

**4. CITY OF OTTAWA WARD BOUNDARY REVIEW (2019-2020)**

**EXAMEN DES LIMITES DE QUARTIERS DE LA VILLE D'OTTAWA (2019-2020)**

**COMMITTEE RECOMMENDATIONS, AS AMENDED**

**That Council:**

- 1. Direct staff to undertake a Request for Proposal (RFP) process to retain an independent consultant to conduct a comprehensive ward boundary review for the City of Ottawa, as described in this report and consistent with the Terms of Reference attached as Document 3;**
- 2. Approve that temporary annual funding, equivalent to one Full-time Equivalent (FTE), be provided to support any Member whose ward population size in Document 4 is projected to be larger than the average ward population size by more than 33 per cent during the 2018-2022 Term of Council, as an interim measure until a new ward boundary by-law comes into force, as described in this report;**
- 3. Direct the City Clerk and Solicitor to send a letter to the Premier of Ontario and the Ontario Minister of Municipal Affairs and Housing to advise of any Council decisions with respect to a comprehensive ward boundary review for the City of Ottawa, as described in this report;**
- 4. Approve that the City Clerk and Solicitor's letter to the Premier of Ontario and the Ontario Minister of Municipal Affairs also specifies that Council intends for the ward boundary review to be conducted on the basis of retaining the current number of wards, being 23, each represented by a single elected Member, in addition to a Mayor elected by general vote, as set out in By-law No. 2005-534; and**
- 5. Approve that the Terms of Reference for the City of Ottawa's 2019-2020 comprehensive ward boundary review, as outlined in Document 3, be amended to direct the independent consultant to bring forward ward boundary options that retain the existing Council composition,**

as described in this motion, and pending any feedback received from the Ontario Government in response to the City Clerk and Solicitor's.

### RECOMMANDATIONS DU COMITÉ, TELLES QUE MODIFIÉES

Que le Conseil :

1. demande au personnel d'entreprendre un processus de demande de propositions (DP) afin d'embaucher un consultant indépendant pour effectuer un examen exhaustif des limites de quartiers de la Ville d'Ottawa, tel que décrit dans le présent rapport et conformément au mandat ci-joint à titre de document 3;
2. approuve qu'un financement annuel temporaire, correspondant à un équivalent temps plein (ETP), soit fourni pour appuyer tout membre dont on prévoit que la population de son quartier dans le document 4 dépassera la population moyenne des quartiers de plus de 33 pour cent pendant le mandat du Conseil 2018-2022, en tant que mesure provisoire jusqu'à ce qu'un nouveau règlement sur les limites de quartiers entre en vigueur, comme décrit dans le présent rapport et
3. demande au greffier municipal et avocat général d'envoyer une lettre au premier ministre de l'Ontario et au ministre ontarien des Affaires municipales et du Logement les avisant de toute décision du Conseil en ce qui concerne l'examen exhaustif des limites de quartiers de la Ville d'Ottawa, comme décrit dans ce rapport.
4. approuve la lettre du greffier municipal et avocat général au premier ministre et au ministre des Affaires municipales et du Logement de l'Ontario fasse part de l'intention du Conseil de mener son examen des limites de quartiers dans l'idée de conserver le nombre actuel de quartiers (soit 23), représentés individuellement par un seul membre élu et collectivement par un maire élu par scrutin général, conformément au Règlement n° 2005-534; et
5. approuve le cadre de référence de l'examen exhaustif des limites de quartiers de la Ville d'Ottawa pour 2019-2020, tel que décrit dans le

**document 3, soit modifié pour que l'on enjoigne au consultant indépendant de proposer des options de limites de quartiers qui ne touchent pas à la composition du Conseil, conformément à ce qui précède et sous réserve de la réponse du gouvernement de l'Ontario à la lettre du greffier municipal et avocat général.**

#### DOCUMENTATION/DOCUMENTATION

1. City Clerk and Solicitor's report, dated 22 May 2019 (ACS2019-CCS-GEN-0031).

Rapport du Greffier municipal et avocat général, daté 22 mai 2019 (ACS2019-CCS-GEN-0031).

2. Extract of draft Minutes, Finance and Economic Development Committee, 4 June 2019.

Extrait de l'ébauche du procès-verbal, Comité des finances et du développement économique, le 4 juin 2019.

Report to  
Rapport au:

Finance and Economic Development Committee  
Comité des finances et du développement économique  
4 June 2019 / 4 juin 2019

and Council  
et au Conseil  
12 June 2019 / 12 juin 2019

Submitted on May 22, 2019  
Soumis le 22 mai 2019

Submitted by  
Soumis par:  
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE      File Number: ACS2019-CCS-GEN-0031

SUBJECT: City of Ottawa Ward Boundary Review (2019-2020)

OBJET: Examen des limites de quartiers de la Ville d'Ottawa (2019-2020)

### **REPORT RECOMMENDATIONS**

That the Finance and Economic Development Committee recommend that  
Council:

1. Direct staff to undertake a Request for Proposal (RFP) process to retain an independent consultant to conduct a comprehensive ward boundary review

for the City of Ottawa, as described in this report and consistent with the Terms of Reference attached as Document 3;

2. Approve that temporary annual funding, equivalent to one Full-time Equivalent (FTE), be provided to support any Member whose ward population size in Document 4 is projected to be larger than the average ward population size by more than 33 per cent during the 2018-2022 Term of Council, as an interim measure until a new ward boundary by-law comes into force, as described in this report; and
3. Direct the City Clerk and Solicitor to send a letter to the Premier of Ontario and the Ontario Minister of Municipal Affairs and Housing to advise of any Council decisions with respect to a comprehensive ward boundary review for the City of Ottawa, as described in this report.

#### RECOMMANDATIONS DU RAPPORT

Le Comité des finances et du développement économique recommande que le Conseil :

1. demande au personnel d'entreprendre un processus de demande de propositions (DP) afin d'embaucher un consultant indépendant pour effectuer un examen exhaustif des limites de quartiers de la Ville d'Ottawa, tel que décrit dans le présent rapport et conformément au mandat ci-joint à titre de document 3;
2. approuve qu'un financement annuel temporaire, correspondant à un équivalent temps plein (ETP), soit fourni pour appuyer tout membre dont on prévoit que la population de son quartier dans le document 4 dépassera la population moyenne des quartiers de plus de 33 pour cent pendant le mandat du Conseil 2018-2022, en tant que mesure provisoire jusqu'à ce qu'un nouveau règlement sur les limites de quartiers entre en vigueur, comme décrit dans le présent rapport et
3. demande au greffier municipal et avocat général d'envoyer une lettre au premier ministre de l'Ontario et au ministre ontarien des Affaires municipales et du Logement les avisant de toute décision du Conseil en ce qui concerne l'examen exhaustif des limites de quartiers de la Ville d'Ottawa, comme décrit dans ce rapport.

## **EXECUTIVE SUMMARY**

On July 8, 2015, City Council considered the staff report titled, "[Ward Boundary Review – Information and Options \(2015\)](#)." The report discussed the status of the City's ward boundaries and included four options with respect to a review of ward boundaries for Council's information. The options ranged from retaining the *status quo* for Ottawa's ward boundaries for the 2018 Municipal Elections on the understanding that a comprehensive ward boundary review would be required in 2019, to proceeding at that time with a comprehensive review that would establish new ward boundaries for the 2018 Municipal Elections.

Council "received" the staff report, which had the effect of retaining the *status quo* for the 2014-2018 Term of Council, presumably on the understanding that a comprehensive ward boundary review would be required to be undertaken in 2019.

Further to the 2015 staff report, this report provides next steps and recommendations for that ward boundary review process. It lays the groundwork for a robust review conducted by an independent consultant and completed in time for new ward boundaries to be in effect for the 2022 Municipal Elections.

As described in this report, the *Municipal Act, 2001* gives municipalities the authority to determine the composition (including size) of Council, subject to certain parameters. Strictly speaking, the composition of a Council is not a matter that may be appealed to the Local Planning Appeal Tribunal (LPAT). Municipalities may also determine ward boundaries through a process broadly outlined in the legislation. Any Council decision with respect to establishing new ward boundaries may be subject to appeal through the LPAT. It should also be noted that the Ontario Government has the ultimate authority to establish municipal ward boundaries and determine the size of Council.

Primarily, a review of ward boundaries is intended to achieve "effective representation" as established by the Supreme Court of Canada. As noted in the Toronto Ward Boundary Review Background Research Report (December 2014), effective representation is the "goal" of all ward boundary reviews. The Toronto report further noted as follows:

"The primary consideration when it comes to effective representation is 'voter parity' (often also referred to as representation-by-population). This is the

principle that all votes should have equal weight and therefore the number of people living in each voting area (i.e. ward) should be similar. However there are other factors used by the courts and the Ontario Municipal Board [now the Local Planning Appeal Tribunal] to define effective representation, including protection of communities of interest and neighbourhoods, respect for natural and physical boundaries, ward history, and recent and projected population growth.”<sup>1</sup>

The City of Ottawa’s current ward boundaries have largely been in place since the City’s last comprehensive ward boundary review was conducted by an independent consultant in 2004-2005. Boundaries established by the 2004-2005 review were expected to meet the test of “effective representation” until 2015.

As noted above, voter parity is a key factor when considering ward boundaries. Almost 15 years after most of the current ward boundaries were created in the City of Ottawa, a number of wards currently exceed the generally accepted maximum population size variance of 25 per cent (or 33 per cent in certain cases). The population size of Ward 3, for example, is more than 40 per cent larger than the average ward size, while rural wards are generally well below the average. It should be noted that such disparity between wards may leave the City vulnerable to a statutory petition process that would remove control of the ward boundary review process from Council if a comprehensive review does not proceed during the current Term of Council.

