

May 10, 2024

Provincial Planning Policy Branch
7 Bay Street, 13th Floor
Toronto Ontario
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Re: ERO 019-8369: Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185 - the proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024)

On behalf of our many municipal clients, we are submitting our comments related to the proposed changes to the *Municipal Act* and *Planning Act* as proposed by Bill 185 (*Cutting Red Tape to Build More Homes Act*).

1. Introduction

Watson & Associates Economists Ltd. is one of Canada's leading economic consulting firms, comprising municipal economists, planners, accountants, and support staff. The firm has been in operation since 1982. Our work has involved many aspects of municipal finance and economics, including assisting municipalities across the Province with development charges (D.C.) studies, community benefits charges (C.B.C.) studies, parkland dedication studies, fiscal impact assessments, full cost user fee pricing models, demographic forecasts, growth management studies, and more. Watson is a leader in the D.C. and growth management fields.

2. Overview Commentary

The Province has introduced Bill 185 with the following objective: “...*reduce red tape which is a significant barrier to productivity, economic development, as well as domestic and international growth*”. The Province's intention is to build on previous actions and housing related initiatives to remove administrative barriers with a variety of initiatives intended to grow a stronger economy, keep costs down, save time, and improve service delivery for businesses and people across the province. These initiatives include “*attracting investment and creating new jobs by making it faster and easier for municipalities to provide incentives to attract game changing global investment.*”

To implement these initiatives, Bill 185 introduces changes to the *Municipal Act*, along with nine other statutes including the *Planning Act*.

The following sections summarize our analysis and comments on the following areas:



- Assistance Provided under s.106 of the *Municipal Act*;
- Minister's Zoning Orders (MZOs); and
- The removal of planning responsibilities for upper-tier municipalities.

3. *Municipal Act* Analysis and Comments

Section 106 of the *Municipal Act* provides rules with respect to bonusing. The proposed amendments to s.106 are in response to the stated goal of attracting “*game changing global investment*”. These proposed changes allow the Lieutenant Governor in Council to make regulations to authorize municipalities to provide assistance to a specified manufacturing business or other industrial/commercial enterprise, setting out the types of assistance that may be provided, and restrictions and conditions that must be met before providing assistance.

The following analysis and comments are provided with the intent of ensuring the long-term financial sustainability of municipalities, consistent with the land use planning system objectives of the Provincial Policy Statement (PPS).

1. Requirement to Provide Assistance

The new s.106.1 of the *Municipal Act* states that “...the Lieutenant Governor in Council may make regulations authorizing a municipality to grant assistance, directly or indirectly, to a specified manufacturing business or other industrial or commercial enterprise during a specified period, and governing the granting of the assistance, including...setting out the types of assistance that may be granted”. (*Underlining for emphasis*)

As discussed further in commentary below, a municipality may not find it advantageous to provide the assistance they are authorized to provide. Our interpretation of s. 106.1 is that municipalities would have discretion over whether they would provide the assistance they have been authorized to give and are not required to do so.

2. Conditions to be Met Before Providing Assistance

The new s.106.1 of the *Municipal Act* would allow for regulations to include “...*conditions that must be met before the assistance may be granted*”.

The types of “*game changing global investment*” that the Province has referred to could often require significant changes to municipal land use planning policies, including urban boundary expansions, municipal boundary adjustments, and infrastructure planning. Ontario's planning policy regime requires development planning to ensure the financial well-being of municipalities is maintained over the long-term. In accordance with the PPS, municipal official plan policies would normally require a number of land use planning studies to be undertaken, including a fiscal impact analysis to demonstrate that development (including the requirement for infrastructure and public service



facilities) is financially viable, and will not negatively impact the municipality's financial position.

Many smaller municipalities in Ontario may not have the appropriate organizational structure in place to manage significant industrial developments through the development approvals, construction, and operations stages. These developments could place additional stress on municipal planning and building, engineering and infrastructure, and administrative staff.

Consideration should be given to:

- Requiring a financial impact analysis be undertaken that demonstrates the proposed development and municipal assistance are financially viable over the long term. This analysis should measure the fiscal impacts of the proposed development on the municipality's financial position (e.g. tax rates and utility rates), inclusive of operating costs, capital costs, and municipal staff resourcing;
- Allowing municipal Council to determine if and when regulatory "conditions" are satisfied and the level of assistance to be provided;
- Availability of financial support from the Province to undertake the above analysis; and
- Availability of financial support from the Province if municipalities are mandated by the Province to provide assistance and the municipal analysis demonstrates such assistance would negatively impact their fiscal position.

