

City of Mississauga Corporate Report



Date: October 16, 2020 To: Chair and Members of General Committee	Originator's files:
From: Gary Kent, CPA, CGA, ICD.D, Commissioner of Corporate Services and Chief Financial Officer	Meeting date: November 4, 2020

Subject

Bill 197 – COVID-19 Economic Recovery Act 2020

Recommendation

That the report entitled “Bill 197 – COVID-19 Economic Recovery Act 2020” dated October 16, 2020 from the Commissioner of Corporate Services be received for information.

Report Highlights

- The Provincial government passed Bill 197, the *COVID-19 Economic Recovery Act, 2020*, on July 21, 2020. This Act includes changes to various pieces of legislation and makes additional changes to those originally proposed in Bill 108 – *More Homes, More Choice Act, 2019*.
- Changes to the *Development Charges Act* now eliminate the 10% discount to soft services. Libraries, Parks and Recreation were previously proposed to be recovered through a Community Benefits Charge; they are now fully recoverable through development charges. Municipal parking services are no longer DC eligible.
- The *Planning Act* introduces a new funding source called the Community Benefits Charge, to fund services that are not recoverable through development charges. Further details on the CBC and other *Planning Act* changes can be found in the complementary report found on this General Committee agenda from the Commissioner of Planning and Building entitled “Bill 19 – Overview of Changes to the *Planning Act* and Community Benefit Charge.”
- The *Public Transportation and Highway Improvement Act, 1990* allows the Minister of Transportation to expropriate lands for transportation uses, without giving the owner an opportunity to ask for a Hearing of Necessity; this includes lands owned by the City.
- There are significant changes to the Environmental Assessment process, which includes shorter approval times. The *Environmental Assessment Act* provisions will only be required for projects (public or private) that are specifically designated by Cabinet through

regulation.

- Regulations to implement some of the legislative changes are pending. These regulations will provide additional, specific information regarding implementation details.

Background

On July 8, 2020, the Province introduced an omnibus bill, the *COVID-19 Economic Recovery Act, 2020* (Bill 197). The Bill makes changes to various Legislative Acts as well as the originally proposed Bill 108 – *More Homes, More Choice Act, 2019*. Bill 197 addresses most of the City's concerns related to the *Development Charges (DC) Act* and the *Planning Act*, specifically with regard to the new Community Benefits Charge (CBC).

Bill 197 makes changes to the *Environmental Assessment (EA) Act* as well, in follow up to the *Modernizing Ontario's Environmental Assessment Program Discussion Paper* released by the Ministry of Environment, Conservation and Parks (MECP) in 2019 to which staff provided comments to the Ministry in May 2019. On July 8, 2020, the MECP released a number of proposed Class EA and exemptions for which comments were accepted until August 22, 2020.

Bill 197 received Royal Assent on July 21, 2020. The Bill aims to stimulate the economy, build strong communities and provide greater financial flexibility to municipalities. Overall, the changes are welcome and strengthen the municipality's ability to fund growth-related infrastructure. This report highlights the legislative changes and their implications for Mississauga.

Comments

Changes to the *Development Charges Act*

The changes to the *Development Charges Act* expand the list of eligible services to include certain former "soft services" (i.e., Library Services, Parks and Recreation and General Government) previously proposed to be included in the Community Benefits Charge through Bill 108. Furthermore, the discounted services are no longer subject to the requirement to fund 10% of eligible projects through non-DC (i.e., tax) funding sources. Specific changes are outlined below.

- The list of eligible services that can be funded through DCs has expanded. Table 1 shows the changes to DC-eligible services.
- The newly created Community Benefits Charge can be used alongside DCs. However, DCs and CBCs cannot be used to fund the same capital costs.
- The 10% discounting, previously applicable to "soft" DC services, has been eliminated.
- Categories of services can be replaced by "classes," which can be composed of any number or combination of services. Each class will be considered a single service and is used for the purposes of development charge reserve fund management.
- Parking is no longer an eligible DC service.

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- Municipalities must pass a new DC by-law within two years after proclamation of the *COVID-19 Economic Recovery Act, 2020* (Bill 197), as existing by-laws will be deemed to expire at that time.

