33 (2.1) is added to empower the Tribunal to limit any examination or cross-examination of a witness in specified circumstances.	Section 33 (2.1) proposes to permit the Tribunal to limit cross-examinations where the Tribunal is satisfied that all matters relevant to the issues in the proceeding have been fully or fairly disclosed or where the Tribunal otherwise considers it appropriate. Notwithstanding these proposed amendments, the Tribunal is and would continue to be subject to the requirements of procedural fairness and natural justice applicable at common law.	It is recommended the City support these proposed amendments.

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
2.8	3. Section 33.2 is added to limit submissions by non-parties to a proceeding before the Tribunal to written submissions only. Subsection 33 (2) is amended to confirm that such non-parties may still be examined or required to produce evidence by the Tribunal.	The proposed amendments support an efficient hearing process, while providing the Tribunal the ability to receive evidence necessary for a full adjudication of the matters.	It is recommended the City support these proposed amendments.
2.9	4. Section 36, which sets out a process by which the Tribunal may state a case in writing for the opinion of the Divisional Court on a question of law, is repealed. Consequential amendments are made to the Municipal Act, 2001 and to the Ontario Water Resources Act.	Currently the Planning Act provides the ability for the Tribunal to state a case to the Divisional Court in relation to questions of law. Bill 108 proposes to repeal the ability to state a case to the court. Although the Planning Act would continue to provide the right to seek leave to appeal to the Divisional Court on questions of law, and would not affect a parties right to commence judicial review proceedings in relation to decision of the Tribunal on a question of law, however these are mechanisms would be available after a Tribunal Hearing. Repealing the ability of the Tribunal to state a case to the Divisional Court would repeal a tool intended to assist the Tribunal and parties where the determination of a question of law prior to the completion of a Tribunal Hearing would assist in the fair and efficient adjudication of a matter.	It is recommended the Province not repeal the ability of the Tribunal to state a case to the Divisional Court on questions of law, as this provides the Tribunal with an appropriate method of resolving disputes at an early stage where the Tribunal may determine judicial consideration or determination is required.
2.10	5. Sections 38 to 42, respecting appeals to the Tribunal under the Planning Act, are repealed. Section 33.1 is added, which requires a case management conference in certain such appeals.	These amendments repeal the consistency and conformity tests enacted under Bill 139.	See comments to Items 1.10 and 2.2 above. It is recommended the Province amend Bill 108 to provide for greater deference to the decisions of municipal councils.
2.11	Amendments to other Parts of the Act include the re-enactment of subsection 14 (2), to remove the requirement for the Tribunal to obtain the Attorney General's approval in setting and charging fees, and to provide that the Tribunal may set and charge different fees in respect of different classes of persons or proceedings.	See comments to Item # 2.3 above.	It is recommended the City support these proposed amendments.
3	**Provincial Policy Statement**		
3.1	Encourage the development of more and different types of housing.	The City supports the provincial direction to encourage the development of a range of housing types and tenures. The opportunity to comment on draft proposed changes to the PPS is welcomed. It is assumed that any proposed changes to the PPS will align with the More Homes, More Choice Act.	These changes are being considered
3.2	Reduce barriers and costs for developers and provide greater predictability		
3.3	Update planning and development policies to reflect Ontario's changing needs		
3.4	Recognize local decision-making in support of new housing and economic development.		

Appendix II - City of Brampton's Comments to Bill 108 - More Homes, More Choice Act

