



DEVELOPMENT SERVICES MEMORANDUM

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TO: MAYOR, A. NUTTALL AND MEMBERS OF COUNCIL

FROM: J. ROBERTS, MANAGER STRATEGIC INITIATIVES, POLICY AND ANALYSIS, EXT. 4705
M. VILLENEUVE, CPA, CA, SUPERVISOR OF DEVELOPMENT CHARGES

NOTED: M. BANFIELD, RPP, DIRECTOR OF DEVELOPMENT SERVICES
B. ARANIYASUNDARAN, P.ENG., PMP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT
C. MILLAR, MBA CPA, CGA, CHIEF FINANCIAL OFFICER
M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RE: OVERVIEW OF POLICY AND LEGISLATION CHANGES INTRODUCED OCTOBER 25, 2022

DATE: NOVEMBER 23, 2022

The purpose of this Memorandum is to provide members of Council with a brief overview of Bill 23 the proposed "More Homes Built Faster Act, 2022", which was introduced into the Provincial legislature on October 25, 2022. Also provided is an overview of the review of A Place to Grow and Provincial Policy Statement, which was also released on October 25, 2022.

Although City staff are still reviewing the proposed legislative changes as part of proposed Bill 23, and reporting back to Council in further detail at a later date, the highlights of the Bill are provided below for Council's benefit. Also attached as Appendix "A", is a letter from the City's consultant, Hemson Consulting Ltd addressed to the Ministry of Municipal Affairs describing the potential Financial impact of Bill 23 on Municipalities.

Bill 23 - More Homes Built Faster Act

The proposed "More Homes Built Faster Act", introduced on October 25, 2022, is described as "...fundamentally altering the province's land use planning system and municipal governance frameworks".

The proposed Bill 23 is intended to take bold action to advance the province's plan to address the housing crisis by building 1.5 million homes over the next 10 years. Twenty-nine large and fast-growing lower-tier and single-tier municipalities in southern Ontario, with a population projected to be over 100,000 by 2031, have been assigned targets. Targets are based on current population, as well as 2011 to 2021 growth trends. The City of Barrie has been given a housing target of 23,000 additional homes by 2031.

The Bill intends to increase housing supply and provide attainable housing options. Incentives include:

- Addressing the missing middle – strengthen the additional residential units framework;
- Building more homes near transit – ensuring complete communities are built and centred around province wide transit expansion;
- Supporting growth and standardization of affordable and rental housing – creating conditions for building more affordable and purpose-built rental housing;
- Freezing, reducing and exempting fees and development charges for building attainable, affordable, and non-profit housing;

- Streamlining process to get more home built faster – removing *Planning Act* requirement for site plan control for projects with fewer than 10 residential units;
- Improving the Ontario Land Tribunal to Support Building More Homes Faster, including the removal of 3rd party appeals, such as those from neighbours and commenting agencies;
- Creating a New Attainable Housing Program – to be developed in future legislation;
- Protecting Ontario Homebuyers from Unethical Developers - strengthening consumer protections for new home buyers and their contracts to buy new homes;
- Taking Action to Crack Down on Land Speculation – the Province will consult on the issue of land speculation as a detriment to the housing supply goals of the government, and whether potential regulatory changes under the *New Home Construction Licensing Act*, are needed to address the issue;
- Improving Ontario's Heritage and Growth Planning - renew and update Ontario's heritage policies and strengthen the criteria for heritage designation and update guidelines, as well as restricting when a heritage designation can be initiated (for example, it cannot be initiated after the submission of a development application);
- Reducing Taxes on Affordable Rental Housing – the Province will work with the Federal Government to investigate opportunities for HST/GST incentives;
- Promoting Fairness to Support Affordable and Other Rental Housing - potential refinements to the property tax assessment methodology used to assess affordable rental housing so that it better reflects the reduced rents that are received by these housing providers;
- Helping Homebuyers and Renters: Addressing Vacant Homes - consultation on a policy framework setting out the key elements of local vacant home taxes; and
- Strengthening the Non-Resident Speculation Tax – raising the speculation tax to 25% across the province.

