Report to Planning and Environment Committee

To: **Chair and Members**
Planning and Environment Committee
From: **Scott Mathers, MPA, P. Eng.**
Deputy City Manager, Planning and Economic Development
Subject: **Information Report of Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024***
Date: **July 16, 2024**

Recommendation

That, on the recommendation of the Director, Planning and Development, the following report with respect to Bill 185: the *Cutting Red Tape to Build More Homes Act, 2024,* **BE RECEIVED** for information.

Executive Summary

Summary of Bill 185

On April 10, 2024, the Province introduced Bill 185, the *Cutting Red Tape to Build More Homes Act, 2024* which proposes changes to the *Planning Act, Development Charges Act,* the *Municipal Act* and other statutes. The intent of the legislative changes is to enable municipalities to issue approvals and building permits and incentivize completion of development proposals. This will help address the housing affordability crisis in Ontario as detailed in the Housing Affordability Task Force Report released on February 8, 2022. Bill 185 received Royal Assent on June 6, 2024.

Purpose and the Effect of Recommendations

Each section of Bill 185 is summarized with the implications and implementation actions necessary to The London Plan and Zoning By-law.

Linkage to the Corporate Strategic Plan

This recommendation supports the following Strategic Areas of Focus:

- **Housing and Homelessness** by supporting faster/streamlined approvals and increasing the supply of housing with a focus on achieving intensification targets.

Analysis

1.0 Background Information

1.1 Previous Report Related to this Matter

Financial Implications of the More Homes Built Faster Act, 2022 (formerly known as Bill 23), Strategic Priorities and Policy Committee, April 18, 2023

1.2 Planning History

The Province of Ontario proposed amendments to several statutes through Bill 108 (*More Homes, More Choice Act, 2019*), 229 (*Protect, Support and Recover from COVID-19 Act, 2020*) and Bill 23 (*More Homes, Built Faster Act, 2022*), which resulted in changes to the *Conservation Authorities Act* and the *Planning Act*.

1.2 Overview of Bill 185

Bill 185 was introduced on April 10, 2024, with the intention of ‘reduc[ing] red tape and remove costly burdens in order to make government work better for the families, business owners, municipalities and workers that are building Ontario’. This Bill makes amendments to fifteen statutes, three of which are discussed in this report: *Planning*

Act, R.S.O. 1990, c. P.13 (the "*Planning Act*"), *Development Charges Act, 1997*, S.O. 1997, c. 27 (the "*Development Charges Act, 1997*") and *Municipal Act, 2001,* S.O. 2001, c. 25 (the "*Municipal Act, 2001*").

2.0 Discussion

2.1 *Planning Act*

The following is a summary of the most relevant changes made to the *Planning Act* as a result of Bill 185.

Elimination of Third-Party Appeal Rights

Bill 185 removes third-party appeals from official plan and zoning by-law amendments. Before Bill 185 received royal assent, anyone could appeal an official plan or zoning by-law amendment decision if they make an oral submission at a statutory public meeting, or a written submission before the amendment is adopted or enacted by Council. With the royal assent of Bill 185, an appeal to a Council approval is limited to the applicant, the Minister, and "public bodies" or "specified persons" who made oral or written submissions to Council prior to a decision being made. 'Specified persons' include utilities, pipeline and rail operators, and other similar public/private entities, and now includes NAV Canada, airport operators, and aggregate and environmental compliance permit holders with sites within 300 metres. Appeal rights also remain for 'registered owner(s)' of any land to which an official plan or zoning by-law would apply if, before the plan was adopted, the owner made oral submissions at a public meeting or written submissions to the council.

Implications: The elimination of appeal rights by ratepayer groups and industry organizations. They may seek party status by sheltering under an appeal of a 'specified person' but can no longer be a named appellant. As a result of the changes, any third-party appeals filed by, but for which no hearing has been scheduled before April 10, 2024, are deemed to have been dismissed as of June 6, 2024.

Next Steps: Staff have updated applications and notices; in the short term, staff will need to educate the public on these changes.

New Appeal Rights for Settlement Area Expansion Applications

Previous to the legislative change, there were no appeal rights for settlement area expansions (or lack of expansion). Through Bill 185, any landowner now has the ability to appeal a refusal or failure to decide on applications which expand a settlement boundary. This represents a significant expansion of appeal rights by lifting a prohibition which has been in place for many iterations of the *Planning Act.*

Implications: It is expected that the new Provincial Policy Statement will permit expansions to settlement area boundaries outside of the comprehensive review process, which would mean that private landowners can submit requests for expansions. Refusals of these applications would then be appealable to the Ontario Land Tribunal.

Next Steps: Amendments may be required to The London Plan.

Repeal of Fee Refund

The provisions introduced in Bill 109 requiring municipalities to refund an escalating portion of *Planning Act* application fees have been repealed. Currently, refunds of application fees are required to be paid on an increasing basis where no decision has been made within the legislated timelines.

Implications: Any *Planning Act* application submitted before June 6, 2024, is still subject to the refund provisions: however, the amount of the refund that is to be paid is based on the municipality having been deemed to have made a decision as of June 6, 2024.