Table 1. Changes to DC-Eligible Services as a Result of Bill 197

Unchanged Services	Newly Eligible Services at 100%	Services No Longer Eligible
<ul style="list-style-type: none"> • Water and waste water supply; waste diversion • Stormwater Management • Roads and related infrastructure services • Electrical power • Transit • Policing • Fire • Ambulance • Public Works • Development Related Studies • Living Arts Centre (debt) 	<ul style="list-style-type: none"> • Libraries* • Long-term care • Parks and recreation services (excludes acquisition)* • Public Health • Child Care** • Housing Services** • By-law Enforcement and Court Services* • Emergency Preparedness** • Airports in Waterloo Region • Additional services as prescribed 	<ul style="list-style-type: none"> • Municipal Parking

*These services were previously DC eligible with a 10% discount.

**New items that were not previously expressly DC eligible

DC Act Changes: Implications for City of Mississauga

- The elimination of the 10% discount on eligible services will allow the municipality to recover full costs for these services. This transfers a pressure of approximately \$23 million (over 10 years) from the tax base to DCs.
- Costs associated with municipal parking can no longer be recovered by DCs. However, a CBC can be used to recover these costs, or the municipality may choose to fund parking from an alternate funding source.
- A new DC By-law or amendment will be required to realize the benefits of removing the 10% discount on services. This DC By-law or amendment can be prepared once the legislative changes are proclaimed in force by the Lieutenant Governor.

Changes to the *Planning Act*

Significant changes have been made to the *Planning Act*. They include the introduction of a Community Benefits Charge (CBC) that can be used to recover the capital costs of growth-related, locally determined services. Many of the services proposed to be funded through a CBC in Bill 108 have been moved back to the DC Act. The *Planning Act* maintains the basic alternative parkland rates. The City's Parkland Conveyance By-law remains distinct and separate from the CBC By-law. The CBC is now much more akin to the former Section 37 provisions which will help pay for services related to growth in high density neighbourhoods.

Detailed implications on planning matters can be found in the complementary report found on this General Committee agenda from the Commissioner of Planning and Building entitled “Bill 19 – Overview of Changes to the *Planning Act* and Community Benefit Charge.

Transportation Related Legislative Changes affected in Bill 197

A number of changes have been made that will impact various transportation-related statutes. Those of significance to the City are outlined below.

Transit-oriented Communities Act, 2020

- The Bill includes a schedule to deliver on the Premier’s earlier commitment to develop transit-oriented communities and makes it easier for developers to contribute to the development of this infrastructure to support land development in these areas. The legislation is limited to priority transit projects in the Toronto and York systems. The legislation proposes to allow regulations to designate transit-oriented communities, allowing the creation of corporations to invest in the development and processes for expropriating land.
- Under this Act, once the Lieutenant Governor in Council (by Order-in-Council) designates lands as “transit-oriented community lands,” to support a “transit-oriented community project,” owners of such lands shall no longer have the right to demand a Hearing of Necessity when lands are expropriated for transportation uses. The Minister of Transportation is required to publish a Notice of each designation so made on a Government of Ontario website.
- The Act further provides that the Minister may establish a process for receiving comments from property owners about a proposed expropriation, and for considering those comments. The Minister may make regulations establishing this process at some point in the future.

Public Transportation and Highway Improvement Act, 1990

- Bill 197 amended the *Public Transportation and Highway Improvement Act (PTHI Act)* to provide the Minister of Transportation with the right to expropriate lands for transportation uses, without giving the owner an opportunity to ask for a Hearing of Necessity. This is not a temporary measure and it includes any lands in the Province of Ontario (including municipally owned lands).