As planned, a comprehensive ward boundary in 2019-2020 would seek to ensure “effective representation” is achieved. The review would take into account all changes and trends following the last major review in 2004-2005, and provide an opportunity to address all issues in all wards. It would also provide an opportunity to establish ward boundaries in time for the 2022 Municipal Elections. These ward boundaries would likely hold for the 2026 and 2030 elections, providing stability of representation for communities.

In order to proceed expeditiously with a comprehensive review and meet statutory timelines required to have any new ward boundaries in place for the 2022 Municipal Elections, this report recommends the following next steps:

**1. Directing staff to undertake a Request for Proposal (RFP) process to retain an independent consultant to conduct a comprehensive ward**

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<sup>1</sup> *Toronto Ward Boundary Review Background Research Report* (December 2014), at p. 1.

**boundary review for the City of Ottawa consistent with the Terms of Reference attached as Document 3**

A third-party consultant should lead the comprehensive ward boundary review in order to ensure that the process of determining ward boundaries is impartial and approached without preconceived ideas or predetermined outcomes with respect to ward boundaries.

The consultant would conduct research, develop and execute a work plan that includes broad public consultation. Findings and recommendations would be reported to Council. In addition, the consultant would be an expert witness, if necessary, in the event of one or more appeals of any new Council-approved by-law to establish ward boundaries, as described in this report.

The timeline set out in this report and within the attached Terms of Reference would require the consultant to conduct an initial round of public consultation before bringing forward to Council in mid-2020 an Information Report setting out new ward boundary options. After another round of public consultation regarding the options, it is anticipated that a final report to Council with recommendations for ward boundaries would be provided later in 2020.

The financial implications resulting from the outcome of the proposed RFP process would be presented to Council in the 2020 Draft Budget for consideration and approval.

Staff note that the City of Toronto's comprehensive ward boundary review cost approximately \$810,000 for its consultants over a three-year period. The City of Hamilton's comprehensive review cost approximately \$227,000 for the consultants.

That said, it is noted that there is no direct comparator to the City of Ottawa in terms of population size and geographical area, as well as characteristics such as bilingualism and the City's specific rural history.

Furthermore, it should be noted that there is a relatively small pool of external experts available for such work. As such, the response to any RFP process could be affected by any other ward boundary reviews that may be conducted for different municipalities during the 2018-2022 Term of Council.

**2. Approving an interim measure to provide temporary annual funding, equivalent to one FTE, to support any Member whose ward population size**



**is projected to be larger than the average ward population size by more than 33 per cent during the 2018-2022 Term of Council**

As noted above, current ward populations and future estimates indicate that certain wards established through the City's 2004-2005 Ward Boundary Review are, or are projected to be, outside the generally acceptable maximum population size variances of between 25 and 33 per cent.

When a similar situation arose during the 2003-2006 Term of Council, prior to completion of the 2004-2005 Ward Boundary Review, Council approved an interim measure to provide an additional FTE to support the Offices of Members who had significantly larger wards. Such support is consistent with Council's recognition that it is important to ensure that an extra workload for certain Members does not cause their work on behalf of constituents to suffer. The half FTE provided to Standing Committee Chairs is one example of such recognition.

Therefore, staff recommend that temporary annual funding, equivalent to one FTE, be provided to the Offices of those Members whose wards are larger than the average ward population size by more than the generally accepted maximum threshold of 33 per cent during the 2018-2022 Term of Council. If this recommendation is approved, temporary funding of \$83,000 per year, comparable to one FTE, would be added to the Member's Constituency Services Budget. This interim approach would ensure that residents in any such wards would continue to be well-served during the current Term of Council, prior to new ward boundaries taking effect for 2022.

Based on population projections included in this report, the proposed approach would only result in Ward 3 receiving temporary annual funding on an interim basis. The population size in Ward 3 is well outside of the threshold, with a variance of almost 43 per cent in 2018 and 50 per cent in 2022.

The proposed temporary funding associated with this recommendation can be accommodated from within existing resources in the Council Administrative Services Budget.

**3. Advising the Premier of Ontario and the Ontario Minister of Municipal Affairs and Housing of any Council decisions with respect to a comprehensive ward boundary review for the City of Ottawa**

Municipalities in Ontario must adhere to rules established for them by the provincial government. As described in this report, the Ontario Government has constitutional authority to establish such rules, as well as the ultimate authority to determine municipal ward boundaries.

Following recent events relating to the City of Toronto's ward boundaries – which were ultimately subject to mandatory provincial legislation in 2018 that changed the outcome of the Toronto's earlier ward boundary review – staff recommend that the provincial government be advised of any Council decisions with respect to a ward boundary review for the City of Ottawa. This would also provide the Province with a formal opportunity to offer any feedback.

By way of background, Toronto's comprehensive ward boundary review was conducted over three years and resulted in the number of wards increasing from 44 to 47. However, in August 2018, the Province passed Bill 5, the *Better Local Government Act, 2018*, which reduced the number of wards in Toronto to 25 for the 2018 Municipal Elections.

Although staff are aware that provincial government officials have made comments that appear to suggest there were no plans to enact legislation similar to Bill 5 for the City of Ottawa, staff are not aware of any formal statement from the Province of Ontario to the City with respect to this matter.

Staff recommend advising the Province of City Council's decisions with respect to a ward boundary review out of an abundance of caution, and in order to ensure that funding and resources associated with a ward boundary review are used effectively and efficiently. Staff believe that advising the Province of any Council decisions at this early stage may mitigate any possible risk that the outcome of a comprehensive review process would be subject to potential provincial legislation that could have the effect of adding parameters to the review after public consultation and other work has been conducted, and/or overturning any future Council decisions with respect to ward boundaries.

## **SOMMAIRE**

Le 8 juillet 2015, le Conseil municipal a pris connaissance du rapport du personnel intitulé « [Examen des limites de quartiers – Renseignements et Options \(2015\)](#) ». Le report portait sur la situation des limites de quartiers de la ville et présentait au Conseil

quatre options liées à leur révision. Ces options allaient de maintenir le *statu quo* en ce qui a trait aux limites de quartiers d'Ottawa pour les élections municipales de 2018, sachant qu'un examen exhaustif des limites de quartiers devra être entrepris en 2019, jusqu'à entreprendre l'examen exhaustif pour qu'il établisse de nouvelles limites de quartiers pour les élections municipales de 2018.

Le Conseil a reçu le rapport du personnel, et a choisi de retenir le *statu quo* pour le mandat du Conseil 2014-2018, vraisemblablement sachant qu'un examen exhaustif des limites de quartiers devra être entrepris en 2019.

Comme suite au rapport du personnel de 2015, le présent rapport énonce les prochaines étapes et recommandations en ce qui concerne ce processus d'examen des limites de quartiers. Il jette les bases d'un examen rigoureux effectué par un consultant indépendant et achevé à temps pour que les nouvelles limites de quartiers soient entrées en vigueur pour les élections municipales de 2022.

Comme l'explique ce rapport, la *Loi de 2001 sur les municipalités* confère aux municipalités l'autorité de déterminer la composition de leur conseil municipal (y compris sa taille), à l'intérieur de certains paramètres. À proprement parler, cette composition ne peut être portée en appel devant le Tribunal d'appel de l'aménagement local (TAAL). Les municipalités peuvent également définir les limites de leurs quartiers, en respectant le processus légal prévu à cet effet. Toute décision d'un conseil touchant la définition de limites de quartiers peut être portée en appel devant le TAAL. Il est également à noter que les limites des quartiers municipaux et la taille des conseils relèvent ultimement du gouvernement de l'Ontario.

Un examen des limites de quartiers vise surtout à obtenir une représentation effective, tel qu'établi par la Cour suprême du Canada. La représentation effective, expliquée dans le *Toronto Ward Boundary Review Background Research Report* (décembre 2014), est l'objectif de tous les examens de limites de quartiers. Le rapport de Toronto relève en outre :

« Le critère prépondérant lorsqu'il est question de représentation effective est la "parité électorale" (aussi appelée la représentation selon la population). Il s'agit du principe selon lequel toutes les voix doivent avoir un poids identique et par conséquent le nombre de personnes qui vivent dans chaque secteur de vote (c.-à-d. quartier) soit similaire. Cependant d'autres facteurs sont utilisés par les tribunaux et le Tribunal de l'aménagement local de l'Ontario [anciennement la

Commission des affaires municipales] pour définir la représentation effective, notamment la protection des communautés d'intérêts et des voisinages, le respect des limites naturelles et physiques, l'histoire du quartier ainsi que la croissance récente et les projections de croissance démographique<sup>2</sup> ».

La plupart des limites de quartiers actuelles de la Ville d'Ottawa sont en place depuis que le dernier examen exhaustif des limites de quartiers de la Ville a été effectué par un consultant indépendant en 2004-2005. Les limites de quartiers établies à l'issue de l'examen de 2004-2005 devaient respecter les critères de « représentation effective » jusqu'en 2015.

Comme mentionné plus haut, la parité des électeurs est un facteur clé lors de l'examen des limites de quartiers. Près de 15 ans après la création de la plupart des limites de quartiers d'aujourd'hui dans la ville d'Ottawa, plusieurs quartiers dépassent désormais l'écart maximal généralement accepté pour la population d'un quartier de 25 pour cent (voire 33 pour cent dans certains cas). Par exemple, la taille de la population du quartier 3 dépasse de 40 pour cent la taille de la population moyenne, alors que celle des quartiers ruraux est généralement inférieure. Il convient de noter que de tels écarts entre les quartiers pourraient rendre la Ville vulnérable à une procédure réglementaire de requête qui retirerait au Conseil le contrôle du processus d'examen des limites de quartiers, si aucun examen exhaustif n'est pas effectué au cours du mandat du Conseil en cours.