The Bill, if approved will make changes to 10 existing pieces of legislation and regulations across multiple ministries, including changes to the *Conservation Authorities Act*, the *Development Charges Act, 1997*, the *Municipal Act, 2001*, the *Ontario Land Tribunal Act, 2021*, the *Ontario Heritage Act* and the *Planning Act* amongst others. Each of the proposed legislative changes are posted individually through the Environmental Registry as Schedules to the main Bill 23. Most have a 30 day comment period, closing November 24, 2022, except where otherwise noted.

Planning Act Proposed Amendments (Schedule 9 to Bill 23):

The proposed amendments to the *Planning Act* include:

- Rental replacement regulations, enabling the Minister to impose limits and conditions to prohibit and regulate the demolition and conversion of residential rental properties;
- Exemption to site plan control for developments of up to 10 residential units;
- Architectural details and landscaping design aesthetics will be removed from scope of site plan control;
- Public meetings will no longer be required for applications for draft plan of subdivisions;
- Requiring municipalities to authorize as of right zoning to permit up to three residential units per lot (either two units in the main building and one in an accessory building, or three in the main building, with no minimum unit size). New units would be exempt from community benefit contributions (CBC) and parkland contributions, and no more than one additional parking space would be required; and
- Municipalities will be required to set minimum density targets near major transit stations.

Parkland

- 50% reduction in parkland dedication and/or cash in-lieu under the alternative rate: The maximum amount of parkland that can be required will be reduced to one hectare for each 600 units, as opposed to the current level of one hectare for each 300 dwelling units; and of the maximum amount of cash in-lieu of parkland will be reduced to one hectare for each 1,000 dwelling units, as

opposed to the current level of one hectare for each 500 dwelling units. This will result in less parkland across municipalities;

- No more than 15% of the amount of developable land could be required for parks or other recreational purposes for sites greater than 5 hectares, and no more than 10% for sites 5 hectares or less where the alternative rate is used;
- New Statutory Exemptions for affordable* units, attainable** units, inclusionary zoning units, non-profit housing as well as additional second/third units in residential buildings;
- Parkland dedication rates would be set at the time a site plan application or zoning by-law amendment is filed and will be frozen for two years following approval;
- Developers would be able to identify land, including encumbered land and privately owned public spaces that would count towards any municipal parkland dedication requirements if defined criteria, as set out in a future regulation, were met. Suitability of land will be appealable to the Ontario Land Tribunal (OLT);
- Parks plans will be required prior to the passing of any future parkland dedication by-law (would not apply to by-laws already passed);
- Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year; and
- These changes would take effect upon immediately upon Royal Assent of Bill 23.

Community Benefits Charges (CBC)

- Maximum community benefit charge payable is to be based only on the value of land proposed for new development, not the entire parcel that may have existing development;
- New Statutory Exemptions for affordable* units, attainable** units and inclusionary zoning units; and
- Redevelopment needs to add at least 10 units to trigger community benefit charges.

*Affordable is defined as rent that is no more than 80% of the average market rent/average purchase price as defined by the Ministry of Municipal Affairs and Housing.

**Attainable will be defined as prescribed development or class of development and sold to a person who is at "arm's length" from the seller. For affordable and attainable units, the municipality shall enter into an agreement which ensures the unit remains affordable or attainable for 25 years. Future regulations will prescribe developments that will be considered "attainable housing units".

Development Charges Act, 1997 Proposed Amendments (Schedule 3 to Bill 23):

The proposed amendments to the *Development Charges Act* include significant changes to Development Charges. The province's aim is to provide greater cost certainty and lower the cost for the development industry. These changes represent a shift in the "growth pays for growth" mantra and will have major financial implications that will be borne by the City's tax/rate payers and perhaps future developers.