Environmental Assessment (EA) Act

- The Part II Order¹ (also referred to as Individual EAs) will be replaced by a new Part II.3 (referred to as Comprehensive EAs) which are projects designated by Cabinet by regulation and these projects will need to complete a comprehensive EA based on terms approved by the Minister.
- Class EAs under Part II.1 are to be replaced by a new Part II.4 or Streamlined EA. The new Streamlined EAs will set out consistent requirements (consultation, documentation, scope of assessment, etc.) across project types to replace the differing and inconsistent Class EA system. Details of the new Streamlined EA process will be included in forthcoming regulations that will be released at a later date by the Province.
- The existing Class EAs would remain in place until the new regulations are released.
- The Minister may make an order declaring Streamlined EA projects to be Comprehensive EA projects requiring proponents to comply with the more rigorous EA process in the comprehensive process instead of the streamlined process. This is similar to the current practice whereby the Minister can make a Part II Order requiring an Individual EA instead of a Class EA.
- The *EA Act* currently applies based on “who” is doing the work and not necessarily the impacts of the project being done. The Act now proposes a Project List be developed through future regulation that would clearly identify projects subject to an EA.
- A person may now only submit a request for a Part II Order on the basis that the order may prevent, mitigate or remedy adverse impacts on existing aboriginal and treaty rights. The authority for the Minister to impose conditions or require a Comprehensive EA (‘bump-up’) on a streamlined project will remain but the time period to impose these conditions or bump-up the project is proposed to be limited. The Minister’s authority will be retained, on his or her own initiative and in a time-limited manner, to impose conditions or require a Comprehensive EA for streamlined projects and impose a 30-day timeline (or other, as prescribed) within which the Minister can issue an Order.
- The Act clarifies the authority to create standardized Comprehensive EA work plans through regulation for selected sectors. Currently proponents must develop and consult on a work plan for each project that undergoes an Individual EA.
- The Act provides for expiry dates for all Comprehensive EAs that do not currently have an expiry date and that are not listed by regulation. This will include the possibility for extension if appropriate. The Ministry of the Environment, Conservation and Parks (MECP) will, next, develop and consult on a regulation that will list projects which are not subject to the expiry provisions.

¹ A Part II Order requires the proponent to carry out an individual EA. A Part II Order request is made when a stakeholder feels that there are significant outstanding issues that have not been addressed in a Class EA Study. Part II Order requests are submitted to the Minister after a proponent has filed a Notice of Class EA Study completion.

- The Act enables MECP to impose a time limit through regulation on submission of Comprehensive EAs following approval of a Terms of Reference, so that EA studies are completed in a reasonable period.
- The Act enables MECP to require online submissions of EAs in the future, once a platform is developed, and require proponents of Comprehensive EAs to make information available online.
- Proponents of new, large landfills (i.e., those that require a Comprehensive EA) now must obtain support from 1) host municipalities and 2) adjacent municipalities where there is land with authorized residential uses within a 3.5 km (2.2 mi) distance (or such distance as may otherwise be prescribed) from the proposed new landfill site property boundary. While the Minister will still have final approval authority on all landfill EAs, the landfill proposal will now have additional requirements for consultation with adjacent municipalities.
- As part of the changes to the EA Act to streamline and accelerate projects, the Province is proposing a regulation to specifically streamline the EA process for the Ministry of Transportation's (MTO) Greater Toronto Area (GTA) West Transportation Corridor project. This regulation will shorten the project schedule by a minimum of a year by removing duplication with other legislation and MTO's standards and practices.

Amendments to Class Environmental Assessments:

- Amendments have been proposed for eight of the ten Class EAs. The proposed revisions include changing requirements for some projects, including reducing requirements for certain projects, or exempting projects altogether; establishing or updating screening processes to determine the appropriate categorization for a project; updating the Class EAs to ensure consistency with the *Environmental Assessment Act* as a result of the passage of Bill 108 - *More Homes, More Choice Act, 2019*; administrative changes to correct errors; updating references to legislation and regulations; clarify the existing text; and updating references to bodies, offices, persons, places, names, titles, locations, websites, and addresses.
- New standard terminology has been added to each Class EA to replace the existing terminology for some of the notices required by the Class EA, and terminology related to these notices, including Notices of Completion and Notices of Addendum. The amendment also clarifies the requirement for each of the above notices to specify the length of time for the comment period (e.g., 30 days) and the dates when the comment period begins and ends.

Exempting Regulations:

- Select Ministry of Transportation projects will be exempted from the requirements of the *Environmental Assessment Act* including the QEW from west of Mississauga Road to west of Hurontario Street (Credit River Bridge) project. As part of the MTO's Class EA process, this project would have been subject to the five-year addendum

process. If the proposed exemption regulation is approved, the MTO would no longer be required to complete a Transportation Environmental Study Report (TESR) addendum or Design and Construction Report (DCR) as outlined in the Ministry of Transportation Class EA for these projects.

Transportation-Related Legislative Changes: Implications for City of Mississauga

- No immediate impacts to City projects are expected from changes to the *Environmental Assessment Act*, as the City has no ongoing Comprehensive/Individual EA projects. However, the replacement of the Class EA process for a Streamlined EA process does set the stage for potential significant changes to the EA process on future City projects. As the Province releases regulations associated with this change, staff will report back to Council on next steps and resource implications.
- The exemption of the MTO's QEW-Credit River Bridge project from the requirement of the *Environmental Assessment Act* would eliminate any opportunity for public review of an addendum or DCR or any opportunity to submit Part II Order requests on the project.
- The proposed revised process for the GTA West Environmental Assessment may not provide a sufficient commenting period for staff to review reports, prepare comments and obtain City Council endorsement as well as provide an issues resolution process that is impartial. In addition, early construction along the GTA West Corridor may occur before all issues are resolved.
- As a result of the *Transit-oriented Communities Act* and changes to the *PTHI Act*, property owners, including the City of Mississauga, will no longer have the right to demand a Hearing of Necessity when faced with an expropriation from the Ministry of Transportation. This would include projects led by Metrolinx, as Metrolinx is an agency of the Ministry of Transportation.

Changes to Other Legislative Acts affected in Bill 197

A number of other changes have been made to various statutes. Those of significance to the City are outlined below.

Marriages Act

- Marriage licenses issued on or after December 1, 2019 but prior to the COVID-related state-of-emergency have 24 months to be solemnized following the declaration date the state of emergency ends.

Provincial Offenses Act (POA)

- Amendments to the POA will allow court filings and proceedings to proceed by electronic means, including meetings and hearings. The amendments will make it easier to contest charges and schedule appearances, increasing efficiency of administration.

Municipal Act, 2001

- Electronic Participation in Meetings and Proxy Voting: This Bill allows the continued provisions for municipal councils and local boards to meet electronically, as has been enabled temporarily through the pandemic. As well, the government is proposing elected officials be allowed to vote by proxy in cases determined locally, such as when they are ill or must self-isolate.

Building Code Act, 1992

- Regulations under the *Building Code Act* will now be drafted by the Minister of Municipal Affairs and Housing instead of the Lieutenant Governor General in Council. The changes will enable the Province to pursue necessary recovery-related regulatory changes to the Building Code in a timely fashion. As well, the amendments clarify the scope of certain regulation-making authorities, including the authority to make regulations by adopting certain documents by reference.

Drainage Act

- Bill 197 amends the *Drainage Act*. The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) recently posted a consultation paper on altering the *Drainage Act* to address three areas:
 - Streamlining Approvals - creates a new process for minor improvements.
 - Simplifying Administrative Processes - simplifies the process to update the engineer's report and to account for changes to drain design during construction.
 - Supporting Technical Proposals - incorporates protocols by reference in a regulation.

Other Legislative Changes: Implications for City of Mississauga

- There will be no charge for marriage licences that were issued and require replacement; new licences will be charged at the current rate of \$140.
- Amendments to the POA will allow court filings and proceedings to proceed by electronic means, including meetings and hearings which would require each courtroom to be retrofitted with either new or upgraded software. The amendments will provide the clients another option to contest their charge electronically. Updates to the Provincial Offences Notices (tickets) would also need to be made. These amendments will improve administration efficiency.
- Council considered report "Bill 197 and the Resumption of Council and Committee Meetings" on August 5, 2020. Council approved the recommendation that electronic participation at all Council and Committee meetings be permitted until August 1, 2021. Council deferred the recommendation regarding implementing proxy voting for Council meetings to the Governance Committee.

Financial Impact

There are no financial impacts as a result of the recommendation in this report.

The DC By-law will need to be amended to include the removal of the 10% discounted rate. This will allow the City to recover 100% of eligible service costs, and relieve this pressure from tax capital funding. A new DC Background Study and By-Law will be prepared for early 2022.

Regulations concerning the CBC were released on September 18, 2020. The Province has set a four per cent cap on land values to determine a CBC charge on eligible high-density developments. Municipalities have two years from the date of proclamation to approve a CBC by-law. Staff will be commencing work on a CBC strategy; this will be done in tandem with the new DC Background Study and By-law.

Conclusion

On July 8, 2020, the Province introduced an omnibus bill, the *COVID-19 Economic Recovery Act, 2020* (Bill 197). Bill 197 affected various pieces of legislation. The Bill received Royal Assent on July 21, 2020. This report outlines the impacts of Bill 197 to the City. Detailed implications on planning matters can be found in the complementary report found on this Council agenda entitled “Bill 19 – Overview of Changes to the *Planning Act* and Community Benefit Charge.

Generally, the changes made to the *DC Act* and *Planning Act*, with the elimination of the 10% discounted rate for “soft services” and introduction of a Community Benefits Charge, are positive and will allow the City to recover most costs associated directly from growth and support capital programs. Some of the changes greatly impact the EA process and significantly reduce EA approval times. Expropriations initiated by the Province may impact the rights of landowners.



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