



April 29, 2022

The Honourable Steve Clark
Minister of Municipal Affairs and Housing
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

Dear Minister Clark:

The Regional
Municipality
of Durham

Corporate Services
Department
Legislative Services

605 Rossland Rd. E.
Level 1
PO Box 623
Whitby, ON L1N 6A3
Canada

905-668-7711
1-800-372-1102
Fax: 905-668-9963

durham.ca

Don Beaton, BCom, M.P.A.
Commissioner of Corporate
Services

RE: Durham Region's response to Bill 109, More Homes for Everyone Act, 2022 (2022-P-9), Our File: L00

Council of the Region of Durham, at its meeting held on April 27, 2022, adopted the following recommendations, as amended:

- "A) That Council of the Region of Durham Request that Bill 109 be repealed, and in failing that, that Report #2022-P-9 be endorsed and submitted to the Ministry of Municipal Affairs and Housing as Durham Region's response to Environmental Registry of Ontario (ERO) and Regulatory Registry postings regarding Bill 109, More Homes for Everyone Act, 2022 despite the legislation receiving Royal Assent on April 14, 2022, more than two weeks in advance of the deadline for comments. Key comments and recommendations are that the Province:
- i) provide upper-tier municipalities with the opportunity to review and comment on any proposed regulations regarding complete site plan applications, or allowable conditions on plans of subdivision;
 - ii) permit upper-tier municipalities to stop the clock on all planning application review periods, including site plans, where it is necessary for the proponent to address technical issues identified in the processing of the application;
 - iii) not proceed with the requirement to refund planning application fees as this punitive strategy is sure to have unintended consequences including adding to the backlog of cases at the Ontario Land Tribunal, and undermining the ability to maintain good planning relationships with applicants;
 - iv) as an alternative to refunding planning application fees, introduce incentives to accelerate targeted, affordable housing projects;

- v) not proceed with providing discretionary authority to the Minister to pause or refer official plan matters, such as conformity amendments, to the Ontario Land Tribunal;
- vi) if recommendation A) v) is not accepted by the province, then establish an annual fund to compensate municipalities for the staff time and legal expenses in cases where the Minister has referred a new official plan or conformity amendment to the Ontario Land Tribunal;
- vii) distinguish the difference between the Community Infrastructure and Housing Accelerator (CIHA) and Minister's Zoning Order (MZO) tools and clarify the need for two separate tools;
- viii) prepare guidelines that refine the process and use of MZOs, instead of a duplicate tool through the CIHA;
- ix) require the support from the affected upper-tier municipality in advance of a lower-tier municipality submitting a formal request to the Minister for a housing accelerator order, and:
 - a. permit upper-tier municipalities to impose conditions for their support of the request;
 - b. provide the upper-tier municipality the opportunity to enter into an agreement with the proponent or area municipality with respect to these conditions, as part of the CIHA guidelines; and
 - c. permit municipalities that are service managers under the Housing Services Act, to make requests for housing accelerator orders to use the CIHA tool for community housing, or rental affordable housing;
- x) that the province apply the objectives of the Provincial Policy Statement when considering the types of development that would be suitable with the use of the CIHA and MZO tools;
- xi) permit the use of the CIHA tool to advance development within Towns/Villages as defined in the Greenbelt Plan Area, such as the Urban Areas of Beaverton, Cannington, Sunderland, Uxbridge, and Port Perry while upholding the environmental protection policies of the Greenbelt Plan;

- xii) ensure that if a CIHA tool or MZO is used for market-based rental housing in unique and extraordinary circumstances, the development must contain a minimum of 20 per cent of affordable housing units, and additionally still be required to follow the public consultation process which has regard for the policies in the Regional and area municipal official plans as well as provincial policy and legislation, including the Provincial Policy Statement (PPS) and the Growth Plan, and demonstrate a clear urgency to deliver priority development on lands that are designated and serviced or serviceable
- xiii) provide further assurances that the changes through Bill 109 will not negatively impact the environment, including provincially significant wetlands, through the development approvals process;
- xiv) clarify the type of information that is required to meet the province's new data standards, and identify who is responsible for reporting and publishing site plan data in the case of a two-tier municipal system to meet these new data standards;
- xv) ensure there is no additional administrative and reporting burden for municipalities resulting from the amendments to O. Reg. 82/98 under the Development Charges Act, 1997;
- xvi) make surplus provincial lands and properties available to municipalities, including municipal service managers under the Housing Services Act, and non-profit providers at no cost or below fair-market value for the purposes of developing affordable rental housing;
- xvii) allocate revenues generated from the increased non-resident speculation tax to affordable housing and for financial incentives to encourage housing solutions for low- and moderate-income households;
- xviii) prioritize incentives and policies that would facilitate housing that is not well provided by the market, including community, supportive, affordable, and rental housing;
- xix) include representatives from both upper and lower-tier municipalities, including the Region of Durham, on the housing supply working group;