The proposed amendments to the *Development Charges Act* include:

Development Charges

- Five year phase in of Development Charge rate increases, beginning with a 20% reduction in the first year, with a reduction decreasing by 5% each year until year five when the full new rate applies. At this point in time, it is unclear who (tax/rate payers or future developers) will be required to make up this difference which is anticipated to be well into the tens of millions of dollars over the 5 year period following by-law passage;
- New Statutory Exemptions for affordable units, attainable units, inclusionary zoning units and non-profit housing;

- Discounts for purpose built rental units with a higher discount for larger family sized units. Three or more bedrooms will get a 25% discount, Two bedrooms a 20% discount and all other bedroom quantities a 15% discount;
- Limit eligible capital costs that can be recovered through development charges. The cost of Studies, including background studies, as well as some lands would no longer be eligible for recovery. These costs will need to be funded by the tax/rate payers;
- To provide for more consistent municipal interest rate charges that apply during the period that development charges are frozen and/or deferred, a maximum interest rate of Canadian Banks prime rate plus 1.0% per annum would be set for these periods as of June 1, 2022;
- Increase to the historical level of service from 10 years to 15 years;
- Municipalities will be required to spend or allocate at least 60% of Development Charge reserves for priority projects (i.e., water, wastewater, roads) each year beginning in 2023; and
- Development Charge By-laws will at a maximum expire every 10 years instead of 5.

Ontario Land Appeal Tribunal Act, 2021 Proposed Amendments (Schedule 7 to Bill 108):

The proposed amendments to the *Ontario Land Appeal Tribunal Act* will allow no one other than the applicant, the municipality and the Minister to appeal municipal decisions to the Tribunal. This applies to all *Planning Act* decisions, including consents and minor variances. Third party appeals filed already but without hearing dates scheduled will be removed from the Ontario Land Tribunal queue.

Ontario Heritage Act Proposed Amendments (Schedule 6 to Bill 108):

The proposed amendments to the *Ontario Heritage Act* aim to renew and update Provincial heritage policies and remove barriers that are believed to be slowing down housing construction and other priority projects while continuing to conserve and commemorate key heritage properties. The amendment would:

- Require heritage registers to be reviewed and a decision made whether listed properties are to be designated, and if not, removed from the register;
- Allow property owners to use the existing process under the *Ontario Heritage Act* for objecting to the inclusion of their non-designated property on the municipal register regardless of when it was added to the municipal register;
- Increase the standard for including a non-designated property on a municipal register by requiring that the property meet prescribed criteria;
- Propose a new process which will allow Heritage Conservation District Plans to be amended or repealed; and
- Municipalities will not be permitted to issue a notice of intention to designate a property under the *Ontario Heritage Act* unless the property is already on the heritage register when the current 90 day requirement for *Planning Act* applications is triggered.

Conservation Authorities Act Proposed Amendments (Schedule 2 to Bill 23):

The proposed amendments to the *Conservation Authorities Act* would significantly change the role that Conservation Authorities play in the planning process and would focus conservation authorities to deliver on their core mandate of flood management and hazard lands. Conservation authorities would no longer have the ability to review or comment on development applications and supporting studies on behalf of a municipality. Permits will no longer be required within regulated areas for activity that is part of a development authorized under the *Planning Act*.

Review of A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 and The Provincial Policy Statement, 2020 (PPS)

As part of the Provincial government's action plan, they are also looking to review and are proposing to integrate the Growth Plan and the Provincial Policy Statement into a new province-wide planning policy instrument. The intended outcome of this review is to determine the best approach that would enable municipalities to accelerate the development of housing and increase housing supply through a more streamlined, province-wide land use planning policy framework. The government is consulting on these proposed changes through an Environmental Registry of Ontario posting (ERO 019-6177) until December 30, 2022.

Core elements of this new policy instrument could include:

