
REPORT TITLE: **Bill 185, Cutting Red Tape to Build More Homes Act, 2024 and Implications for Peel Region**

FROM: Gary Kent, CPA, CGA, ICD.D, Chief Administrative Officer

RECOMMENDATION

That the Chief Administrative Officer (CAO) or their delegate be authorized to prepare and submit to the Province of Ontario any comments on Bill 185 and any related consultations or regulations to meet deadlines that are consistent with the report from the CAO, listed on the April 25, 2024 Regional Council agenda titled “Bill 185, Cutting Red Tape to Build More Homes Act, 2024 and Implication for Peel Region”.

REPORT HIGHLIGHTS

- The Province introduced Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024*, on April 10, 2024, with the goal of reducing red tape and building 1.5 million homes by 2031.
- Bill 185 amends several statutes affecting Peel Region, including the *Hazel McCallion Act, 2023 (Peel Dissolution)*, *Development Charges (DC) Act, 1997*, *Planning Act* and the *Municipal Act, 2001*.
- Changes to the *Hazel McCallion Act* confirm the Province’s previous announcements to not dissolve Peel Region and give the Transition Board a focused mandate.
- Changes to the *DC Act* include eliminating the five-year phase-in of DC rates and restoring studies, including DC background studies, as eligible DC costs and make some progress towards restoring municipalities’ ability to fund growth-related infrastructure.
- A separate companion report on the *DC Act* changes is also on the April 25, 2024 Regional Council agenda.
- The *Planning Act* is amended to remove Peel Region’s planning responsibilities under the *Planning Act*, effective July 1, 2024, and transfer them to the local municipalities and the Province.
- Bill 185 changes to the *Municipal Act* would permit a municipality to pass a by-law providing for the allocation of water supply and sewage capacity to support approved developments under the *Planning Act*. A similar provision in the *Planning Act* is removed.
- Council is being asked to authorize the CAO or their delegate to prepare and submit to the Province any comments on any of the other Bill 185 related consultations, that are consistent with this report. The commentary deadline is May 10, 2024.

DISCUSSION

1. Background

Bill 185, Cutting Red Tape to Build More Homes Act, 2024 and Implications for Peel Region

On April 10, Paul Calandra, Minister of Municipal Affairs and Housing, introduced Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024*, an omnibus piece of legislation that forms part of the Province's Spring 2024 Red Tape Reduction Package and the next phase of its Housing Action Plan. Bill 185 proposes a wide variety of amendments to 15 existing pieces of legislation, some of which have implications on the operations and responsibilities of Peel Region. The statutes amended by Bill 185 with implications for Peel Region are:

- *Hazel McCallion Act (Peel Dissolution), 2023*
- *Development Charges Act, 1997*
- *Planning Act*
- *Municipal Act, 2021*

Some of the changes proposed to these statutes respond to calls from the Association of Municipalities of Ontario (AMO), Peel Region and many other municipalities to help restore some of the ability of municipalities to properly fund growth and housing related infrastructure through DCs, and deal with stalled development.

A detailed summary of changes in Bill 185 and their implications for Peel Region are described below.

2. Summary of Bill 185 and Implications for Peel Region

a) *Hazel McCallion Act (Peel Dissolution), 2023* (Schedule 7)

The amendments to the *Hazel McCallion Act (Peel Dissolution), 2023* (Bill 112) would revise the name of the act to the *Hazel McCallion Act (Peel Restructuring), 2023*, which, as the new name suggests, would repeal the dissolution of Peel Region and recalibrate the focus of the Peel Region Transition Board to consider how to make local government in Peel more efficient and responsive to the needs of residents and taxpayers. This change confirms Minister Calandra's announcements in December and January that Peel Region will not be dissolved and limit the Transition Board's mandate to providing recommendations on the transfer of powers, responsibilities or jurisdiction from Peel Region with respect to land use planning, water and wastewater, storm water, highways, and waste management.

Although the focus of what might change for Peel Region has been narrowed, there remains a high level of uncertainty as to the extent that this review will impact Peel. Peel Region is working with the Transition Board, local municipalities and the Province to reduce and mitigate the risk associated with these levels of uncertainty.

Other notable amendments to Bill 112 include:

- **Earlier date for the dissolution of the Transition Board:** The current Act requires the Board be dissolved on January 31, 2025, or a later date as the Minister may prescribe by regulation. Regulation 187/23 prescribed the date of dissolution of the Transition Board as June 1, 2025. The Act has now been amended to allow for the Board to be dissolved earlier than January 31, 2025.