#	Proposed Changes	City Comments	Recommendations
4	**Development Charges Act**		
4.1	Under the proposed amendments, subsection 2(3.1) of the Development Charges Act would provide that the creation of one second dwelling unit in prescribed classes of new residential buildings (and ancillary structures) would be exempt from development charges. The classes of residential buildings would be prescribed in regulation.	City staff are supportive of this proposed amendment, as this was proposed to be one of staff's recommendations for the draft 2019 DC By-law. To date, the City has collected $0 in DC revenue from second units, however there are many units that are in existence. Staff are of the opinion that if the second units are created at the onset of construction, they will be built to Code and thus, will be safer for the residents.	
4.2	Currently capital costs for waste diversion must be reduced by 10 per cent when determining development charges. Under the proposed amendments, paragraph 10 of subsection 2(4) of the Development Charges Act would provide for no percentage reduction in costs for waste diversion services, as defined in the legislation.	This proposed amendment has no impact on the City of Brampton. Notwithstanding, City staff are supportive of the Province allowing for greater revenue collection ability to provide this Regional service.	
4.3	Today, development charge rates are generally determined at the point that the first building permit is issued. To increase certainty of development charge costs, the proposed new section 26.2 of the Development Charges Act would provide for development charge rates to be frozen at an earlier point in time (i.e. if/when an application is made for the later of site plan or zoning approvals) and would continue to be paid at the usual time (generally building permit issuance).	This proposed amendment will have lasting financial implications. There could be 6 months to multiple years' time lag between the point of re-zoning and building permit issuance. While the Province allows municipalities to charge interest at a prescribed rate, the DCs payable would be immune to any DC by-law increases that may occur between re-zoning and building permit issuance. This means there would be very little relationship between the timing of development and the cost of the services required to built with the development charges, the rates for which are set in accordance with a detailed DC background study, which is updated every 5 years (which in fact means that development proceeding towards the end of the life of a by-law is already, due to inflation, paying less than the cost to the municipality to construct the infrastructure).	Recommendations: 1) That the DC rate be set at the issuance of the first building permit, in accordance with the changes made in 2016. 2) That the units that have already undergone re-zoning not be grandfathered through this process.
4.4	DC Deferrals for: Rental Housing, Institutional, Industrial, Commercial, Non-profit Housing. DCs shall be paid in 6 annual installments, first payment being on the issuance of an occupancy permit and continuing five anniversaries of that date.	This proposed amendment will have lasting financial implications. Not only does this postpone the collection of DCs to the occupancy permit (rather than the first building permit), the City would only receive annual increments of the DCs over a 6 year period. The City will experience DC cash flow issues with this change. Brampton currently provides DC deferrals to certain development types as an incentive. The need for such incentives varies by municipality. The blanket approach is not appropriate, and in Brampton's case, there is no need to encourage "commercial" developments. Currently DC deferral agreements cannot be registered on title, meaning that in the event of a default by and dissolution of the developer, there is no means by which the outstanding payments can be collected. Subsection 26.1(9) does not make it clear that the requirement to pay development charges for a change from one of the uses listed in subsection 26.1(2) applies in the event that the change occurs at first occupancy (ie: if an application is made for a listed use, but the development is occupied by a non-listed use).	Recommendations: 1) That the Province to delete mandatory delay of payment of development charges and allow municipalities to continue to use the current DC deferral authority in the Act. 2) That DC deferral agreements be registered on title to the property, and enforceable against future owners. 3) That in the event of a change of use from a use listed under subsection 26.1(2) occurs prior to occupancy, the owner will be required to pay all the development charges incurred for the development immediately, as set out in subsection 26.1(9).

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#	Proposed Changes	City Comments	Recommendations
4.5	Additional Details:		Other recommendations: 1) That current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs, remain in effect until the later of four years from the date of passing of regulations relating to CBCs, or the expiry of the development charges by-law. 2) That the parkland and community infrastructure provisions remain in effect until such time as current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs have expired, and the Community Benefit Charge Strategy and Community Benefit Charge By-law has been completed. 3) That Subsection 2(4) be amended to add "parks, recreation and libraries" as growth related capital infrastructure. 4) That the authority to add unpaid development charges to the tax roll be amended to add that any amounts so added will have priority lien status.
5	**Ontario Building Code**		
5.1	Remove the requirement that all new homes include the infrastructure for an electric vehicle charging station – whether the purchaser owns an electric vehicle or not – reducing unnecessary costs.	This proposal is short-sighted. The cost of including a rough -in arrangement for the future electric vehicle charging outlet is nominal for a new build as opposed to retrofitting an existing house to install the service at a later date when a resident may need it. Electric vehicles are the future and will no longer be the exception to the rule..	
5.2	Harmonize our Code with National Codes to open new markets for manufacturers and bring building costs down.		
6	**Education Act** **Education Development Charge framework**		
6.1	Allow only modest increases in education development charges to help make housing more affordable; and		
6.2	Allow for innovative and lower-cost alternatives to site acquisition.	(what is meant by "innovative" alternatives to site acquisition? Perhaps smaller/satelite sites that support learning from home options? Also not sure if this affects rural and urban school districts differently).	