- Settlement Area Boundary Expansions – streamlined and simplified policy direction that enables municipalities to expand their settlement area boundaries in a coordinated manner with infrastructure planning, in response to changing circumstances, local contexts and market demand to maintain and unlock a sufficient supply of land for housing and future growth;
- Employment Area Conversions – streamlined and simplified policy direction that enables municipalities to promptly seize opportunities to convert lands within employment areas for new residential and mixed-use development, where appropriate;
- Housing Mix – policy direction that provides greater certainty that an appropriate range and mix of housing options and densities to meet projected market-based demand and affordable housing needs of current and future residents can be developed, including ground-related housing, missing middle housing, and housing to meet demographic and employment-related needs;
- Population and Employment Forecasts – policy direction that enables municipalities to use the most current, reliable information about the current and future population and employment to determine the amount and type of housing needed and the amount and type of land needed for employment;
- Natural Heritage – streamlined policy direction that applies across the province for Ontario's natural heritage, empowering local decision making, and providing more options to reduce development impacts, including offsetting/compensation;
- Cultural heritage –policy direction that provides for the identification and continued conservation of cultural heritage resources while creating flexibility to increase housing supply; and
- Infrastructure Supply and Capacity – policy direction to increase flexibility for servicing new development (e.g., water and wastewater) and encourage municipalities to undertake long-range integrated infrastructure planning.

The magnitude of impacts of these proposed Growth Plan and Provincial Policy changes to the City of Barrie are unclear and staff across the City are monitoring the policy framework changes initiated by the province. As more information becomes available, staff will update Council and provide any recommendations necessary to ensure conformity with all relevant policies.

In addition, Staff will continue to review the proposed legislative changes through Bill 23 and will provide comment through the ERO postings. There are suggestions that more legislative changes are on the horizon and further details on implementation are expected in further legislation. It is expected that Bill 23 will have impacts across the organization: Finance, Building, Infrastructure, Risk Management, Business Performance and Development Services. Until the regulations are available, staff are unable to provide Council with the magnitude of impacts. However, it is possible that growth related revenues could be reduced annually between 5 to 10%. The City of Barrie collected \$100 million in Development Charges in 2021, and should be close to this amount at year end for 2022.- Last year's long range financial plan update, forecasted, over the next 20 years the City could incur growth capital costs of \$4.2 billion. If there are reductions to the funding of municipal services through any legislation, the costs are then transferred to the existing tax rate/tax base. Without financial support from other levels of government, the changes will shift significant growth costs onto existing tax payers. Staff remain committed to working together and with the development community and Council to ensure that community building in the City of Barrie happens as efficiently and effectively as possible. It is in everyone's best interests to streamline approvals and get more homes built and occupied by new residents of Barrie.



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APPENDIX "A"

Letter from Hemson Consulting Ltd addressed to the Ministry of Municipal Affairs



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November 16, 2022

ERO number: 019-6172
Ministry of Municipal Affairs and Housing

Email: MFPB@ontario.ca

To Whom It May Concern:

Re: Comments on *Development Charges Act* Changes Proposed In Bill 23

This letter addresses the proposed amendments to the *Development Charges Act* (DC Act) contained in Bill 23 (the *More Homes Built Faster Act*). The changes are addressed from the perspective of a consulting firm with 40 years' experience providing expert advice notably in areas of planning policy, municipal finance, demographic and economic forecasting. Of particular relevance is our extensive knowledge and understanding of development charges (DCs). We have undertaken over 250 DC studies for municipalities across Ontario.

The observations we make in this letter are also informed by extensive consultation with municipal clients as well as with the Municipal Finance Officers' Association (MFOA) and the Association of Municipalities of Ontario (AMO). However, the views expressed below are our own.

A. PROPOSED CHANGES ARE BOTH POSITIVE AND NEGATIVE

In our judgement, the impact of DC Act changes will be mixed. On the positive side, key changes being proposed will encourage the building of more housing units which are certainly needed:

- **Affordable housing**, which would be exempt from DCs, CBCs, and parkland dedication requirements.

- Mandatory discounts on DCs for **rental housing** will promote purpose built apartment rental buildings and the scaled approach to these discounts could encourage more family-sized rentals.
- DC exemptions for **inclusionary zoning** support the Government's desire to build affordable and market-rate housing in transit corridors and other high-density areas.

