

City of Mississauga Corporate Report



<p>Date: April 26, 2024</p> <p>To: Mayor and Members of Council</p>	<p>Originator's files: LA.07.PRO</p>
<p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Meeting date: May 1, 2024</p>

Subject

Bill 185 (Cutting Red Tape to Build More Homes Act) and PPS, 2024 – Implications for Mississauga

Recommendation

1. That Council endorse positions and recommendations contained and appended to the report titled *Bill 185 (Cutting Red Tape to Build More Homes Act) and PPS, 2024 – Implications for City of Mississauga*, and authorize staff to provide comments through the Environmental Registry of Ontario, and prepare additional comments on any associated regulations as needed.
2. That the Acting Mayor or designate be authorized to make submissions to the Standing Committee with respect to issues raised in the report titled *Bill 185 (Cutting Red Tape to Build More Homes Act) and PPS, 2024 – Implications for City of Mississauga*, or to otherwise provide written or verbal comments as part of the Ministry's public consultation process.
3. That the Acting Mayor, Council and staff advocate for the Province to consult further on the proposed non-residential planning regime in the draft *Provincial Planning Statement, 2024* with industry leaders that could be significantly impacted.
4. That the City Clerk forward the report titled *Bill 185 (Cutting Red Tape to Build More Homes Act) and PPS, 2024 – Implications for City of Mississauga* to the Standing Committee; the Ministry of Municipal Affairs and Housing; Mississauga's Members of Provincial Parliament, the Association for Municipalities Ontario, and the Region of Peel.

Executive Summary

- Bill 185 "*Cutting Red Tape to Build More Homes Act*" (Bill 185) proposes several amendments to land use planning legislation. The Province has also released an

updated draft of the proposed Provincial Planning Statement (PPS, 2024), which combines the *Provincial Policy Statement, 2020* (PPS, 2020) and *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2022* (Growth Plan) into a single document. The Province has asked for public comments to be provided between May 10 and May 12, 2024. Staff previously provided comments on the initial draft PPS, 2023.

- Key implications for Mississauga include:
 1. Reduced DC revenue shortfall from \$325 million to \$20 million over 10 years;
 2. Mississauga to receive upper-tier planning responsibilities on July 1, 2024;
 3. Refunds removed for not meeting mandated development review timelines and no pre-consultation required;
 4. Limits on third-party appeals may assist the City in introducing policies and zoning to support development;
 5. “Use it or lose it” tools introduced for planning approvals not acted upon;
 6. No minimum parking requirements in MTSAs;
 7. No planning approvals required for post-secondary institutions and community service facilities (e.g. hospitals, schools, long-term care facilities);
 8. Employment land conversions moved to site-specific applications;
 9. No clear direction for a mix of uses on the redevelopment of commercial sites in neighbourhoods; and
 10. New requirements for intensification along frequent transit corridors (i.e. bus service with 15 minute frequency) introduced.
- Ontario is facing significant housing challenges and increasing housing supply has become a strategic priority for all levels of government. Proposed Bill 185 and PPS, 2024 are the Province’s latest attempt at addressing this priority. Staff support provincial efforts on this front and generally agree with the overall direction and most changes contained in these two documents.
- Bill 185 proposes to reverse the phase-in discount to Development Charges (DC) and restore studies as an eligible DC capital cost. It is estimated that over a 10-year period the proposed changes in Bill 185 could reduce DC revenue shortfalls by approximately \$305 million as compared to Bill 23. However, the City would still experience a DC revenue shortfall of \$20 million over a 10-year period. Staff support this change but also recommend alternative wording to the Province to reduce this shortfall.
- Bill 185 also proposes amendments to streamline planning approvals. The most notable changes for Mississauga include: removing the Region’s upper-tier planning responsibilities; eliminating minimum parking requirements in Major Transit Station Areas (MTSA); repealing Bill 109 development application fee refunds; introducing new “use it or lose it” tools; limiting third-party appeal rights; and exempting publicly-assisted post-secondary institutions and certain types of community service facilities from

Planning Act processes.

- Staff are most concerned with proposed PPS changes to Ontario's employment non-residential planning regime. Mississauga has some of the most economically important employment lands in Canada and the operations of some of those areas could be significantly impacted if residential uses are introduced in an ad hoc manner. While some modifications have been made to the 2023 PPS version, they still do not address the major concerns previously identified by staff related to: employment land conversions; land use compatibility; and redevelopment of commercial sites in neighbourhoods.

Background

Bill 185, "Cutting Red Tape to Build More Homes Act" and the new *Provincial Planning Statement, 2024* aim to streamline the planning process with the overall goal of increasing housing supply in Ontario.