Comme prévu, un examen exhaustif des limites de quartiers en 2019-2020 chercherait à assurer une « représentation effective ». Cet examen tiendrait compte de toutes les modifications et tendances à la suite du dernier examen majeur en 2004-2005, et donnerait l'occasion d'aborder tous les problèmes dans tous les quartiers. Ce serait aussi l'occasion d'établir les limites de quartiers à temps pour les élections municipales de 2022. Ces limites de quartier demeureraient probablement les mêmes pour les élections de 2026 et de 2030, assurant la stabilité de la représentation pour les communautés.

Pour effectuer rapidement l'examen exhaustif et ainsi respecter les délais prévus par la loi pour la mise en place des nouvelles limites de quartiers à temps pour les élections municipales de 2022, le présent rapport recommande les étapes suivantes :

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<sup>2</sup> *Toronto Ward Boundary Review Background Research Report* (décembre 2014), p. 1.

**1. Demander au personnel d'entreprendre un processus de demande de propositions (DP) afin d'embaucher un consultant indépendant pour effectuer un examen exhaustif des limites de quartiers pour la Ville d'Ottawa, conformément au mandat ci-joint en tant que Document 3**

Un consultant indépendant devrait mener l'examen afin de s'assurer que le processus de détermination des limites de quartiers est impartial et abordé sans idées préconçues ou résultats prédéterminés quant aux limites qui seront établies.

Le consultant devra effectuer des recherches, élaborer et exécuter un plan de travail, qui comprendra de vastes consultations publiques. Les résultats et les recommandations seront transmis au Conseil. En outre, le consultant agira à titre de témoin expert, au besoin, advenant qu'un ou plusieurs appels soient déposés contre un nouveau règlement approuvé par le Conseil pour établir les limites de quartiers, comme décrit dans le présent rapport.

Conformément aux délais énoncés dans le présent rapport et dans le mandat ci-joint, le consultant devra mener une première série de consultations publiques avant de déposer au Conseil, au début de 2020, un Rapport d'information indiquant les options pour les nouvelles limites de quartiers. À l'issue d'une nouvelle série de consultations publiques sur les options, un rapport final avec les recommandations pour les limites de quartier devrait être déposé au Conseil au plus tard en 2020.

Les répercussions financières découlant du résultat du processus de DP seraient présentées au Conseil dans le budget provisoire de 2020 aux fins d'examen et d'approbation.

Le personnel note que les consultants retenus pour effectuer l'examen exhaustif des limites de quartiers de la Ville de Toronto ont coûté approximativement 810 000 \$ sur trois ans. Quant à l'équipe de consultants retenue pour réaliser l'examen exhaustif par la ville de Hamilton, elle a coûté approximativement 227 000 \$.

Cela dit, on constate que l'on ne peut établir de comparaisons directes avec la Ville d'Ottawa sur le plan démographique et géographique, ainsi que sur le plan des caractéristiques comme le bilinguisme et les antécédents ruraux spécifiques de la ville.

De plus, prendre note qu'il n'y a pas beaucoup d'experts externes disponibles pour cette tâche. Par conséquent, leur réponse à tout processus de DP pourrait être

influencée par d'autres examens des limites de quartiers qui pourraient être entrepris par d'autres municipalités pendant le mandat du Conseil de 2018-2022.

**2. Approuve qu'un financement annuel temporaire, correspondant à un équivalent temps plein (ETP), soit fourni pour appuyer tout membre dont on prévoit que la population de son quartier dépassera la population moyenne des quartiers de plus de 33 pour cent pendant le mandat du Conseil 2018-2022**

Comme indiqué plus haut, la population actuelle des quartiers ainsi que des estimations futures indiquent que certains quartiers établis lors de l'examen des limites de quartiers mené par la Ville en 2004-2005 sont en dehors des écarts de population généralement acceptables de 25 et 33 pour cent, ou on prévoit qu'ils le seront.

Lorsqu'une situation similaire est survenue au cours du mandat du Conseil de 2003-2006, avant la fin de l'examen des limites de quartiers de 2004-2005, le Conseil a approuvé une mesure temporaire visant à fournir un ETP temporaire pour appuyer les bureaux des membres dont les quartiers sont largement plus peuplés. Ce soutien est compatible avec le fait que le Conseil reconnaît l'importance de veiller à ce qu'une charge de travail supplémentaire pour certains membres ne nuise pas à leur travail au nom des électeurs. Le demi-ETP prévu pour les présidents d'un comité permanent est un exemple d'une telle reconnaissance par le Conseil.

Aussi le personnel recommande-t-il qu'un financement annuel temporaire, correspondant à un ETP soit fourni aux bureaux des membres dont la population du quartier dépasse la population moyenne des quartiers de plus de 33 pour cent, seuil maximal généralement accepté, pendant le mandat du Conseil de 2018-2022. Si cette recommandation est approuvée, le financement temporaire de 83 000 \$ par année, comparable à un ETP, serait ajouté au budget des services de la circonscription du conseiller municipal. Cette approche provisoire permettrait de s'assurer que les résidents de ces quartiers continuent à être bien servis pendant le mandat du Conseil actuel, avant l'entrée en vigueur des nouvelles limites de quartiers pour 2022.

Sur la base des projections de populations fournies dans le présent rapport, l'approche proposée ferait en sorte que le quartier 3 recevrait un ETP temporaire, à titre provisoire. En effet, la population du quartier 3 dépasse de loin le seuil, avec un écart de 43 pour cent en 2018 et de 50 pour cent en 2022.

Le financement proposé temporaire associé à cette recommandation peut être assumé à même les ressources existantes du budget des Services administratifs du Conseil.

**3. Avise le premier ministre de l'Ontario et le ministre des Affaires municipales et du Logement de toute décision du Conseil en ce qui concerne l'examen exhaustif des limites de quartiers de la Ville d'Ottawa**

Les municipalités de l'Ontario doivent se conformer aux règles établies pour elles par le gouvernement provincial. Comme l'énonce le présent rapport, le gouvernement de l'Ontario a l'autorité, en vertu de la Constitution, d'établir de telles règles, et le pouvoir ultime d'établir les limites de quartiers municipaux.

Après les derniers événements concernant les limites de quartiers de la ville de Toronto – qui ont finalement fait l'objet d'une loi provinciale en 2018 ayant modifié le résultat de son examen exhaustif des limites de quartier – le personnel recommande que la Ville avise le gouvernement provincial de toute décision du Conseil concernant un examen exhaustif des limites de quartiers pour la Ville d'Ottawa. Cela permettrait également au gouvernement provincial de fournir de façon formelle des commentaires et suggestions.

En guise de contexte, l'examen exhaustif des limites de quartiers de Toronto a duré trois ans et recommandé en conclusion l'augmentation du nombre de quartiers de 44 à 47. Cependant, en juillet 2018, le gouvernement provincial a présenté le projet de loi 5, la *Loi de 2018 sur l'amélioration des administrations locales*, qui a fait passer le nombre de quartiers à Toronto à 25 pour les élections municipales de 2018.

Bien que le personnel soit au courant des commentaires des représentants du gouvernement provincial semblant suggérer qu'on ne prévoyait pas adopter une loi semblable au projet de loi 5 pour la Ville d'Ottawa, il ne sait pas si le gouvernement provincial a fait une déclaration officielle à la Ville relativement à cette affaire.

Le personnel recommande d'aviser le gouvernement provincial de toute décision du Conseil concernant un examen exhaustif des limites de quartiers pour la Ville d'Ottawa, par excès de prudence, et ce, afin de s'assurer que le financement et les ressources associés à un examen des limites de quartier sont effectivement et efficacement utilisés. Le personnel croit qu'en avisant le gouvernement de toute décision du Conseil à ce stade initial pourrait atténuer tout risque possible que le résultat d'un examen exhaustif soit assujéti à une éventuelle législation provinciale qui pourrait avoir pour effet d'ajouter des paramètres à l'examen après que les consultations publiques et

autres travaux aient été réalisés ou annuler toute décision du Conseil en ce qui concerne les limites de quartier.

## **BACKGROUND**

### **A comprehensive ward boundary review for the City of Ottawa is expected in 2019**

The City of Ottawa's first major ward boundary review process began in 2001, soon after amalgamation. The review's origins were described in the final report of the Citizens' Task Force that conducted the review, as follows:

“After working with the new system for close to a year and a half, the new Council, at a meeting on 13 June 2001, adopted a motion with respect to a review of the ward boundaries. The motion stated that the wards structure had been quickly drafted by the Province without due consideration for two longstanding principles fundamental to democracy in Canadian municipalities – representation by population and public consultation.”<sup>3</sup>

City Council established the Citizens' Task Force on Ward Boundaries for the City of Ottawa, consisting of David Bartlett, Pierre de Blois and Katherine Graham, to conduct the review, with City staff support. Following three months of public consultation and working within the parameters established by Council to maintain the existing number of wards (21) and adapt the existing structure to meet representation objectives rather than start over with a whole new ward system, the Task Force recommended, and City Council approved, significant adjustments to the ward boundaries. Following Council approval, the resulting by-law to establish the new ward boundaries was appealed to the Ontario Municipal Board (OMB)<sup>4</sup>. After considering the matter, the Board repealed Council's by-law in a decision issued on May 8, 2003.

In part, the Board was of the opinion that Council did not give sufficient weight to communities of interest, and, in particular, rural communities of interest. The OMB also objected to the fact that Council constrained the review by establishing particular parameters for the review.

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<sup>3</sup> “Report of the Citizens' Task Force on Ward Boundaries for the City of Ottawa,” Commissioners David W. Bartlett, Pierre de Blois and Katherine A. Graham. June 10, 2002, p. 2.

<sup>4</sup> It should be noted that the Ontario Municipal Board has since been replaced by the Local Planning Appeal Tribunal (LPAT).



After the unsuccessful review in 2001-2002, another comprehensive ward boundary review was conducted in 2004-2005. An independent consultant was retained for this review. Following the 2004-2005 review, the Council-approved by-law to establish new ward boundaries was appealed to the OMB. In that instance, the OMB dismissed the appeals and affirmed the by-law. The ward boundaries created through the 2004-2005 review largely remain in place today.