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- **Tying public interest considerations on the Board's renewed mandate:** The requirement to consider the public interest when entering into any transaction, commitment or agreement would only refer to the transfer of powers, responsibilities or jurisdiction from Peel Region regarding land use planning, water and wastewater, storm water, highways (regional roads), and waste management. Staff in these areas will need to continue to be aware as they write any reports to Council and show due diligence for every transaction, commitment and agreement being considered.
- **Removes the Provincial Cabinet's regulatory authority under the Act:** Removes the ability of the Lieutenant Governor in Council (Provincial Cabinet) to make regulations with respect to municipal restructuring with Peel Region. This would seem to suggest that any decision-making and implementation arising from the Transition Board's recommendations would need to be the subject matter of future legislation, rather than regulations by the Lieutenant Governor in Council. The Minister retains the ability to make regulations regarding prescribed matters as currently set out in the Act. These matters are primarily administrative in nature and include matters relating to the Transition Board.
- **Expansion of limitation of remedies provisions:** A new section regarding the limitation of remedies provisions has been added to the Act. This change would basically limit a third party's right to sue the Crown, Transition Board, Peel Region and local municipalities and be awarded damages or other compensation for actions taken or not taken as a result of Act. Currently, there are limits on remedies in the Act and the addition of this new section creates further limits. The limits on compensation and remedies apply retrospectively, so prior to Bill 185 coming into effect.

b) *Development Charges Act, 1997* (Schedule 6)

Bill 185 proposes a number of changes to the *Development Charges Act, 1997*.

These include:

- eliminating the five-year phase-in of development charge (DC) rates that applies to any by-laws passed after January 1, 2022.
- restoring studies, including the development charge background study, as eligible DC costs.

As Peel's current DC by-law was passed before January 1, 2022, it was not affected by the Bill 23 provisions involving phased-in rates and the collection of DCs for studies as an eligible capital cost under the current DC By-law. Bill 23 amendments would have impacted Peel Region if the DC by-law was reopened prior to the expiry date of January 22, 2031. It is estimated that over a future 10-year period, these recent proposed changes could reduce the estimated DC revenue shortfall for Peel Region by approximately \$320 million to \$1.2 billion.

There is currently a two-year time lapse on the DC freeze (an application is not eligible for a DC freeze if the DC payable is not within two years of the approval of the planning application). Bill 185 proposes to reduce the prescribed time the DC rate can be frozen

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from 2 years to 18 months. This amendment is a positive change as it is designed to encourage expedited development.

In general, many of the changes to the *DC Act* appear positive for municipalities by reversing some changes originally introduced in Bill 23, which limited the ability of municipalities to collect DC revenue. While the DC Act amendments in Bill 185 do make some progress towards restoring municipalities' ability to fund growth-related infrastructure, they do fall short of making municipalities financially "whole". For instance, Bill 185 did not reinstate both housing services and the cost of land as eligible DC costs. This would impact on the ability for Peel Region and local municipalities to fund and build affordable and non-market housing.

An analysis of the *DC Act* changes in Bill 185 is found in a companion report "Bill 185 – Changes to the *Development Charges Act, 1997 (DC Act)*", which is also on the April 25, 2024 Regional Council agenda. Staff will continue to monitor the *DC Act* changes in Bill 185, and report to Council, as necessary, as well as continue to advocate that "growth should pay for growth".

c) **Planning Act** (Schedule 12)

Bill 185 proposes more than a dozen amendments to the *Planning Act*. Listed below are the relevant amendments and related commentary.

i) Removal of Peel Region Planning Responsibilities

Bill 185 proposes to implement changes to the *Planning Act* first introduced in Bill 23 that would remove upper-tier planning responsibilities from seven upper-tier municipalities, including Peel Region. For Peel, Halton and York Regions, upper-tier planning changes will come into effect on July 1, 2024, with changes at the remaining upper-tier municipalities coming into effect on a date to be proclaimed by the Lieutenant Governor.

With this change, planning policy and approval responsibilities of Peel Region under the *Planning Act* will be removed. The Regional Official Plan becomes a plan of the lower tier municipality, and they are required to implement and ensure applications conform to the Regional Official Plan. Where Peel Region was previously required to be the approval authority for certain Official Plan reviews and amendments under the *Planning Act*, approval authority will now become the responsibility of the Province. Bill 185 also includes transition provisions with respect to matters before the Ontario Land Tribunal (OLT). If Peel Region was already a party to an appeal, and a hearing date has been set, before July 1, 2024, then Peel Region may continue as a party to the appeal unless the appeal is deemed dismissed.

As the date for implementation has now been identified, staff are working with Regional Council, the Transition Board and local municipalities to finalize the implementation plan in the coming weeks. Peel Region continues to be committed to transparency with staff as details are known and to provide increased communication, engagement and supports.

