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PRIVILEGED AND CONFIDENTIAL

October 15, 2025

File No. 329629

Mayor Jennifer Coughlin and Members of Council
The Corporation of the Township of Springwater
2231 Nursery Road
Minesing, ON
L9X 1A8

Dear Mayor Coughlin and Members of Council:

Re: *Municipal Act, 2001*, S.O. 2001, c. 25
Use of Strong Mayor Powers in Relation to City of Barrie Annexation Proposal

We have been asked to provide a legal opinion to the Council of The Corporation of the Township of Springwater ("**Council**" and the "**Township**," respectively) on the potential use of "Strong Mayor Powers" under Part VI.1 of the *Municipal Act, 2001*[1] by the Township's Mayor, Jennifer Coughlin (the "**Mayor**"), in relation to a restructuring proposal pursued by the City of Barrie ("**Barrie**") to annex certain lands from the Township as well as from the Township of Oro-Medonte ("**Oro-Medonte**").

In providing our opinion, we have also been asked to assess the assertions made in correspondence received by the Township from Davies Howe LLP, dated October 6, 2025, in relation to same.

Executive Summary

It is our opinion that the Strong Mayor Powers under Part VI.1 of the *Municipal Act, 2001* could be exercised in relation to Barrie's restructuring proposal.

Interpreted in accordance with the so-called "modern approach" to statutory interpretation, the powers to, *inter alia*, veto a by-law or propose a by-law must be connected to a priority prescribed by the Province, by regulation. However, it is not a proper interpretation of the legislation to require the effect of a proposal to be absolute or certain.

Rather, the Legislature saw fit to imbue the heads of council in designated municipalities with considerable discretion in determining how and whether a matter "could potentially" advance or interfere with a provincial priority sufficient to justify the exercise of Strong Mayor Powers. This is consistent with the legislative intent underlying Part VI.1 of the *Municipal Act, 2001*, being to align municipal and provincial political interests and values.

[1] *Municipal Act, 2001*, S.O. 2001, c. 25.

In reviewing background materials and the proposal which is being presented to Council, we discern that there is a reasonable connection between Barrie's restructuring proposal and the prescribed provincial priorities as set out in O. Reg. 580/22.[2] Apart from the annexation of land to Barrie, a key component of the proposal is a commitment to extend municipal water and wastewater servicing to certain lands within the Township which are proposed to be developed with mixed-use communities. This would bolster the planning rationale for allowing development to proceed outside of the normal municipal process, thereby connecting to the provincial priority of constructing infrastructure to support housing. This rationale is something the Mayor herself will have to consider and formulate an opinion on, given that the statute imbues her with discretion to make this determination.

Moreover, we disagree with the conclusion reached by Davies Howe LLP in its correspondence that the Mayor cannot exercise her Strong Mayor Powers in relation to this matter.

In our assessment, we believe there are two thematic issues with their assertions:

First, the arguments made are not supported by a proper exercise in statutory interpretation of Part VI.1 of the *Municipal Act, 2001* or the regulations made thereunder. This, in turn, leads to an incomplete understanding of the conditions that must be met for the exercise of certain Strong Mayor Powers.

Second, and based on this faulty interpretation, the arguments focus narrowly on the impacts that Barrie's restructuring proposal will have on the construction of housing in the Township, and fail to meaningfully consider the cross-border servicing arrangements that are included within the proposal which, in our view, do have a connection to a prescribed provincial priority.

Background

1. Municipal Restructuring Proposal with Barrie

For some time, the Township has been dealing with a restructuring proposal pursuant to the *Municipal Act, 2001* between it, Barrie, and Oro-Medonte that would see Barrie's municipal boundaries expanded into the two adjacent municipalities. While an exhaustive recounting of the events and steps taken to date are beyond the purview of this opinion, we wish to highlight the salient features of this proposal.

The impetus for Barrie's proposal was the limited supply of developable industrial/employment lands which are serviced by municipal water and wastewater services.

Through the involvement of the Ministry of Municipal Affairs and Housing and the Office of the Provincial Land Development Facilitator, the three municipalities have undertaken considerable work and negotiations to develop a framework for mutually beneficial approaches to enable growth in the overall region. This included jointly retaining a consultant to conduct a phased joint land needs assessment to determine if there was indeed a need for additional employment lands and/or community area lands in the affected areas. Phases 1 and 2 of this study identified that without a boundary adjustment, Barrie's employment growth would be slowed in the short term.

[2] O. Reg. 580/22: "Provincial Priorities" made pursuant to s. 284.9 of the *Municipal Act, 2001*.