The successful 2004-2005 review was conducted by an independent consultant with ward boundary review and OMB expertise. The consultant's report, titled, "[Building Consensus – Ottawa Ward Boundary Review Recommendations Report](#)," (the "2005 Recommendations Report") was adopted by City Council on June 8, 2005. That comprehensive report identified that the ward boundaries established for the 2006 Municipal Elections would meet the test of "effective representation"<sup>5</sup> until 2015.

Ward boundaries were 'tweaked' in 2009, when Council approved a minor adjustment of ward boundaries that redistributed lands known as the "Fernbank Lands," which had been added to the Urban Growth Boundary in 2005, from a rural ward (Ward 21) to the adjacent suburban wards (Wards 6 and 23). Additional information regarding the previous comprehensive reviews in 2001-2002 and 2004-2005, and the minor adjustment in 2009, is provided in Document 1.

On May 23, 2012, Council considered a motion directing the City Clerk and Solicitor to submit an Information Report to Committee and Council setting out the various options for a ward boundary review for consideration by the 2010-2014 Term of Council in advance of the 2014 Municipal Elections. Council did not approve the motion, and it was understood at that time that staff would be bringing forward a report on a review of ward boundaries in 2015.

On July 8, 2015, Council considered the staff report titled, "[Ward Boundary Review – Information and Options \(2015\)](#)," which discussed the status of the City's ward

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<sup>5</sup> As noted on Page 1 of the [Toronto Ward Boundary Review Background Research Report](#) (December 2014), effective representation "is the goal of all ward boundary reviews. The primary consideration when it comes to effective representation is 'voter parity' (often also referred to as representation-by-population). This is the principle that all votes should have equal weight and therefore the number of people living in each voting area (i.e. ward) should be similar. However there are other factors used by the courts and the Ontario Municipal Board [predecessor of the Local Planning Appeal Tribunal] to define effective representation, including protection of communities of interest and neighbourhoods, respect for natural and physical boundaries, ward history, and recent and projected population growth." See Document 2 for additional information.

boundaries and included four options with respect to a review of ward boundaries for Council's information. These options were as follows:

1. **Option 1:** Retaining the *status quo* for Ottawa's ward boundaries for the 2018 Municipal Elections on the understanding that a comprehensive ward boundary review would be required to be undertaken in 2019;
2. **Option 2:** Undertaking a "limited" ward boundary review in the 2014-2018 Term of Council, to be in effect for the 2018 Municipal Elections. This review would have incorporated only those lands that were added to the Urban Boundary through Official Plan Amendment 76;
3. **Option 3:** Undertaking a "focused" ward boundary review in the 2014-2018 Term of Council, to be in effect for the 2018 Municipal Elections. This review would have been in keeping with the framework established in the 2005 Recommendations Report; and
4. **Option 4:** Undertaking a "comprehensive" ward boundary review in the 2014- 2018 Term of Council, to be in effect for the 2018 Municipal Elections.

Council "received" the above-noted staff report, which had the effect of selecting Option 1 – retaining the *status quo* for the 2014-2018 Term of Council on the understanding that a comprehensive ward boundary review would be required in 2019.

On December 5, 2018, Council considered the [2018-2022 Council Governance Review](#) report. The report stated that staff would bring forward a report in 2019 to outline next steps in the ward boundary review process, further to the 2015 staff report.

### **Current context in the City of Ottawa**

Voter parity is a key factor when considering ward boundaries<sup>6</sup>, and it is a general rule of thumb that the population in each ward should be within 25 per cent of the average

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<sup>6</sup> [Dobrucki v Hamilton \(City\), 2017 CanLII 85763](#) (ON LPAT), states at para. 102 that "The *Carter* case also establishes that 'Representation by Population' and 'Population and Electoral Trends,' which together we have been calling 'population parity' (both in the immediate future and for foreseeable future), is the starting point for considering the configuration of geographical wards. Population parity also has some preeminence among the factors to be considered." At para. 103, the decision further states: "... when formulating a ward system that achieves effective representation, one begins with parity and should only stray from a standard of parity if it is necessary to achieve or maintain effective representation.

ward population size. If justified by the criteria, case law may support a wider range of plus or minus 33 per cent, or even slightly wider in an appropriate case.<sup>7</sup>

Current ward populations and future estimates for the City of Ottawa are provided in Document 4. They indicate that certain wards are, or are projected to be, outside the generally acceptable population variances. For example, the population size in Ward 3 is well outside the threshold, with a variance of almost 43 per cent in 2018 and 50 per cent in 2022 (increasing to 56 per cent in 2026). The population size in Ward 22 was 23 per cent above the average in 2018, and is expected to increase to more than 30 per cent higher than the average in 2022 (and 38 per cent higher in 2026).

At the same time, the population sizes of rural wards are generally projected to remain more than 25 per cent smaller than the average ward size.

In addition to the specific examples of ward population variances, there are known ward boundary-related pressures that were originally set out in the 2005 Recommendation Report and noted in the 2015 staff report. These include as follows:

1. Growth pressures in the Rideau River South Suburban Area;
2. Suburban expansion beyond the 2005 Urban Growth Boundary and any amendments to the Official Plan expanding the Urban Growth Boundary;
3. Cumberland's growth pattern, with particular reference to rural residents; and
4. Growth pressures in the Ottawa East Suburban Area.

With respect to Council composition, the size of Ottawa City Council, at 24 Members, is second-largest of single-tier municipalities in Ontario, behind Toronto City Council (which has 26 Members). The City of Hamilton's Council has 16 Members. It is also noted that some regional municipalities have larger Councils than Ottawa, including Niagara (32 Members), Durham (29 Members) and Peel (25 Members).<sup>8</sup>

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Effective representation is not an excuse for ignoring population parity; on the contrary, it is one of the reasons that we must strive for parity."

<sup>7</sup> This is discussed further in Document 2, which provides additional information about the principle of "effective representation".

<sup>8</sup> It should be noted that the regional municipalities cited are subject to an ongoing [review](#) by the Ontario Government of governance, decision-making and service delivery functions of eight regional municipalities and Simcoe County at the time of this writing.

## Municipal and provincial authority and the legislative framework for ward boundary reviews in Ontario

*“Municipalities are entirely the creatures of provincial statutes and can therefore exercise only those powers which are explicitly conferred on them by provincial statute.”*

- Supreme Court of Canada, *R. v. Greenbaum*, [1993] 1 S.C.R. 674 [emphasis added]

Municipalities in Ontario must adhere to rules established for them by the provincial government. The *Municipal Act, 2001* provides guidance in two key areas relating to Council composition as well as ward boundaries, by establishing as follows:

1. That **a municipality has authority to change the composition of its council**, provided that certain conditions are met, as described below in more detail. Strictly speaking, the exercise of this authority is not a matter that may be appealed to the Local Planning Appeal Tribunal (LPAT); and
2. That **a municipality may establish and change its ward boundaries**, subject to a process described below in more detail. That said, as noted below, this authority is subject to some statutory requirements and potential appeal to the LPAT.

Although the existing provincial legislation provides for municipalities to establish and amend ward boundaries on their own (subject to some statutory requirements and the role of the LPAT as described below), it is important to note that the provincial government has the ultimate authority in the determination of municipal ward boundaries, as well as Council size. In other words, the Government of Ontario may set aside any current legislative provisions and make the final determination in establishing or amending a municipality's ward boundaries by enacting a provincial statute.

By way of background, this overarching general provincial authority stems from a legislative principle established under the Canadian Constitution that provides that municipalities are under the control of provinces. Specifically, Paragraph 8 of Section 92 of the *Constitution Act, 1867* gives provinces exclusive control over “Municipal Institutions in the Province.” Paragraph 9 of the same section provides similar provincial control over “Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.” Furthermore,

Paragraph 13 of Section 92 gives provinces exclusive power over the “Property and Civil Rights in the Province.” Paragraph 16 of the section provides provinces with the power over, “Generally all Matters of a merely local or private Nature in the Province.”

As noted above, the 1993 Supreme Court of Canada decision of *R. v. Greenbaum*, relating to licensing matters in Metropolitan Toronto, described municipalities as “creatures of provincial statutes.” Further to this general relationship between municipalities and provinces, the Ontario Government may play a key role in determining ward boundaries in a particular municipality. This is discussed in more detail in the section of this report that describes the recent events relating to ward boundaries in the City of Toronto.

That said, the current legislation, as written, does provide for a municipality to establish and change ward boundaries and to determine the size of council on its own. In particular, the provincial *Municipal Act, 2001* (the Act) includes provisions relating to the following:

- **A municipality may change the composition of its Council:** Subsection 217(1) authorizes a municipality to change the composition of its council, subject to the following rules:
  1. There shall be a minimum of five members, one of whom shall be the head of council.
  2. The members of council shall be elected in accordance with the *Municipal Elections Act, 1996*.
  3. The head of council shall be elected by general vote.
  4. The members, other than the head of council, shall be elected by general vote or wards or by any combination of general vote and wards.
  5. The representation of a local municipality on the council of an upper-tier municipality shall not be affected by the by-law of the local municipality under this section.
- **A municipality may establish and change its ward boundaries:** Subsection 222(1) states that a municipality is authorized to “divide or redivide the municipality into wards or to dissolve the existing wards.”