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ii) Settlement Area Boundary Expansion Appeals

Currently there is no right of appeal for private applicants for an official plan amendment or zoning bylaw amendment that expands a settlement area boundary. Amendments are proposed that would permit an appeal in such cases unless the settlement boundary expansions includes expansion into the Greenbelt. The effect of this is that decisions to include or, more significantly, not include lands in a settlement boundary expansion can now be appealed, provided it is not in the protected Greenbelt Area.

After July 1, 2024, this matter will not affect Peel Region as the local municipalities will be responsible for undertaking any future settlement area boundary expansions.

iii) Parking Standards

Bill 185 proposes amendments to the *Planning Act* that would prohibit parking minimums within protected major transit station areas, as well as in areas where minimum densities are required by official plans or provincial policies. The Minister will also have the ability to make a regulation prescribing other areas where the minimum number of parking spaces will be set by provincial regulation. Related amendments are made to a section 34 of the Act that legislates zoning by-laws.

Local municipalities in Peel have updated their parking plans and by-laws to reduce parking minimums in transit corridors and intensification areas, this is in alignment with Peel staff's advocacy for reduced parking requirements for affordable and non-market housing.

iv) Use It or Lose It Provisions

Bill 185 introduces new lapsing ("use it or lose it") provisions to the approvals under site plan and subdivision approvals. These provisions would create a new process to allow municipalities to address inactivity on approved developments and to support the efficient allocation of housing-enabling infrastructure. The provisions, when in effect, would enable municipalities to adopt policies setting out how water and wastewater servicing may be allocated and reallocated so that developments that are ready to proceed encounter fewer barriers and delays prior to construction.

The lapsing provisions would be optional for the approval of site plans, but mandatory for subdivisions. Site plan approvals which do not pull their permits within a certain period of time prescribed by regulation (with a default of 3 years), will default. Draft plans of subdivisions will have mandatory lapsing provisions, with the time frames to be set by regulation.

While it is understood that there is a period of time that exists between when units are approved and when construction commences, applicants not adding housing supply in a timely manner, despite having approvals and servicing in place, reduces housing options. Peel Region and local municipalities have advocated for mandating timelines to commence construction within a certain period.

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- v) Ending Mandatory Pre-Consultations and Removal of Fee Refunds for Planning and Development Applications

Currently, municipalities have the authority to require applicants seeking planning approvals (official plan and zoning by-law amendments, site plans and subdivision approvals) to consult with the municipality prior to submission of their application. The Province is proposing to make pre-application consultations with municipalities voluntary. Applicants can bring a motion to the Tribunal at any time during pre-consultation to determine whether the requirements for a complete application are reasonable or have been met.

The fee refund provisions put in place by Bill 109, when a municipality did not make a decision within specified times as legislated, are proposed to be revoked.

- vi) Removal of the Third-Party Appeals

Amendments are being proposed to limit third-party appeals to the Ontario Land Tribunal (OLT) of municipally approved official plans, official plan amendments, zoning by-laws and zoning by-law amendments. This had been proposed in the first reading of Bill 23, but then removed at committee. Bill 23 was revised to limit third party appeals to approvals of minor variances, draft plans of subdivision, or a consent application. New transitional rules for OLT appeals, would apply these limits to existing appeals that have not already been scheduled for a hearing of merit by April 10, 2024.

- vii) Exempt Community Service Facilities

The Province is exploring options to get shovels in the ground faster for priority government projects by consulting on a new expedited approval process for community service facilities, starting with K-12 public schools and potentially extending in phases to long-term care and hospitals.

Bill 185 adds a new section to the *Planning Act* authorizing regulations that would exempt types of community services facilities from any provision of the Act. Classes of community service facilities will be set out in regulation. This proposal is meant to prioritize public sector government projects and accelerate construction.

- viii) Exempt Post-Secondary Institutions from the *Planning Act*

Bill 185 proposes a new section is added to the Act to exempt publicly assisted universities from the *Planning Act*. This provision is meant to accelerate the building of new student housing.

d) *Municipal Act, 2001* (Schedule 9)

Bill 185 proposes two important changes to the *Municipal Act, 2001* regarding the allocation of water supply and sewage capacity to support approved developments, as well as creating anti-bonusing exceptions to attract investment in Ontario.

- i) Allocation of Water supply and sewage capacity

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The Province is proposing to amend the *Municipal Act* by adding a new section (86.1) that permits a municipality to pass a by-law providing for the allocation of water supply and sewage capacity to support approved developments under the *Planning Act*. A related amendment provides that this by-law may apply to the entire municipality or may apply differently to different geographic areas within the municipality. At the same time, Bill 185 proposes to repeal a similar provision in the *Planning Act* (Section 70.3).