- xx) streamline the Environmental Compliance Approval and Municipal Class Environmental Assessment processes and timelines where they impact the ability of the municipality to provide required municipal services to new developments in a timely manner;
 - xxi) recognize that unit typologies and density of the “missing middle” and “gentle density” varies based on local context, and should be defined locally;
 - xxii) provide educational materials and support to municipalities to better equip staff and Councils with countering common concerns of residents related to density and intensification;
 - xxiii) acknowledge that adequate sanitary sewer and water capacity be available to allow intensification and development to proceed to support addressing “the missing middle”;
 - xxiv) identify and incorporate rural housing needs in provincial policy and legislation, where it relates to long-term growth and density; and
- B) That a copy of Report #2022-P-9 of the Commissioner of Planning and Economic Development be forwarded to Durham’s area municipalities for their information.”

Please find enclosed a copy of Report #2022-P-9 for your information.

Alexander Harras

Alexander Harras,
Director of Legislative Services & Regional Clerk

AH/tf

- c: E. Downarowicz, Director, Planning Policy Branch, Ministry of
Municipal Affairs and Housing (planningconsultation@ontario.ca)
N. Cooper, Clerk, Town of Ajax
F. Lamanna, Clerk, Township of Brock
J. Gallagher, Clerk, Municipality of Clarington
M. Medeiros, Clerk, City of Oshawa
S. Cassel, Clerk, City of Pickering
B. Jamieson, Clerk, Township of Scugog
D. Leroux, Clerk, Township of Uxbridge
C. Harris, Clerk, Town of Whitby
B. Bridgeman, Commissioner of Planning and Economic Development



The Regional Municipality of Durham Report

To: Regional Council
From: Commissioner of Planning and Economic Development
Report: #2022-P-9
Date: April 27, 2022

Subject:

Durham Region's response to Bill 109, More Homes for Everyone Act, 2022

Recommendation:

It is recommended to Regional Council:

- A) That Report #2022-P-9 be endorsed and submitted to the Ministry of Municipal Affairs and Housing as Durham Region's response to Environmental Registry of Ontario (ERO) and Regulatory Registry postings regarding Bill 109, More Homes for Everyone Act, 2022 despite the legislation receiving Royal Assent on April 14, 2022, more than two weeks in advance of the deadline for comments. Key comments and recommendations are that the province:
- i) provide upper-tier municipalities with the opportunity to review and comment on any proposed regulations regarding complete site plan applications, or allowable conditions on plans of subdivision;
 - ii) permit upper-tier municipalities to stop the clock on all planning application review periods, including site plans, where it is necessary for the proponent to address technical issues identified in the processing of the application;
 - iii) not proceed with the requirement to refund planning application fees as this punitive strategy is sure to have unintended consequences including adding to the backlog of cases at the Ontario Land Tribunal, and undermining the ability to maintain good planning relationships with applicants;

- iv) as an alternative to refunding planning application fees, introduce incentives to accelerate targeted, affordable housing projects;
- v) not proceed with providing discretionary authority to the Minister to pause or refer official plan matters, such as conformity amendments, to the Ontario Land Tribunal;
- vi) if recommendation A) v) is not accepted by the province, then establish an annual fund to compensate municipalities for the staff time and legal expenses in cases where the Minister has referred a new official plan or conformity amendment to the Ontario Land Tribunal;
- vii) distinguish the difference between the Community Infrastructure and Housing Accelerator (CIHA) and Minister's Zoning Order (MZO) tools and clarify the need for two separate tools;
- viii) prepare guidelines that refine the process and use of MZOs, instead of a duplicate tool through the CIHA;
- ix) require the support from the affected upper-tier municipality in advance of a lower-tier municipality submitting a formal request to the Minister for a housing accelerator order, and:
 - a. permit upper-tier municipalities to impose conditions for their support of the request;
 - b. provide the upper-tier municipality the opportunity to enter into an agreement with the proponent or area municipality with respect to these conditions, as part of the CIHA guidelines; and
 - c. permit municipalities that are service managers under the Housing Services Act, to make requests for housing accelerator orders to use the CIHA tool for community housing, or rental affordable housing;
- x) that the province apply the objectives of the Provincial Policy Statement when considering the types of development that would be suitable with the use of the CIHA and MZO tools;
- xi) permit the use of the CIHA tool to advance development within Towns/Villages as defined in the Greenbelt Plan Area, such as the Urban Areas of Beaverton, Cannington, Sunderland, Uxbridge, and Port Perry while upholding the environmental protection policies of the Greenbelt Plan;