3. Eligible Entities that may Receive Assistance

Section 106.1 defines the types of entities that could receive assistance as "a specified manufacturing business or other industrial or commercial enterprise". This could potentially include housing development corporations which are commercial enterprises. It should be noted that providing certain types of assistance to these types of corporations (such as waiving D.C.s) would appear to be in contrast to the other changes made through Bill 185 (i.e. removing the mandatory phase-in of new D.C. by-laws). The negative financial impact of the mandatory phase-in of D.C.s was widely communicated to the Province by municipalities across Ontario. The broad application of these powers would provide for an inequitable application of recovery of the costs of development across housing providers. Moreover, if the Province can mandate municipalities to provide assistance, this would replace the autonomy of municipal Council to make such determinations and exclusively govern their financial matters. This reinforces our comments above, that if there is assistance to be provided that would have a negative financial impact on the local municipality, financial support from the Province should be considered.



4. *Planning Act* Analysis and Comments

1. Minister's Zoning Orders

We are encouraged by the new MZO framework which provides better transparency in reviewing MZO applications. However, the MZO framework should be enhanced to include more focus on demonstrating the “need” for the use within the context of housing supply and demand within the municipality, as well as consideration of local growth management policies.

As part of a municipality's Official Plan Review, considerable resources and extensive public engagement are carried out to ensure that future growth is comprehensively assessed, and that urban and rural development is directed to appropriate locations. Based on the current framework, MZOs can be requested and approved without regard to local policies, the need for the application, or the municipality's ability to accommodate the development.

We are also concerned about the application of MZOs, as identified in the proposed Provincial Planning Statement, 2024 (PPS, 2024). According to the proposed PPS, 2024, MZOs are to be treated as “in addition to projected needs” over the planning horizon. In our opinion, it is not appropriate to increase the pace of development associated with an MZO application without linking the application to a specific regional or local economic driver. It is recommended that when planning for MZO lands, the timing of their buildout is not held to a targeted minimum or maximum planning horizon as set out in the proposed PPS, 2024. Rather, the timing of development should be subject to an assessment of anticipated economic growth and real estate market demand within the municipality and the broader economic region over the horizon of the plan. Furthermore, it is our opinion that the Province should require the timing of development regarding approved MZOs be established through provincial and local phasing policies, municipal servicing plans, school board accommodation plans, and reviewed through regular monitoring.

The proposed MZO framework is designed to increase urban land supply and expedite the development of more housing. In the absence of a land needs assessment and economic analysis to support an MZO application, however, there is a risk that population and housing growth within a given municipality will be overstated within the horizon of the Official Plan. This has the potential to undermine local planning policies and create financial risks for municipalities due to having to emplace and fund municipal infrastructure for additional lands that are not sequenced in the municipality's growth and financial plans.

2. Upper-Tier Municipalities Without Planning Responsibilities

We are encouraged by the focus on empowering local municipalities in planning for growth. We are however concerned about the role that some of Ontario's largest



upper-tier municipalities will have by being classified as “upper-tier municipalities without planning responsibilities.” These municipalities provide a broad vision and planning direction with respect to the long-term management of urban, rural, and natural systems. Moreover, upper-tier municipal planning authorities plays a critical role in the coordination, phasing, and delivery of water, wastewater, and transportation infrastructure, and other municipal services. This can be observed in Metro Vancouver, BC, where Metro Vancouver provides water and wastewater services to 21 municipalities, one electoral area, and one treaty First Nation. Metro Vancouver does not review and comment on planning applications. As such, development approvals by local municipalities necessitate capital investments into water and wastewater infrastructure that may not have been incorporated into the financial plan which places increased pressure on water and wastewater infrastructure requirements and creates funding challenges.

While Bill 185 aims to streamline the land use planning process across the affected municipalities, it has the potential to create challenges with respect to the coordination of regional growth management objectives among municipalities and stakeholders, while adding to the technical and administrative efforts of both lower-tier and upper-tier municipalities, as well as the Province. Furthermore, Bill 185 would remove critical planning resources and knowledge at the upper-tier level that are required when addressing matters that cross technical disciplines and municipal jurisdictions. This would potentially result in disjointed efforts and outcomes with respect to local planning approvals and regional municipal service delivery.

As part of this Bill, we would suggest that the Province consider providing more clarity around the role of the upper-tier municipalities without planning responsibilities, including acknowledging the benefits of having a more engaged upper-tier municipality in growth management, especially as it relates to the provision of infrastructure.

We appreciate the opportunity to provide comments related to the proposed changes on behalf of our municipal clients.

Yours very truly,

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