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Hon. Steve Clark, Minister of Municipal Affairs and Housing
Ministry of Municipal Affairs and Housing
17th Floor
777 Bay St.
Toronto, ON
M5G 2E5
Sent via email: steve.clark@pc.ola.org

Hon. Christine Elliot, Deputy Premier and Minister of Health
Ministry of Health and Long-Term Care
5th Floor
777 Bay St.
Toronto, ON
M7A 2J3
Sent via email: christine.elliott@pc.ola.org

Dear Ministers,

RE: Bill 108 – More Homes More Choice Act Comments

Attached please find the following regarding Bill 108:

1. Staff Report 2019-62 – Implications of Bill 108 – More Homes More Choice Act; and
2. Correspondence from the Mayor's Office regarding planning approval timelines.

It is acknowledged that Bill 108 received Royal Assent on June 6, 2019, however we understand that the accompanying Regulations are currently being developed. Please accept the above noted documentation as input on behalf of the Council of the Corporation of the Town of Newmarket to the development of these Regulations.

Respectfully submitted,

Kiran Saini
Deputy Town Clerk

cc: Association of Municipalities of Ontario: policy@amo.on.ca

Town of Newmarket
395 Mulock Drive P.O. Box 328,
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Implications of Bill 108 – More Homes More Choices Act Staff Report to Council

Report Number: 2019-62

Department(s): Planning & Building Services and Innovation & Strategic Initiatives

Author(s): Kevin Yaraskavitch, Meghan White, Adrian Cammaert

Meeting Date: June 17, 2019

Recommendations

1. That the report entitled Implications of Bill 108 – More Homes More Choices Act dated June 17, 2019 be received; and,

2. That the report entitled Implications of Bill 108 – More Homes More Choices Act dated June 17, 2019 be submitted to the province as feedback; and,

3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary

The Province has released a proposed omnibus bill which proposes to change 14 different pieces of legislation. It is known as Bill 108, the More Homes More Choices Act. This report outlines the proposed changes to planning frameworks and the development financing landscape. The report also outlines the potential impacts to the municipality and staff's recommendations with respect to these impacts. In general, the changes are significant. Bill 108 contains limited evidence that its central objectives, making it easier to bring housing to market and accelerating local planning decision, will be achieved.

From the evidence provided, proposed changes will dramatically change the development financing landscape. The changes will create additional administrative costs, increase price uncertainty for developers, and may reduce municipalities' ability to continue to provide the same level of service in the face of growth without finding additional sources of funding.

Purpose

The purpose of this report is to provide Council with the planning and financial implications of Bill 108, known as the More Homes More Choice Act.

Background

On May 2, 2019, the Province introduced Bill 108 which proposes changes to the Development Charges Act, 1997 (DCA). The Bill has been introduced as part of the Province's "More Homes, More Choice: Ontario's Housing Supply Action Plan."

The Bill has been given first and second reading and, as of this writing, may receive royal assent by June 6, 2019. There was a 25 day consultation period ending June 1. The Bill proposes that any development charge (DC) by-laws passed after May 2, 2019 will be subject to these proposed changes. Since the Town's DC By-laws will be updated after May 2, they will be affected by these changes, if and/or when they become law.

This Bill is part of the provincial government's action plan that is aimed at addressing the needs of the region's (GTHA) growing population, its diversity, its people and its local priorities. It is an omnibus bill containing a vast number of changes to various policy documents and legislation (14 in total). The other Acts which are proposed to be changed are listed in Appendix A, with their comment deadline, if known. The regulations for this legislation have not yet been released.

Discussion

Staff have reviewed the changes proposed by Bill 108 from two different perspectives – Planning and Financial.

Financial Impacts

The following summarizes proposed changes to development finance resulting from the Bill, and its potential impact to the Town. Development finance is the discipline of ensuring financial sustainability with respect to accommodating growth. This includes projecting future development, determining capital requirements, setting charges to finance capital requirements, and collecting the charges. Staff have outlined suggestions to reduce the impact with respect to each proposed change.