- xii) ensure that if a CIHA tool or MZO is used for market-based rental housing in unique and extraordinary circumstances, the development must contain a minimum of 20 per cent of affordable housing units, and additionally still be required to follow the public consultation process which has regard for the policies in the Regional and area municipal official plans as well as provincial policy and legislation, including the Provincial Policy Statement (PPS) and the Growth Plan, and demonstrate a clear urgency to deliver priority development on lands that are designated and serviced or serviceable;
- xiii) provide further assurances that the changes through Bill 109 will not negatively impact the environment, including provincially significant wetlands, through the development approvals process;
- xiv) clarify the type of information that is required to meet the province's new data standards, and identify who is responsible for reporting and publishing site plan data in the case of a two-tier municipal system to meet these new data standards;
- xv) ensure there is no additional administrative and reporting burden for municipalities resulting from the amendments to O. Reg. 82/98 under the Development Charges Act, 1997;
- xvi) make surplus provincial lands and properties available to municipalities, including municipal service managers under the Housing Services Act, and non-profit providers at no cost or below fair-market value for the purposes of developing affordable rental housing;
- xvii) allocate revenues generated from the increased non-resident speculation tax to affordable housing and for financial incentives to encourage housing solutions for low- and moderate-income households;
- xviii) prioritize incentives and policies that would facilitate housing that is not well provided by the market, including community, supportive, affordable, and rental housing;
- xix) include representatives from both upper and lower-tier municipalities, including the Region of Durham, on the housing supply working group;
- xx) streamline the Environmental Compliance Approval and Municipal Class Environmental Assessment processes and timelines where they impact the ability of the municipality to provide required municipal services to new

developments in a timely manner;

- xxi) recognize that unit typologies and density of the “missing middle” and “gentle density” varies based on local context, and should be defined locally;
- xxii) provide educational materials and support to municipalities to better equip staff and Councils with countering common concerns of residents related to density and intensification;
- xxiii) acknowledge that adequate sanitary sewer and water capacity be available to allow intensification and development to proceed to support addressing “the missing middle”; and
- xxiv) identify and incorporate rural housing needs in provincial policy and legislation, where it relates to long-term growth and density.

B) That a copy of this report be forwarded to Durham's area municipalities for their information.

Report:

1. Purpose

1.1 On March 30th, 2022, the province released [Bill 109, More Homes for Everyone Act, 2022](#) and the [More Homes for Everyone Plan](#) in response to the [Ontario Housing Affordability Task Force report](#)¹, and proposed changes to:

- The Planning Act;
- Development Charges Act;
- New Home Construction Licensing Act;
- The Ontario New Home Warranties Plan Act; and
- The City of Toronto Act.

1.2 The proposed changes were supposed to be open for a 30-day comment period that was scheduled to close on April 29th, 2022. However, Bill 109 achieved Royal Assent on April 14, 2022, more than two weeks prior to the comment period closing. The proposed changes were released through two Environmental Registry of Ontario (ERO) postings and seven Regulatory Registry postings:

¹ The Province established a Housing Affordability Task Force in late 2021 with the goal of creating a long-term roadmap to affordable housing in Ontario. The Task Force released a report in February 2022 highlighting 55 recommendations.

- Proposed Planning Act Changes ([ERO 019-5284](#))
- Community Infrastructure and Housing Accelerator – Proposed Guideline ([ERO 019-5285](#))
- Proposed Planning Act Changes ([22-MMAH006](#))
- Proposed Development Charges Act changes ([22-MMAH007](#))
- Proposed Amendments to O. Reg. 82/98 under the Development Charges Act, 1997 ([22-MMAH008](#))
- Proposed amendments to O. Reg. 502-20 under the Planning Act ([22-MMAH009](#))
- Amendments to the New Home Construction Licensing Act, 2017 to protect purchasers of new homes ([22-MGCS010](#))
- Amendments to the Ontario New Home Warranties Plan Act ([22-MGCS011](#))
- Proposed regulations to better inform and protect purchasers of condominium homes ([22-MGCS003](#))

1.3 The province also released three additional opportunities for consultation related to the More Homes for Everyone Plan through the following postings:

- a. Opportunities to increase missing middle housing and gentle density, including supports for multigenerational housing ([ERO 019-5286](#))
- b. Seeking Feedback on Housing Needs in Rural and Northern Municipalities ([ERO 019-5287](#))
- c. Seeking Feedback on Access to Provincial Financing for Not-for-Profit Housing Providers ([22-MMAH010](#))

1.4 The purpose of this report is to provide an overview of the changes and Regional staff comments and respond to the additional consultation items requested by the province. Despite the legislation being finalized, it is important to provide comments to the province as regulatory proposals that support the implementation of Bill 109 have not yet been finalized. This report was prepared in consultation with staff from the CAO's Office, Corporate Services – Legal Services, Social Services – Housing Services, Planning and Economic Development, Finance, and Works Departments.

2. Background

2.1 On December 6th, 2021, the province announced that it had appointed nine members to a new Housing Affordability Task Force with a mandate to provide the government with recommendations on additional measures to increase market housing supply and affordability.