Following on the results of this study, the Township and Barrie developed a list of shared principles that would inform further discussions on boundary adjustments, which would ultimately be reflected in an agreement. Amongst these principles, Barrie has proposed extending municipal water and wastewater services to a portion of the Township's geographic area, and in exchange for said servicing, the Township would transfer certain lands to Barrie for long-term residential and employment growth.

Recently, Phase 3 of the joint land needs assessment determine that for Barrie to meet its long-term growth needs, and additional 500 hectares of Community Lands and 300 hectares of Employment Lands would need to be added to its geographic areas. Additional technical studies have been commissioned to evaluate the feasibility of this proposal.

A final restructuring proposal has now been presented by Barrie for the Township's consideration, along with a draft Framework Agreement. Under this proposal, 1,216 hectares of lands are proposed to be transferred from the Township to Barrie, which would include 313 hectares intended for employment uses and 283 hectares intended for community uses.

Notably, changes to land use planning permissions will not occur as a result of the restructuring proposal. Rather, a comprehensive land use planning exercise is proposed to be undertaken by Barrie following the boundary adjustment.

The final proposal also entails a cross-border servicing arrangement whereby Barrie would extend full municipal services to certain lands that will remain within the Township, known locally as the Bayfield Street North corridor. This area has recently seen development pressures, including two requests for Minister's Zoning Orders ("**MZOs**") to facilitate mixed-use communities with residential housing. While both requests received some level of support by the Township, neither parcel has planned access to municipal services, representing a technical constraint to development. Supporting technical studies express a preference for those lands to be serviced through Barrie's infrastructure, although the studies did examine connections to a planned Midhurst Wastewater Treatment Plant.

In sum, the servicing considerations underlying the restructuring proposal, which will be refined in further detail following the restructuring proposal, would allow these development proposals to move forward, provided the requisite land use planning permissions are put in place through a MZO.

At its meeting on October 15, 2025, the Township will make a decision on whether to support Barrie's final proposal.

2. Strong Mayor Powers and the Restructuring Proposal

Effective May 1, 2025, the Minister of Municipal Affairs and Housing expanded the number of municipalities to which Part VI.1 of the *Municipal Act, 2001*, setting out the so-called Strong Mayor Powers, would apply. The Township was one of the 170 designated municipalities designated by the Minister pursuant to section 284.2 of the *Municipal Act, 2001*.[3]

[3] See O. Reg. 530/22: "Part VI.1 of the Act", Schedule 1, para. 179, designating the Township as a Strong Mayor municipality. There are now 216 designated municipalities in Ontario.

The Mayor has, on multiple occasions, used Strong Mayor Powers in relation to Barrie's restructuring proposal, discussed further below:

- On May 7, 2025, the Mayor proposed By-law 2025-042 pursuant to section 284.11.1 of the *Municipal Act, 2001* to authorize and direct the Mayor to engage in discussions with Barrie and the Province to expedite a mutually satisfactory proposal, which direction would supersede any previous resolution regarding this topic. By-law 2025-042 was considered at Council's meeting on May 7, 2025, and passed with the required more than one-third plurality vote.

- Following the passage of By-law 2025-042, on May 15, 2025, the Mayor issued Mayoral Direction MDIR-20250-001 to Township staff to "perform all duties, as required," to facilitate discussions with Barrie and the Province regarding Barrie's restructuring proposal. We note that this directive does not specifically state which tasks or duties Township staff are to perform, nor whether any research or advice was to be given to the Mayor about a specific topic.

- At the June 4, 2025 meeting of Council, the Mayor used her power under section 284.10 of the *Municipal Act, 2001* to require Council to consider correspondence from the Office of the Provincial Land and Development Facilitator regarding the restructuring proposal.

- On September 3, 2025, the Mayor proposed By-law 2025-068 pursuant to section 284.11.1 of the *Municipal Act, 2001* to authorize the Mayor to include cross-border servicing for the Bayfield Street North corridor in discussions with Barrie and the Province, and to revoke previous Resolution C266-2025, passed by Council at its meeting on July 2, 2025, which revoked support for a MZO request for certain lands in the Bayfield Street North corridor unless those lands were serviced through the planned Midhurst Wastewater Treatment Facility. By-law 2025-068 was considered at Council's meeting on September 3, 2025. After a motion to reconsider Resolution C266-2025 was defeated, By-law 2025-068 was proposed and passed with the required more than one-third vote of Council.

More recently, the Township received correspondence from the law firm Davies Howe LLP, who acts as counsel to a group of land developers in the Midhurst area of the Township, raising concerns with the prospective use of Strong Mayor Powers in relation to Barrie's restructuring proposal. Specific arguments raised in this correspondence are detailed further below in this opinion. Generally, the correspondence asserts that the Mayor cannot use her Strong Mayor Powers in relation to this matter because there is no nexus to provincially-prescribed priorities.