On April 10, 2024, the Honourable Paul Calandra, Minister of Municipal Affairs and Housing, introduced Bill 185 to the legislature with changes to 15 Acts, of which 4 are relevant to Mississauga (the Planning Act, Municipal Act, Development Charges Act and Hazel McCallion Act). The Province also released an updated draft of the Provincial Planning Statement that combines the in-effect *Provincial Policy Statement, 2020* and Growth Plan into a single document. Staff previously provided comments on the initial draft of the PPS in 2023 ([click here](#)).

Comment periods on the proposed changes (via seven Environmental Registry of Ontario postings) close between May 10 and May 12, 2024 (see Appendix 1). Staff will continue to advise Council on the impacts of Bill 185 and the proposed PPS, 2024 as they advance.

The purpose of this report is to: highlight the major changes proposed in Bill 185 and PPS, 2024 and the potential impacts to Mississauga; identify areas of support and areas that should be reconsidered by the Province; and have Council endorse all comments contained and appended to this report.

Comments

Ontario is facing significant housing challenges and increasing housing supply has become a strategic priority for all levels of government. Since 2021, the Province has released 10 housing and planning related bills. Bill 185 and proposed PPS, 2024 are the Province's latest attempt to address Ontario's housing challenges. The City's [action plan for new housing](#), which is aligned

with many of the provincial objectives outlined in this legislation, includes actions focused on increasing supply, streamlining building approvals and making homes more affordable.

PROPOSED BILL 185, CUTTING RED TAPE ACT

Overall, Bill 185 addresses many of the concerns that had been raised by municipalities in previous rounds of Provincial legislative changes. Staff continue to support Provincial efforts to increase housing supply and are generally supportive of many of the proposed modifications to the various Acts. In some cases, staff recommend changes to address concerns, and ensure the Province's proposed modifications achieve their intended effect of streamlining the planning process.

Staff's commentary on key changes is provided below. A detailed list of changes is included in Appendix 2.

1. Region of Peel to remain without upper-tier planning responsibilities

The proposed amendments would repeal the dissolution of the Region. It would also remove upper-tier planning responsibilities from the Region as of July 1, 2024. Specifically, the City of Mississauga (the City) would assume planning responsibilities related to growth management (e.g. growth forecasting and allocation) and planning for employment areas.

- ***The City of Mississauga has been planning to assume upper-tier planning responsibilities from the Region of Peel, and can meet the July 1, 2024 timeline.***

2. Proposed amendments to the Development Charges Act

Generally, the proposed amendments to the *Development Charges Act, 1997* (the "DC Act"), are viewed as positive and roll back some of the discounts mandated in Bill 23. The DC Act changes are as follows:

(a) Repeal of the mandatory five-year phase-in of DC rates

Bill 23 introduced a mandatory phase-in of DC rates over a five-year period. DCs are discounted by 20% in Year 1, 15% in Year 2, 10% in Year 3, and 5% in Year 4, with the full DC rate applying in Year 5.

Bill 185 is proposing to delete the mandatory phase-in on a go-forward basis, beginning on the date Bill 185 receives Royal Assent. Staff are in support of this proposed change to the DC Act. However, it should be noted that a transition rule is currently proposed such that any site plan or rezoning applications submitted between Royal Assent of Bill 23 (November 28, 2022) and Royal Assent of Bill 185, would still receive the benefit of the "frozen" discounted phase-in rates.

As of the date of this report, approximately 1,800 residential units and over 130,000 square metres of commercial and industrial floorspace are currently being reviewed through site plan applications. These applications would benefit from a 15 to 20% discount on their DC rates. This translates into a DC revenue loss of nearly \$12 million. Of the \$12 million in DC revenue loss from the transition provision, \$3.6 million relates to purely employment-related development.

- ***Staff suggest that the Province fully reverse the phase-in discount by repealing the transition provision so as not to disadvantage one developer over another based solely on the date an application was submitted.***

(b) Reinstate studies as an eligible DC capital cost

The City was not immediately affected by the removal of studies as an eligible DC capital cost, as the City's DC By-law fell under the transition rules of Bill 23. Nevertheless, staff are supportive of the change and will continue to include studies for recovery through DCs in the next DC By-law review.

(c) Streamline process for extended DC By-laws

Bill 23 extended the shelf life of a DC By-law up to ten years if so desired by Council. Through Bill 185, the Ministry is proposing a simplified process to make use of this change, including not requiring municipalities to prepare a DC background study. This provides flexibility to municipalities and staff are supportive of this proposed change.