However, without a new revenue stream to offset these foregone DC payments the legislation will hamper the ability of municipalities to fund and deliver growth-related infrastructure. More specifically,

- The fiscal impact of the legislation on municipalities is substantial. We estimate that individual municipalities will collect between 10% and 35% less DC revenue in the next 5 years. The cumulative impact on all municipalities runs into the billions of dollars over the same period.
- The significance of this revenue reduction cannot be overstated as there are no provisions through Provincial-municipal revenue sharing, or new revenue raising tools, to make up for the loss. Instead, DC revenue shortfalls will have to be funded through increases in property taxes and water/wastewater utility rates. This erodes the affordability of existing homes and undermines the long established principal that growth should pay for itself.
- With the likelihood of additional municipal property taxes and utility rates being needed to cover DC shortfalls, municipal Councils may well choose to delay the delivery of growth-related infrastructure. Such delays would not be in the interests of either municipalities or the development industry and would run counter to the Government's efforts to spur housing construction.
- The DC reductions may undermine municipal-developer infrastructure cost sharing agreements that facilitate infrastructure in high growth areas of the province. These complex agreements facilitate infrastructure using DC credits or reimbursement through future DC revenue. They often require the municipality to have DC revenue on hand before issuing reimbursements. In such cases, DC revenue shortfall arising from Bill 23 would delay repayment, to the financial detriment of developers who are parties to such agreements.
- The broad application of the mandatory phase-in required for area-specific DCs is a further complication. Frequently, ASDC by-laws are used to facilitate DC credit arrangements to pay for critical hard services in targeted growth areas.

- Currently many municipalities across the Province provide DC exemptions and discounts to affordable, non-profit, and purpose-built rental housing. A consequence of Bill 23 is that these financial incentives, which have been tailored to meet the specific needs of local communities, will be replaced with broad mandatory provisions, which may not work as well. Moreover, with their DC revenue raising ability curtailed, municipalities may choose to discontinue existing incentives entirely in order to mitigate revenue losses.
- Finally, because key provisions of the DC Act proposals are unclear, this could lead to unintended outcomes. For example, the exemption for affordable ownership residential units applies when the unit price is no greater than 80% of the “average purchase price”. If the average purchase price includes resales as well as new unit sales then the scope of the exemption is potentially very broad.

B. MANDATORY PHASE-IN OF DC’S IS A CONCERN

While the new DC Act provisions that seek to promote specific types of new housing supports the Government’s overall policy objective, the proposed mandatory 5-year “phase-in” of new DCs raises questions.

- **Fairness:** First, the proposed phase-in is costly for municipalities and taxpayers. While there is little evidence to show that the changes will reduce the price of homes, at the very least in the near-term, the phase-in will mean a loss for municipalities of DC revenue and a saving for builders and developers, regardless of the type of housing being constructed.
- **Not a Phase-in:** Second, the phase-in is excessive relative to its purpose as articulated by Minister Clarke in the legislature on October 26th: “If and when new development charge bylaws are passed, the charges would be phased in over five years, making increases more manageable for home builders [emphasis added].”¹ The phase-in does not apply only to DC rate increases but rather to the total DC rate. As such, it unnecessarily reduces municipal revenues when the DC rate is relatively stable.
- **Retroactivity:** Third, the retroactive application of the phase-in to by-laws passed after June 1, 2022 does not take into account the public consultation process and municipal-developer negotiations in advance of by-laws passed before Bill 23 was

¹ Legislative Assembly of Ontario, Hansard Transcript 2022-Oct-26 vol. A.

tabled. This penalizes municipalities who have phased-in or otherwise discounted their DC rates to address local housing supply concerns. There are several examples of large, fast-growing municipalities, where the effect of the phase-in will be that DC rates in 2023 are lower than rates that were in force prior to by-law passage in the summer of 2022.

- **Non-Residential:** Fourth, although the phase-in is intended to stimulate residential construction, it applies to all DCs, including those imposed on commercial and industrial development. There is no apparent basis to expect that a broad application of the phase-in on non-residential development will increase housing supply.
- **Fiscal Impact:** The financial impact of the phase-in is substantial. Over the next five years, it is likely that the largest or second-largest source of DC revenue losses will be attributable to the mandatory phase-in.