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#	Proposed Changes	City Comments	Recommendations
7	**Ontario Heritage Act**		
7.1	Establishing in regulation prescribed principles that shall be considered by municipalities when making decisions under prescribed provisions of Parts IV (Conservation of Property of Cultural Heritage Value or Interest) and V (Heritage Conservation Districts) of the Act;	While Brampton is concerned about the level of uncertainty created by not knowing what these prescribed principles are and how they are to be applied, it supports the introduction of clarity respecting Provincial objectives for heritage conservation. Brampton has robust Official Plan policies regarding heritage matters, policies which will be updated as part of an Official Plan review. Municipal councils should continue to have the authority to implement heritage conservation policies to ensure that their unique cultural heritage resources are conserved in accordance with local values. What is considered a significant cultural heritage resource in one municipality may not be considered as such by another, or vice versa.	1. That amendments to the Ontario Heritage Act not come into force until municipalities and other stakeholders have been meaningfully consulted regarding all related regulations, these regulations have been finalized following consultation, and the province has prepared guidance documents, including guidance documents regarding the application of the existing Regulation 9/06. 2. That municipalities retain the authority to adopt policies to conserve local cultural heritage resources, based on their cultural heritage context. 3. That municipalities be required to consider the prescribed principles when making relevant decisions, rather than be bound by them.
7.2	Creating regulatory authority to establish mandatory requirements for the content of designation by-laws; and	Introducing a regulated format for designation by-laws is supportable, as it will make the process of writing designation by-laws consistent across the province and provide clarity to property owners respecting the content of designation by-laws. However, Brampton notes that imposing onerous requirements for the content of designation by-laws could delay the designation process.	Recommendation: 1. That the Province consult with municipalities and heritage professionals regarding the content of any regulations in this regard.
7.3	Improving the process for adding properties that are not yet designated (known as “listed”) to the municipal heritage register, by giving notice to property owners once their property is “listed” and enabling them to object to the municipal council.	Increasing the transparency with the 'listing' process for property owners is supportable in principle. Clarity on the results of objections is needed – what happens if Council does not provide a decision within 90 days, and is their decision considered final? In addition, the proposed clause is unclear as to the timeframe during which property owners can object to the listing of a property on the Register.	Recommendations: 1. That the decision of a municipality to keep a property listed on the Register be final. 2. That if the proposal to allow an objection against listing is maintained, that property owners be given 30 days to object to the listing of a property on the register following receipt of the notice proposed in 27(6).
7.4	Establishing a new 60-day timeline for notifying property owners of whether their applications for alteration and demolition are complete;	City of Brampton Heritage staff already actively work to respond to heritage permit applications in a timely manner, and correspond openly with applicants regarding whether or not their application is complete or incomplete. Establishing timelines for the issuance of a notice of complete/incomplete application is supportable from a staff standpoint.	Recommendations: 1. That Section 33 (4) provide that notice to the applicant stating whether or not the application is complete must be served within the 60-day period referenced in Section 33 (7) 2. 2. That subsection 33(5) be amended to change the headings to "Notice of Incomplete Application" and to add the words “that the application is incomplete” after the words “notify the applicant” for clarification. 3. That subsection 34(4.1) be amended to add the words "that the application is incomplete" after the words "notify the applicant" for clarification.

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#	Proposed Changes	City Comments	Recommendations
7.5	Establishing a new 90-day timeline for municipalities to issue a notice of intention to designate a property as having cultural heritage value or interest, when certain events as prescribed by regulation have occurred respecting the property, subject to limited exceptions as prescribed by regulation;	The imposition of any timelines for issuing a Notice of Intention to Designate would severely limit the ability to conserve significant cultural heritage resources in Ontario. Current provincial policy supports the fact that not all significant cultural heritage resources are protected under the OHA and the identification of resources and the evaluation of their significance is ongoing. Imposing time limitations for when a Notice of Intention to Designate can be issued would provide less flexibility for property owners, developers and municipalities. Should these prescribed events be related to Planning Act applications, a new 90 timeline would require municipalities to pursue designation earlier in the development process.	Recommendation: 1. That the Province remove any time limitations on when Notices of Intention to Designate can be issued.
7.6	Establishing a 120-day timeline for passing a designation by-law after the municipality issues the notice of intention to designate, subject to limited exceptions as prescribed by regulation; and	Generally, the establishment of timelines for the designation process is supportable. However, the 120 day timeline will provide less flexibility for property owners and the municipality as it relates to the length of the designation process, and is inconsistent with other sections of the Act that provide for extension of timelines as agreed upon by the owner and council.	Recommendations: 1. That the Bill be amended to allow for the extension of time for the passing of the designation by-law beyond 120 days, as agreed upon by the owner and the council.
7.7	Clarifying the meaning and intent behind the term “demolition or removal”, in circumstances where a property’s heritage attributes have been identified.	The inclusion of a definition for "alter" in certain provisions and placing this in opposition to demolition/removal is supportable, as this provides clarification that demolition cannot be considered an alteration and vice versa. However, there is nothing in the definition of “alter” that indicates what distinguishes alteration from demolition, alteration from removal, or demolition from removal. The lack of clarity regarding these definitions could confuse the heritage permit application process for property owners and municipal staff, especially with the proposed added consideration of the demolition/removal of heritage attributes.	Recommendation: 1. That the Province include a definition of ‘demolition’ and ‘removal’ that clearly defines how ‘demolition’ and ‘removal’ apply to heritage attributes and to cultural heritage resources as a whole.