(d) Reduce time limit on DC rate freeze

Currently, developers have two years – from site plan approval to building permit issuance – to pay their DCs to benefit from the “frozen” DC rate for a site plan application. Bill 185 is proposing to reduce this time frame from two years to eighteen months.

While this may optically appear to be a positive change to fast-track development, practically it has no effect in Mississauga. Staff have observed that many site plan applicants make use of condition building permits and pay their “frozen” DCs and pull their associated building permit prior to site plan approval. Effectively, many site plan applications do not even reach the point where the two year “clock” begins to start. Staff have also observed that multiple years often elapse from the date a site plan application is deemed complete to building permit issuance. However, this is not addressed by Bill 185. Therefore, the notion of incentivizing more housing development is not aided by this proposed change.

- ***Staff suggest that the Ministry implement a time limit on the DC freeze that begins at the date a site plan application is deemed complete and not the approval date. This may encourage fast-tracking of some developments.***

While not part of Bill 185, the Province's Backgrounder to the *Cutting Red Tape to Build More Homes Act, 2024* announced that on June 1, 2024, the DC, Parkland and CBC exemptions for affordable housing residential units will come into effect. The proposed definition ([click here](#)) is generally supportable, but staff have previously communicated that the thresholds for affordable ownership apartment units should be separated by number of bedrooms or unit size similar to rental units (to avoid inadvertently encouraging the creation of micro bachelor units).

3. No Minimum Parking Requirements within MTSAs

The City has recently proposed reduced minimum parking requirements along the Hurontario Street corridor ([click here](#)). The Province is now proposing to remove minimum parking requirements for lands within MTSAs province-wide. Staff generally support reduced minimum parking requirements where residents are supported by a viable mix of transportation options, including car share spaces, drop off spaces for rideshare vehicles, etc. Reduction or removal of minimum parking standards should be subject to criteria as previously proposed by staff ([click here](#)). Further clarification is needed on the full extent of these changes as they relate to visitor parking and non-residential uses (e.g. medical clinics).

- ***The Province should clarify that accessible parking, visitor parking and non-residential uses are exempt from the proposed removal of minimum parking requirements in MTSAs. Combined visitor/retail parking is often vital to the success of non-residential uses and are important for accessibility.***
- ***Staff suggest municipalities be allowed to require transportation demand management measures in exchange for the reduction/removal of minimum parking requirements.***
- ***Staff suggest the province consider making municipal parking an eligible DC service to aid in the development of shared lots.***

4. Repeal of Bill 109 fee refund provisions and no requirement for pre-consultation

Bill 109 introduced rules for the refund of development applications that are not processed within provincially-mandated timelines. Many municipalities, including Mississauga, responded by front-ending their requirements for a complete application prior to the clock starting on review timelines (called pre-consultation). This allows for all the necessary documents to be available before staff begin their formal review of an application.

Bill 185 would repeal those fee refund provisions. It would also remove pre-consultation requirements by municipalities that would instead be at the discretion of applicants. Staff would likely need to update current development application processes, but generally view the removal of Bill 109 fee refund provisions as positive as they did not have its intended effect of accelerating the review of development applications. However, pre-consultation is a valuable tool that improves the chances of application success once formal review begins. Without pre-consultation, it is more likely that formal submissions will not meet City requirements – leading to delays in approvals.

- ***Staff are supportive of the repeal of Bill 109 fee refund provisions, but urge the Province to retain the option for municipalities to mandate pre-consultation where appropriate. The Province could still place appropriate limits on municipalities' use of pre-consultation without removing this option.***

5. New “use it or lose it” tools for development introduced

To help translate planning approvals into housing starts, the Province is proposing a suite of “use it or lose it” tools. Municipalities would be empowered to attach lapsing conditions for site plans and draft plans of subdivision. Development applicants who do not request a building permit for construction within the prescribed timeline would risk losing planning approval. Bill 185 would also set out the conditions for municipalities to assign, withdraw or reallocate water and wastewater capacity.

The use of these tools is intended to disincentivize sitting on approvals. Staff generally share this objective but recommend flexibility to ensure they do not unduly penalize development.

- ***Municipalities should be allowed to extend timelines for the lapsing of approvals. This would help avoid penalizing development where extensions to timelines may be preferred and much simpler than requiring a new application.***

6. Third-party appeals to the Ontario Land Tribunal (OLT) limited to key participants

Bill 185 proposes to eliminate third-party appeal rights for official plans and zoning by-laws (including amendments). This would limit the rights of the general public to participate in the appeals process, including removing their right of appeal, and builds on Bill 23 that had introduced similar changes for other types of applications (e.g. minor variance). Staff consider that further restrictions on third-party appeals will likely help speed up the planning process, but may result in more public pressure for Council to refuse a development application.