Next Steps: Track existing applications which are subject to refund schedule; update application forms; advise applicants of repeal of refund schedule.

Community Infrastructure and Housing Accelerator (CIHA) Provisions Repealed

New legislation eliminates the Community Infrastructure and Housing Accelerator (CIHA) orders, a relatively new tool introduced through Bill 109. CIHA orders are a process for councils to request a Minister's zoning order. The minister continues to have the authority to enact minister's zoning orders. In order to formalize processes around MZOs, the Ministry has put in place a "Zoning Order Framework" which sets out process and requirements for requests for such orders.

Implications: Minister of Municipal Affairs and Housing can enact a 'minister's zoning order' within the Zoning Order Framework (to be released).

Next Steps: None

'Use It or Lose It'

Municipalities are now required to impose lapsing provisions on site plans and plans of subdivision if a building permit is not issued within a prescribed period, not less than three (3) years (or as prescribed by regulation).

Implications: There are currently lapsing provisions included in the conditions of draft approval for plans of subdivision. This would continue. The site plan approval process can now include lapsing dates, which will expire if no building permit is issued within the specified time period subject to any exemptions or clarification contained in the Regulations, which are not yet in force. Staff will need to determine whether to impose lapsing provisions on existing site plans.

Next Steps: Update agreements; advise applicants of change; continue to monitor for regulations. This work will be completed as part of the "Explore Incentive and Disincentive Opportunities" action as included in the Target Housing Supply Actions endorsed by Council in April, 2024.

Pre-Consultation By-laws

Pre-application consultations can no longer be made mandatory by by-law. Proponents can still voluntarily consult with municipalities to address application requirements.

Implications: Municipalities will have to address the necessary studies, reports and plans which constitute a 'complete application' regardless of the nature of the development. Proponents can then meet with municipal staff to scope the requirements.

Next Steps: Amendment to The London Plan to alter requirements for complete applications; continue to offer applicants ability to utilize the pre-application consultation meetings/process; repeal and/or amendment to pre-application consultation by-law.

Changes to Parking Requirements

Minimum parking requirements are no longer permitted in Protected Major Transit Station Areas (PMTSA) as designated in official plans where minimum densities are required.

Implications: None as the Zoning By-law Z.-1 addresses this (section 4.19 9).

Next Steps: None.

Amendments to Official Plans Near Protected Major Transit Station Area (PMTSA)

While most applications to amend OP policies in PMTSAs are not permitted, an exception has been created that allows applications to amend the authorized uses of land in the PMTSA. As these areas are scheduled to be of mixed land uses (i.e.

commercial and residential), the specific land uses can be changed or added. However, other amendments such as minimum or maximum density are not permitted.

Implications: Applications to amend the policy framework for PMTSAs continue to be prohibited, with the exception of now being permitted to apply to amend the uses.

Next Steps: None.

Exempt ARUs (Additional Residential Units) from *Planning Act* Requirements

The Minister can now make regulations setting out specific requirements and standards for ARUs in detached, semi-detached and row houses. These regulations would apply instead of the municipalities local zoning standards. It's important to note that no regulations were enacted to implement these provisions.

Implications: The City's zoning standards for ARU's may no longer be required/relevant. That ARUs would be exempt from zoning standards.

Next Steps: Changes may be required dependent on regulations (as of yet not released).

Exempt Community Service Facilities from *Planning Act* Requirements

The minister has also been given the power to make regulations that would exempt "community service facilities" of school boards, long-term care homes and hospitals from all or part of the *Planning Act*. It is important to note that no regulations were enacted to implement these provisions.

Implications: These facilities would be exempt from zoning standards and site plan review.

Next Steps: Changes may be required in the future if regulations are implemented. Continue to monitor for regulations.

Exemption of Post-Secondary Institutions from *Planning Act* Requirements

Publicly assist universities carrying out undertakings for the "objects of the institution" are exempted from the provisions of the *Planning Act.*

Implications: These facilities are exempt from zoning standards and site plan review. Additionally, there are no definitions of 'objects of the institution' or "undertaking". The Province had described the intent of this exemption as required to facilitate the construction of student housing; however, the amendments are not restricted to student housing and will apply more broadly.

Next Steps: Maintain ongoing dialogue with Western to ensure development is consistent with City priorities.

2.2 *Development Charges Act, 1997*

A summary of the key proposed changes impacting the *Development Charges Act, 1997* (DCA) as a result of Bill 185 includes the following:

Revised Definition of Capital Costs

On November 28, 2022, the Province enacted Bill 23 (More Homes Built Faster Act), which included several exemptions, discounts, and reductions to development charges (DCs). As part of this legislation, the definition of capital costs was amended to remove studies as eligible capital costs. Subsequently, Bill 185 has reversed the Bill 23 amendment to the DCA so that studies have been reinstated as eligible capital costs.

Implications: The City is currently collecting and funding growth related studies since the 2021 DC Study and By-law was approved by Council prior to Bill 23 being enacted. Growth related studies would have been required to be removed from the 2028 DC Study but this is no longer required with the passing of Bill 185.