C. CHANGES TO DC CALCULATION METHODOLOGY

Several additional changes proposed in Bill 23 are specifically designed to restrict municipalities from using DCs to pay for growth-related infrastructure. The following are concerns regarding these changes:

- The removal of **Housing Services** as a service eligible for DC funding appears counterproductive to one of the Government's stated objectives of promoting affordable housing. It hampers efforts by municipalities and non-profit organizations to provide such housing since Housing Services DCs are used to pay for a portion of municipally constructed affordable units and to provide financial support for third parties to deliver those units. The objection to using DCs to fund social housing and affordable housing overlooks the substantial "benefit to existing" shares of municipal capital expenditures that are paid for by property tax payers.
- The potential removal of **Land Acquisition** as a DC eligible cost is of special concern. Land acquisition for new infrastructure and facilities is critical in capital development planning, and acquiring land is often the step that gets infrastructure projects "up and running". Not being able to use DCs to pay for land for some or all DC services will have a negative financial impact on municipalities, resulting in infrastructure delays which will negatively impact housing supply. It will be especially concerning to municipalities who need to use DCs to acquire land for roads, transit, water and wastewater infrastructure, which typically comprise between 70% and 80% of DC revenue.

- **Growth-Related Studies:** Another proposed change is to remove the cost to undertake studies from the list of DC eligible costs. Such studies typically include master servicing plans to determine growth-related infrastructure needs. As with land, these studies form the basis of long-term capital programs and, by extension, reflect the intentions of municipal councils in managing long-term growth. Typically, projects are not approved for construction unless appropriate studies have been completed. As the need for studies is largely driven by development, they should continue to be funded from DCs.
- **15-Year Service Level:** The proposal to change the calculation of historical service levels based on 10 years to one based on 15 years, over the long-term, will erode municipal efforts to use DCs to maintain service levels in the face of rapid growth. This may delay infrastructure and facilities required to build “complete” communities (e.g. fire stations, recreation facilities, libraries).

D. RECOMMENDATIONS

In summary, the Government’s efforts to promote the construction of new affordable, rental, and non-profit housing through targeted DC incentives will to an extent be supported by the proposed changes to the DC Act. However, in the absence of provisions to replace the loss in DC revenues, the initiative will erode the ability of municipalities to pay for growth-related infrastructure.

Moreover, the broad cuts to DC revenues arising from the mandatory phase-in and changes to the DC calculation methodology runs counter to the Government’s objectives to quickly stimulate housing construction.

Accordingly, it is suggested that the Government amend Bill 23 to:

- remove the requirement to phase-in DCs under subsection 5 of the DC Act;
- OR, should the mandatory phase-in be maintained, require that
 - it only apply if the proposed DC rate increase is greater than 20%;
 - the phase-in period be reduced from 4 years to 2 years;
 - it only apply to residential DCs;
 - it only apply to DC rate increases and not to the total DC payable; and
 - it not apply retroactively.

Moreover, it is recommended that:

- Housing Services not be removed as a DC eligible service (subsection 2 (4) of the DC Act);
- the definition of DC eligible capital costs under subsection 5 (3) of the DC Act be left unchanged; and
- the 10-year historical service level be retained under subsection 5 (1) of the DC Act and consideration be given to replacing the historical service level standard with one based on a planned service level (similar to Transit Services).

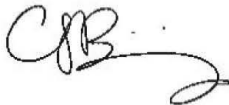
Additionally, in order to offset the DC revenue loss arising from exemptions/discounts targeted to affordable and rental housing in Bill 23, the Government should:

- expand the level of grant funding to municipalities for growth-related infrastructure;
- and/or provide a dedicated revenue stream to municipalities to pay for growth-related infrastructure (e.g. through HST revenue sharing);
- and/or expand the range of funding tools available to municipalities to pay for growth-related infrastructure (e.g. by giving the similar revenue raising powers as the City of Toronto has under the *City of Toronto Act* to all large municipalities).

This letter reflects our considered opinion regarding the proposed legislation and takes account of the views of the many municipal clients with which we have discussed the matter. We thank you for the opportunity to make this submission. Should you have any questions regarding our comments please do not hesitate to contact us.

Yours truly,

HEMSON Consulting Ltd.



Craig Binning
Partner