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#	Proposed Changes	City Comments	Recommendations
7.8	Requiring that municipal decisions related to heritage designations and alterations be appealable to the Local Planning Appeal Tribunal (LPAT), and that LPAT orders on such appeals be binding.	Page 11 of Ontario's Housing Act Plan identifies a goal of maintaining local control over heritage conservation decisions. In actuality, the proposed change from objections and appeals being heard by the Conservation Review Board (CRB) to the LPAT will remove local control over decisions regarding heritage conservation. From a municipal perspective, the matters heard by the CRB are: designations under Part IV, alterations to designated property under Part IV, and applications to repeal Part IV designation by-laws.The non-binding decisions of the CRB permit the municipality the control to determine what their constituents value and what warrants conservation within their communities, in contrast to the LPAT, which will make final decisions that are not sensitive to municipal values. The proposed language does not explicitly state that the LPAT shall have "regard to municipal decisions" when making decisions pertaining to the Ontario Heritage Act. In addition, when considering the validity of designations, the CRB allows for adjudication of the cultural heritage value/interest of the property proposed for designation by experienced professionals qualified to make judgements regarding heritage conservation. There is no certainty within the proposed amendments that the adjudication to LPAT will be limited to consideration of the cultural heritage value/interest of the property.	Recommendations: 1. That the appeal of decisions regarding designation and alterations continue to be made to the CRB, and that the CRB provide recommendations to be considered by municipal councils, which should retain the final decision-making authority on these matters. 2. That the scope of appeals for the designation of a property should remain limited to the consideration of the cultural heritage value/interest of the property in order to decide if it should be designated. 3. That in the event that the proposal that appeals be made to the LPAT is implemented, that the complement of LPAT include experienced professionals qualified to make judgements regarding heritage conservation, and that such professionals be assigned to hear any and all appeals regarding cultural heritage resources. 4. Language explicitly stately that the LPAT must have regard to municipal decisions when making decisions pertaining to the Ontario Heritage Act should be included to ensure consistency with the language in the Planning Act and to ensure municipal decisions are taken into consideration when making decisions about cultural heritage resources within their boundaries.
Other	Additional Detail (1):	Subject to what the prescribed circumstances are, proposed subsection Section 32 (18) may permit property owners to apply to repeal a designation by-law or part thereof as frequently as they wish. This could endager the future of Ontario's significant cultural heritage resources in jeopardy. Currently under the Ontario Heritage Act, where council refuses an application to repeal a by-law or part thereof, the owner may not reapply to have the by-law or part of the by-law that designates the property as property of cultural heritage value or interest revoked for a period of 12 months.	Recommendation: 1. That the Province retain the 12 month period between applications to repeal a designation by-law or part thereof as currently stipulated in Section 32(23) of the Ontario Heritage Act.
Other	Additional Detail (2):	Proposed subsection 42(1) 3. includes reference to the demolition/removal of the property's heritage attributes that was required to be included in the heritage conservation district plan. Currently, the content of District Plans provide general policies and guidelines for alterations. Attributes are identified for the District as a whole, and not for every individual property in the District. The proposed subsection introduces a lack of clarity as to how the attributes of an individual property interact with the attributes of the District as it relates to demolition/removal under Part V of the Ontario Heritage Act.	Recommendation: 1. That the Ontario Heritage Act be amended to provide clarity on the relationship between the heritage attributes of individual properties within a Heritage Conservation District and the heritage attributes of the Heritage Conservation District as a whole as it relates to alteration and demolition/removal.