At its Special Meeting held on October 8, 2025, Council passed the following resolution:

> **C384C-2025**
>
> Moved by Cabral
>
> Seconded by Alexander
>
> That the Correspondence from Davies Howe LLP dated October 6, 2025 re: Barrie Annexation Proposal Use of Strong Mayor Powers; be received; and,

> That Council hereby requests a legal opinion from Loopstra Nixon LLP, Aird and Berlis LLP and the Province on the use of Strong Mayor powers for the Barrie Boundary Adjustment Proposal as well as a peer review on the Davies Howe LLP correspondence; and,
>
> That Ainley be requested to provide Council with a peer review on the most recent technical memos received through the facilitation process; and,
>
> That the legal opinion be presented to Council in closed session on October 15, 2025, prior to the regular meeting.

Our firm was subsequently engaged to provide an independent assessment and opinion to Council.

Analysis

A. Legislative Framework

1. History and Purpose of Strong Mayor Legislation

Before delving into the substance of our opinion, we wish to make some preliminary remarks on the genesis and purpose of the Strong Mayor Powers contained in the *Municipal Act, 2001*.

Historically, local government in Ontario has been characterized by a "weak mayor" system: the head of council, although a position that connotes leadership, only had one vote on council, and had very minimal executive authority to act unilaterally or to bind the municipal corporation. The role of mayor has traditionally been viewed as a consensus-builder, working in the spirit of co-operation and compromise with other members of council to achieve a desired result.[4]

Moreover, despite bearing the title of "chief executive officer" of the municipal corporation,[5] the head of council does not bear any true executive powers. This was observed by former Associate Chief Justice Frank N. Marrocco in his report on the Collingwood Judicial Inquiry, noting that unlike private corporations, a head of council, as the nominal "CEO" of the municipality, had no power to unilaterally bind the municipality or commit it to a certain course of action, even recommending that the Province amend the *Municipal Act, 2001* to remove this "inaccurate description."[6]

This landscape shifted with the introduction of Strong Mayor Powers. In 2022, ostensibly in response to the ongoing housing crisis in Ontario, the Province determined that greater executive authority for heads of council would assist it in achieving provincial housing goals. The Province implemented one of the most significant legislative reforms of municipal powers through Bill 3, the *Strong Mayors, Building Homes Act, 2022*.[7] The statute added Part VI.1 to the *Municipal Act, 2001*, which introduced new powers and assigned certain existing municipal powers to the heads of council of designated municipalities.

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[4] John Mascarin and Jennifer Bilas, "Strong Mayor, Weak Plan," 10 D.M.P.L. (2d) No. 10 at 1.

[5] *Municipal Act, 2001*, ss. 225(a), 226.1.

[6] See Frank N. Marrocco, *Transparency and the Public Trust – Report of the Collingwood Judicial Inquiry* (Volume 1 – Executive Summary and Recommendations) at pp. 18-19.

[7] *Strong Mayors, Building Homes Act, 2022*, S.O. 2022, c. 18 (Bill 3) (assented to September 8, 2022).

The *Better Municipal Governance, 2022*[8] subsequently added the authority for a head of council to bring forward a proposed by-law at a meeting and compel their council to consider and vote on the by-law which can be enacted with a vote of "more than one third of the members of council."[9]

While the stated objective underlying the Province's enactment of the Strong Mayor legislation is to address the housing affordability crisis, it is clear from statements beyond the Legislature that Premier Doug Ford has long envied the powers possessed by the mayors of some American cities and wished to adopt that model in Ontario.[10]

In any event, the legislative debates underlying the legislation on Strong Mayor Powers clearly elucidate an intent that strong mayors be afforded a greater level of control over governance decisions to align municipalities with provincial priorities.[11]

As with many housing bills from the current government, Bill 3 was aimed at addressing supply-side challenges to creating new housing. In particular, introducing new executive powers for the head of council was aimed at helping "tackle the political logjam in getting approvals" for new housing.[12] Former Minister of Municipal Affairs and Housing Steve Clark stated as follows:

> "Today, I think we can agree: Priority projects simply take too long to get through municipal councils and through committees. To be truly effective for their communities, mayors need our support. They need to be empowered. That's why, Speaker, I am so very proud that we're leading off second-reading debate on the proposed Strong Mayors, Building Homes Act. The changes would, if passed, give the mayors of the cities of Toronto and Ottawa the ability to drive policy changes, select municipal department heads and bring forward budgets, and it would help our municipal partners deliver on our shared priorities, including housing."[13]

While the legislation initially only introduced these powers to the Cities of Toronto and Ottawa (and as a "pilot project"), at present, Strong Mayor Powers have been extended to 216 municipalities in Ontario.