Services Eligible for Development Charge Funding

The Bill will remove "soft services" from the Development Charges Act (D.C.A), removing the ability of municipalities to collect DCs for these services. Instead, municipalities will be able to create a new Community Benefit Charge (discussed below) under the Planning Act to capture these services, although new limits are to be imposed. Eligible services that will remain under the DCA that apply to the Town are as follows:

- Water supply services, including distribution and treatment services;

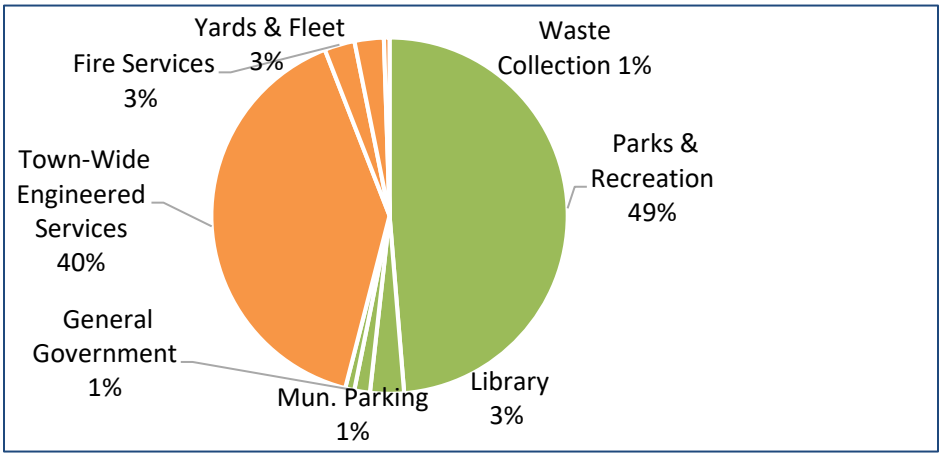
- Wastewater services, including sewers and treatment services;
- Stormwater drainage and control services;
- Services related to a highway as defined in subsection 1 (1) of the Municipal Act, 2001;
- Electrical power services;
- Policing services;
- Fire protection services;
- Transit services;
- Waste diversion services*; and
- Other services as prescribed.

*The Bill will remove the mandatory 10% deduction for this service.

Concern: This Bill creates the potential to obtain less revenue and creates uncertainty for the majority of the Town's development charge funding.

Details: The Town is currently projecting to collect an estimated $62 million through DCs for soft services to pay for infrastructure costs related to growth. This amount may be reduced with community benefit charge. The Bill would remove the Town's ability to collect DCs for the services in green in the chart below.

Below is a chart demonstrating the share of soft services in green and the share of hard services in orange of the overall projected DC revenue from 2019-2028.



The Town appreciates the removal of the mandatory 10% reduction to ensure that growth pays for growth. All mandatory reductions should be removed as long as the charge reflects the cost of accommodating growth.

Proposed solution: Provide the Regulations as soon as possible so that municipalities and developers can fully assess and comment on the impact of the legislation.

Development Charge Payment in Installments Over Six Years

The Bill would significantly change the process in which DCs are collected. Currently DCs are payable at the time of building permit, ensuring that municipal revenues are

received before development occurs. The Bill proposes that municipalities would be required to collect DCs for almost all kinds of development later in the process, except for ownership-tenure housing over a longer period of time. Rental and non-profit housing, and commercial, industrial and institutional developments would pay their DCs in six equal annual payments commencing the date of issuance of an occupancy permit or occupancy of the building, whichever is earlier.

The municipality may elect to charge interest (at a prescribed rate) for each payment, commencing the date of the first payment. lf payments are not made, interest may continue to be charged and may be added to the property and collected as taxes.

Concern: This Bill will lead to higher administrative costs with collections and the means of recovering the costs is unclear.

Details: The requirement to manage multiple-year collections for each building permit issued for each rental housing, non-profit housing and commercial/industrial/institutional development building permit will cause an increased administrative burden on municipalities. Instead of collecting a single fee at the time of permit, municipalities will be required to maintain a six-year annual invoice process for each development and permit, regardless of size.