Removal of the Mandatory Phase-in

Bill 23 required that DC rates be phased-in over 5-years with 80% of the DC charge recoverable in year 1 with the full charge (100%) not recoverable until year 5. The changes introduced under Bill 185 removes the mandatory phase-in of DC charges.

Implications: DC By-laws passed after January 1, 2022 were required to phase-in DC rates. Since the 2021 DC By-law was passed prior to this date the current DC rates were not impacted by the phase-in requirement. With the removal of the mandatory DC rate phase-in through Bill 185, the 2028 DC Study and By-law will no longer be subject to the phase-in of DC rates.

Reduction of D.C. Rate Freeze Timeframe

On June 6, 2019, the Province enacted Bill 108 (More Homes, More Choices Act). Bill 108 provided for several changes to the DCA, including a requirement to freeze DC rates imposed on certain developments. This applied to developments that were subject to site plan / zoning by-law amendment (ZBA) applications, where the DC rate was frozen at the rates in effect at the time of site plan / ZBA complete application. The frozen DC rate was maintained as long as the time from application approval to permit issuance did not exceed 24 months. Bill 185 reduces the frozen DC rate period from 24 months to 18 months. One of the primary purposes of this change is to incent developers to move more quickly on their projects.

Implications: This is an operational change that will impact processes, procedures, and will require system modifications. Civic administration is in the process of finalizing these changes.

Process for Minor Amendments to DC By-laws

Bill 185 allows municipalities to undertake minor amendments to DC By-laws without certain requirements, such as undertaking a DC Background Study for the following purposes:

- To remove a DC By-law ‘sunset clause’ or to extend a DC By-law, subject to the 10-year limitations provided in the DCA;
- To impose DCs for studies; and
- To remove the mandatory DC rate phase-in.

Implications: No changes are required to the current DC By-law, therefore no impact to the City.

Financial Impacts

Civic Administration estimated that the overall impact to the City on growth costs previously funded by DCs is at least $97 million over a 5-year period as a result of the legislative changes introduced through Bill 23. With the elimination of the DC rate phase-in and the reinstatement of growth-related studies as eligible capital costs, it is estimated that $40 - $50 million can continue to be funded from DCs. This is a positive announcement that will ensure growth-related costs are funded and paid for by DCs as opposed to existing tax/rate payers. It should be noted that these financial impacts would have impacted the City upon the adoption of the next DC By-law since Bill 23 came into force and effect after the approval of the current DC By-law.

2.3 *Municipal Act, 2001*

New Exception to the Anti-Bonusing Rule

Bill 185 adds a new section 106.1 which allows the Province to 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 if the Province considers that it is necessary or desirable in the provincial interest to attract investment in Ontario. This regulation-making power also allows the Province to set out the types of assistance that may be granted as well as impose restrictions, limits, or conditions on the granting of the assistance. The Province may also specify conditions that must be met before the assistance may be granted.

Implications: The City may have a new tool to attract commercial or industrial businesses. The Province has not released conditions or criteria to guide these permissions.

Next Steps: Continued monitoring of regulations.

Municipal Policy on Servicing Allocation

New section 86.1 is added to the *Municipal Act*, *2001* whereby a municipality can enact a by-law setting out a framework and set of rules for allocating servicing capacity to developments, and similarly placing an expiry on the allocation (“use it or lose it”). The policy may include a system for tracking servicing available to support approved development applications and criteria respecting the allocation of the servicing, as well as the withdraw and re-instatement of the allocation. If such a by-law is adopted by council, an officer must be appointed to make the decisions regarding allocation. All decisions are treated as final, with no appeal route.

Implications: Should Council decide to enact such a policy, it would ensure that allocation is not reserved for developments that are not proceeding and that those who are “shovel-ready” are not prevented from proceeding.

Next Steps: Staff will review and report back to Council. This work will be completed as part of the “Explore Incentive and Disincentive Opportunities” action as included in the Target Housing Supply Actions endorsed by Council in April, 2024.

Conclusion

The implications of Bill 185, C*utting Red Tape to Build More Homes Act, 2024*, are quite significant with respect to the planning legislation and framework in which municipalities operate. Several short-term actions, including amendments to The London Plan, revisions to applications, and review of development agreements (subdivision and site plan) maybe be required.

Prepared by:	**Sarah Baldwin, MCIP, RPP** **Senior Planner, Long Range Planning (Research)**
Reviewed by:	**Nancy Pasato, MCIP, RPP** **Manager, Long Range Planning (Research)**
Reviewed by:	**Justin Adema, MCIP, RPP** **Manager, Long Range Planning**
Recommended by:	**Heather McNeely, MCIP, RPP** **Director, Planning and Development**
Submitted by:	**Scott Mathers, MPA, P. Eng.** **Deputy City Manager, Planning and Economic Development**
Concurred by:	**Anna Lisa Barbon, CPA, CGA** **Deputy City Manager, Finance Supports**

Cc: **Jason Senese, Director, Capital Assets & Projects**
David Bordin, Manager, Development Finance
Aynsley Hovius, Solicitor II
Christina McCreery, Solicitor I