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[8] *Better Municipal Governance Act, 2022*, S.O. 2022, c. 24 (Bill 39) (assented to December 8, 2022).

[9] *Municipal Act, 2001*, ss. 284.11.1(4).

[10] See e.g., Rob Ford and Doug Ford, *Ford Nation: Two Brothers, One Vision* (HarperCollins Publishers, 2016): "If I ever get to the provincial level of politics, municipal affairs is the first thing I would want to change. I think mayors across the province deserve stronger powers. One person in charge, with veto power."

See also National Post, "Doug Ford wants to bring in a U.S.-style 'strong-mayor' system for cities: 'one person in charge'" (June 1, 2018); online: https://nationalpost.com/news/canada/ontario-pc-leader-says-hed-like-to-bring-in-a-u-s-style-strong-mayor-system-for-cities-one-person-in-charge

[11] See e.g., Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43rd Parl., 1st Sess., August 11, 2022, at 1320 (Hon. Steve Clark); see also Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43rd Parl., 1st Sess., August 11, 2022, at 1320 and 1340 (Hon. Steve Clark); see also Ontario, Standing Committee on Heritage, Infrastructure and Cultural Policy, *Hansard Transcripts*, 43rd Parl., 1st Sess., August 25, 2022, at 900 (Hon. Steve Clark).

[12] Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43rd Parl., 1st Sess., August 11, 2022, at 1320 (Hon. Steve Clark).

[13] *Ibid.*

2. Relevant Statutory Provisions

It is trite law that as a creature of statute, a municipality can only exercise those powers expressly conferred on it by the Legislature.[14] This proposition extends to the exercise of statutory powers by the officers of a municipal corporation, including the head of council. As such, an evaluation of the precise text, context, and purpose of the powers in Part VI.1 of the *Municipal Act, 2001* is required.

In dealing with the question of the meaning of a statutory provision, the courts have consistently directed that the statute must be interpreted in accordance with the so-called modern approach to statutory interpretation:

> Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.[15]

We have considered three distinct powers which felt pertinent to the subject matter of this opinion:

- section 284.3 – the power to provide direction to municipal staff
- section 284.11 – the power to veto a by-law
- section 284.11.1 – the power to propose a by-law for council consideration

First, a strong mayor has some circumscribed authority to give direction to municipal staff. Previously, this power resided with council, as *the* decision-making body on behalf of the municipality.[16] However, at present, a strong mayor has the following authority:

> **Directions to municipal employees**
>
> **284.3** For the purposes of exercising powers or performing duties under this Part, the head of council may, in writing, exercise the powers of the municipality to direct municipal employees to,
>
> (a) undertake research and provide advice to the head of council and the municipality on policies and programs of the municipality or of the head of council as they relate to the powers and duties under this Part; and
>
> (b) carry out duties related to the exercise of the power or performance of the duty, including implementing any decisions made by the head of council under this Part.

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[14] *R. v. Greenbaum* (1993), 14 M.P.L.R. (2d) 1 (S.C.C.) at para. 20; *Toronto (City) v. Ontario (Attorney General)*, 2021 SCC 34 at para. 2.

[15] Elmer A. Driedger, *The Construction of Statutes,* 2nd ed., (Toronto, Butterworths, 1983) at p. 87. The modern principle has been frequently applied by the Supreme Court of Canada; see *Rizzo & Rizzo Shoes Ltd. (Re),* [1998] 1 S.C.R. 27, at para. 21, *Bell ExpressVu Limited Partnership v. Rex,* [2002] 2 S.C.R. 599, at paras. 26-27, and, more recently, in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, at para. 117.

[16] *Municipal Act, 2001*, ss. 5(1), (3).

Section 284.3 does not afford a strong mayor the power to exercise general control over the municipal administration akin to a chief administrative officer. Rather, the power to give direction is limited to: (a) undertaking research and providing advice on certain specified matters; and (b) carrying out the powers and duties of a strong mayor under Part VI.1. We note that unlike other provisions in Part VI.1, section 284.3 itself does not require direction to be in relation to "prescribed provincial priorities." However, such direction must bear some nexus to the strong mayor's exercise of powers or performance of duties under the other provisions of Part VI.1.