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#	Proposed Changes	City Comments	Recommendations
15	**Places to Grow Act, 2005**		
15.1	It is proposed that the Minister would make the following modifications to the transition regulation such as to not unduly disrupt ongoing planning matters that may be impacted by the policy changes in the new Plan:		The City of Brampton participated in the february 28th Public Consulatation "Proposed Amendment to the Growth Plan for Greater Golden Horseshoe 2017" and provided comments. The City's comments have been taken into account.
15.2	Provide that the following official plan and official plan amendments are subject to the Growth Plan, 2006 as it read on June 16, 2006:		
15.3	• City of Brampton Official Plan Amendments 126, 127, 128, 129, 130 and 133	The City of Brampton has no concerns as the noted OPAs are in line with the City's request as part of the Places to Grow consultation process in Jan 2019.	
15.4	• City of Toronto Official Plan Amendment 231		
15.5	• Town of Whitchurch–Stouffville Official Plan Amendment 137.		
15.6	Provide that the following official plan amendment is subject to the Growth Plan, 2006, as amended:		
15.7	• Region of Waterloo Regional Official Plan Amendment 2		
15.8	Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policy 2.2.8.6:		
15.9	• Region of Halton Regional Official Plan Amendment 47.		
15.10	Provide that the following official plan amendment is subject to the Growth Plan for the Greater Golden Horseshoe 2019 with the exception of policies in subsections 4.2.2, 4.2.3 and 4.2.4:		
15.11	• County of Simcoe Official Plan Amendment 2.		

APPENDIX III – Consolidated List of City of Brampton's Recommendations.

Planning Act

Recommendations:

1. That the existing timelines prescribed in the Planning Act not be changed;
2. That Bill 108 be amended to add a provision allowing a suspension of the timelines upon agreement of the municipality and the applicant.
3. That Bill 108 be amended to reinstate subsections 34(11.0.0.0.3) and 17(7.0.2.1), so that Council can approve something different from what was applied for and be deemed to given an approval of the alternative proposal.
4. That the Province create a list of criteria/parameters for the establishment of the Community Planning Permit System (CPP) to guide municipal decisions to implement a CPP, rather than the Ministry directing adoption of a CPP;
5. That all CPP Official Plan policies not subject be to appeal, instead of only those adopted as a result of Ministry direction.
6. That the authority to implement inclusionary zoning policies should be expanded to include other areas that are subject to growth pressure, higher housing demand and in proximity to higher order transit.
7. That Brampton supports limiting third party appeals of plans of subdivision and approval authority non-decisions on Official Plans and Official plan amendments.
8. That municipalities be empowered, rather than required, to permit additional residential units in both primary and ancillary buildings based on local affordability needs and land use plans given the variations in each municipality's urban fabric.
9. That municipalities be granted authority to apply restrictions and requirements to second units and accessory units to ensure orderly and proper intensification.
10. That the Province refrain from implementing the Community Benefits Charge (CBC) until sufficient detail has been released to determine the impact on municipalities' ability to fund the growth-related services that were previously paid for through collection of development charges.
11. That parkland dedication, cash-in-lieu of parkland dedication, and library/recreation be removed from the CBC and that both be applicable to development, as is the case currently.
12. That current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs, remain in effect until the later of four years from the date of passing of regulations relating to CBCs, or the expiry of the development charges by-law.
13. That the Bill be amended to provide for municipalities to enter into agreements respecting delivery of in-kind facilities, services or matters, and that such agreements be registered on title to the property, and enforceable against future owners.
14. That the parkland dedication rate of 1 ha per 300 units be retained to ensure adequate provision of parks to all neighbourhoods.
15. That the requirement to spend or allocate at least 60% of the funds in the special CBC account be removed.
16. That CBC rates should be based on the actual cost of the services, rather than land values.

17. That the process for disputes regarding land values between municipalities and applicants be streamlined to provide that the owner shall select an appraiser from the list referred to in proposed subsection 37(22), and the land value so provided shall be determinative.
18. That owners be required to immediately provide any additional payment to the municipality where such additional payments are appropriate.
19. That the Province empower municipalities to exempt certain desirable forms of development from the CBC, rather than requiring it.
20. That in the event that the Province intends to proceed with excluding certain development from the CBC, Office and mixed-use developments meeting certain density target and other criteria established by the municipality would be appropriate to be exempt.
21. That the existing appeal grounds, i.e. tests for consistency with Provincial Policy Statements, Provincial Plans and the Official Plan, be maintained.