- 2.2 On February 8th, 2022, the province released the Report of the Ontario Housing Affordability Task Force. Through its 55 recommendations, the Task Force focused on how to increase market housing supply and in turn, help improve affordability. By market housing, the report is referring to homes that can be purchased or rented without government support. The Task Force report was not intended as an “all or nothing” set of proposals, but lists options that the government could apply to help address housing affordability and get more homes built. It proposes a target of 1.5 million new homes being built in the next ten years.
- 2.3 Comments on the Task Force Report were issued by the Regional Chair on February 15th, 2022 and reported on through Report #2022-INFO-12.
- 2.4 Bill 109, the More Homes for Everyone Act, 2022 is intended to address housing supply through a long-term strategy coordinated across all levels of government. Its purpose is to develop a new housing supply action plan over a four-year period to implement the recommendations of the Housing Affordability Task Force’s recommendations.

3. Previous Reports and Decisions

- 3.1 [2022-INFO-12](#) Comments from the Region of Durham on the Report of the Provincial Housing Affordability Task Force
- 3.2 [2022-INFO-1](#) Value-for-Money Audit: Land-Use Planning in the Greater Golden Horseshoe, 2021 Annual Report, Office of the Auditor General of Ontario
- 3.3 [2019-COW-6](#) Durham’s Response to Bill 66, Restoring Ontario’s Competitiveness Act, 2018

4. Amendments under Bill 109, More Homes for Everyone Act, 2022

- 4.1 Bill 109, More Homes for Everyone Act, 2022 includes policy and legislative changes in six key areas:
1. Changes to streamline the municipal decision-making process, including:
 - Changes to the municipal planning approval process to expedite approvals for new developments and housing, including the mandatory delegation of site plan control approval to municipal planning staff, extending the review period from 30 to 60 days, and establishing complete site plan application requirements;
 - Requiring municipalities to refund development fees using a phased

- approach for site plan control and zoning by-law amendments that do not receive a decision within the legislated timeframes;
- Establishing regulation-making authorities to prescribe conditions of subdivision approval, and complete site plan application requirements;
 - Providing municipalities with a “one time” authority to reinstate lapsed plans of subdivision approvals;
 - Updating development-related charges by requiring municipalities to post annual financial reports for development-related charges on their websites, mandating a five-year review cycle of community benefit charges, and implementing a tiered approach to limit alternative parkland dedication rates in Transit Oriented Communities;
 - Updating the Ontario Building Code to allow up to 12-storey timber buildings, streamline approvals for modular, multi-unit residential buildings, enable more low-rise and infill multi-residential opportunities, and review safe residential and commercial occupancy on lower floors of high-rise buildings still under construction;
 - Providing increased certainty for development costs by permitting the Minister of Municipal Affairs and Housing to authorize landowners and applicants to stipulate the type of surety bond to secure obligations related to a land use planning applications; and
 - Establishing a Housing Supply Working Group with municipalities, the federal government, provincial ministries, and other stakeholders to monitor progress on implementing provincial initiatives;
2. Introducing a Community Infrastructure and Housing Accelerator (CIHA) tool to:
- Implement Provincial housing policies and expedite priority projects, such as, market-rate housing, non-profit housing, long-term care facilities, and infrastructure initiatives; and
 - Include public notice and consultation requirements when using the tool;
3. Changes to streamline the collection and dissemination of housing and population data, by:
- Amending the Planning Act to require municipalities to report on the status of development applications that have been submitted, are deemed complete, are under review, and have been approved;
 - Requiring the Ministry of Finance to report to municipalities annually on population projections and growth trends; and

- Developing a development approvals data standard in consultation with municipalities and industries to streamline the approval process;
- 4. Changes to the Ontario Land Tribunal (OLT) and Landlord and Tenant Board, including:
 - Providing \$19 million in funding over a three-year period to increase resources and eliminate backlogs;
 - Allowing the Minister of Municipal Affairs and Housing to refer all or parts of an Official Plan matter to the OLT for recommendation or decision; and
 - Allowing the Minister of Municipal Affairs and Housing to pause the 120-day decision making period on official plans and amendments that are subject to the Minister's approval;
- 5. Introducing additional protections for homebuyers and renters facing cancelled or delayed projects, including:
 - Changes that benefit new homebuyers, including increasing the interest rate payable on homebuyer deposits on cancelled projects and information sheets on preconstruction units;
 - Increasing non-residential speculation tax rates from 15 per cent to 20 per cent for non-residential buyers;
 - A province-wide working group with municipalities to establish a vacant home tax;
 - Establishing measure to address issues around land speculation, such as construction shutdowns, which can be used to drive up housing costs; and
 - Amendments to the New Home Construction Licensing Act, 2017 and the Ontario New Home Warranties Plan Act that would increase fines and administrative penalties; and
- 6. Using surplus provincial lands for long-term care and non-profit housing.