Second, section 284.11 authorizes a strong mayor to veto certain by-laws[17] passed by their council, subject to certain limitations and exercised in accordance with a specific procedure. Modelled after the powers of mayors in American metropolitan cities, such as New York City and Los Angeles, the animating purpose of the veto power in section 284.11 of the *Municipal Act, 2001* is to give heads of council greater power and personal accountability to assist the Province in achieving its goal of "building 1.5 million new homes by 2031."[18]

To this end, a critical component of the veto power is that it may only be exercised "if the head of council is of the opinion that [the by-law] could *potentially interfere with* a prescribed provincial priority,"[19] which priorities will be discussed further below. The exercise of the veto power is subject to an intricate process set out in section 284.11, which includes the provision of notice of the strong mayor's intent to veto a by-law, the exercise of the veto in writing, and a potential override by a "super-majority" vote of council.

Lastly, section 284.11.1 entails what is probably the most controversial Strong Mayor Power. Criticized as a fundamentally anti-democratic measure,[20] section 284.11.1 allows a strong mayor to, despite the requirements of any procedure by-law, propose certain by-laws[21] for council's consideration, and have such by-law pass with a vote of less than a majority of the members of council.[22] This power may be exercised by providing the clerk and every member of council a copy of the proposed by-law, and reasons for the proposal.[23] However, there is a limiting feature in section 284.11.1: the strong mayor must be "of the opinion that [the by-law] could *potentially advance* a prescribed provincial priority."[24]

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[17] A by-law authorized to be passed under the *Municipal Act, 2001* or the regulations made thereunder is a by-law that can be vetoed; see *Municipal Act, 2001*, s. 284.11(1)(a).

[18] Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43rd Parl., 1st Sess., August 11, 2022, at 1350 (Kevin Holland).

[19] *Municipal Act, 2001*, s. 284.11(5).

[20] See e.g., Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43rd Parl., 1st Sess., November 17, 2022, at 1010 (Jeff Burch).

[21] A by-law authorized to be passed under the *Municipal Act, 2001* or the regulations made thereunder is a by-law that can be proposed by the strong mayor; see *Municipal Act, 2001*, s. 284.11.1(1)(a).

[22] A by-law proposed by a head of council pursuant to section 284.11.1 can be passed with the support of "more than one third of the members of council", which can include the head of council; see *Municipal Act, 2001*, ss. 284.11.1(4) and (5).

[23] *Municipal Act, 2001*, s. 284.11.1(3).

[24] *Municipal Act, 2001*, s. 284.11.1(2).

The exercise of such Strong Mayor Powers benefits from some level of judicial immunity:

> **Immunity**
>
> **284.14** A decision made, or a veto power or other power exercised, legally and in good faith under this part shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power.[25]

3. Provincial Priorities

The lynchpin to three specific Strong Mayor Powers [sections 284.10, 284.11 and 284.11.1] is the connection to "a prescribed provincial priority." Reflecting the genesis of Strong Mayor Powers and the legislative debates, O. Reg. 580/22[26] provides as follows:

> **Provincial priorities**
>
> **1.** The following are provincial priorities prescribed for the purposes of sections 284.10, 284.11 and 284.11.1 of the Act:
>
> 1. Building 1.5 million new residential units by December 31, 2031.
> 2. Constructing and maintaining infrastructure to support housing, including,
>
> i. transit,
>
> ii. roads,
>
> iii. utilities, and
>
> iv. servicing.

Based on our research, the prescribed provincial priorities have not received judicial consideration. The Regulation, being a form of delegated legislation, should be understood and interpreted in accordance with the modern approach to statutory interpretation. Summarized, a proper interpretation of both the *Municipal Act, 2001* and the Regulation must consider their text, context and purpose.

First, we note that where the *Municipal Act, 2001* requires some connection to the Regulation in exercising a Strong Mayor Power, the actual language used in the relevant provisions is not strictly objective and absolute, but rather, employs a rather flexible subjective language of deference.

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[25] The text of section 284.14 reflects section 272 of the *Municipal Act, 2001* with respect to municipal by-laws, with some modifications:

> **Restriction on quashing by-law**
>
> **272** A by-law passed in good faith under any Act shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the by-law.

[26] O. Reg. 580/22: "Provincial Priorities" (the "**Regulation**"). The prescribed provincial priorities apply only for the purposes of sections 284.10, 284.11 and 284.11.1 of the *Municipal Act, 2001*.

For example,

> "…*if the head of council is of the opinion* that all or part of the by-law could potentially interfere with a prescribed provincial priority…" [subsection 284.11(5)] and,
>
> "…*if the head of council is of the opinion* that a by-law could potentially advance a prescribed provincial priority…" [subsection 284.11.1(1)]

The italicised verbiage above affords a strong mayor a degree of discretion to determine whether there is a nexus to a provincial priority.