Local Planning Appeal Tribunal

Recommendations:

22. That the City recommend the Province consider regulations that would support more deference for the decisions of municipal councils, including maintaining the existing appeal grounds, i.e. tests for consistency with provincial policy statements, provincial plans and the Official Plan.
23. That subject to the City's comments regarding the proposed return to the de novo hearing regime and the elimination of the conformity and consistency test (see Items 21 an d 22), it is recommended the City support the amendments to sections 32 and 33 which provide for conditions of mandatory mediation, narrowing of issues, examination of witnesses, and other hearing related matters.
24. That the City supports the amendments to Section 33(1) to empower the tribunal to limit any examination or cross-examination of a witness in specified circumstances.
25. It is recommended the Province not repeal the ability of the Tribunal to state a case to the Divisional Court on questions of law, as this provides the Tribunal with an appropriate method of resolving disputes at an early stage where the Tribunal may determine judicial consideration or determination is required.
26. It is recommended for the Province to amend Bill 108 to provide for greeter deference to the decision of municipal councils.

Provincial Policy Statement

Recommendation:

27. It is recommended the City request that municipalities be given the opportunity to comment on draft proposed changes to the PPS.

Development Charges Act

Recommendations:

28. That the DC rate be set at the issuance of the first building permit, in accordance with the changes made in 2016.

29. That the Province delete a mandatory delay of payment of development charges and allow municipalities to continue to use the current DC deferral authority in the Act.
30. That DC deferral agreements be registered on title to the property, and enforceable against future owners.
31. That in the event of a change of use from a use listed under subsection 26.1(2) occurs prior to occupancy, the owner will be required to pay all the development charges incurred for the development immediately, as set out in subsection 26.1(9).
32. That current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs, remain in effect until the later of four years from the date of passing of regulations relating to CBCs, or the expiry of the development charges by-law.
33. That the parkland and community infrastructure provisions remain in effect until such time as current development charges by-laws and any development charges by-laws passed prior to issuance of the regulations related to CBCs have expired, and the Community Benefit Charge Strategy and Community Benefit Charge By-law has been completed.
34. That Subsection 2(4) be amended to add "parks, recreation and libraries" as growth related capital infrastructure.
35. That the authority to add unpaid development charges to the tax roll be amended to add that any amounts so added will have priority lien status.

Ontario Heritage Act

Recommendations:

36. That amendments to the Ontario Heritage Act not come into force until municipalities and other stakeholders have been consulted regarding all related regulations, and these regulations have been finalized following consultation.
37. That municipalities retain the authority to adopt policies to conserve local cultural heritage resources, based on their cultural heritage context.
38. That municipalities be required to consider the prescribed principles when making relevant decisions, rather than be bound by them.
39. That the Province consult with municipalities and heritage professionals regarding the content of any regulations in this regard.
40. That the decision of a municipality to keep a property listed on the Register be final.
41. That if the proposal to allow an objection against listing is maintained, that property owners be given 30 days to object to the notice of listing on the register following receipt of the notice proposed in 27(6).
42. That Section 33 (4) provide that notice to the applicant stating whether or not the application is complete must be served within the 60-day period referenced in Section 33 (7) 2.
43. That subsection 33(5) be amended to change the headings to "Notice of Incomplete Application" and to add the words "that the application is incomplete" after the words "notify the applicant" for clarification.
44. That subsection 34(4.1) be amended to add the words "that the application is incomplete" after the words "notify the applicant" for clarification.
45. That the Province remove any time limitations on when Notices of Intention to Designate can be issued.

46. That the Bill be amended to allow for the extension of time for the passing of the designation by-law beyond 120 days, as agreed upon by the owner and the council.
47. That the Province include a definition of ‘demolition’ and ‘removal’ that clearly defines how ‘demolition’ and ‘removal’ apply to heritage attributes and to cultural heritage resources as a whole.
48. That the appeal of decisions regarding designation and alterations continue to be made to the Conservation review Board (CRB), and that the CRB provide recommendations to be considered by municipal councils, which should retain the final decision-making authority on these matters.
49. That the scope of appeals for the designation of a property should remain limited to the consideration of the cultural heritage value/interest of the property in order to decide if it should be designated.
50. That in the event that the proposal that appeals be made to the LPAT is implemented, that the complement of LPAT include experienced professionals qualified to make judgements regarding heritage conservation, and that such professionals be assigned to hear any and all appeals regarding cultural heritage resources.
51. That the Province retain the 12-month period between applications to repeal a designation by-law or part thereof as currently stipulated in Section 32(23) of the Ontario Heritage Act.
52. That the Ontario Heritage Act be amended to provide clarity on the relationship between the heritage attributes of individual properties within a Heritage Conservation District and the heritage attributes of the Heritage Conservation District as a whole as it relates to alteration and demolition/removal.