- **A municipality is required to provide public notice of a Council-approved ward boundary by-law:** Subsection 222(3) provides that a municipality is required to give public notice that a ward boundary by-law has been passed within 15 days after the by-law is passed. The notice must specify the last date for filing a notice of appeal.
- **A Council-approved ward boundary by-law may be appealed to the Local Planning Appeal Tribunal:** Subsection 222(4) states that within 45 days of the ward boundary by-law being passed, it may be appealed to the LPAT by “the Minister or any other person or agency.” The appeal is made by filing a notice of appeal with the municipality setting out the objections to the by-law and the reasons in support of the objections. The municipality is required to forward any notices of appeal to the LPAT within 15 days after the last day for filing the notice [Subsection 222(5)]. Subsection 222(7) provides that the LPAT shall hear the appeal and may make an order affirming, amending or repealing the by-law – effectively establishing the ward boundaries it believes are correct.
- **The timing for new ward boundaries to come into force, which depends on when Council approves the ward boundary by-law:** Subsection 222(8) provides that a by-law to establish ward boundaries comes into force for the following election if the by-law is passed before January 1 of an election year and no notices of appeal are filed, or if any notices of appeal are withdrawn prior to January 1 of the election year, or if notices of appeal are filed and the LPAT issues an order to affirm or amend the by-law before January 1 of the election year. In all other cases, except when a by-law is repealed by the Tribunal, the by-law comes into force for the second regular election after the by-law is passed.

Therefore, in order for any ward boundary changes to be in effect for the 2022 Municipal Elections, any by-law establishing new ward boundaries must be in force before January 1, 2022. Specifically, if the by-law establishing new ward boundaries is appealed to the LPAT, the notices of appeal must be withdrawn, or the Tribunal must have issued an order to affirm or amend the by-law, before that date.

- **Electors may use a petition to request a change to ward boundaries, and if Council does not pass a by-law, an application to change ward boundaries may be made to the Local Planning Appeal Tribunal:** Under Subsection

223(1), electors<sup>9</sup> in a municipality may at any time “present a petition to the council asking the council to pass a by-law dividing or redividing the municipality into wards or dissolving the existing wards.”

The petition requires the signatures of one per cent of the electors in the municipality or 500 of the electors in the municipality, whichever is less. Since one per cent of electors in the City of Ottawa would be 6,339 electors, a petition to Ottawa City Council asking for a ward boundary review would require 500 elector signatures.

If Council did not pass a by-law in accordance with the submitted petition within 90 days of receiving the petition, Subsection 223(4) provides that “any of the electors who signed the petition may apply to the Local Planning Appeal Tribunal to have the municipality divided or redivided into wards or to have the existing wards dissolved.”

The cost of such an application to the LPAT is \$300. The Tribunal is required to hear the application, and may make an order “dividing or redividing the municipality into wards or dissolving the existing wards” [Subsection 223(5)].

Similar to the timelines under which a ward boundary by-law comes into force, the order of the LPAT with respect to a petition application would take effect for the following election if the order is made prior to January 1 of an election year (e.g. before January 1, 2022). The order of the Tribunal would be effective for the subsequent election if the order is made on or after January 1 of an election year but before Voting Day (e.g. on or after January 1, 2022).

### **“Effective representation” and case law**

*“Ours is a representative democracy. Each citizen is entitled to be represented in government. Representation comprehends the idea of having a voice in the deliberations of government as well as the idea of the right to bring one’s grievances and concerns to the attention of one’s government representative ...”*

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<sup>9</sup> For the purposes of this subsection of the *Municipal Act, 2001*, the term “elector” means a person “whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding a petition being presented to council ...”

- Supreme Court of Canada, *Reference Re Provincial Electoral Boundaries (Sask.)*, [1991] 2 S.C.R. 158 (also known as the “Carter” case)<sup>10</sup>

There is no express requirement in the *Municipal Act, 2001* for a municipality to conduct a review of its ward boundaries at any particular time. Neither does the Act provide any statutory criteria to govern the establishment of ward boundaries. However, common law in Canada requires that the principle of “effective representation” be applied when reviewing ward boundaries.

Further information regarding “effective representation” is provided in Document 2. The principle was also succinctly discussed in a recent OMB<sup>11</sup> decision relating to a comprehensive ward boundary review in the City of Toronto. The Board’s decision stated as follows [emphasis added]<sup>12</sup>:

“In *Reference re Provincial Electoral Boundaries (Sask.)*, 1991 CanLII 61 (SCC), [1991] 2 S.C.R. 158 (referred to as “Carter”), the Supreme Court of Canada found that the purpose of the right to vote enshrined in s. 3 of the *Canadian Charter of Rights and Freedoms* (“Charter”) is the right to effective representation. The Court examined the conditions of effective representation, stating as follows:

What are the conditions of effective representation? **The first is relative parity of voting power.** A system which dilutes one citizen’s vote unduly as compared with another citizen’s vote runs the risk of providing inadequate representation to the citizen whose vote is diluted. The legislative power of the citizen whose vote is diluted will be reduced, as may be access to and assistance from his or her representative. The result will be uneven and unfair representation. **But parity of voting power, though of prime importance, is not the only factor to be taken into account in ensuring effective representation** (pp. 183-84).

The Court went on to explain that ‘**it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors**’ (p. 184). **Factors such as geography, community**

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<sup>10</sup> See [Reference re Prov. Electoral Boundaries \(Sask.\), \[1991\] 2 SCR 158, 1991](#).

<sup>11</sup> As noted throughout this report, the OMB has since been replaced by the Local Planning Appeal Tribunal.

<sup>12</sup> [Di Ciano v Toronto \(City\), 2017 CanLII 85757](#) (ON LPAT), at para. 20-21.



**history, community interests and minority representation may need to be taken into account. ‘These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed’ (p. 184). While the Court was dealing with proposed provincial riding boundaries for Saskatchewan, the elements of effective representation enunciated in *Carter* are routinely relied upon in evaluating ward boundary reviews.”**

In addition, there is case law regarding the OMB/LPAT’s role in reviewing a Council’s decisions with respect to ward boundaries, as well as the OMB/LPAT’s authority with respect to the matter of Council composition. Document 2 includes additional information with respect to such case law. That said, the above-noted OMB decision with respect to the City of Toronto also included the following comments [emphasis added]<sup>13</sup>:

“The second area of applicable law is the extent to which the Board should interfere with Council’s decision to divide, re-divide or dissolve its ward boundaries. **The Board has consistently found that there must be clear and compelling reasons to interfere in a municipal council’s decision on ward boundaries** (*Teno v. Lakeshore (Town)*, 2005 CarswellOnt 6386). In *Teno*, the Board adopted the approach taken in *Savage v. Niagara Falls (City)*, 2002 CarswellOnt 5430, stating that:

36 Thus, this Board accepts that there must be clear and compelling reasons for the Board to interfere in a municipal council’s decision on these matters, and it may have to be demonstrated that a municipal council has acted unfairly or unreasonably on these issues. However, if the evidence demonstrates that the decision of the municipality operates to diverge from the overriding principle of voter equity and effective representation, then the Board can only conclude that the Council has acted unreasonably. Where however the issues are not so clear cut, then it may be that the Board may accord deference to the decision of the municipal council.

Regarding the relationship between the number of wards and the composition of Council, the Divisional Court has found that as a practical matter **while the**

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<sup>13</sup> Ibid, at para. 22-23.

**Board may consider the composition of council when deciding a ward boundary matter, it cannot determine that composition** (*Wagar v. London (City)*, 2006 CanLII 5613 (ON SCDC), [2006] 210 O.A.C. 29). **It is within the discretion of Council to address composition and to fix the number of councillors to be elected from each ward.** The Board’s jurisdiction extends to the By-laws under appeal and to the matter of ward boundaries, it does not extend to address matters of governance, including how many councillors should comprise City Council.”

Although the LPAT’s jurisdiction does not extend to determining the composition of Council, as noted in the latter comments excerpted above, it is possible that an order made by the LPAT regarding ward boundaries could have the incidental effect of changing a Council’s composition (e.g. size) if the order results in an increased or decreased number of wards.<sup>14</sup>

### **Recent and upcoming ward boundary reviews in other municipalities**

The 2015 ward boundary review report noted that a number of other municipalities planned to undertake ward boundary reviews during the 2014-2018 Term of Council. A summary of the outcome of some of those reviews is provided in Document 5.

Of particular note, ward boundary reviews in the City of Toronto and the City of Hamilton provide considerations that are of note to any review conducted by the City of Ottawa. Toronto’s experience with the provincial government has resulted in one of the recommendations in this report. Hamilton’s review may speak to the value of having ward boundary options determined by an independent consultant, and also included consideration of matters relating to voter parity and communities of interest – particularly relating to rural representation. Brief information about each of these reviews is set out below.

The City of Toronto conducted its ward boundary review between 2014 and 2016. An independent team of consultants was retained for the review, which included multiple rounds of public consultation.

On November 8 and 9, 2016, Toronto City Council approved increasing the number of wards from 44 to 47. The by-laws to establish the new ward boundaries were subject to several appeals to the OMB.

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<sup>14</sup> See [Preston v Rideau Lakes \(Township\)](#), 2017 CanLII 57406 (ON LPAT), at para. 26-34.

On December 15, 2017, the OMB approved the by-laws, subject to one “discrete” boundary change. The Board’s decision stated that the work undertaken by the Toronto Ward Boundary Review was “comprehensive” and that “the ward structure delineated in the By-laws provides for effective representation and corrects the current population imbalance amongst the existing 44 wards.” The Board also stated that Council’s decision to adopt the by-laws was “defensible, fair and reasonable,” and that the “decision by Council to implement a 47-ward structure does not diverge from the principles of voter equity and effective representation. In this regard, there is nothing unreasonable in the decision of Council.”<sup>15</sup>

Although it was anticipated that the 2018 Municipal Elections in the City of Toronto would proceed under the 47-ward structure adopted by Council and affirmed by the OMB, the Ontario Government passed mandatory legislative changes in August 2018 to reduce the number of wards to 25 in Toronto for the 2018 Municipal Elections. These changes are described in more detail in the Discussion section of this report.

Meanwhile, the City of Hamilton’s comprehensive ward boundary review occurred between 2015 and 2017. Hamilton City Council approved new ward boundaries on February 8, 2017. The boundaries were based on Councillor-generated and Council-approved suggestions that slightly modified the City’s existing 15-ward structure, rather than options that were initially presented by the consultant retained by the City for the review.