5. Staff Comments on Changes

Planning Act Changes related to Site Plan Control, Site Plan and Rezoning Application Fees and Discretionary Authorities to the Minister of Municipal Affairs and Housing related to official plan approvals (ERO 019-5284 and 22-MMAH006)

- 5.1 Bill 109 is intended to implement some, but not all, of the recommendations in the Housing Affordability Task Force report, released earlier this year. Some changes under Bill 109 align with recommendations of the report, such as truncating

application approval timelines, legislating application review timelines, establishing province-wide application requirements for plans of subdivision and site plans, and reducing funding to municipalities that fail to meet legislated approval timelines; while others are introduced for the first time, such as providing municipalities with a one-time authority to reinstate lapsed plans of subdivision approvals.

Site Plan Control and Subdivision Conditions

- 5.2 While site plan approval is a lower-tier responsibility, delegating site plan control to municipal staff could reduce the approval timeframes overall and expedite approvals for projects that are compliant with the applicable zoning by-laws. The Region has previously expressed its concerns with prescribing common, province-wide conditions of subdivision approval in response to Recommendation #23 of the Provincial Housing Affordability Task Force (Report 2022-INFO-12). **It is recommended that upper-tier municipalities be given the opportunity to review and comment on any proposed regulations regarding complete site plan applications, or allowable conditions on plans of subdivision.**
- 5.3 One of the most significant causes of delay in processing development approvals through the Regional Works Department is poor application quality including errors and omissions in technical background studies and reports. Other examples include inappropriate road entrance locations or configurations, and sewer and water extensions and connection designs that do not meet Regional standards or by-laws. **It is recommended that the province permit upper-tier municipalities to stop the clock on all planning application review periods, including site plans, where it is necessary for the proponent to address technical issues identified in the processing of the application.**

Refund of Site Plan and Rezoning Application Fees

- 5.4 While the Region, as an upper-tier municipality, does not collect site plan application fees, the idea of refunding application fees is punitive and fundamentally disconnected from the complexities of the planning approval process. This change does not take into account the commenting period and response times of circulated agencies, nor time when the application is back with the proponent to address issues and/or errors with the submission. It also does not allow sufficient time for resubmissions of plans and reports that required revisions and updates as identified throughout the commenting process. The Region previously expressed its concerns in Report #2022-INFO-12 in response to the Provincial Housing Affordability Task Force recommendation #49.

- 5.5 While this approach could be viewed as a potential incentive to the timely processing of some applications, it has the effect of undermining careful review and due diligence; does not consider the varying complexity of submissions, the implications of inferior outcomes, or the ultimate costs to taxpayers who would be required to absorb the costs that application processing fees are intended to cover. **It is recommended that the province not proceed with the requirement to refund planning application fees as this punitive strategy is sure to have unintended consequences including adding to the backlog of cases at the Ontario Land Tribunal (OLT), and undermining the ability to maintain good planning relationships with applicants.**
- 5.6 It is acknowledged that municipalities have the ability to accelerate planning applications that address their own housing priorities. As an alternative to refunding planning application fees, **it is recommended that the province introduce incentives to accelerate targeted, affordable housing projects.** This approach would achieve the preferred outcome of processing priority projects in a timely manner, while supporting, rather than penalizing, a municipality's ability to respond. This approach puts the onus on the applicant to identify how the application supports community needs.

New Discretionary Authority to the Minister of Municipal Affairs and Housing (MMAH)

- 5.7 The new discretionary decision-making authority for the Minister to pause or refer official plan matters to the Ontario Land Tribunal (OLT) contradicts Bill 109's primary purpose of expediting planning applications to address the housing supply crisis. Referring matters to the OLT will not only result in potentially lengthy board hearings, but will also subject municipal comprehensive reviews to lengthy and costly hearings before the Tribunal. These hearings will redirect staff time and attention away from reviewing and approving development applications. It will also incur costs to the taxpayer while delaying the process further.
- 5.8 Bill 109 achieves a return to the system of Ministerial approval that was in place over 30 years ago, that the Minister "may" refer all or part of the approval to the OLT for the OLT to make a "recommendation" to the Minister. This change establishes the OLT to act in an advisory/recommending capacity in the place of provincial staff, while placing the additional financial burden of adjudication and the redirection of planning and legal resources on municipalities.