Section 70.3 of the *Planning Act* allows municipalities, through a regulation passed by Cabinet, to pass by-laws creating a system for allocating sewage and water services to land that is subject to a subdivision application. This new section in the *Municipal Act* seemingly replaces this *Planning Act* section by allowing municipalities to allocate resources outside the subdivision regime of the *Planning Act*.

ii) Anti-Bonusing Exception

Bill 185 also amends Section 106 of the *Municipal Act, 2001* by adding a new section (106.1) that would allow Cabinet to enact 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 if cabinet considers that it is necessary or desirable to attract investment in Ontario.

Section 106 of the *Municipal Act* is known as the general restriction against bonusing provision, meaning that a municipality is prohibited from providing funding, directly or indirectly to any type of for-profit business or commercial enterprise. Assistance includes giving or lending of municipal property (including money), guaranteeing borrowing, leasing or selling of any municipal property below fair market value; or giving a total or partial exemption from any municipal levy, charge, or fee.

This particular provision could have financial implications for municipalities should the Province not fund such a grant assistance program. Municipalities may end up foregoing revenue in the short term or having to fund such grant assistance from its own revenue sources and has potential long-term risks should the investment turn out not to be of net economic and/or financial benefit to the municipality.

Peel Region staff are exploring if this provision provides legislative authority to support Peel's participation in the Major Office Incentives program once Peel's authority under the *Planning Act* is removed.

3. Proposed Regulatory and Policy Planning Changes

In addition to Bill 185, the Province introduced changes to regulations and a revised draft Provincial Planning Statement.

- **Minister's Zoning Orders** - The Province is launching a new "Minister's Zoning Order Framework" for how requests for zoning orders will be received and considered. The new framework in place for requesting an MZO includes criteria that will consider whether an MZO delivers on provincial priorities and whether it is supported by a

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municipal council or a mayor with strong mayor powers. The requirements include demonstrating why the normal municipal process cannot be used, as well as information on Indigenous engagement and public consultation. The Community Infrastructure and Housing Accelerator (CIHA) tool will be repealed to avoid unnecessary duplication.

- **Revised Provincial Planning Statement** – An updated draft (from the version released in April 2023) that will replace the *Provincial Policy Statement, 2020* and *A Place to Grow: Growth Plan for the Greater Golden Horseshoe*.
- **Standardized Housing Designs** – Establishes criteria to facilitate planning approvals for standardized housing that would only apply to specified lands with a minimum lot size, such as urban residential lands with full municipal servicing outside of the Greenbelt.
- **Enhanced Framework for Additional Residential Units (ARUs)** – Proposes to provide the Minister with enhanced regulation-making authority to remove zoning-barriers to create additional residential units.
- **Public Notices** - Changes are proposed to the regulations that govern how notice is given by a municipality to reflect current practices of most municipalities, including giving notice on a website if local papers are not available.

BILL 112 RISKS AND IMPLICATIONS

The passing of the *Hazel McCallion Act (Peel Dissolution), 2023* on June 8, 2023, formalized a plan to dissolve the Region of Peel effective January 1, 2025. On December 13, 2023, the provincial government announced that Peel will not be dissolved, and that new legislation will be passed in 2024 to repeal or amend Bill 112. On April 10, 2024, Bill 185, Cutting Red Tape to Build More Homes Act, was tabled to amend various acts including the *Hazel McCallion Act (Peel Dissolution), 2023*. Bill 185 will amend *the Hazel McCallion Act (Peel Dissolution), 2023* confirming that Peel will not be dissolved, and includes a recalibrated focus on options to support building more housing faster. The full implications of the *Hazel McCallion Act (Peel Dissolution), 2023* as amended by Bill 185 cannot be determined at this time.

CONCLUSION

Accompanying the introduction of Bill 185, the Province has launched several consultations related to the proposed legislation and related regulations and policies through the Environmental Registry of Ontario (ERO) and the Ontario Regulatory Registry.

Staff have drafted comments on the *DC Act* consultation, which are appended to the report “*Bill 185 – Changes to the Development Charges Act, 1997 (D.C. Act)*” on the April 25 agenda. Staff also intend to comment on the proposed provincial policy statement, *Planning Act* and *Municipal Act* changes and additional residential units. Comments for these particular consultations are due on May 10, 2024.

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In order to meet these deadlines, Council is being asked to authorize the Chief Administrative Officer or their delegate to prepare and submit to the Province any comments on any of the other Bill 185 related consultations, that are consistent with this report.

Staff will continue to assess the impacts of Bill 185 and monitor its progress in the Ontario Legislature until it receives Royal Assent and its provisions are proclaimed. Bill 185 was referred to the Standing Committee on Finance and Economic Affairs on April 17, 2024. At the time of the writing of this report, the Committee has not met to consider the Bill.



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