For example, phase one of the development at 175 Deerfield Road contains 186 rental housing units and is projected to pay $2.8 million in Town DCs. Bill 108 would allow this amount to be collected by the Town over six years. A 100 square metre addition of floor space to a commercial unit would pay approximately $5,800 in Town DCs. Bill 108 would similarly oblige the Town to collect this amount in six annual installments, at a significantly increased administrative burden. This will add to staffing requirements and be reflected in higher planning and building permit fees.

Proposed solution: The prescribed rate of interest municipalities are allowed to charge should have a permissive cap. This will enable municipalities to accurately reflect the opportunity cost and the administrative cost of providing the landowners a loan as these costs will vary for each municipality. To provide more choice, landowners should have the option to enroll in the installment program or not.

Concern: This Bill requires the provision of mandatory incentives by municipalities that are misaligned with the Province's stated objectives.

Details: As the proposed changes to the Act are to facilitate the Province's housing agenda, it is unclear why these installment payments are to be provided to commercial, industrial and institutional developments.

Proposed solution: The eligibility of commercial, industrial and institutional development for the mandatory six-year payment plan should be removed.

When Development Charge Amount is Determined

The Bill proposes that the DCs are 'locked in' at an earlier date. Currently the amount of DCs required is determined at the time of building permit application. The Bill proposes that the amount will instead be determined at the date of site plan approval application, or if site plan approval is not required then at the date of zoning by-law amendment

application. If the development is not proceeding via these planning approvals, then the amount is determined at the earlier of the date of issuance of a building permit or occupancy.

Concern: This Bill provides an incentive for landowners to begin a site plan or zoning amendment regardless of intention of following through and constructing the development.

Details: There is no financial incentive for the development to move quickly to building permit. This may induce speculation to change the land use and then market the lands. This will lead to an additional burden on staff time to process applications whose principal purpose is 'locking in' development charges rates instead of proceeding toward development, as staff cannot determine which applications are bona fide.

Proposed solution: That the Province set a limit of the duration of time that a 'locked in' DC rate is guaranteed to ensure that approved applications proceed toward development.

New Community Benefit Charge for Soft Services

The Bill proposes that a municipality may, by by-law, impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. These services may not include services authorized by the DCA. This community benefits charge regime would replace the removal of 'soft services' from DCs, as is discussed above.

The Bill lays out certain requirements related to a Community Benefits Charge:

- Before passing a community benefits charge by-law, the municipality shall prepare a community benefits charge strategy that:
  - identifies the facilities, services and matters that will be funded with community benefits charges;
  - complies with any prescribed requirements.
- The amount of a community benefits charge payable shall not exceed an amount equal to the prescribed percentage of the value of the land as of the valuation date.
- All money received by the municipality under a community benefits charge by-law shall be paid into a special account. ln each calendar year, a municipality shall spend or allocate at least 60 percent of the monies that are in the special account at the beginning of the year.
- Requirements for annual reporting shall be prescribed.
- Transitional provisions are set out regarding the DC reserve funds and DC credits.

Concern: The proposed community benefits charge deviates from the principle of growth paying for growth.

Details: There is no rational nexus between the amount of the community benefit charge and the infrastructure requirements a development imposes on the local

community. Since the charge is based on land value, developing identical single detached homes in an urban and a rural community will yield drastically different revenue while infrastructure costs would be relatively similar.

Proposed solution: Do not remove soft services from being funded from the DCA and remove the 10% discount on these services to ensure that growth pays for growth.

Concern: Redevelopment would be subjected to the full community benefit charge if they do not have an eligible credit that was accrued under the DCA.

Details: Under the DCA, it is clear how credits are determined for properties that are being redeveloped or expanded. There is a clear correlation between the charge and the service provided with the D.C.A. Presumably acknowledging the ease, the proposed Bill relies on the DCA credit calculation as much as possible. However, it is unclear how credits will be calculated, if any, under the community benefits charge.

Proposed solution: Do not remove soft services from being funded from the DCA and remove the 10% discount on these services to ensure that growth pays for growth.

Concern: The Bill is unclear how the Community Benefits Charge will be implemented in a two-tier municipal system.

Details: Both the upper and lower tiers will have infrastructure requirements to accommodate growth, there is no guidance on how the percentage of the land value will be allocated, or how the process for allocating this would occur.