- 5.9 **It is recommended that the province not proceed with providing discretionary authority to the Minister to pause or refer official plan matters, such as conformity amendments, to the OLT. However, if this recommendation is not accepted, it is recommended that the province establish an annual fund to compensate municipalities for the staff time and legal expenses where the Minister has referred a new official plan or conformity amendment to the OLT.**

Community Infrastructure and Housing Accelerator (CIHA) Tool (ERO 019-5284 and ERO 019-5285)

- 5.10 Bill 109 introduces a new Community Infrastructure and Housing Accelerator (CIHA) tool with a mandate to “build homes faster by expediting the approval process”. The tool allows municipalities to submit a request to the Minister of Municipal Affairs and Housing to expedite development application approvals that serve local priorities such as long-term care facilities, and community, supportive, affordable, and market-based rental housing. In order to submit an accelerator request, municipalities would be required to pass a Council motion and host a public meeting related to the request. Bill 109 also specifies a guideline to support the use of the tool, the types of developments that qualify, where an order may be used, and other matters related to its use.
- 5.11 While the Region appreciates the province’s recognition of the range of tools required to address Ontario’s complex housing issues, there is little to distinguish the new CIHA tool from the existing Minister’s Zoning Order (MZO) tool. The CIHA introduces only a minimal opportunity for public consultation and may not enable a fully informed planning decision. **It is recommended that the province distinguish the difference between the Community Infrastructure and Housing Accelerator (CIHA) and Minister’s Zoning Order (MZO) tools and clarify the need for two separate tools.**
- 5.12 The province is preparing guidelines for the CIHA to create a framework for when submissions can be made, and how decisions will be reached. Establishing guidelines is a positive step in pre-empting potential criticisms of the tool, such as those recently made of the current MZO tool by the Office of the Auditor General of Ontario in their Value for Money Audit on Land-Use Planning in the Greater Golden Horseshoe ([2022-INFO-01](#)). However, unless there is a clear, defined benefit to the CIHA tool, **it is recommended that the province prepare guidelines that refine the process and use of MZOs, instead of a duplicate tool through the CIHA.**

- 5.13 The draft CIHA guideline suggests that only lower- and single-tier municipalities may request the use of a CIHA order. Upper-tier municipalities, like the Region of Durham, are service managers under the Housing Services Act, and are responsible for establishing, administering, and funding housing and homelessness programs and services, and may provide housing directly.
- 5.14 In order to support and expedite development to meet the affordable housing needs of the community, **it is recommended the province, in their guidelines, require the support from the affected upper-tier municipality in advance of submitting a formal request to the Minister for a housing accelerator order, and:**
- (a) **permit upper-tier municipalities to impose conditions for their support of the request;**
 - (b) **provide the upper-tier municipality the opportunity to enter into an agreement with the proponent or lower-tier municipality with respect to these conditions; and**
 - (c) **permit municipalities that are service managers under the Housing Services Act to make requests for housing accelerator orders to use the CIHA tool for community housing, or affordable rental housing.**
- 5.15 The Provincial Policy Statement sets the policy foundation for Ontario's land use planning system and is based on sound planning principles. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. As the key framework document to guide good planning in Ontario, the PPS addresses a wide range of subjects, including:
- a. promoting cost effective development patterns;
 - b. promoting development and land use patterns that conserve biodiversity and consider the impacts of a changing climate;
 - c. focusing growth and development to settlement areas;
 - d. requiring that matters of land use compatibility including matters of noise, odour and other contaminants are either prevented or mitigated;
 - e. requiring that planning for sewage and water services are provided in a manner that is feasible, financially viable and complies with all regulatory requirements while protecting human health and the natural environment; f. ensuring that natural heritage features (included significant wetlands and woodlands) are protected for the long term; g. ensuring that significant built heritage resources and archaeological resources are conserved; h. numerous other planning matters.

- 5.16 **It is recommended that the province apply the objectives of the PPS when considering the types of development that would be suitable with the use of the CIHA and MZO tools.** For example, the tools should not be used to facilitate settlement area boundary expansions or employment area conversions outside of a municipal comprehensive review (MCR). **It is also recommended that a CIHA tool should be permitted to be used to advance projects within Towns/Villages as defined in the Greenbelt Plan Area, such as the Urban Areas of Beaverton, Cannington, Sunderland, Uxbridge, and Port Perry while upholding the environmental protection policies of the Greenbelt Plan.**
- 5.17 While it may be beneficial to have a CIHA tool for the use of affordable, community, and supportive housing, **it is recommended that if a CIHA tool or MZO is used for market-based rental housing in unique and extraordinary circumstances, the development must contain a minimum 20 per cent of affordable housing units, and additionally still be required to follow the public consultation process which has regard for the policies in the Regional and area municipal official plans as well as provincial policy and legislation, including the Provincial Policy Statement (PPS) and the Growth Plan, and demonstrate a clear urgency to deliver priority development on lands that are designated and serviced or serviceable.**

Environmental Protection

- 5.18 The Region acknowledges the province's commitment to protecting the Greenbelt Plan Area as a priority. However, environmental protection transcends the boundaries of the Greenbelt and should be a priority for all areas including provincially significant wetlands. The changes introduce a greater risk of environmental concerns resulting from a hastened approval process. **It is recommended that the province provide further assurances that the changes will not negatively impact the environment, including provincially significant wetlands, through the development approvals process.**