Two parties appealed the resulting by-law to the OMB. A settlement resulting in certain revisions to the ward boundaries in the by-law was reached with one of the parties prior to the OMB hearing. This settlement became known as the “City Preferred Ward Boundaries.” The appeal by the other party proceeded.

On December 12, 2017, the OMB issued a decision<sup>16</sup> in which it allowed the appeal and ordered the City to amend its by-law to reflect another option that had been provided by the City’s consultant. The Board found “that while the process followed by the City for the ward boundary review was appropriate, the City’s decision to adopt the City Preferred Ward Boundaries was not reasonable.”

In particular, the OMB found that the option adopted by the City went too far in protecting rural interests over other communities of interest (the decision notes that the

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<sup>15</sup> [Di Ciano v Toronto \(City\), 2017 CanLII 85757](#) (ON LPAT), at para. 51.

<sup>16</sup> [Dobrucki v Hamilton \(City\), 2017 CanLII 85763](#) (ON LPAT).

City's approach had "sought to emphasize the existing boundary structure with an overriding goal of protecting the western rural community..."). The Board's decision stated that "it was not reasonable for the City to adopt [the original by-law and the slightly altered City's Preferred Ward Boundaries], as it did so on the overriding concern of protecting western rural interests. In doing so, voter parity was insufficiently addressed and other communities of interest were effectively ignored ...".

In addressing the above-noted voter parity matters and the emphasis on one community of interest over others, the OMB's decision made reference to the Board's previous ruling regarding the City of Ottawa's 2001-2002 Ward Boundary Review, as follows:

"[160] This has led to an over-arching emphasis on the protection of an exclusively rural ward as a means of protecting a rural voice on council [in the Hamilton case]. While such protections may have been appropriate in the unique circumstances of Ottawa in 2003, it is open to review and reconsideration years after amalgamation. Similarly, the maintenance of a founding compromise that favoured rural representation on council in order to make amalgamation acceptable to those opposing it at the time, should not be considered a permanent solution, especially in the face of ongoing changes in population numbers and the character of the population.

[161] At some point it is legitimate to enquire whether maintaining disparity can be justified. As the SCC [Supreme Court of Canada] concluded, '... deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. *Beyond this the dilution of one citizen's vote as compared with another's should not be countenanced*' (emphasis added). At some point, arrangements that have held for a long time warrant reconsideration to ensure effective representation is maintained in the face of change."

With respect to new ward boundaries and combined rural/suburban wards that resulted from the option ordered by the OMB, the Board stated that it "is satisfied that the rural voice and the community of interest that is represented in these wards will continue to enjoy effective representation in these newly configured rural/suburban wards." The Board noted past examples of successful combined wards in the City of Hamilton as "proof of the fact that anyone representing a ward with a very significant rural component must take account of the values and views of those in the rural area. In the

past, rural residents of the wards that include within them suburban areas have enjoyed effective representation and the Board is confident that this will continue in the future...”

Additional information regarding the City of Hamilton ward boundary review and the OMB’s comments with respect to the matters of voter parity, communities of interest and rural representation in that case may be found in Documents 2 and 5.

In addition to the reviews completed during the 2014-2018 Term of Council, it should be noted that other municipalities, such as Guelph and Pickering, have indicated that they intend to review ward boundaries during the 2018-2022 Term of Council.

## **DISCUSSION**

The process of determining ward boundaries is fundamental to representative democracy at every level of government. Cases tend to reflect that this is best approached without preconceived ideas or predetermined outcomes with respect to ward boundaries. The process should be impartial, include significant public consultation, and comply with the principles set out by the Supreme Court of Canada and the Ontario Municipal Board (OMB)/Local Planning Appeal Tribunal (LPAT)<sup>17</sup>.

As noted in the Background section of this report, staff are bringing forward next steps in the process for a comprehensive ward boundary review further to the 2015 staff report and Council’s understanding that a review would be required in 2019 to address ward population variances, anomalies, and other matters relating to the principle of “effective representation.”

It should be noted that if staff do not proceed with a ward boundary review during the 2018-2022 Term of Council, the current and projected ward population variances and anomalies may leave the City vulnerable to a petition to the LPAT pursuant to the process set out in the *Municipal Act, 2001* (the Act). The petition process would remove control of the ward boundary review process from Council. Specifically, if Council did not pass a by-law in accordance with the submitted petition within 90 days, Subsection 223(4) of the Act would provide that “any of the electors who signed the petition may apply to the Local Planning Appeal Tribunal to have the municipality divided or redivided into wards or to have the existing wards dissolved.”

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<sup>17</sup> As noted elsewhere in this report, the Local Planning Appeal Tribunal (LPAT) has replaced the Ontario Municipal Board (OMB).

As planned, the 2019-2020 ward boundary review will take into account all changes and trends following the last major review in 2004-2005, and provide an opportunity to address all issues in all wards. It will also provide an opportunity to establish ward boundaries in time for the 2022 Municipal Elections. These ward boundaries would likely hold for the 2026 and 2030 elections, providing stability of representation for communities.

The staff recommendations for next steps in the ward boundary review process are discussed below in more detail.

**1. Directing staff to undertake a Request for Proposal (RFP) process to retain an independent consultant to conduct a comprehensive ward boundary review for the City of Ottawa, as described in this report and consistent with the Terms of Reference attached as Document 3**

It is recommended that staff be directed to proceed with a Request for Proposal (RFP) process in order to retain an independent consultant or consultants' firm to undertake a comprehensive ward boundary review such that any changes to the ward structure would come into force for the 2022 Municipal Elections.

A third-party consultant should lead the review in order to ensure that the process of determining ward boundaries is impartial and approached without preconceived ideas or predetermined outcomes with respect to the layout of ward boundaries. In addition to being impartial, the independent consultant or firm would need to have knowledge and experience in related areas, including public consultation, the principle of "effective representation", and the OMB/LPAT.

The consultant would conduct research, develop and execute a work plan that includes broad public consultation. Findings and recommendations would be reported to Council. In addition, the consultant would be an expert witness, if necessary, in the event of one or more appeals to the LPAT, as set out in the Terms of Reference for the review that are attached as Document 3. The Terms of Reference are consistent with ward boundary reviews in other municipalities, and incorporate provisions from the City's successful 2004-2005 Ward Boundary Review (which reflect lessons learned from the failure of the 2001-2002 review), as well as the City of Toronto's more recent ward boundary review that also withstood the appeal process. It should be noted that while the proposed review would assess all matters relating to ward boundaries, it would not

specifically review key issues related to changing Council composition, such as matters regarding cost, workload and Council operations.

As set out in the Terms of Reference, the consultant's specific responsibilities would include as follows:

- Undertaking a ward boundary review for the City of Ottawa that will withstand legal scrutiny and possible appeals to the LPAT;
- Developing a ward boundary review work plan and engagement strategy;
- Undertaking required electoral, public policy and other research to inform the ward boundary review process;
- Implementing a two-stage broad engagement and consultation strategy with Ottawa residents, communities, key stakeholders and Members of Council to elicit input on Ottawa's current ward boundaries and input on ward boundary options; and
- Developing ward boundary options and a recommended option for City Council's consideration in the fall of 2020.

Utilizing an independent consultant would also ensure that the Elections Office retains the capacity necessary to deliver its ongoing requirements, including administering the contribution rebate program for the 2018 Elections, undertaking any required by-elections, and preparing for the 2022 Elections.

While the third-party consultant would be tasked with drafting and delivering a final report, it can be expected that a substantial amount of time and resources will be required by way of an internal project team led by staff to support the consultant's role as well as to undertake any additional work such as planning and implementation. The amount of staff time and resources required may affect the work plans of departments such as the Office of the City Clerk and Solicitor, and the Planning, Infrastructure and Economic Development Department.

Staff are seeking approval to proceed with a RFP process early in the current Term of Council in order to meet statutory timelines to have any new ward boundaries in place for the 2022 Municipal Elections. In addition, there is a relatively small pool of external experts available for such work, and other municipalities have already indicated that

they will be conducting ward boundary reviews during the 2018-2022 Term of Council, as described in the Background section of this report.

The financial implications resulting from the outcome of the proposed RFP process would be presented to Council in the 2020 Draft Budget for consideration and approval. Expenses for a comprehensive ward boundary review would include the anticipated cost of retaining the external consultant to conduct extensive public consultation and prepare the necessary reports to Council, as well as any required advertising and ancillary costs.

By way of background, the cost of the City of Ottawa's 2004-2005 Ward Boundary Review was approximately \$125,000, which included expenses related to retaining an independent consultant as well as advertising and other ancillary costs.

Staff note that the City of Toronto's more recent comprehensive ward boundary review cost approximately \$810,000 for its consultants over a three-year period. The City of Hamilton's comprehensive review cost approximately \$227,000 for the consultants.

That said, it is noted that there is no direct comparator to the City of Ottawa in terms of population size and geographical area, as well as characteristics such as bilingualism and the City's specific rural history. Furthermore, the response to any Request for Proposal process from the relatively small pool of external experts available for such work could be affected by any other ward boundary reviews that may be conducted for different municipalities during the 2018-2022 Term of Council.

In addition, as noted in the Background section of this report, an appeal may be made to the LPAT after Council passes a by-law to establish ward boundaries. The LPAT may make an order affirming, amending or repealing the by-law. The Tribunal's ruling would be the final word, subject to a party to the hearing seeking leave to appeal to the Divisional Court on a question of law.

Staff estimate the cost of a typical appeal to the LPAT to be approximately \$10,000 to \$50,000, depending on the nature and potential complexity of the proceedings. For the City of Toronto, consultant costs to support the OMB appeal and a subsequent court appeal relating to its ward boundary review were approximately \$100,000. Toronto's legal services to defend the OMB appeal and court appeal were covered through municipal in-house lawyers, and a similar approach would follow in Ottawa.

### **Projected timeline associated with a comprehensive ward boundary review**



In order to establish ward boundaries and resolve any appeals to the LPAT so that any new ward boundaries are in place for the 2022 Municipal Elections, staff have developed the following timeline, which includes the statutory requirements set out in the *Municipal Act, 2001*:

Task	Responsible	Date
RFP Report to Council	City Clerk and Solicitor	June 2019
RFP issued to hire a consultant	City Clerk	October 2019
RFP evaluation and contract negotiation	City Clerk	December 2019 – January 2020
Public consultation on current ward boundaries (Round I)	Consultant	February 2020 – April 2020
Information Report to Council setting out new ward boundary options	Consultant	June 2020
Public consultation on new ward boundary options (Round II)	Consultant	July 2020 – September 2020
Final report to Council with recommendations	Consultant	October 2020
Enacting by-law	City Clerk	October 2020
Give notice to the public that the bylaw has passed and prepare for LPAT appeals.	City Clerk	November 2020
45-day Appeal Period ends	City Clerk	December 2020
Last day for notice(s) of appeals to be received	City Clerk	December 2020
Notice(s) of appeal to be forwarded to the LPAT by the City	City Clerk	January 2021
Expected LPAT decision (within ~6 – 10 months)	LPAT	July 2021 – November 2021
<b>2022 Municipal Elections</b>		<b>October 2022</b>

- 2. Approving that temporary annual funding, equivalent to one FTE, be provided to support any Member whose ward population size in Document 4 is projected to be larger than the average ward population size by more than 33 per cent during the 2018-2022 Term of Council, as an interim measure until a new ward boundary by-law comes into force, as described in this report**

There has been uneven population growth among wards since the current ward boundaries were largely established through the 2004-2005 review.

Some disparity is to be expected at the time of a ward boundary review, especially if the process is delayed. For example, after the OMB repealed ward boundaries established through the 2001-2002 review, the 2003-2006 Council saw significant variances between the largest suburban wards and the average ward size at the time of the 2004-2005 review.

In 2018, the average ward population size was approximately 43,106, with ward population sizes ranging from a low of 25,644 to a high of 61,528. In 2022, the average ward population size is projected to be approximately 45,548, with ward sizes ranging from a low of 26,200 to a high of 68,500. As set out in Document 4, current and/or future population projections in some wards even exceed the generally accepted maximum variations in ward size. While the general rule of thumb permits a maximum variance of 25 per cent, up to 33 per cent is acceptable in certain circumstances.

In addition to significant variances resulting in potential concerns regarding the principle of “effective representation,” it is noted that larger ward population sizes may strain the existing resources of their elected representatives. Members who have constituencies of a significant size likely require additional support in order to meet the needs of their residents.

The need for such additional support was recognized by the 2003-2006 Council prior to completion of the 2004-2005 Ward Boundary Review. During consideration of the 2005 Budget in January and February 2005, Council approved Motion No. 27/21, which provided for additional support, including an FTE, for the three largest, suburban wards, on an interim basis until the review was complete.

Specifically, the motion noted that an interim period before new ward boundaries took effect for the 2006-2009 Term of Council, “will further strain the existing resources of those three Councillors requiring additional support in order to respond efficiently and

effectively to their growing constituencies.” Council approved the motion’s resolution, which stated, in part, that “for the 2005 Budget, the Salary Budgets for Wards 3, 4, and 10 be provided an additional \$40,000 each in order to hire the equivalent of one FTE to respond to the needs in their growing constituencies ...”

In light of this past practice, and noting that the existing ward boundaries were intended to maintain effective representation until 2015, staff reviewed the current ward population projections. As described in more detail below, a similar interim approach is recommended to provide Members of those wards with significant populations with additional support during the 2018-2022 Term of Council, and alleviate the strain on their resources until new ward boundaries are in place for the 2022 Municipal Elections.

The proposed approach would also align with previous comments about additional support for growing wards that were made by the OMB in its decision regarding the 2001-2002 Ward Boundary Review.<sup>18</sup> Furthermore, the recommended approach is consistent with Council’s recognition that it is important to ensure that an extra workload for certain Members does not cause their work on behalf of constituents to suffer. The half FTE provided to Standing Committee Chairs is one example of such recognition.

Further to the comments and approach noted above, staff recommend that funding equivalent to one FTE be provided to the Offices of those Members whose wards are larger than the average ward population size by more than the generally accepted maximum threshold of 33 per cent during the 2018-2022 Term of Council. If this recommendation is approved, funding of \$83,000 per year, comparable to one FTE, would be added to the Member’s Constituency Services Budget. This interim approach would ensure that constituents in any such wards would continue to be well-served during the current Term of Council, prior to new ward boundaries taking effect for 2022.

Based on the population projections provided in Document 4, the proposed approach would result in one ward receiving temporary annual funding on an interim basis, as set out below [based on the average ward size of 43,106 in 2018 and 45,548 projected in 2022]:

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<sup>18</sup> In the OMB’s May 8, 2003, decision relating to the appeal of the 2001-2002 Ward Boundary Review, the Board stated that, “If Council wishes to address the issue of workload for the most populated suburban wards, it is open to it to make adjustments in its budget to provide for additional resources so that the residents of those wards ... can be adequately represented.”

Ward	Year-End Population 2018	Variance from Average 2018	Year-End 2022	Variance from Average 2022
3   Barrhaven	61,528	42.7%	68,500	50.4%

The proposed temporary funding associated with this recommendation can be accommodated from within existing resources in the Council Administrative Services Budget.

**3. Directing the City Clerk and Solicitor to send a letter to the Premier of Ontario and the Ontario Minister of Municipal Affairs and Housing to advise of any Council decisions with respect to a comprehensive ward boundary review for the City of Ottawa**

As noted in the Background section of this report, as “creatures of provincial statutes,”<sup>19</sup> the City of Ottawa and other municipalities in Ontario must adhere to the statutory rules and restrictions established for them by the provincial government.

Given the Ontario Government’s constitutional authority to establish such rules, as well as its ultimate authority to determine municipal ward boundaries, staff recommend that the City advise the provincial government of Council’s decisions regarding a comprehensive ward boundary review for the City of Ottawa. This would also provide the Province with a formal opportunity to offer any feedback. This recommendation follows recent events relating to the City of Toronto’s ward boundaries, which were the subject of provincial legislation that changed the outcome of its earlier comprehensive ward boundary review.

Additional information relating to this recommendation, as well as background relating to Toronto’s recent experience, is provided below.

**The City of Toronto’s Ward Boundary Review and Bill 5, the *Better Local Government Act, 2018***

<sup>19</sup> [R. v. Greenbaum, \[1993\] 1 S.C.R. 674, 1993 CanLII 166 \(SCC\)](#), “Analysis” section.

As noted in the Background section of this report, the comprehensive ward boundary undertaken by the City of Toronto in 2014-2016 resulted in Council (and the OMB) approving an increase to the number of wards from 44 to 47 for the 2018 Municipal Elections.

However, on July 30, 2018, which was partway through the 2018 Municipal Elections period, the Ontario Government introduced Bill 5, the *Better Local Government Act, 2018*, for First Reading in the Legislative Assembly of Ontario. Bill 5 proposed replacing the 47 wards established through the ward boundary review process with 25 wards that generally align with federal and provincial electoral ridings, effective for the 2018 municipal elections.

In a press release issued prior to Bill 5's formal introduction in the Legislative Assembly, the Premier of Ontario stated: "We ran on a commitment to restore accountability and trust, to reduce the size and cost of government, including an end to the culture of waste and mismanagement."<sup>20</sup>

Bill 5 passed Third Reading and received Royal Assent on August 14, 2018.

### **Court proceedings and potential use of the *Charter* "notwithstanding clause"**

On August 20, 2018, Toronto City Council instructed the City Solicitor to commence an application to challenge the legality of Bill 5. A report to Council from the City Solicitor at that time noted that "the introduction of Bill 5 came without any prior notice to or consultation with the City of Toronto."<sup>21</sup>

The City of Toronto and other parties brought applications to the Ontario Superior Court of Justice to challenge the constitutional validity of the Bill. In a decision issued on September 10, 2018, the Superior Court of Justice granted the applications and set aside the provisions in Bill 5 that reduced the number of wards in Toronto to 25.

The Court found that the provisions were unconstitutional – that they "substantially interfered with both the candidate's and the voter's right to freedom of expression as

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<sup>20</sup> Ontario Government press release, "[Ontario's Government for the People Announces Reforms to Deliver Better Local Government](#)", July 27, 2018.

<sup>21</sup> City of Toronto staff report, "[Legal options to challenge Bill 5, the \*Better Local Government Act, 2018\*](#)," August 15, 2018.

guaranteed under section 2(b) of the *Canadian Charter of Rights and Freedoms*,” and that the breaches could not be saved or justified under Section 1 of the *Charter*.<sup>22</sup>

Although the Superior Court decision relied upon at least two “constitutional deficiencies that cannot be justified in a free and democratic society,” relating to the timing of the law and its impact on contacts, and Bill 5’s content and its impact on voters, the Court’s ruling did expressly note that the matter of passing laws with respect to the City’s ward boundaries was within the province’s jurisdiction, as follows [emphasis added]:

“[15] **First, there is no dispute that the Province has plenary authority under s. 92(8) of the *Constitution Act, 1867* to pass laws in relation to “Municipal Institutions in the Province”. Assuming the law falls under s. 92(8), or indeed any other provincial head of power, the Province can pass a law that is wrong-headed, unfair or even “draconian.”**[3]

[16] The only proviso, and it is an important one, is that any such legislation must comply with the Charter (and, arguably, any applicable unwritten constitutional norms and principles). As long as a statute is “neither *ultra vires* nor contrary to the [Charter], courts have no role to supervise the exercise of legislative power.”[4] The remedy for bad laws that are otherwise *intra vires* and Charter-compliant is the ballot box, not judicial review.[5]

[17]Second, a federal or provincial legislature is sovereign and cannot bind itself. **The provincial legislature can over-rule or contradict a previously enacted law.** A subsequent enactment that is inconsistent with an earlier enactment is deemed to impliedly repeal the earlier enactment to the extent of the inconsistency.[6] Thus, the argument that the *City of Toronto Act* [7] somehow imposed an immutable obligation to consult cannot succeed. The Province was entitled to enact Bill 5 and ignore completely the promise to consult that was set out in the previous law.

[18] Third, speaking broadly and again absent a constitutional issue, the provincial legislature has no obligation to consult and no obligation of procedural fairness.[8] The doctrine of legitimate expectations, an aspect of procedural fairness, does not apply to legislative enactments.[9]

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<sup>22</sup> [City of Toronto et al v. Ontario \(Attorney General\)](#), 2018 ONSC 5151 (CanLII), at para. 10-11.

[19] At first glance, Bill 5 although controversial in content appears to fall squarely within the province’s legislative competence. ...”

After the Superior Court issued its decision, the Attorney General of Ontario sought a stay of the Court’s ruling from the Court of Appeal for Ontario. In addition to appealing the Court’s decision, the Ontario Government also introduced a separate piece of legislation to implement the proposed ward reduction while overriding the *Charter* issues raised in the Superior Court’s initial order by using what is commonly known as the “notwithstanding clause” set out in Section 33 of the *Charter*.

Bill 31, the *Efficient Local Government Act, 2018*, was introduced in the Legislative Assembly of Ontario on September 12, 2018. The Bill reintroduced the proposal to reduce the number of wards in Toronto to 25, while providing that the changes would be “declared to operate notwithstanding sections 2 and 7 to 15 of the *Canadian Charter of Rights and Freedoms*,” and “despite the *Human Rights Code*.”

On September 19, 2018, when Bill 31 was at the Second Reading stage of the legislative process, the Ontario Court of Appeal stayed the Superior Court order relating to Bill 5.<sup>23</sup> In its decision, the Court of Appeal disagreed with the Superior Court’s determination that the Bill 5 provisions infringed upon freedom of expression rights set out in Subsection 2(b) of the *Charter*. The Court of Appeal decision included the following comments:

“The application judge was understandably motivated by the fact that the timing of Bill 5 changed the rules for the election mid-campaign, which he perceived as being unfair to candidates and voters. However, unfairness alone does not establish a *Charter* breach. The question for the courts is not whether Bill 5 is unfair but whether it is unconstitutional. On that crucial question, we have concluded that there is a strong likelihood that application judge erred in law and that the Attorney General’s appeal to this court will succeed.

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<sup>23</sup> It should be noted that the Court of Appeal decision states, at Paragraph 8, that: “In oral argument, counsel for the Attorney General stated that he had been instructed to advise this court that if a stay were granted, the government would not take Bill 31, the *Efficient Local Government Act, 2018*, currently before the Legislature, to a final vote at this time. ... We note that this undertaking was given, but add that it plays no part in our decision.”



The application judge's interpretation appears to stretch both the wording and the purpose of s. 2(b) beyond the limits of that provision. ..."<sup>24</sup>

Pursuant to the Court of Appeal's stay of the Superior Court order and in accordance with Bill 5, the 2018 Municipal Elections in the City of Toronto proceeded with 25 wards.

### **Questions about whether other Ontario municipalities may be subject to similar provincially mandated ward reductions**

*"I'll be clear, the province can do this. The province has the authority to dictate constitutionally because in 1867, the Constitution Act said municipal institutions are under the arm of the province, so the province can dictate whether there will be a municipality and what that municipality will look like. ..."*

- John Mascarin, a Toronto municipal lawyer, in a National Post article dated July 27, 2018<sup>25</sup>

*"Noteworthy for Federal politicians who want to intervene on municipal issues – we have a clear division of powers in the Canadian constitution and in that constitution municipalities are creatures of the province. ..."*

- The Hon. Lisa MacLeod (Minister of Children, Community and Social Services; Minister Responsible for Women's Issues; MPP, Nepean), Twitter, July 27, 2018

As noted in the Background section of this report, the provincial government may determine what happens to a municipality's ward boundaries. After Bill 5 was introduced for the City of Toronto, questions were raised about whether the Ontario Government intended to similarly reduce the number of wards in other municipalities, including the City of Ottawa. At the time, provincial government officials appeared to suggest that the legislation related only to the City of Toronto – and that Ottawa's makeup was different.

For example, on July 27, 2018, in comments related to the matter of Bill 5, Minister MacLeod stated on Twitter that, "Ottawa is the world's largest agricultural city with many rural [communities] inside urban boundary – making us physically larger than Montreal,

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<sup>24</sup> [Toronto \(City\) v. Ontario \(Attorney General\)](#), 2018 ONCA 761 (CanLII), at para. 11-12.

<sup>25</sup> ["The province holds all the cards': Little Toronto can do to stop Doug Ford from slashing city council,"](#) John Mascarin, National Post, July 27, 2018.

Toronto, Edmonton, Calgary & Vancouver combined. We are also home to a large francophone community. We are unique as Ontario's 2nd largest City.”

In the Legislative Assembly of Ontario on August 7, 2018<sup>26</sup>, Mr. Peter Tabuns (MPP, Toronto-Danforth) asked the Hon. Steve Clark, the Minister of Municipal Affairs and Housing and MPP, Leeds-Grenville-Thousand Islands and Rideau Lakes, “... [D]oes the minister support reducing Ottawa city council from 23 to just six councillors?”

Minister Clark responded as follows:

“... Bill 5, the *Better Local Government Act*, is a very clear bill. It only affects one municipality in the province of Ontario in terms of the composition of council. ... We've been very clear in terms of the city of Toronto. The fact that Bill 5 reduces the size of that council provides a more stream-lined council.

With all due respect, the honourable member is fear-mongering and knows that this is only dealing with that council.”

Staff are also aware of media reports in which members of the Ontario Government appeared to suggest that there were no plans to enact legislation similar to Bill 5 for the City of Ottawa. That said, staff are not aware of any formal statement from the provincial government to the City with respect to this matter.

### **Advising the Ontario Government of any Council decisions with respect to the City of Ottawa's proposed comprehensive ward boundary review**

Given the Province's overarching authority with respect to municipal matters including ward boundary reviews, as well as the apparent sudden and immediate nature in which the above-noted issues arose in the City of Toronto, staff recommend that the City advise the Province of any City Council decisions with respect to a comprehensive ward boundary review for the City of Ottawa. This would also provide a formal opportunity for the Ontario Government to offer any feedback. It is recommended that this opportunity be provided as soon as possible by way of a letter from the City Clerk and Solicitor to the Premier of Ontario and the Minister of Municipal Affairs and Housing, with copies to the other provincial party leaders and local Members of Provincial Parliament.

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<sup>26</sup> See Ontario, [Official Report of Debates \(Hansard\), 42<sup>nd</sup> Parliament, 1<sup>st</sup> Sess, No. 15](#). (7 August 2018), for the complete exchange.

This approach is recommended out of an abundance of caution in order to ensure that funding and resources associated with a ward boundary review are used effectively and efficiently. Furthermore, providing an opportunity for the Province to comment at this early stage may mitigate any possible risk that the outcome of a comprehensive review process would be subject to potential provincial legislation that could have the effect of adding parameters to the review after public consultation and other work has been conducted, and/or overturning any future Council decisions with respect to ward boundaries.

Should Council approve the recommendations in this report, any relevant matters that may result from the proposed correspondence between the City Clerk and Solicitor and the Premier/Minister would be communicated to Council and used to inform the work of the independent consultant retained for the review, as noted in the Terms of Reference attached as Document 3.

### **RURAL IMPLICATIONS**

As described in this report.

### **CONSULTATION**

This report was prepared by the Office of the City Clerk and Solicitor with support from the Planning, Infrastructure and Economic Development Department.

Public consultation, as well as consultation with other stakeholders and Members of Council, will be an important element of a comprehensive ward boundary review. The consultation plan would take into consideration any lessons learned from previous ward boundary reviews.

### **COMMENTS BY THE WARD COUNCILLOR(S)**

This is a city-wide report.

### **LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

### **FINANCIAL IMPLICATIONS**

The financial implications resulting from the outcome of the proposed RFP process would be presented to Council in the 2020 Draft Budget for consideration and approval.

### **ACCESSIBILITY IMPACTS**

There are no accessibility impacts associated with this reports.

### **TERM OF COUNCIL PRIORITIES**

There are no Term of Council priorities associated with this report.

### **SUPPORTING DOCUMENTATION (Held on file with City Clerk)**

Document 1 – Previous Ward Boundary Reviews in the City of Ottawa

Document 2 – Effective Representation and Case Law

Document 3 – Terms of Reference for the City of Ottawa Ward Boundary Review

Document 4 – City of Ottawa Ward Population Sizes

Document 5 – Sample of Other Municipal Ward Boundary Reviews in 2014-2018

### **DISPOSITION**

If Council approves the recommendations in this report, the Office of the City Clerk and Solicitor will implement same in the fashion described in this report.

Further to Recommendation 1, a Request for Proposal for an independent consultant to undertake a comprehensive ward boundary review for the City of Ottawa would be issued with the support of Supply Services. The financial implications resulting from the outcome of the proposed RFP process would be presented to Council in the 2020 Draft Budget for consideration and approval.

As described in this report, an internal ward boundary review project team led by staff would support the consultant's role and undertake any additional work such as planning and implementation. The amount of staff time and resources required may affect the work plans of departments such as the Office of the City Clerk and Solicitor, and the Planning, Infrastructure and Economic Development Department.