Second, there need not be absolute or conclusive proof that some proposal will either advance or interfere with a provincial priority. Rather, the text of the statute only requires a strong mayor to hold the opinion that the proposal "could potentially" affect provincial priorities. While a seemingly redundant phrase, each of the words "could" and "potentially" must be given meaning.[27] "Could", the past participle of "can," is used to indicate possibility. "Potentially" means the capacity to develop or happen in the future. Read together and in context, a strong mayor must hold the opinion that it is possible for the proposal at hand, be it a veto or proposed by-law, to have some future effect on the provincial priorities.

Conversely, the express language of Part VI.1 does not require empirically-based, non-hypothetical proof that some thing will occur. This is consistent with the overall scheme and purpose of the Strong Mayor Powers in aligning municipalities with the political priorities of the Province, and giving mayors greater personal accountability to affect those outcomes.

Lastly, the connection must be to "a prescribed provincial priority" (i.e., the singular, not plural).

At present, the Regulation prescribes two independent provincial priorities:

- building a quantum of new homes within a certain timeframe, and
- constructing and maintaining infrastructure "to support housing," including "servicing," which, in the context of development, can refer to municipal water and wastewater services.

As drafted, the Regulation does not necessarily require that the infrastructure described in paragraph 2 support the "1.5 millions new residential units" to be constructed "by December 31, 2031" referred to in paragraph 1. The Regulation does not use any connecting language to link these two priorities. Had the Regulation intended this, it could have been drafted in countless other ways, including, simply, a cross-reference.

In our opinion, this indicates that the priorities are disjunctive, rather than conjunctive, meaning a Strong Mayor Power that must be exercised in relation to these provincial priorities need only have a connection to one priority and not necessarily to both priorities.

[27] To do otherwise would offend the presumption against tautology in statutory interpretation, which dictates that all words used in a statutory provision must have meaning, and that courts should avoid interpretations that would render any portion meaningless, pointless, or redundant; see Ruth Sullivan, *Sullivan on the Construction of Statutes*, 7th ed (Toronto: LexisNexis Canada Inc., 2022) (online), Ch. 8, §8.03 [1].

4. Broad Interpretation of Municipal Powers

In addition to the foregoing, it is imperative to recognize that there is a statutory direction in subsection 8(1) of the *Municipal Acct, 2001* with respect to how municipal powers are to be interpreted. Subsection 8(1) provides as follows:

> **Scope of powers**
>
> **8** (1) The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

The above-noted provision makes it explicit that a municipality's statutory powers are to be:

- broadly interpreted and applied,
- to confer broad authority on the municipality, and
- to enable it to:
  - govern its affairs as it considers appropriate, and
  - to enhance its ability to respond to municipal issues.

Subsection 8(1) essentially codifies the jurisprudence noting that, in the absence of a direction to the contrary, all municipal powers are to be interpreted broadly and generously within their context and statutory limits.[28]

This statutory direction to a broad interpretation of municipal powers applies to the Strong Mayor Powers set out in Part VI.1 of the *Municipal Act, 2001*.

Given the assignment of powers and duties to the head of council of a designated municipality under Part VI.1, it is clear that the Mayor stands in place of "the municipality" as the directing mind or decision-maker for the Township for certain purposes and that the Strong Mayor Powers are to be broadly interpreted to confer wide-ranging authority on the Mayor to enable her proceed as she considers appropriate and to be able to respond to municipal issues.[29]

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[28] See in particular, *Croplife Canada v. Toronto (City)* (2005), 10 M.P.L.R. (4th) 1 (Ont. C.A.). As a corollary, the Ontario Court of Appeal in *Friends of Lansdowne Inc. v. Ottawa (City)* (2012), 98 M.P.L.R. (4th) 1 (Ont. C.A.) also confirmed that municipal powers are to be broadly interpreted and that limitations on municipal authority must be strictly construed "in order to give effect to the purpose of the power conferred."

See also J. Mascarin and C.J. Williams, *Ontario Municipal Act & Commentary* – 2025 Edition (Toronto: LexisNexis Canada Inc., 2025) at pp. 31-32.

[29] The direction in s. 8(1) also aligns with the rule of liberal interpretation in s. 64(1) of the *Legislation Act, 2006*, S.O. 2006, c. 21, Schedule F:

> **Rule of liberal interpretation**
>
> **64** (1) An Act shall be interpreted as being remedial and shall be given such fair, large and liberal interpretation as best ensures the attainment of its objects.

B. Potential Use of Strong Mayor Powers re Barrie Restructuring Proposal

Based on the foregoing interpretation of the statutory framework, it is our opinion that there may be a valid connection between Barrie's restructuring proposal and the prescribed provincial priorities such that Strong Mayor Powers could be exercised. The specific rationale would depend on the precise context and factual matrix of the proposed exercise of a Strong Mayor Power, however, we view the matter as follows.

Through the restructuring proposal, we acknowledge that Barrie would be annexing lands from the Township, meaning the Township would suffer a corresponding loss of lands. This could mean less land for residential development in the Township. We also appreciate that the impetus for the restructuring proposal, from Barrie's perspective, was unlocking lands for non-residential development in the short term, of which it does not have sufficient quantities. But the analysis does not end here. A critical component of the restructuring proposal – one which the Township advocated for – was a cross-border servicing arrangement whereby Barrie would provide water and wastewater services to lands which are currently un-serviced, and which must overcome servicing obstacles in order to demonstrate development feasibility (i.e., the Bayfield Street North corridor).

In our assessment, this component of the restructuring proposal can be relied upon to demonstrate some connection to provincial priorities.

First, providing servicing to these lands could accelerate the timeline within which residential units may be developed, which may advance the Province's goal of building 1.5 million new residential units by 2031.

We appreciate there are other obstacles to development, including obtaining the requisite land use planning permissions to allow residential development to proceed, vis-à-vis a MZO. However, Part VI.1 of the *Municipal Act, 2001* does not require conclusive proof or absolute certainty of an impact on this goal. Rather, the text, context and purpose of the Strong Mayor Powers expressly allow for such contingencies and possibilities through the language used (i.e., "could potentially"). Ultimately, the legislative intent underlying the Strong Mayor Powers is to align aspirations and policy values of municipalities and the Province, which would be frustrated if, in every instance, some traceable, empirically-based outcome needed to be demonstrated.

Second, and even more compelling, the restructuring proposal contemplates constructing servicing infrastructure that would support housing in the Township. This is an independent provincial priority in respect of which Strong Mayor Powers can be exercised. The Regulation does not state by whom the infrastructure is to be constructed or maintained, and in the context of multi-tier municipal government, some of the enumerated services may even be provided primarily by another entity. In addition, neither the *Municipal Act, 2001* nor the Regulation require that the proposal itself be the thing that authorizes construction or maintenance of infrastructure, but that the proposal must either potentially "advance" or potentially "interfere with" this priority. It is conceivable that a municipality, acting within the boundaries of its own authority, could do some thing or take some action to bring about an outcome where another entity or government authority constructs infrastructure to support housing.

In summary, we are of the view that there is some reasonable connection between Barrie's restructuring proposal and the prescribed provincial priorities. How that nexus is drawn, and the specific justification for taking some action, is a matter for the Mayor to decide.

C. Assessment of Davies Howe LLP Correspondence

In providing our opinion, we have also considered and assessed the arguments advanced by Davies Howe LLP to support its assertion that "Strong Mayor Powers cannot be used to facilitate Barrie's Annexation Proposal." For the reasons set out below and based on our interpretation set out earlier in this opinion, we disagree with this conclusion.

Davies Howe LLP makes three arguments for why the Mayor's powers under Part VI.1 cannot be used in connection with Barrie's restructuring proposal, summarized as follows:

- Barrie proposes to annex approximately 300 hectares of employment lands, which are for non-residential uses, whereas the Regulation only prescribes residential construction as a provincial priority.

- Barrie, not the Township, would be gaining lands that could potentially be used for housing and, as such, there is no rational connection between the restructuring proposal and building more homes in the Township.

- The projected land needs which underly the restructuring proposal have horizon years of 2051 (residential) and 2061 (employment), whereas the Province's horizon year for building 1.5 million new homes, as set through the Regulation, is 2031.

On that basis, characterized as a "jurisdictional issue," Davies Howe LLP asserts that the Mayor cannot use her Strong Mayor Powers to give direction to Township staff, veto a by-law in relation to Barrie's restructuring proposal, or propose a by-law in relation to Barrie's restructuring proposal.

We disagree with Davies Howe LLP's conclusion for two principal reasons: it was not reached through an exercise in proper statutory interpretation, leading to an incomplete understanding of the Strong Mayor legislation, and it focuses selectively on discrete aspects of Barrie's restructuring proposal rather than viewing the matter holistically.

First, we note that the correspondence does not undertake a proper statutory interpretation analysis of the *Municipal Act, 2001* or the Regulation. This is especially true of the Regulation, which, as delegated legislation, must be interpreted in a manner consistent with its text, context and purpose. This omission, in our view, leads to an flawed interpretation of the legislation.