Proposed solution: Do not remove soft services from being funded from the DCA and remove the 10% discount on these services to ensure that growth pays for growth.

Determining Land Value for Community Benefits Charge

The valuation date for land calculations for the Community Benefit Charge is the day before building permit issuance. If the owner of land is of the view that the Community Benefits Charge exceeds the amount permitted, the owner must pay the charge under protest. Depending on the extent of the dispute, both parties need to provide appraisals following their respective prescribed timeframes. The payment under protest may or may not be reimbursed depending on the results of the appraisals. While land valuation is used for determining the parkland dedication charge, the development charge model for determining rates is based on the amount and type of development which provides greater price certainty and minimizing administrative costs for both developers and municipalities.

Concern: The Bill is creates great uncertainty for landowners with respect to how much of a community charge they must pay to develop their property.

Details: Given that the valuation date is the day before building permit issuance, that owners need to pay the community benefit charge up front, and that there is no guaranteed result of a protest, this creates an additional price uncertainty for the land owner. This can in turn increase the financial risk of development and increase the difficulty level in achieving financing for development.

Proposed solution: Do not remove soft services from being funded from the DCA and remove the 10% discount on these services to ensure that growth pays for growth.

Concern: This Bill will lead to higher administrative costs with the required appraisals and the means of recovering the costs is unclear.

Details: With development charges, landowners are provided clear information what they will be charged when they develop and they can work this into their pro-formas. There is no requirement for an appraisal under the DCA. The CBC and any resultant protests does not provide certainty for municipalities or developers. The protest process could be administratively burdensome to the municipality.

Proposed solution: Do not remove soft services from being funded from the DCA and remove the 10% discount on these services to ensure that growth pays for growth.

Repeal of Alternative Parkland Dedication

Bill 108 proposes to repeal the provisions of the Planning Act, which enable municipalities to have an alternative parkland dedication requirement for residential uses under Section 42 (parkland) and Section 51 (plan of subdivision). The alternative requirement permits municipalities to set their own rates up to a maximum of 1 hectare/300 units for land and 1 hectare/500 units for cash-in-lieu. Newmarket's Parkland Dedication By-law (2017-56) requires the maximum of 1 hectare/300 units for land and 1 hectare/500 units for cash-in-lieu. Since 1973, municipalities have been empowered to require development to convey certain amounts of land or cash-in-lieu of land for the creation of parks. The rate is a maximum of two per cent of the land area (or value of same) for commercial or industrial development and five per cent for all other uses (such as residential). The alternative requirement was created to set more realistic parkland contributions in high-density development scenarios.

The Bill would significantly change this practice and combine parkland dedication with the community benefits charge discussed above.

Concern: The Bill would remove the ability of municipalities to use the alternative parkland dedication.

Details: The proposed legislation only maintains the ability to secure the base rates of 2 per cent for commercial and industrial and 5 per cent for all other uses, if there is no Community Benefit Charge (CBC) by-law in place. Without a CBC by-law, the 2 and 5 per cent dedication requirements continue to be required to be set in a by-law and the municipality determines if an application is providing land or cash-in-lieu. However, the regulation which prescribes the maximum rate and other details have not yet been released and are required to fully understand whether or the CBC is an effective replacement to the alternative requirement or Subsection 42(1). This is also particularly important to understand as the CBC will need to be used by the Town to acquire new lands for parks and recreation purposes, as well as to make improvement to existing parks to support growth.

Concern: The Bill may reduce the Town's ability to provide parkland and pay for current parkland-related debt.

Details: Bill 108 proposes to combine parkland dedication with the overall proposed Community Benefits Charge. As this charge will be subject to an as-yet-unknown cap on value to be determined by regulation, it is uncertain whether municipalities will be able to receive the same amounts for parkland as were projected under the current regime.

The Town has recently adopted a progressive parkland dedication by-law which includes rates and targets to ensure that high-quality park spaces continue to be provided for residents in the entire municipality, and that new parks are acquired and developed in the Urban Centres Secondary Plan intensification area.