- ***Staff are generally supportive of the proposed changes as it would assist municipalities in introducing policies and zoning that help facilitate development.***
- ***Staff recommend that the Province allow flexibility for the OLT to grant party status to third parties in unique circumstances (i.e. impacts to economic stability of employment areas due to land use compatibility).***

7. Exemption of post-secondary institutions and community service facilities

The Province is proposing changes to help get shovels in the ground faster for priority government projects. These changes would exempt publicly assisted post-secondary institutions (e.g. public universities, colleges) from the Planning Act. A more limited change is proposed for community service facilities (e.g. schools, hospitals, long-term care homes). These uses would be exempt from certain sections of the Act where they meet prescribed criteria that are still to be determined. This could allow for an expedited approvals process.

Staff consider the proposed exemptions for post-secondary institutions to be overly broad, particularly where development is proposed on lands outside of their campuses and not owned by the institutions (e.g. a campus in a mall or a mixed use residential building). Staff generally support an expedited approvals process for community service facilities, but have concerns if a municipal role is not maintained to address potential issues (e.g. water and wastewater capacity and design). For example, large proposals such as hospital expansions benefit from a site plan approval process that ensures required utilities, services and road improvements can support the development.

- ***The Province is urged to retain Planning Act processes for post-secondary institutions proposing development on lands which are outside existing campuses and not owned by the post-secondary institution.***
- ***A municipal role should be maintained in the review of applications for community service facilities. This would ensure issues are addressed through the appropriate process and early in the design of such facilities, avoiding costly delays.***

8. Authorizing municipalities to grant assistance to industry

To attract business investment in Ontario, the Province is proposing to authorize municipalities to grant assistance, directly or indirectly, to a specified manufacturing business or other industrial or commercial enterprise. Historically, providing incentives to attract investments has been the responsibility of Federal and Provincial governments. If this becomes a municipal responsibility, then it may have budget implications for Mississauga and result in cities and/or regions competing with each other to attract investment and possibly retain companies.

- ***The Province is urged to consult with municipal economic development leaders to ensure proposed incentive tools optimize investments and avoid unintended negative impacts.***

9. Release of Data Reporting Regulations

The Province is proposing regulations that would increase the frequency of reporting on development outcomes and the type of data to be included by municipalities. Staff have previously commented that data being requested by the Province is complex and difficult to interpret, and have suggested revisions and further clarification ([click here](#)). This would maximize the value of the data being collected and avoid double counting.

10. No Council resolutions required for amendments in MTSAs

While Bill 185 retains the general requirement for a Council resolution for requests to amend MTSA policies, Bill 185 introduces an exemption from this provision in respect of authorized uses of land for lower-tier municipalities that have sole planning responsibilities. Staff support this approach.

PROPOSED PROVINCIAL PLANNING STATEMENT, 2024

PPS, 2024 represents a significant departure from the current provincial approach to managing growth across Ontario, and will shift how, where and when municipalities grow. It moves from managing growth in a comprehensive manner to more of a site-specific approach (e.g. privately initiated amendments to urban structure boundaries and employment lands). The Province first released a draft of the PPS in 2023. The 2024 draft proposes some modifications to the 2023 draft that are generally positive, which include:

- reinstating affordable housing definition and requirements for affordable housing targets;
- prohibiting land uses that may cause a potential aviation safety hazard; and
- carrying forward additional tests for employment land conversions from the Growth Plan.

Staff continue to have concerns with the policy directions discussed below that were also identified with the previous draft and communicated to the Province ([click here](#)). A detailed list of proposed changes is included in Appendix 2.

1. Proposed employment area policies move away from comprehensive planning to a more site specific approach

Employment areas provide land for diverse employment uses (i.e. industrial, office, retail) to meet current and future needs, and residential development is currently not permitted. Staff and landowner-initiated requests for conversion occur when the Region's Official Plan is updated typically every 5-10 years (Municipal Comprehensive review or MCR). The conversion requests can be assessed in totality with reference to growth forecasts, changes

in land supply, trends in employment space and market conditions. In Mississauga's case, there is enough residential land already available to more than double the number of housing units in the city, well above provincial targets.

The proposed changes to employment policies generally move towards a site-by-site approach. This will lead to land speculation making it more expensive and complex (e.g. land-use compatibility concerns) for potential businesses to locate or expand in these areas.