By way of example, it is argued that Strong Mayor Powers are not available in the circumstances because Barrie's restructuring proposal entails some component of non-residential land uses. However, no statutory basis has been identified for the proposition that the underlying matter in respect of which Strong Mayor Powers are exercised must exclusively relate to residential construction, without any other subject matter or topic bound up with that matter.

As we have noted above in our opinion, the Strong Mayor Powers to, *inter alia*, veto a by-law or propose a by-law may be exercised where, in the opinion of the Mayor, something "could potentially" interfere with or advance, respectively, one of any number of prescribed provincial priorities. The legislation does not use language which would indicate an exclusionary intention, such as "only," "exclusively," or even "predominantly."

In addition, the focus of the correspondence from Davies Howe LLP appears to be whether Barrie's restructuring proposal entails creating more housing in the Township. We acknowledge that building residential units is a prescribed provincial priority, and we largely follow the reasoning adopted by Davies Howe LLP. Critically however, creating housing is not the only priority that has been prescribed. The Regulation also provides that the construction of servicing infrastructure to support housing is also a provincial priority. Flowing from the absence of a statutory interpretation exercise, no justification has been provided as to why this priority has not been independently considered, whereas the relevant provisions of the *Municipal Act, 2001* only require one provincial priority to be satisfied,[30] in the opinion of the strong mayor.

Second, Davies Howe LLP fails to meaningfully consider or address the second of two prescribed provincial priorities set out in the Regulation:

> 2. Constructing and maintaining infrastructure to support housing, including,
>
> …
>
> iv. servicing.

Selective reliance is placed on the implications of Barrie's restructuring proposal on the Township's ability to construct new housing. Generally speaking, the argument is that there is no connection between the priority of constructing housing and Barrie's restructuring proposal because the Township will be "permanently transferring jurisdiction and control over land," and not gaining new lands for housing.

Accepting these facts as true, this argument implicitly acknowledges that the Strong Mayor Power to veto a by-law could be engaged. That power can only be exercised where a by-law "could potentially interfere with" the provincial priority of building new housing. If annexation by Barrie threatened to take away from the Township lands that could be developed for housing, we surmise this could be a rationale for vetoing a by-law to support the annexation.

In any event, in our opinion, this argument misses the broader context of what Barrie's restructuring proposal actually entails. Bound up with the annexation of lands to Barrie is a commitment by Barrie to extend municipal water and wastewater servicing to lands within the Bayfield Street North corridor. These lands require servicing to unlock their development potential as mixed-use communities (i.e., development consisting of, in part, residential housing), which in turn affects the planning justification for MZO requests made in respect of those lands.

With the benefit of this context, a connection to the prescribed provincial priorities is made more clear. Barrie's restructuring proposal has the potential to advance the priority of constructing servicing infrastructure to support housing on the lands in the Bayfield Street North corridor. As noted earlier in our opinion, nothing in the Strong Mayor legislation requires that such a condition result with absolute certainty, nor that the Township itself be the entity that constructs this infrastructure. In contrast, the Legislature saw fit to allow these powers to be exercised where something "could potentially" bring about a certain outcome as a contributing factor.

[30] Both subsections 284.11(2) and 284.11.1(2) use the language "a prescribed provincial priority" (i.e., singular), and in the context of the Regulation, which contains two separate paragraphs, this means priorities are disjunctive and not conjunctive.

Conclusions

For all of the reasons noted above, it is our opinion that the Mayor's powers under Part VI.1 of the *Municipal Act, 2001* could be exercised in relation to Barrie's restructuring proposal. We believe there is a reasonable connection between the proposal to extend municipal water and wastewater servicing to certain lands within the Township and at least one of the prescribed provincial priorities, being constructing infrastructure to support housing.

A proper statutory interpretation exercise supports the use of these powers in this context, notably, that it is sufficient if only one prescribed provincial priority is engaged, and that an underlying proposal need not achieve that priority with absolute certainty. However, this is a matter the Mayor herself will have to decide, based on her discretion under the relevant provisions (i.e., "if the head of council is of the opinion").

Moreover, in our assessment, we disagree with the assertions sought to be advanced by Davies Howe LLP. First, the arguments are not supported by a proper exercise in statutory interpretation, which leads to an incomplete understanding of the conditions that must be met in order to exercise the Strong Mayor Powers. Second, the arguments take a narrow understanding of the outcomes entailed by Barrie's restructuring proposal, which fails to consider the cross-border servicing arrangement.

We will be in attendance at Council's meeting on October 15, 2025 to answer any questions Council may have with respect to this opinion.

Yours truly,

AIRD & BERLIS LLP

[redacted]

John Mascarin

JM/JGP/km

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