Both the repeal of the alternative dedication and the inclusion of parkland within the Community Benefit Charge may hinder Council's ability to implement the Strategic Priority to create Extraordinary Places and Spaces. Cash-in-lieu of parkland dedication funds (future and current) have been dedicated to the Mulock Park and the implementation of the Parks Policy Development Manual. These changes may mean that these goals are not achieved.

Proposed solution: Bill 108 should be amended to remove the repeal of the alternative parkland dedication and maintain the current rules and regulations for acquiring parkland dedication or cash-in-lieu.

Repeal of Height & Density Bonusing

Bill 108 proposes to repeal Section 37 of the Planning Act, which is the tool municipalities use to secure community benefits in exchange for additional height and/or density. Through zoning by-law amendments, municipalities can allow additional stories on buildings, or additional density, in exchange for certain capital facilities or cash-in-lieu.

Concern: The Bill will reduce the Town's ability to secure the objectives of the Urban Centres Secondary Plan

Details: Newmarket has embraced Section 37 through the Urban Centres Secondary Plan. Areas within the Urban Centres Secondary Plan are currently able to use the bonusing tool. Recently, the Town has adopted Section 37 Guidelines to provide structure and consistency around the Section 37 process.

Although not-yet widely implemented in Newmarket, this tool has helped many municipalities provide important public benefits in the areas in proximity to significant (re)development. Many community-building objectives have been realized as a result of Section 37 revenue in areas that are most impacted by higher and more-dense development. The Town has recently adopted Section 37 Guidelines and is beginning to apply them to various significant redevelopment applications within our Urban Centres. For instance, Section 37 has been used to establish specific community benefits in the redevelopment of properties along Deerfield Road. The proposed changes of Bill 108 will undermine these efforts.

Proposed solution: Bill 108 should be amended to remove the repeal Section 37 of the Planning Act.

Planning Impacts

Bill 108 proposes extensive changes to the Planning Act. The changes and the impacts are summarized below with staff's recommendations.

LPAT Reform

Bill 139 replaced the OMB with the Local Planning Appeal Tribunal (LPAT), a new tribunal which would be mandated to give greater weight to the decisions of local communities. Bill 139, the Building Better Communities and Conserving Watersheds Act was enacted by the previous government in 2017. Staff provided detailed information on Bill 139 through Information Report #2016-44 and 2016-47.

Bill 108 proposes a return to de novo hearings in all cases and a "best planning outcome" approach. It also proposes to repeal the requirement that appeals be exclusively tested against consistency with the Provincial Policy Statement, provincial plans and Official Plans. These can still be used as a basis for appeal, however, they would no longer be the only grounds for an appeal.

The LPAT currently works on a two decision process, wherein the Council decision is sent to the LPAT by appeal to see if it's consistent with / confirms to provincial policy, provincial plans and the upper tier Official Plan. If the LPAT determines there are consistency or conformity issues, LPAT sends the matter back to Council for reconsiderations. If Council does not revise their decision, LPAT modifies the Official Plan amendment or Zoning By-law to resolve the matter. Bill 108 proposes to return to a single hearing where the LPAT would have the power to make a final determination approving, refusing or modifying all or part of the appeal.

The nature of evidence and how it is provided is also proposed to return to the pre-LPAT way wherein verbal testimony and cross-examinations are permitted. The LPAT is proposed to have a new power mandating mediation or other dispute resolution process to resolve one or more issues in the proceeding.

Bill 108 proposes to limit third party appeals of plans of subdivision and approval authority non-decisions on official plans and official plan amendments. It also promotes increased mediation to resolved appeals.

The proposed regulations which would implement many of these changes and set out transition rules have yet to be released.

Impact: This will take away final planning decisions out of council's hands and return to a system where Council's decision is not considered.

Recommendation: That Council request the Province to retain the current LPAT function and rules which have been in place for less than 2 years.

Reduction of municipal decision timelines

Bill 108 seeks to repeal and amend many of the changes implemented by the previous government under Bill 139 Building Better Communities and Conserving Watersheds Act. Staff provided detailed information on Bill 139 through Information Report #2016-44

and 2016-47. The table below illustrates how the timelines for Council's decision making on some Planning Act applications has been decreased to below pre-Bill 139 levels.

Planning Act application	Pre-Bill 139	Bill 139	Bill 108
Official Plan/Official Plan Amendment	180 days	210 days	120 days
Zoning By-law/Zoning By-law Amendment	120 days	150 days	90 days
Plan of Subdivision	180 days	180 days	120 days

Impact: Reduced timelines for decision making are inadequate to allow for a thorough assessment, do not align with Committee/Council cycles and could increase the number of LPAT appeals on a non-decision by Council.

Recommendation: If the timeframes must be reduced, at least maintain the pre-Bill 139 levels.

Limited Permissions for Inclusionary Zoning

Inclusionary Zoning allows for Council to require a percentage of units in a development of 10 or more units must be set aside as "affordable" units. Municipalities are currently able to determine the areas where Inclusionary Zoning would apply. Unless otherwise prescribed by regulation, the proposed Planning Act changes in Bill 108 will limit a municipality's ability to apply Inclusionary Zoning to only protected major transit station areas (MTSAs), to locations where the municipality has adopted a Community Planning Permit System (CPPS) and to location or locations where the Minister orders a Community Planning Permit System (CPPS) to be put in place. Newmarket has 12 MTSAs. These include all Bus Rapid Transit (BRT) stations areas and the future Mulock GO station area.

Bill 108 proposes to allow the municipality, or the Minister can initiate, the use of a Community Planning Permit System (CPPS) in areas for strategic for housing growth.

Impact: Bill 108 proposes to limit where the municipality can use Inclusionary Zoning, thus removing Council's ability to make the best decision for Newmarket based on local situations and context. Council should have the freedom to use Inclusionary Zoning where it is best appropriate based on Newmarket context. Council should have the ability to choose the locations for Inclusionary Zoning based on an Official Plan Amendment or overall Official Plan Review.

Recommendation: That Council request the Province to remove the limitations on Inclusionary Zoning proposed by Bill 108.

Secondary Suites

Requiring municipalities to authorize an additional residential unit in both the primary dwelling and an ancillary building or structure, whereas previously they were permitted in the primary dwelling OR an ancillary structure.

Bill 108 proposes to exempt secondary suites from development charges with the intention of incentivizing this form of development.

Impact: This would further impact established neighbourhoods and new neighbourhoods by doubling the permitted density in a manner that is not necessarily captured through traditional planning processes. Also it further deviates from the "growth pays for growth" philosophy that is crucial to municipalities creating complete and vibrant communities.

Recommendation: The Council request the Province maintain the current permissions for an ADU in a primary OR accessory structure and not exempt them from development charges.

Growth Plan

In addition to the Bill 108 changes, Ontario's Housing Supply Action Plan also proposes extensive changes to the Provincial Growth Plan. These changes came into effect on May 16, 2019, and are incorporated into a new Growth Plan called "A Place to Grow: Growth Plan for the Greater Golden Horseshoe". These changes will be discussed in a future Information Report.

Changes in other legislation

An *Ontario Building Code* requirement that all new homes include provisions for future Electric Vehicle charging infrastructure is proposed to be removed and the Code will be updated to conform with the National Building Code.

Heritage Act

Amendments to the *Ontario Heritage Act* will establish new, mandatory standards for designation by-laws and new time limits for confirming complete alteration and demolition applications, as well as designation decisions.

New Right of Appeal under Bill 108

In sum, Bill 108 represents a significant shift in power over heritage matters from municipal councils to owners and other interested parties, and ultimately to the LPAT:

- Under Bill 108, if Council receives an objection to a notice of intention to designate, or no objection to the notice, it must pass a by-law within 120 days of giving its notice of intention to designate.

Impact: Staff support this change however the timeframe should be increased to 180 days to allow sufficient time for review and administrative functions. Passing a By-law within a set timeframe from giving notice of intention to designate provides greater certainty with regards to the timeline and decision making.

Recommendation: That Council request the Province to increase the timeframe to 180 days.

- Any concerned person is granted a right to appeal a designation by-law to the Local Planning Appeal Tribunal (the LPAT). The Ontario Conservation Review Board (CRB) would no longer play a role in the process.

Impact: Staff do not support this change. It is important that local councils have the power and ability to conserve significant heritage recourses. It is staff's position that municipalities should retain control over the final authorization of alterations to designated heritage properties.

Recommendation: That Council request the Province remove this change to the Ontario Heritage Act.

Potential Regulations to Prohibit Designation After Prescribed Events

Bill 108 also includes a provision that would prohibit municipalities from giving a notice of proposed heritage designation more than 90 days after the occurrence of a "prescribed event." These events will be identified in future regulations, but it is anticipated that they will be applications for planning approvals or building permits.

Impact: Staff are generally supportive of this change. While the specific details of what might be considered a "prescribed event" are not described at this time, it appears to be provided to provide an applicant certainty with regards to the timeline and decision making on heritage resources and the implications it may have on the application. However, staff suggest the 90 days be increased to 120 days to allow for sufficient time to review and provide administrative functions.

Recommendation: That Council request the Province to increase the timeframe to 120 days.

New Rules for Applications to Alter a Heritage Property

Under section 33 of the current Act, if Council rejects an application to alter a heritage property or approves an application with conditions, the owner can request a review of that decision by the CRB, but again, Council is not obliged to follow the CRB's

recommendations. Bill 108 would change that procedure by removing the CRB's role and allowing owners to appeal Council's decision to the LPAT.

Impact: Staff do not support this change. It is important that local councils have the power and ability to conserve significant heritage recourses. It is staff's position that municipalities should retain control over the final authorization of alterations to designated heritage properties.

Recommendation: That Council request the Province remove this change to the Ontario Heritage Act.

New Right to Object to a Heritage Listing

Under the current Act, municipalities are not obliged to give owners notice that their property has been listed (not designated), but Bill 108 would require that municipalities give the owners such notice and would allow owners to object to the listing. Council would then be obliged to consider the owner's objection, but the owner would have no right of appeal if Council decides to list the property over the owner's objections.

Impact: Staff support this change as it provides transparency for owners and opportunities for re-consideration but leaves the final decision to Council.

Appeal Process

The most significant change to the provisions under the Heritage Act is the proposed elimination of the Conservation Review Board (CRB) hearings which transfers the final decision making power from Council to the LPAT. Staff are concerned that the LPAT will not have the heritage expertise comparable to the CRB members and that shifting the final decision making power to the LPAT could have a negative impact on heritage conservation.

Recommendation: That Council request the Province remove this change to the Ontario Heritage Act.

Timing of legislative changes

Concern: The consultation for these extensive changes is insufficient.

The proposed changes in Bill 108 represent a dramatic change from the planning and development financing landscape that has been consistent in Ontario since 2007. The proposed period for commenting on the changes is less than one month, and closes on June 1, 2019.

Conclusion

Bill 108 contains limited evidence that its central objectives, making it easier to bring housing to market and accelerating local planning decision, will be achieved. The

proposed changes could have significant impacts on how the Town attempts to achieve its strategic goals (i.e. achieve the goals of the Secondary Plan). These changes could negatively impact Council's ability to achieve its Strategic Priorities. The consultation period on the Bill 108 was short and there are key pieces of information missing which will come through Regulations at a later date. The full impact of these changes cannot be fully understood without the information provided in Regulations.

From the evidence provided, proposed changes will dramatically change the development financing landscape. The changes will create additional administrative costs, increase price uncertainty for developers, and may reduce municipalities' ability to continue to provide the same level of service in the face of growth without finding additional sources of funding.

Business Plan and Strategic Plan Linkages

This report aligns with Council's Strategic Priorities in that it is promoting Newmarket's Long Term Financial Sustainability by highlighting the potential financial risks of the proposed changes of Bill 108. This report also aligns with the Town's vision to be Well Equipped and Managed and Well Planned and Connected by noting how Bill 108 could impede staff and Council from appropriately managing and planning Newmarket.

Consultation

This report was co-authored by the Planning & Building Services Department and the Innovation & Strategic Initiatives Department.

Human Resource Considerations

None.

Budget Impact

There are no budget impacts as a direct result of this report. However, the changes proposed by Bill 108 will have significant budget impacts.

Attachments

Appendix A – List of Acts affected and comment timeframes, if known.

Approval

Jason Unger, MCIP, RPP
Acting Director of Planning & Building Services

Peter Noehammer, P. Eng.

Commissioner of Development & Infrastructure Services

Susan Chase
Director Innovation & Strategic Initiatives

Contact

Meghan White, Planner, mwhite@newmarket.ca

Adrian Cammaert, Senior Policy Planner, acammaert@newmarket.ca

Kevin Yaraskavitch, Financial Business Analyst, kyaraskavitch@newmarket.ca

Appendix A

Below is a list of all of the Acts proposed to be amended by Bill 108.

1. Planning Act (deadline for comment June 1):
2. Conservation Authorities Act (deadline for comment May 20):
   https://ero.ontario.ca/notice/013-5018
3. Development Charges Act (deadline for comment June 1):
   https://ero.ontario.ca/notice/019-0017
4. Education Act (consultation closed)
5. Endangered Species Act (deadline for comment May 18)
   https://ero.ontario.ca/notice/013-5033
6. Environmental Assessment Act (deadline for comment May 25)
   https://ero.ontario.ca/notice/013-5102
7. Environmental Protection Act (deadline for comment May 31)
   https://ero.ontario.ca/notice/019-0023
8. Local Planning Appeal Tribunal Act (deadline for comment unknown)
9. Occupational Health and Safety Act (deadline for comment unknown)
10. Ontario Heritage Act (deadline for comment June 1)
    https://ero.ontario.ca/notice/019-0021
11. Workplace Safety and Insurance Act (deadline for comment unknown)
12. Cannabis Control Act (deadline for comment unknown)
13. Labour Relations Act (deadline for comment unknown)

OFFICE OF THE MAYOR
John Taylor

May 17, 2019

Honourable Steve Clark
Minister of Municipal Affairs and Housing
Ministry of Municipal Affairs and Housing
17th Floor
777 Bay St.
Toronto, ON M5G 2E5

Dear Minister Clark;

I understand that the province is currently consulting the public on proposed changes to the Planning Act as part of Bill 108. While the province is considering changes to the Planning Act, I'd like to take the opportunity to provide some comments regarding an additional change that is beyond the scope of the changes proposed by Bill 108, but I believe should be considered for inclusion.

The Town of Newmarket, like many other municipalities, currently has a number of planning approvals issued for which the associated development has not occurred. This is becoming an increasingly problematic issue because historic planning approvals:

1. Contradict other efforts that municipalities take to encourage development in a timely manner in order to achieve their intensification targets and other planning goals in accordance with provincial policy;
2. Are often misaligned and no longer consistent with more recent higher-order planning policies for an area; and
3. Result in additional time and financial resources that municipalities must bear as a result of processing applications for developments that may not expeditiously take place.

To address the above issues, I'd like to encourage the province to consider revising the Planning Act in order to prevent these approved, yet undeveloped instances from occurring. As you are aware, the Planning Act does not currently contain lapse dates for either official plan amendment or zoning by-law amendment approvals; the only lapse date provisions that currently exist in the Planning Act deal specifically with land division through draft plan approvals (Section 51(32)) and consent approvals (Section 53(43)).

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I believe the consent approvals section (Section 53(43)) provides a good framework upon which language could be crafted for official plan amendment and zoning by-law amendment approvals. This section contains language that requires the applicant to carry out the proposed transaction for the consent (e.g., mortgage or transfer) within 2 years from the date of the approval certificate, otherwise the consent lapses. This requirement incentivizes quick action on behalf of the applicant, and could be used as a basis for similar language in Section 22 (Official Plan Amendment) and Section 34 (Zoning By-laws). In each of these sections, the "proposed transaction" for which the approval was granted would be the subsequent step in the planning process, being either an application of a complete zoning by-law amendment application or an application for site plan approval.

Thank you for your consideration of these comments,

Yours truly,

John Taylor
Mayor

Copy: Christine Elliott, MPP, Newmarket-Aurora
Newmarket Council