Staff suggest while there are some strategic opportunities for conversions, the process should be rigorous and comprehensive. Many areas where non-residential uses are present do not have proper servicing (schools, parks etc.) to support residential development and are generally inferior locations compared to existing vacant or underutilized mixed-use sites.

(a) Amendments to employment areas can be made at any time

Currently, requests to remove lands from employment areas can only be made through the Municipal Comprehensive Review (MCR) process that occurs every 5 to 10 years. Proposed PPS, 2024 would allow requests for lands to be converted at anytime through the development application process. Given the scope of analysis typically required, a mandated timeline of 120 days for official plans amendments may not facilitate the best planning advice.

- ***The Province should maintain the existing approach that conversions only be considered through a comprehensive approach that occurs at least every 5 years, while allowing municipally-initiated amendments at any time.***
- ***The Province should consult further with industry leaders that could be significantly impacted by proposed changes.***

(b) Weakened land use compatibility policies for residential uses near industry

The proposed changes would make it easier to locate sensitive land uses (e.g. residential) in closer proximity to major facilities. As a result, industry may be exposed to more nuisance-related complaints and face additional regulatory burdens. This may impede industries' ability to expand in the future.

- ***The Province should re-emphasize avoidance as opposed to mitigation for development proposing sensitive land uses adjacent to major facilities. The proposed policies appear to place the burden on industry through regulatory approvals, which may frustrate their ability to continue to operate or expand.***
- ***The loss of third-part appeal rights would also limit industries' ability to protect their interests.***

2. Permitting and facilitating residential intensification on commercial sites

The Province is also proposing to make it easier to redevelop existing commercial sites outside employment areas with residential uses. In Mississauga many commercial plazas, malls and aging office buildings are already facing significant redevelopment pressures. Commercial sites are critical to meeting the daily needs of residents, providing nearby amenities, services and local employment. Staff suggest that stronger policy language to maintain a mix of uses on these sites would still allow for the introduction of residential uses, while preserving access to amenities and services in communities.

- ***Staff recommend that PPS, 2024 direct municipalities to facilitate mixed-use, walkable communities by retaining/replacing significant non-residential floor space on commercial sites as part of any future redevelopment.***

3. New policies for frequent transit corridors

Mississauga would be required to plan for intensification on lands that are adjacent to existing and planned frequent transit corridors where appropriate. Frequent transit corridors are defined as “a public transit service that runs at least every 15 minutes in both directions throughout the day and into the evening every day of the week.” The implications of this proposed change is unclear, however this may impact the City’s ability to direct growth in MTSAAs.

- ***Staff recommend that further clarification is needed as transit frequency varies and changes according to many factors such as: changes in the seasons, overall ridership, and transit networks. A frequent local bus route is not as fixed as a higher-order transit line and may not always support intensification.***

4. All decisions must be consistent with new PPS

Implementation provisions require that all planning decisions (even for applications submitted under the previous regime) must be consistent with the PPS, 2024, (once it is adopted) even if the Official Plan has not been updated. Staff are in the process of updating the City’s Official Plan to bring it into consistency/conformity with Provincial plans and policies. A new PPS may delay this process, and cause uncertainty in the review of development applications in the interim.

- ***The Province should include a transition extending the timeline for the completion of official plan reviews to address changes to be consistent with the proposed PPS.***

Financial Impact

The proposed amendments to the DC Act in Bill 185 are positive from a financial perspective. In November 2023, staff presented a report to Council that estimated Bill 23 could cost Mississauga up to \$325 million in lost DC revenue over a ten-year period.

Should Bill 185 be enacted as proposed, the potential revenue loss is estimated to be approximately \$20 million over the same time span. In other words, the reversals to the DC Act would mean that the City could recover \$305 million from DCs to offset the cost of funding growth-related capital infrastructure. Staff note that the more detrimental impact to cash-in-lieu of parkland remains and has not been addressed in Bill 185. As such, this remains an advocacy issue for municipalities.

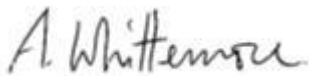
Conclusion

Staff's comments on proposed Bill 185 and PPS, 2024 aim to further the shared goal of increasing housing supply, while ensuring the Province's proposals do not have long-term consequences. Adoption of staff's recommendations would ensure continued policy support for increased housing supply and a vibrant economy with access to jobs. The Province's strategy for employment lands and land use compatibility continue to be potential areas for improvement. Consultation with industry leaders and economic advisors is recommended on refining these changes to ensure they don't have a detrimental impact.

Attachments

Appendix 1: List of all ERO and Related Postings

Appendix 2: Detailed Comments to the Province



Andrew Whitemore, M.U.R.P., Commissioner of Planning & Building

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