Data Collection and Reporting

- 5.19 In a two-tier municipal system, it is imperative that data is reported in a consistent manner to ensure data quality and accuracy across all area municipalities. The Region has recently launched an internal development tracking software to help achieve this goal. However, site plan approval is a lower-tier responsibility, and each area municipality has its own processes for collecting, processing, approving, and monitoring site plan data. As such, the approval authority for site plan applications

(i.e. area municipalities) should be responsible for reporting on the approval status within their jurisdiction, as data can vary between each municipality. **It is recommended that the province clarify the type of information that is required to meet the province's new data standards, and identify who is responsible for reporting and publishing site plan data in the case of a two-tier municipal system to meet these standards.**

Amendments to O. Reg. 82/98 under the Development Charges Act, 1997(22-MMAH008)

- 5.20 Bill 109 is intended to enhance the transparency of development charges by updating municipal reporting requirements under the Development Charges Act (DCA).
- 5.21 O. Reg. 82/98 under the DCA requires a municipal treasurer, in their annual treasurer's statement, which is already required under the DCA, to set out whether the municipality still anticipates incurring the capital costs projected in the municipality's Development Charge (DC) background study for a given service. If this is not the case, then an estimate of the anticipated variance from that projection along with an explanation for the variance must be provided. This additional reporting requirement could be very resource extensive, while yielding limited new information, since capital spending will vary based on the pace and location of actual development. **It is recommended that the province ensure there is no additional administrative and reporting burden for municipalities resulting from the amendments to O. Reg. 82/98 under the Development Charges Act, 1997**, as the previous requirement to disclose actual spending along with the requirement to update DC by-laws at least every five years ensured transparency and disclosure.
- 5.22 Feedback on O. Reg. 82/98 was provided to the province on April 6th, 2022 to meet the commenting deadline. Regional staff provided comments to the province on the regulatory proposal, and advised the province that the comments would go forward to Regional Council on April 27, 2022. The comments included:
- a. Municipalities require flexibility to proceed with growth-related capital projects that reflect the actual pace and location of new development. This flexibility may result in a municipality shifting, modifying or substituting a capital project with another in order to reflect development in terms of actual scale, timing and location. As such, capital forecasts prepared by municipalities will vary from year to year based on these changes and the rates of development

- while still reflecting the underlying longer term development forecasts.
- b. The new requirements under the regulation should not result in significant administrative and reporting burden for municipalities that levy development charges (DCs). The previous requirement to disclose actual spending, along with the requirement to update development charge by-laws at least every five years ensured disclosure.
 - c. The amendment is also unclear on the timeframe for the capital cost projections for inclusion in the annual statement. Updating the capital program annually for both cost changes and program changes to assess this would be burdensome and would not provide useful information since many capital projects are multi-year, and development patterns and final construction designs might have been altered over time. Currently, Regional Council expresses its intent to meet the needs of growth through the capital program. The Treasurer cannot bind Council to commit to incurring the capital costs projected in the municipality's DC background study for a given service.

Amendments to the New Home Construction Licensing Act, 2017 (22-MGCS010) and Seeking Feedback on Access to Provincial Financing for Not-for-Profit Housing Providers (22-MMAH010)

- 5.23 As part of its More Homes for Everyone Plan, the province is seeking feedback on the challenges and barriers faced by non-profit providers in accessing capital for new development and repairs. Most non-profit community and affordable rental housing providers lack sufficient equity, experience, and expertise to access capital markets on their own. A combination of direct capital grants and low-rate, provincially-guaranteed financing that is customized to the unique requirements of non-profit affordable housing providers is essential to support new development and sustain the sector.
- 5.24 The province has committed to streamlining the process to make underutilized or surplus properties and lands available for community and supporting housing. **It is recommended that the province make surplus provincial lands and properties available to municipalities, including municipal service managers under the Housing Services Act, and non-profit providers at no cost or below fair-market value for the purposes of developing affordable rental housing.**
- 5.25 Considerations for housing demand is a welcome change in the Provincial approach to housing, including increasing the non-resident speculation tax and working with individual municipalities to enhance measures to address land speculation. **It is recommended that the province allocate revenues generated from the**

increased non-resident speculation tax to affordable housing and for financial incentives to encourage housing solutions for low- and moderate-income households.

- 5.26 Although Bill 109 includes some support for non-profit housing providers to provide land and preserve community housing, **it is recommended that the province prioritize incentives and policies that would facilitate housing that is not well provided by the market, including community, supportive, affordable, and rental housing.**
- 5.27 The Region supports improvements to accelerate approvals through the Streamline Development Approval Fund, Municipal Modernization Program, and the Audit and Accountability Fund. As well, the province plans to establish a collaborative housing supply working group with municipalities, upper levels of government, and the private and non-profit sectors to monitor progress and support other improvements to the provincial action plans over the long-term. **It is recommended that the province include representatives from both upper and lower tier municipalities, including the Region of Durham, on the housing supply working group.**
- 5.28 Provincial review and approval processes add to the timeline of bringing housing to the market. The current processing time for Environment Compliance Approvals for direct submissions to the Ministry of Environment, Conservation and Parks is in excess of 12 months. Municipal Class Environmental Assessments, in particular when Part II Order are received, regularly take over a year to resolve. **It is recommended the province streamline these processes and timelines where they impact the ability of the municipality to provide required municipal services to new developments in a timely manner.**

Opportunities to increase missing middle housing and gentle density, including supports for multigenerational housing (ERO 019-5286)

- 5.29 As part of Bill 109, the province is seeking feedback on best practices and examples of how it can support the creation of more missing middle housing, including multigenerational housing in Ontario, as per recommendations 3 to 11 in the Housing Affordability Task Force report.
- 5.30 The province defines the “missing middle” as a range of multi-unit housing types, such as laneway housing, townhouses, rowhouses, and low and mid-rise apartments that have “gone missing” from many areas in the province. These housing types are considered as “gentle density” because they are compatible with

single-detached housing and would have minimal impact on the existing neighbourhoods while providing additional housing options. These housing types are also considered as multigenerational housing, because they would allow young adults to remain in the same neighbourhoods as their aging parents, and allow older adults to age in place.

- 5.31 A review of Durham's building permit data suggests that over a quarter (26.4 per cent) of new homes built in Durham in 2020 were townhomes, nearly just as many as single-detached units (26.5 per cent), suggesting a disconnect between Durham's residential development patterns and the province's definition of the "missing middle". **The province should recognize that unit typologies and density of the "missing middle" and "gentle density" varies based on local context, and should be defined locally.**
- 5.32 Discussion Question #1 of the above noted ERO asked to identify the biggest barriers and delays to diversifying the types of housing built in existing neighbourhoods. In Durham's context, a significant barrier causing delay to introducing "missing middle" housing in existing neighbourhoods is resistance from existing residents living in a stable neighbourhood (i.e. Not-In-My-Backyard, or "NIMBY-ism"). **It is recommended that the province provide educational materials and support to municipalities to better equip staff and Councils with countering common concerns of residents related to density and intensification.**
- 5.33 New development can put a strain on the existing sanitary sewer and water supply system infrastructure, and potentially impact services for residents and businesses in the surrounding area **It is recommended that the province should acknowledge that adequate sanitary sewer and water capacity be available to allow intensification and development to proceed to support addressing the "missing middle".**

Seeking feedback on housing needs in rural and northern municipalities (ERO 019-5287)

- 5.34 As part of the More Homes for Everyone Plan, the province has a mandate to provide more housing options and increase overall housing supply in rural and northern municipalities. As such, the province is seeking feedback on the housing-related barriers and challenges that rural and northern municipalities face.
- 5.35 Durham's northern municipalities of Brock, Scugog and Uxbridge experience different housing needs from the southern lakeshore municipalities. The

predominant form of housing in rural areas is single-detached houses. This may be partly due to the limitations of private well and septic systems associated with higher-density forms of housing. The majority of vacant lots which could accommodate new housing are located outside of the rural settlement areas. The Region, through its land needs assessment as part of the MCR is considering development trends and the potential of vacant lots for housing in the rural areas. This ERO was circulated to all Durham municipalities, including Brock, Scugog, and Uxbridge, to encourage their review and comment on Bill 109 directly to the province. **It is recommended that the province identify and incorporate rural housing needs in provincial policy and legislation, where it relates to long-term growth and density.**

6. Relationship to Strategic Plan

6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

- a. Goal 2.1 – Revitalize existing neighbourhoods and build complete communities that are walkable, well-connected, and have a mix of attainable housing.
- b. Goal 4.1 – Revitalize community housing and improve housing choice, affordability, and sustainability.

7. Conclusion

- 7.1 The province passed Bill 109, More Homes for Everyone Act, 2022 on April 14, 2022 that had changes to various legislation, including the Planning Act, Development Charges Act, New Home Construction Licensing Act, the Ontario New Home Warranties Plan Act, and the City of Toronto Act through Bill 109, More Homes for Everyone Act, 2022.
- 7.2 It is recommended that this Report and its recommendations be endorsed and submitted to the province as Durham Region's response to the legislative changes and other proposals made by the province to support implementation of the More Homes for Everyone Plan.
- 7.3 This report has been prepared in consultation with the CAO's Office, Corporate Services – Legal Services, and the Finance and Works Departments.

Respectfully submitted,

Original signed by

Brian Bridgeman, MCIP, RPP
Commissioner of Planning and
Economic Development

Recommended for Presentation to Council

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer