The Corporation of the Town of Tecumseh

Development Services

To: Mayor and Members of Council

From: Brian Hillman, Director Development Services

Date to Council: November 22, 2022

Report Number: DS-2022-44

Subject: Bill 23, the More Homes Built Faster Act Summary Report

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Recommendations

It is recommended:

That DS-2022-44, *Bill 23 –More Homes Built Faster Act, 2022*, Summary Report, **be received**;

And that DS-2022-44 **be submitted** to the Province through the Environmental Registry of Ontario as comments from the Town of Tecumseh on *Bill 23.*

Executive Summary

The province recently released proposed changes to the *Planning Act*, the *Development Charges Act*, the *Conservation Authorities Act*, the *Ontario Land Tribunal Act* through *Bill 23, More Homes Built Faster Act,* and is seeking comments by November 24, 2022 for a number of the proposed changes. This report summarizes the changes that will have an impact on the Town, including changes to planning processes, reductions in municipal Development Charge (DC) revenues and associated increases in taxes/rates, increased demands on staff and potential need for specialized services to supplement services currently provided by the Essex Region Conservation Authority.

Background

On October 25, 2022, the government of Ontario introduced *Bill 23*, the *More Homes Built Faster Act, 2022* ("the Bill") which proposes significant changes to the land use approval system, with the stated goal of facilitating the construction of 1.5 million new homes by 2031. This Bill is the third step in the government's changes to the *Planning Act* and other related legislation and follows the *More Homes, More Choice Act, 2019,* and the *More Homes for Everyone Act, 2020*.

In addition to the *Planning Act*, the Bill proposes amendments to the *Development Charges Act*, the *Conservation Authorities Act*, the *Ontario Land Tribunal Act* as well as several other pieces of legislation. There are a series of Environmental Registry and Ontario Regulatory Registry postings on which the Province is seeking feedback. In many of these postings, the deadline to provide comments is November 24, 2022.

If passed, the changes will:

1. Reduce some parkland dedication rates;

2. Slow potential increases to Development Charges (DCs) and reduce a portion of the DC to be collected;

3. Eliminate third party appeal rights to the Ontario Land Tribunal (OLT); and

4. Remove Conservation Authorities (CAs) from significant portions of the land use planning process, particularly in relation to natural heritage features and restrict their ability to raise operational funds.

Given that the legislation and proposed regulatory changes were released on October 25, 2022 – the day after the municipal elections – the comment deadline provides little time for municipalities to review the changes, understand their implications and submit comments through their respective municipal Councils or, in the case of other public authorities such as CAs, through their boards. In some cases, based on the changeover in municipal councils, there are not further municipal council meetings between the date the legislation was released and the comment deadline. Although in Tecumseh the Administration is able to provide comments to Council, we believe the process would benefit from all municipal Councils having an opportunity to provide comments. It is therefore recommended that the province extend the commenting deadline into 2023 to allow for a more fulsome consultation on the proposed changes.

This report summarizes the key changes proposed to the aforementioned pieces of legislation and provides comments on the matters for which the Province is seeking feedback. It focuses on those sections of the Bill that would affect the Town of Tecumseh. As supplementary information and commentary, please find attached four letters from Watson & Associates Economists Ltd. ("Watson") (see Attachments 1, 2, 3 and 4). These detailed letters have been provided to all of their clients, of which

Tecumseh is one. Watson has prepared multiple development charge background studies and by-laws for the Town, along with various water, wastewater and stormwater rate studies.

Comments

Below is an itemized summary of the proposed changes through the Bill along with Administration's comments.

Proposed Changes to the Planning Act and Regulations		
Item	**Proposed changes**	**Comments**
PA1	New **limits on third-party appeals** to the Ontario Land Tribunal (OLT) for official plans, official plan amendments (OPAs), zoning by-laws, zoning by-law amendments (ZBAs), consents, and minor variances.	The proposed changes significantly limit the ability for the public or others to appeal a planning decision, unless the proposed appellant falls under the defined list of a "specified person" (generally only utility providers or public authorities including municipalities). Applicants will still have the ability to appeal a decision (i.e. a refusal, non-decision, or conditions on an approval). It is our understanding that this change will apply to all forms of development, not just residential. The proposed changes should result in less time and money being spent at the OLT in instances where a third-party appeal may have been lodged under the current planning regime. We believe that our planning review and public consultation processes will play an important role in instilling confidence in the community that issues raised are being heard and adequately addressed, even in the absence of third-party appeal rights. If we do not continue to prioritize finding workable solutions, it is possible there could be an erosion in public trust in local government. While NIMBY [Not in My Backyard] can be bad for our communities, a lack of public trust or participation could also have unintended negative impacts.

PA2	**As-of-right permissions for up to three residential units** per property in a settlement area that is serviced by municipal water and sewer services, with no minimum unit sizes and no zoning by-law amendments. This includes up to three units in the primary dwellings (i.e. triplex), or up to two units in the primary dwelling and one unit in an ancillary building (i.e. garden suite).	The province has introduced a new definition for "parcel of urban residential land" which is generally defined to mean a residential lot in a settlement area that is serviced by municipal water and sewer services. This proposed change is essentially clarifying earlier changes to the *Planning Act* which allowed for a dwelling as well as two additional residential units (ARUs) per property. These earlier changes were reflected in the Town's new Official Plan and through a recent housekeeping ZBA that introduced regulations pertaining to the creation of ARUs. The province is clear that through these changes no official plan can contain any policy that has the effect of prohibiting a main dwelling and two ARUs per property in a serviced settlement area. The distinct change is that now, no minimum unit sizes can be required by municipalities and no more than one parking space per unit can be required. It is not clear whether ARUs could continue to be subject to meeting criteria such as servicing capacity and maximum size limits. It is also not clear whether ARUs will continue to be allowed in settlement areas on private individual services, partial services, or in rural areas. While there have been some ARUs approved and built in the Town since the approval of the Town's Official Plan in 2021, it is anticipated that a relatively minor number of landowners will seek to introduce these types housing units. Overall, Administration believes that the Town's recently adopted zoning regulations (which include size limits) provide a preferred and reasonable level of control in relation to this new form of housing in our community. It permits them "as-of-right", thereby adequately facilitating their ease of quick introduction by meeting a number of reasonable minimum zoning regulations and Building Code requirements (i.e. no ZBA is required). Accordingly, Administration does not support the proposed provincial changes, with the

		exception that it is agreed they should be limited to fully serviced areas only.
PA3	**Public meetings are now optional** prior to the draft approval of a plan of subdivision.	Although the County of Essex is the approval authority for plans of subdivision, it has delegated the hosting of a public meeting to Town Council. As such, Administration has mixed feelings about this proposed change, particularly when coupled with the new limits on third-party appeals. If approved the Town would work with the County and other lower tier municipalities to establish criteria for when public meetings may be required for subdivisions versus when they may be exempted. Consistency in processes across the region would be advantageous, particularly given the number developers that operate in many or all of the municipalities. In many cases subdivision applications also require a ZBA application at the municipal level, which would still require a public meeting even if Bill 23 passes. In most cases where zoning amendments and subdivisions are required, a single public meeting is held by the municipality to address both applications. More recently however, as a result of Bill 109, consideration is being given to recommending that the ZBA application not be processed simultaneously with the subdivision application, for fear of having to return ZBA application fees, should the subdivision take longer to process.
PA4	Removal of **upper tier planning** responsibilities for **prescribed** municipalities	The status in relation to the County of Essex has not changed through the proposed legislation but could change in the future if prescribed by the Minister. If the County is identified as a prescribed municipality in the future, it would: • no longer have any planning approval responsibilities; • no longer be able to appeal decisions to the OLT;

		• no longer be able to request road widening on a site plan; • no longer be able to establish official plans, even with respect to specific upper-tier infrastructure, such as roads. The County plays a role in coordinating cross-boundary matters (e.g., roads, environmental features, etc.) and growth matters across the region and between municipalities, which may be lost if these changes take effect. Where growth happens across the region has obvious implications for the regional transportation network. Extricating the County from these regional planning considerations is not preferrable. If County planning is removed, these responsibilities would then need to be absorbed by the lower-tier municipalities, with a corollary impact on staffing to meet additional workload demands. To remove these responsibilities, as well as any potential OLT appeal rights, could have a very negative effect on the planning and coordination between municipalities. These changes could have the unintended side effect of slowing down development approvals (at least in the short-term) versus making the process more efficient. It is important to note that the Town has not experienced delays due to County planning functions.
PA5	Changes to **site plan control** including; • exempting developments of 10 residential units or less; and • where site plan control continues to apply, it would no longer be able to address architectural or landscape design details.	For developments of less than 10 units, the Town would not be able to effectively regulate site design matters such as parking lots, landscaping, tree plantings, lighting, pedestrian access and stormwater management. Establishing appropriate design standards and the associated long-term maintenance of the required design features established through site plan control is critical to ensuring proper integration of these forms of development within our neighbourhoods. Site plan control establishes that appropriate and functional site servicing is provided and ultimately plays a role

		in the creation of vibrant and sustainable neighbourhoods. Eliminating site plan control requirements for developments under 10 units, may or may not result in more affordable homes being delivered more efficiently. However, the quality of the communities in which these homes are located may quite likely be eroded through these changes. Site design, thoughtful architecture and high caliber landscaping are foundational elements of attractive and desirable developments and often serve to alleviate neighbour concerns with the proposed development. All levels of government must pursue housing within the context of complete communities. Otherwise, many housing units will be built, but some neighbourhoods may not be desirable to live in.
PA6	Changes to **parkland dedication** including; • maximum alternative dedication rate reduced to 1 ha (2.47 ac)/600 units for land and 1 ha (2.47 ac)/1000 units for cash-in-lieu payments; • parkland rates frozen as of the date that a zoning by-law or site plan application is filed for two years following approval. • parkland dedication will apply to new units only and not to ARUs; • park plans will be required prior to the passing of future parkland dedication by-laws; • encumbered parkland/strata parks as well as privately	The reduced importance of providing appropriate land or financial compensation for parkland may or may not result in more affordable homes being delivered more efficiently. Almost certainly however, the quality of the communities in which these homes are located will be eroded through these changes – both in terms of the physical aesthetic of neighbourhoods but also the physical and mental well-being of its citizens. Parkland and its strategic placement is a foundational element of attractive and desirable communities. Proposed reductions in the amount of parkland attainable as part of the development process should not be supported as this change will have long-term adverse affects on the Town. To require such reductions is counterintuitive. With an increase of intensification and more people living in smaller spaces, the need for the provision of public open space will become more essential. The difference between ‘allocating’ and ‘spending’ is very significant as many park projects require years of funding contributions before they can be completed. If the province were intending for municipalities to spend 60% of the reserves each year, it could pose a significant impediment to

	operated public spaces (POPS) to be eligible for parkland credits; • municipalities are required to spend or allocate 60% of parkland reserve funds at the start of each year; and • developers can identify land they intend to convey for parkland purposes and if the municipality refuses to accept the developer may appeal to the OLT.	municipalities. Administration recommends that the province clarify this distinction between spending and allocating in this regard. Administration has considerable concerns with the concept of developers being able to exclusively identify lands to convey for parkland purposes. Historically, this has resulted in parkland that is not suitably located and often comprising a remnant piece of land that seemingly served no other viable purpose for the subdivision – often with poor design, access and visibility attributes. Public parks warrant much higher regard as they play a vital role in the creation of vibrant, active and sustainable neighbourhoods and communities. Accordingly, the public good should be properly represented by ensuring the Town is able to determine which area of land should be conveyed for park purposes. Allowing developers to have sole decision making in this regard is not appropriate and forces the Town to appeal to the OLT to seek resolution. This is not an efficient nor appropriate process. Ultimately, decisions related to the location of public parks should be at the discretion of Town Council, not a developer.
PA7	**Exempt affordable and attainable** housing from DC and Parkland dedication.	With respect to DC exemptions, this will create a funding gap which will have to be filled by tax and rate payers. With respect to parkland exemptions, this will adversely affect the quality of Town neighbourhoods and result in insufficient supply of parkland (see comment in PA6).
PA8	**Inclusionary zoning** regulations to set an upper limit of 5% of the total number of units to be affordable for a maximum period of 25 years.	Administration has no concerns with this proposed change but recommends that the province consider allowing for a broader use of inclusionary zoning across the province, rather than the current limitations which restrict use to protected major transit station areas and areas within a development permit system. Most municipalities in Ontario have no protected major transit station areas. Furthermore, a development permit system

		requires a major overhaul of the planning approvals process and is therefore an impediment to many municipalities. Allowing for broader use of inclusionary zoning would 'level the playing field' for smaller municipalities like Tecumseh that may want to utilize inclusionary zoning.
Proposed Changes to the Development Charges Act		
Item	**Proposed changes**	**Comments**
DC1	**Exempting development charges** (DCs) for affordable residential units and attainable residential units, not-for-profit housing developments, and inclusionary zoning residential units.	The potential loss of DC revenue may be substantial. This funding loss would have to be offset by taxes and rates from all tax/rate payers. This approach will also be onerous for municipalities to apply, as it requires agreements to be registered on title for these exemptions, increasing the municipal administrative burden to manage and monitor these agreements.
DC2	**New definitions for affordable rental and owned housing** where affordable equals rent or purchase prices at no greater than 80% average market value or purchase price. A price threshold has not been provided for attainable owned housing.	Administration has concerns with the proposed definitions for affordable rental and owned housing. Setting the rate at no greater than 80% of average market value would appear to conflict with the affordable definitions in the Provincial Policy Statement, and therefore in most Official Plans, including Tecumseh's. If these changes are a signal of future PPS changes with respect to how 'affordable' is defined, it will require municipalities across the province to update official plans. It is further noted that in communities with high average rents or home values, it may not have the desired effect, e.g., if the average home price is $500,000, then that means anything at $400,000 or less would be considered affordable. In many municipalities this would mean developers would get DC exemptions for development that is still unaffordable to large portions of the population. This will also result in a significant loss of municipal income from DCs, which would have to be offset by taxes/rates for all tax/rate payers for growth-related

		capital infrastructure. This is contrary to the principle of growth paying for growth. It appears the exemptions for attainable housing would only apply to home ownership and not rental housing. It's difficult to estimate what the impact of this change would be, without understanding what values are assigned to attainable housing but would create similar administrative burden for municipalities to administer and monitor these exemptions. Based on the definition provided in the proposed legislative changes, it notes an attainable unit is a residential unit that is not an affordable residential unit. This would lead staff to believe that an attainable unit would be a unit somewhere between 81% and 100% of average market value. Based on these proposed changes and the administrative burden it would create, along with the lack of DC revenue generated, a greater proportion of growth-related costs would be borne by tax/rate payers. These changes are not supported by Administration. The full impact of the proposed changes is difficult to understand in the absence of a definition for attainable housing.
DC3	**Discounts on DCs** for **purpose built rental housing**, where rental housing is defined as 4+ units. The discounts are graduated for the types of rental units i.e., a one-bedroom receives less discount than a three-bedroom rental unit.	Given that affordable units are already proposed to be exempted as per item DC1 above, the rental units receiving these discounts would be outside of the affordable range. This change, coupled with item DC1 above, could have a major impact on DC revenues recouped by the Town. The perception of having automatic DC discounts for rental units that are outside of the affordable range could also be challenging. Once again, this funding loss would have to be offset by taxes/rates paid by all tax/rate payers.
DC4	**Limit (prime + 1%) on the amount of interest charged** on DCs by municipalities for rental,	This change affects both DC rate freezes and developments that currently benefit from a multi-year payment structure under the DC Act. Under the current Development Charge Interest Policy,

	institutional, and non-profit housing.	the Town charges interest for developments benefitting from a multi-year payment structure at prime rate plus 2%. This is intended to cover Town costs associated with this lending program. If the provincial change were to take effect, the Town would not receive full cost recovery in relation to this program. It may also have the effect of further limiting DC revenues on rental housing, which will already be reduced based on the proposed DC discounts for purpose-built rentals. Any shortfall would again require offset through taxes/rates for all tax/rate payers.
DC5	**Reduction in DCs** via a **mandatory phase-in** of DCs when a new DC by-law is passed. DCs charged during the first, second, third and fourth years of a new DC by-law can be no more than 80%, 85%, 90%, and 95% respectively, of the maximum DC that could have otherwise been charged.	Some municipalities have used a phase-in approach when a new DC by-law is passed. Recent Town DC by-law updates have not included a phase-in period, on the principal that all development should pay the full cost of growth-related infrastructure costs. Regardless, Administration recommends that municipalities be given independent discretion to choose whether they wish to phase-in the increases based on their individual situations rather than being mandated by the province. CN Watson has estimated that the proposed phase-in could result in a potential loss between 10-15% of DC revenues for municipalities, which could amount to approximately $200,000 over a five-year period (based on average annual DC recoveries from 2020 to 2022 and anticipated increases to the Town's DCs at the time of its next review). This shortfall would have a negative impact on the tax/rate payer who will have to fund these DC revenue losses. It is worth noting that if the Town completes a new DC background study and by-law (current by-law expires August 2024), where increased charges are not being proposed, this proposed change will mean that a municipality is recouping less in the first four years of the new by-law than they were in

		the final year(s) of the former by-law. This will have an adverse effect on the finances of the Town.
DC6	**Exclusions to what can be recovered through DCs** including the cost of background studies, water/wastewater master plans and environmental assessments which provide for specific planning and approval of infrastructure	Excluding background studies, including DC background studies, would impact municipal revenues and would require such studies to be paid for from the general levy and general tax base and/or rates, as opposed to being paid for by development. This change appears 'out of line' with the general DC philosophy of development pays for growth-related capital costs. Other limitations on background studies would impact engineering studies needed for construction projects, all or significant portions of which are required to support growth.
DC7	**Extension of the duration of DC by-laws** from five years to ten years. By-laws can still be reviewed and updated earlier than the ten-year horizon if a municipality so chooses.	Delaying the updating of DC by-law for five more years could reduce actual DC recoveries (if DC annual indexing does not maintain pace with actual tender costs being experienced by the Town), which could place the town at risk of underfunding growth-related expenditures. The underfunding would need to be collected by way of taxes/rates for all tax/rate payers.
DC8	**Requirements for municipalities to spend or allocate at least 60% of the monies in a DC reserve fund** at the beginning of the year for water supply services, wastewater services, and roads.	This change appears to be administrative and would not have a financial impact on the Town. It will likely require additional tracking and reporting, thereby adding to the administrative burden on the Town.
DC9	An **extension of the historical service levels from 10 to 15 years** for DC eligible capital costs, with the exception of transit.	The maximum DC amount that the Town can charge is capped by the 10-year historical average spent on specific services. By extending this to 15 years, the cap will cause a further reduction in the maximum chargeable DC amount. Therefore, the Town would need to fund the shortfall required to

		pay for growth related capital expenditures by way of taxes/rates for all tax/rate payers
DC10	New **regulatory authority** to set services for which **land costs would not be eligible for DC recovery**.	Land can represent a significant cost in relation to the purchase of property to provide services to support new development. If this cost is not collected through the DC, it will have to be collected by way of taxes/rates for all tax/rate payers.

Proposed Changes to the Conservation Authorities Act and Regulations

Item	Proposed changes	Comments
CA1	Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario.	Changes within this section would: • exempt the need for a permit from the CA where an approval has been issued under the *Planning Act;* • add restrictions on the matters to be considered in permit decisions, including removing "conservation of land" and "pollution", while adding in the term "unstable soils and bedrock"; • allow for appeals of a non-decision of a permit after 90 days versus the current 120 days; • require CAs to issue permits for projects subject to a Community Infrastructure and Housing Accelerator order; • extend the regulation making authority of the Minister where there is a Minister's Zoning Order; and • propose a single regulation for all 36 CAs in Ontario. Administration would generally defer to detailed comments from ERCA on the above matters. However, of a general nature would note that conservation authority expertise is valuable in this era of climate change. CAs were first established in the 1940's in Ontario, but their role was shaped in large part due to Hurricane Hazel in 1954. With climate change, and associated extreme weather

		events, CAs have a role in protecting public health and safety and ensuring the sustainability of our natural environment. CAs have considerable expertise not available within Town administration. While Administration understands the need to streamline processes, prior to determining a path forward, a full discussion with our CA partners is warranted.
CA2	Focusing conservation authorities' role in reviewing development related proposals and applications to natural hazards.	CAs would be limited to commenting on natural hazard matters for development proposals and applications under the *Planning Act, Condominium Act, Endangered Species Act, Environmental Assessment Act, Aggregate Resources Act*, and a number of other pieces of provincial legislation. This is an appropriate and valuable service for CAs. However, CAs will no longer be permitted to comments or collect fees on natural heritage matters as part of the development review process. Previously CAs were mandated to comment on natural hazard matters, and many municipalities had agreements with CAs to also provide comments on natural heritage matters. Recent amendments to the *Conservation Authorities Act* had previously set out mandatory programs and non-mandatory programs. For non-mandatory programs, municipalities could request CAs to provide those services via agreement. Particularly for smaller municipalities, including Tecumseh, having conservation authorities provide these services is essential to the overall planning and development review process. Assuming municipalities must still have regard to natural heritage features and without access to expertise in this area through the CAs, it would require the County or the Town to obtain this expertise from other sources. Whether this is through hiring staff or contracting out to a third-party consultants, there will be impacts to municipal budgets and the timely processing of development applications.

		The need for these services has been exacerbated over the years based on changes at the province. It used to be that some of these natural heritage review functions were captured by staff at the Ministry of Natural Resources and Forestry (MNRF) and/or the Ministry of the Environment, Conservation, and Parks (MECP). However, the roles of those two ministries in the development review process has been reduced, and therefore the County and the local municipalities rely more heavily on CA staff. Administration would further note that matters of natural hazard and natural heritage are not mutually exclusive. Administration believes that having one public body reviewing the two matters as a system is more efficient than having separate reviews of natural hazard and natural heritage. Administration recommends that the province reconsider this change as it relates to removing the CA role for review of natural heritage matters and that municipalities continue to enter into non-mandatory service agreements with CAs.
CA3	Enabling the Minister to freeze CA fees at current levels.	Administration has concerns that a freeze would not have the desired outcome of making housing more affordable to any significant degree. It could however limit a CA's ability to maintain an appropriate staff complement and protect public safety and/or require additional municipal tax levy and therefore additional property taxes on all landowners. Given the changing climate, and more extreme weather events, Administration fails to see the justification for such a fee freeze. Should CAs be limited to commenting on natural hazard and fee increases be frozen, it would have a major impact on CAs being able to carry out their mandatory review services.

CA4	Identifying conservation authority lands suitable for housing and streamlining conservation authority severance and disposition processes that facilitate faster development.	Within this proposed change the province has noted the following: *"The Mandatory Programs and Services regulation (O. Reg. 686/21) requires conservation authorities to complete a conservation area strategy and land inventory of all lands they own or control by December 31, 2024. We are proposing to amend the regulation to require the land inventory to also identify conservation authority owned or controlled lands that could support housing development. In identifying these lands, the authority would consider the current zoning, and the extent to which the parcel or portions of the parcel may augment natural heritage land or integrate with provincially or municipally owned land or publicly accessible lands and trails."* While Administration does not have concerns in principle, it is noted that most of ERCA owned land would not be suitable for housing development purposes based on reasons of: • natural hazard; • natural heritage; and • remote to hard and soft services. If the province is seeking CAs to undertake this review, Administration would recommend that the province provide criteria on what type of lands may be suitable for housing development and recommend consultation with municipalities. Expectations should also be tempered as to the amount of conservation authority land that would even be feasible for development purposes.

Proposed Changes to the Ontario Land Tribunal Act

Item	Proposed changes	Comments
OL1	The Ontario Land Tribunal (OLT) will have increased abilities to order costs	Traditionally the OLT and the previous Ontario Municipal Board (OMB) and Local Planning Appeal Tribunal (LPAT) were very reluctant to award costs.

	against a party who loses a hearing at the Tribunal.	Costs orders were limited to areas where *"the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or if the party has acted in bad faith."* Staff understood that previously the Tribunal did not want the threat of costs to be an impediment to someone lodging an appeal or being a party to a hearing. Given the proposed *Planning Act* changes outlined above that limit third-party appeals, the majority of appeals will be between a municipality and an applicant, with some other public bodies or utilities. This change would have the ability to impact municipal costs, should they be found to be the 'losing party.' Staff request that further criteria be provided for when the OLT may award costs against a losing party, and that it be made clear that costs are not automatically awarded against any losing parties.
OL2	The OLT can dismiss an appeal where; • the appellant has contributed to an undue delay; or • if a party fails to comply with a Tribunal order.	Administration generally supports this change
OL3	Regulations can be made to establish a priority for the scheduling of certain appeal matters.	Administration generally supports this change
OL4	The Attorney General will be able to make regulations with respect to service delivery standards for scheduling hearings and making decisions.	Administration generally supports this change
Other Proposed Changes		

Item	Proposed changes	Comments
O1	*Municipal Act*	Under the proposed changes the Minister is given the authority to enact regulations to impose limitations on the replacement of rental housing when it is proposed to be demolished or converted as part of a proposed development. Administration would not want to see restrictions on municipal abilities to limit rentals from being converted to short term accommodations or condominiums. It also questions how such limitations may interact with rental housing that was conditionally exempted from DCs.
02	Ontario Wetland Evaluation System	The province has released a proposed updated version of Ontario's Wetland Evaluation System. The document is highly technical and over 60 pages in length. The province has summed up their changes as follows: • *"add new guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries* • *make changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g. municipalities)* • *other housekeeping edits to ensure consistency with the above changes throughout the manual"* Based on a cursory review of the document Administration notes the following: • Staff do not have expertise on this subject matter and would generally defer to the experts on this matter; • The deletion of CA roles, given their expertise, local knowledge and substantive role in regulating wetlands and flooding hazards is concerning; • The deletion of many provisions around 'wetland complexes' is also concerning as it

		would appear to give more credence to individual assessments of wetlands without looking at a systems-based approach. Staff fear that evaluating a wetland in isolation could lead to more wetland loss. The Town's recently approved Official Plan recommends a systems-based approach; • Wetlands are crucial to our natural environment and mitigating against the impacts of climate change. Staff support greater emphasis on protection and recognition of the role of wetlands in this regard.

The proposed Bill 23 changes outlined above fundamentally alter the way development approval processes are conducted, appeal rights are granted, natural heritage resources are protected and how and by whom growth-related capital infrastructure is paid. Although Administration acknowledges and supports the Province's stated objective of increasing housing supply, it is believed that Bill 23, as currently drafted, creates a number of concerns that could compromise the quality of our neighbourhoods and the financial health of the Town and its residents.

It is recommended that this Report be submitted to the Province through the Environmental Registry of Ontario as comments from the Town of Tecumseh on *Bill 23.*

Consultations

Financial Services
Public Works & Engineering Services
County of Essex
Watson & Associates Economists Ltd.

Financial Implications

Based on the changes proposed, particularly related to the *Development Charges Act* and *Conservation Authorities Act*, *Bill 23* has the potential to significantly impact municipal finances. At this stage, the exact financial impact is not known, but it will likely lead to an increase in annual taxes/rates for all tax/rate payers to off-set anticipated DC funding shortfalls and to potentially hire additional staff to satisfy new administrative procedures.

As noted previously, CN Watson has estimated that the proposed mandatory phase-in for new DC by-laws could result in a potential loss of between 10-15% of DC revenues for municipalities, which could amount to approximately $200,000 over a five-year period for the Town (based on average annual DC recoveries from 2020 to 2022 and anticipated increases to the Town's DCs at the time of its next review). This shortfall would have a negative impact on the tax/rate payer, who will have to fund these DC revenue losses. This is in addition to the 100% exemption of DCs for affordable residential units, attainable residential units and not-for-profit housing developments. This DC funding loss would also need to be offset by tax/rate increases for all tax/rate payers. In short, there will be negative financial consequences to the Town flowing from *Bill 23*.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
☒	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
☒	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
☒	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
☒	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
☒	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Chad Jeffery, MA, MCIP, RPP
Manager Planning Services & Local Economic Development

Reviewed by:

Phil Bartnik, P.Eng.
Director Public Works & Engineering Services

Reviewed by:

Tom Kitsos, CPA, CMA, BComm
Director Financial Services & Chief Financial Officer

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Development Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	**Attachment Name**
1	Watson & Associates Economists Ltd. Correspondence “Bill 23, More Homes Built Faster Act, 2022 – Changes to the Development Charges Act, Planning Act, and Conservation Authorities Act”, dated October 31, 2022

Attachment Number	Attachment Name
2	Watson & Associates Economists Ltd. Correspondence "Assessment of Bill 23 (More Homes Built Faster Act) – Development Charges", dated November 11, 2022
3	Watson & Associates Economists Ltd. Correspondence "Assessment of Bill 23 (More Homes Built Faster Act) – Conservation Authorities", dated November 14, 2022
4	Watson & Associates Economists Ltd. Correspondence "Assessment of Bill 23 (More Homes Built Faster Act)" – Regarding Parkland, dated November 16, 2022

Watson & Associates ECONOMISTS LTD.

October 31, 2022

To Our Municipal and Conservation Authority Clients:

Re: Bill 23, More Homes Built Faster Act, 2022 – Changes to the *Development Charges Act*, *Planning Act,* and *Conservation Authorities Act*

Further to our correspondence of October 27, 2022, we indicated that we would be providing further information on the changes arising from Bill 23, the More Homes Built Faster Act, 2022. On behalf of our municipal and conservation authority clients, we are continuing to provide the most up to date information on the Bill's proposed changes to the *Development Charges Act* (D.C.A.), *Planning Act*, and *Conservation Authorities Act.* As at the time of writing, the Ontario Legislature moved to closed debate on second reading of the Bill.

By way of this letter, we are providing a high-level summary of the proposed changes to the D.C.A., *Planning Act,* and *Conservation Authorities Act*, with some further commentary on the proposed planning changes for the Province. We will be providing a full evaluation and summary of the legislative changes to you in the coming days. We are also available to discuss how these changes may impact your organization at your convenience.

1. Changes to D.C.A.

Additional Residential Unit Exemption: The rules for these exemptions are now provided in the D.C.A., rather than the regulations and are summarized as follows:

- Exemption for residential units in existing rental residential buildings – for rental residential buildings with four or more residential units, the greater of one unit or 1% of the existing residential units will be exempt from development charges (D.C.s)

- Exemption for additional residential units in existing and new residential buildings – the following developments will be exempt from D.C.s.

    - A second unit in a detached, semi-detached, or rowhouse if all buildings and ancillary structures cumulatively contain no more than one residential unit;
    - A third unit in a detached, semi-detached, or rowhouse if no buildings or ancillary structures contain any residential units; and
    - One residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-

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detached, or rowhouse contains no more than two residential units and no other buildings or ancillary structures contain any residential units.

Removal of Housing as an Eligible D.C. Service: Housing is removed as an eligible service. By-laws which include a charge for Housing Services can no longer collect for this service once s.s. 2(2) of Schedule 3 of the Bill comes into force.

New Statutory Exemptions: Affordable Units, Attainable Units, Inclusionary Zoning Units and Non-Profit Housing developments will be exempt from payment of D.C.

- Affordable Rental Unit: Where rent is no more than 80% of the average market rent as defined by a new Bulletin published by the Ministry of Municipal Affairs and Housing.

- Affordable Owned Unit: Where the price of the unit is no more than 80% of the average purchase price as defined by a new Bulletin published by the Ministry of Municipal Affairs and Housing.

- Attainable Unit: Excludes affordable units and rental units, will be defined as prescribed development or class of development and sold to a person who is at "arm's length" from the seller.
    - Note: for affordable and attainable units, the municipality shall enter into an agreement which ensures the unit remains affordable or attainable for 25 years.

- Inclusionary Zoning Units: Affordable housing units required under inclusionary zoning by-laws will be exempt from D.C.

- Non-Profit Housing: Non-profit housing units are exempt from D.C. installment. Outstanding installment payments due after this section comes into force will also be exempt from payment of D.C.s.

Historical Level of Service: Currently the increase in need for service is limited by the average historical level of service calculated over the 10 years preceding the preparation of the D.C. background study. This average will be extended to the historical 15-year period.

Capital Costs: The definition of capital costs that are eligible for D.C. funding will be revised to prescribe services for which land or an interest in land will be restricted. Additionally, costs of studies, including the preparation of the D.C. background study, will no longer be eligible capital costs.

Mandatory Phase-in of a D.C.: For all D.C. by-laws passed after June 1, 2022, the charge must be phased-in relative to the maximum charge that could be imposed under the by-law. The proposed phase-in for the first 5-years that the by-law is in force, is as follows:

- Year 1 – 80% of the maximum charge;
- Year 2 – 85% of the maximum charge;
- Year 3 – 90% of the maximum charge;
- Year 4 – 95% of the maximum charge; and
- Year 5 to expiry – 100% of the maximum charge
- Note, for a D.C. by-law passed on or after June 1, 2022, the phase-in provisions would only apply to D.C.s payable on or after the day s.s. 5(7) of Schedule 3 of the Bill comes into force (i.e., no refunds are required for a D.C. payable between June 1, 2022 and the day the Bill receives Royal Assent). The phased-in charges also apply with respect to the determination of the charges under s. 26.2 of the Act (i.e., eligible site plan and zoning by-law amendment applications).

D.C. By-law Expiry: D.C. by-laws would expire 10 years after the day the by-law comes into force. This extends the by-laws life from 5 years currently. D.C. by-laws that expire prior to s.s. 6(1) of the Bill coming into force would not be allowed to extend the life of the by-law.

Installment Payments: Non-profit housing development has been removed from the installment payment section of the Act (section 26.1), as these units are now exempt from payment of a D.C. (see above).

Rental Housing Discount: The D.C. payable for rental housing developments will be reduced based on the number of bedrooms in each unit as follows:

- Three or more bedrooms – 25% reduction;
- Two bedrooms – 20% reduction; and
- All other bedroom quantities – 15% reduction.

Maximum Interest Rate for Installments and Determination of Charge for Eligible Site Plan and Zoning By-law Amendment Applications: No maximum interest rate was previously prescribed. Under the proposed changes, the maximum interest rate would be set at the average prime rate plus 1%. How the average prime rate is

determined is further defined under s.9 of Schedule 3 of the Bill. This maximum interest rate provisions would apply to all installment payments and eligible site plan and zoning by-law amendment application occurring after s.9 of Schedule 3 of the Bill comes into force.

Requirement to Allocate Funds Received: Similar to the requirements for Community Benefit Charges, annually beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the Regulation.

Amendments to Section 44 (Front-ending): This section has been updated to include the new mandatory exemptions for affordable, attainable, and non-profit housing, along with required affordable units under inclusionary zoning by-laws.

Amendments to Section 60: Various amendments to this section were required to align the earlier described changes.

In-force Date of Changes: The mandatory exemptions for affordable and attainable housing come into force on a day to be named by proclamation of the Lieutenant Governor. All other changes come into force the day the Bill receives Royal Assent.

2. Changes to the Planning Act regarding Community Benefits Charges (C.B.C.)

New Statutory Exemptions: Affordable Units, Attainable Units, and Inclusionary Zoning Units will be exempt from C.B.C. These types of development are defined in the proposed amendments to the D.C.A. (see above). The exemption is proposed to be implemented by applying a discount to the maximum amount of the C.B.C. that can be imposed based on the proportionate share of floor area, as contained in s.s. 37(32) of the Act. For example, if the affordable, attainable and inclusionary zoning housing units represent 25% of the total building floor area, then the maximum C.B.C. that could be imposed on the development would be 3% of the total land value (i.e., a reduction of 25% from the maximum C.B.C. of 4% of land value).

Incremental Development: Where development or redevelopment is occurring on a parcel of land with existing buildings or structures, the maximum C.B.C. would be calculated on the incremental development only. The amount of incremental development would be determined as the ratio of new development floor area to the total floor area. For example, if development of a 150,000 sq.ft. of building floor area is occurring on a parcel of land with an existing 50,000 sq.ft. building, then the maximum C.B.C. that could be imposed on the development would be 3% of the total land value (i.e. the maximum C.B.C. of 4% of land value multiplied by 150,000/200,000).

3. Changes to the Planning Act regarding Parkland Dedication

New Statutory Exemptions: Affordable Units, Attainable Units, and Inclusionary Zoning Units will be exempt from Parkland Dedication provision. Similar to the rules for C.B.C., these types of development are defined in the proposed amendments to the D.C.A. (see above). The exemption is proposed to be implemented by discounting the application of the standard parkland dedication requirements to the proportion of development excluding affordable, attainable and inclusionary zoning housing units. For example, if the affordable, attainable and inclusionary zoning housing units represent 25% of the total residential units of the development, then the standard parkland dedication requirements of the total land area would be multiplied by 75%.

Non-Profit Housing Exemption: Non-profit housing development, as defined in the D.C.A., would not be subject to parkland dedication requirements.

Additional Residential Unit Exemption: Exemption for additional residential units in existing and new residential buildings – the following developments will be exempt from parkland dedication:

- A second unit in a detached, semi-detached, or rowhouse if all buildings and structures ancillary cumulatively contain no more than one residential unit;

- A third unit in a detached, semi-detached, or rowhouse if no buildings or structures ancillary contain any residential units; and

- One residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-detached, or rowhouse contains no more than two residential units and no other buildings or structures ancillary contain any residential units.

Determination of Parkland Dedication: Similar to the rules under the D.C.A., the parkland dedication determination for a building permit issued within 2 year of a Site Plan and/or Zoning By-law Amendment approval would be subject to the requirements of the by-law as at the date of planning application submission.

Alternative Parkland Dedication Requirement: The following amendments are proposed for the imposition of the alternative parkland dedication requirements:

- The alternative requirement of 1 hectare (ha) per 300 dwelling units would be reduced to 1 ha per 600 net residential units where land is conveyed. Where the municipality imposes cash-in-lieu (CIL) of parkland requirements, the

amendments would reduce the amount from 1 ha per 500 dwelling units to 1ha per 1,000 net residential units.

- Proposed amendments clarify that the alternative requirement would only be calculated on the incremental units of development/redevelopment.

- The alternative requirement would not be applicable to affordable and attainable residential units.

- The alternative requirement would be capped at 10% of the land area or land value where the land proposed for development or redevelopment is 5 ha or less; and 15% of the land area or land value where the land proposed for development or redevelopment is greater than 5 ha.

Parks Plan: Currently a Parks Plan is required to include the alternative parkland dedication requirements in an Official Plan. This proposed to be revised to require a Parks Plan before passing a parkland dedication by-law under s.42 of the Act.

Identification of Lands for Conveyance: Owners will be allowed to identify lands to meet conveyance requirements, with regulatory criteria requiring the acceptance of encumbered and privately owned public space (POPs) as parkland dedication. Municipalities may enter into agreements with the owners of the land re POPs to enforce conditions, which may be registered on title. Suitability of land for parks and recreational purposes will be appealable to the Ontario Land Tribunal (O.L.T.).

Requirement to Allocate Funds Received: Similar to the requirements for C.B.C. and proposed for D.C.A., annually beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year.

4. Changes to the Planning Act, and other Key Initiatives regarding Planning Matters

Provided below is a high-level summary of the proposed key changes impacting housing, growth management and long-range planning initiatives at the municipal level.

4.1 2031 Municipal Housing Targets

The Province has identified that an additional 1.5 million new housing units are required to be built over the next decade to meet Ontario's current and forecast housing needs. Further, the Province has assigned municipal housing targets, identifying the number of new housing units needed by 2031, impacting 29 of Ontario's largest and many of the fastest growing single/lower tier municipalities, as summarized in Table 1 below. Key observations include:

- Of the 29 municipalities identified, 25 are within the Greater Golden Horseshoe (G.G.H.) region and four are located in other municipalities within Southern Ontario. Municipalities with the highest housing growth targets include the City of Toronto (285,000 new housing units by 2031), City of Ottawa (151,000 units) City of Mississauga (120,000 units) and City of Brampton (113,000).

- Collectively, the housing targets for the 29 municipalities total 1,229,000 new housing units, representing about 82% of Ontario's 1.5 million housing units needed over the next decade.

- The municipal housing targets do not provide details regarding housing form, density or structure type.

- The province is requesting that identified municipalities develop municipal housing pledges which provide details on how they will enable/support housing development to meet these targets through a range of planning, development approvals and infrastructure related initiatives.

- These pledges are not intended to replace current municipal plans and are not expected to impact adopted municipal population or employment projections.

Table 1: 2032 Housing Growth Target

Greater Golden Horseshoe (GGH) - Greater Toronto Hamilton Area (GTHA)	Greater Golden Horseshoe (GGH) Outer Ring	Non-GGH
Toronto (City): 285,000	Kitchener (City): 35,000	Ottawa (City): 151,000
Mississauga (City): 120,000	Barrie (City): 23,000	London (City): 47,000
Brampton (City): 113,000	Cambridge (City): 19,000	Windsor (City): 13,000
Hamilton (City): 47,000	Guelph (City): 18,000	Kingston (City): 8,000
Markham (City): 44,000	Waterloo (City): 16,000	
Vaughan (City): 42,000	St. Catharines (City): 11,000	
Oakville (Town): 33,000	Brantford (City): 10,000	
Richmond Hill (City): 27,000	Niagara Falls (City): 8,000	
Burlington (City): 29,000		
Oshawa (City): 23,000		
Milton: (Town): 21,000		
Whitby (Town): 18,000		

Ajax (Town): 17,000 Clarington: 13,000 Pickering (City): 13,000 Newmarket (Town): 12,000 Caledon (Town): 13,000		

4.2 Potential Changes to Provincial and Regional Planning Framework

Streamlining Municipal Planning Responsibilities

Schedule 9 of the Bill proposes a number of amendments to the Planning Act. Subsection 1 (1) of the Act is proposed to be amended to provide for two different classes of upper-tier municipalities, those which have planning responsibilities and those which do not.

- Changes are proposed to remove the planning policy and approval responsibilities from the following upper-tier municipalities: Regions of Durham, Halton, Niagara, Peel, Waterloo, and York as well as the County of Simcoe.

- Future regulations would identify which official plans and amendments would not require approval by the Minister of Municipal Affairs and Housing (i.e., which lower-tier plans and amendments of the lower-tier municipality would need no further approval).

- The proposed changes could also potentially be applied to additional upper-tier municipalities in the future via regulation.

Creation of Supporting Growth and Housing in York and Durham Regions Act, 2022

Schedule 10 of the Bill presents the Supporting Growth and Housing in York and Durham Regions Act, 2022. The proposed Act would require York and Durham Regions to work together to enlarge and improve the existing York Durham Sewage System. Implementation of this proposal would accommodate growth and housing development in the upper part of York Region to 2051.

Review of Potential Integration of Place to Grow and Provincial Policy Statement (PPS)

The Ministry of Municipal Affairs and Housing (MMAH) is undertaking a housing-focused policy review of A Place to Grow and the Provincial Policy Statement.

The Government is reviewing the potential integration of the PPS and A Place to Grow into a new province-wide planning policy framework that is intended to:

- Leverage housing-supportive policies of both policy documents while removing or streamlining policies that result in duplication, delays or burden the development of housing;

- Ensure key growth management and planning tools are available to increase housing supply and support a range and mix of housing options;

- Continue to protect the environment, cultural heritage and public health and safety; and

- Ensure that growth is supported with the appropriate amount and type of community infrastructure.

Potential key elements of a new integrated policy instrument, as identified by the Government, include the following:

- **Residential Land Supply** – more streamlined and simplified policy direction regarding settlement area boundary expansions, rural housing and employment area conversions that better reflect local market demand and supply considerations to expand housing supply opportunities.

- **Attainable Housing Supply and 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. This includes a focus on housing development within Major Transit Station Areas (M.T.S.A.s) and Urban Growth Centres (U.G.S.) across the Province.

- **Growth Management** - policy direction that enables municipalities to use current and 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. Policy direction should also increase housing supply through intensification in strategic areas, such as along transit corridors and major transit station areas, in both urban and suburban areas.

- **Environment and Natural Resources** - continued protection of prime agricultural areas which promotes Ontario's Agricultural System, while creating increased flexibility to enable more residential development in rural areas that minimizes negative impacts to farmland and farm operations. More streamlined policy direction regarding natural heritage, natural and human-made hazards, aggregates and with continued conservation of cultural heritage to also be considered.

- **Community Infrastructure** - increased flexibility for servicing new development (e.g., water and wastewater) encouraging municipalities to undertake long-range integrated infrastructure planning. A more coordinated policy direction is also to be considered that ensures publicly funded school facilities are part of integrated municipal planning and meet the needs of high growth communities.

- **Streamlined Planning Framework** – more streamlined, less prescriptive policy direction including a straightforward approach to assessing land needs, that is focused on outcomes that focus more on relevance and ease of implementation.

Review of Revocation of the Central Pickering Development Plan and the Parkway Belt West Plan

The Government of Ontario is proposing to revoke two existing provincial plans as a means to reduce regulatory burdens and remove barriers to expanding housing supply; including;

- Central Pickering Development Plan, under the Ontario Planning and Development Act, 1994; and

- Parkway Belt West Plan, 1978, under the Ontario Planning and Development Act, 1994.

4.3 Potential Changes to Expand/Support Rental and Affordable Housing Supply Opportunities

Potential Changes to Planning Act and Ontario Regulation 299/19: Addition of Residential Units

Schedule 9 of Bill 23 proposes amendments to the Planning Act (Subsection 34 (19.1) with amendments to Ontario Regulation 299/19: Additional Residential Units to support gentle intensification in existing residential areas. The proposed changes would:

- allow, “as-of-right” (without the need to apply for a rezoning) up to 3 units per lot in many residential areas, including those permitting residential uses located in settlement areas with full municipal water and sewage services. This includes encompassing up to 3 units in the primary building (i.e, triplex), or up to 2 units allowed in the primary building and 1 unit allowed in an ancillary building (e.g. garden suite).

Potential Changes to Inclusionary Zoning

Ontario Regulation 232/18 is the regulation to implement inclusionary zoning in Ontario. The proposed amendments to O. Reg 232/18 would:

- Establish 5% as the upper limit on the number of affordable housing units. The 5% limit would be based on either the number of units or percentage share of gross floor area of the total residential units; and

- Establish a maximum period of twenty-five (25) years over which the affordable housing units would be required to remain affordable.

Affordable units are defined as those which are no greater than 80% of the average resale purchase price for ownerships units or 80% of the average market rent (A.M.R.) for rental units.

5. Changes to the Conservation Authorities Act

Programs and services that are prohibited within municipal and other programs and services: Authorities would no longer be permitted to review and comment on a proposal, application, or other matter made under a prescribed Act. The Province proposes that a new regulation would prescribe the following Acts in this regard:

  - The Aggregate Resources Act
  - The Condominium Act
  - The Drainage Act
  - The Endangered Species Act
  - The Environmental Assessment Act
  - The Environmental Protection Act
  - The Niagara Escarpment Planning and Development Act
  - The Ontario Heritage Act
  - The Ontario Water Resources Act
  - The Planning Act

- These changes would focus an authority's role in plan review and commenting on applications made under the above Acts (including the Planning Act) to the risks of natural hazards only. Authorities would no longer be able to review applications with respect to natural heritage impacts.

- With respect to natural heritage review requirements, the Province is proposing to integrate the Provincial Policy Statement, 2020 and A Place To Grow: Growth Plan for the Greater Golden Horseshoe into a new Province-wide planning policy instrument. It is proposed that this new instrument could include changes to natural heritage policy direction (see section 4.2 above).

Minister's ability to freeze fees: The Minister would have the ability to direct an authority to not change the amount of any fee it charges (including for mandatory programs and services) for a specified period of time.

Exemptions to requiting a permit under section 28 of the Conservation Authorities Act: Where development has been authorized under the Planning Act it will be exempt from required permits to authorize the development under section 28 of the Conservation Authorities Act. Exemptions to permits would also be granted where prescribed conditions are met.

- Regulation making authority would be provided to govern the exceptions to section 28 permits, including prescribing municipalities to which the exception applies, and any other conditions or restrictions that must be satisfied.

Shortened timeframe for decisions: Applicants may appeal the failure of the authority to issue a permit to the Ontario Land Tribunal within 90 days (shortened from 120 days currently).

6. Next Steps

We will continue to monitor the legislative changes and keep you informed. Further, there will be opportunities for municipalities to provide comments and/or written submissions through the provincial process. We note that there may be further questions and concerns which we may advance to the Province after our detailed review of this Bill and potential regulation(s).

Yours very truly,

WATSON & ASSOCIATES ECONOMISTS LTD.

ATTACHMENT 2

Watson & Associates ECONOMISTS LTD.

November 11, 2022

To Our Development Charge Clients:

Re: Assessment of Bill 23 (*More Homes Built Faster Act*) – Development Charges

On behalf of our many municipal clients, we are continuing to provide the most up-to-date information on the proposed changes to the *Development Charges Act* (D.C.A.) as proposed by Bill 23 (*More Homes Built Faster Act*). As identified in our October 31, 2022 letter to you, our firm is providing an evaluation of the proposed changes to the D.C.A. along with potential impacts arising from these changes. The following comments will be included in our formal response to the Province, which we anticipate presenting to the Standing Committee on Heritage, Infrastructure and Cultural Policy next week.

1. Overview Commentary

The Province has introduced Bill 23 with the following objective: *"This plan is part of a long-term strategy to increase housing supply and provide attainable housing options for hardworking Ontarians and their families."* The Province's plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this plan, Bill 23 introduces a number of changes to the D.C.A., along with nine other Acts including the *Planning Act*, which seek to increase the supply of housing.

As discussed later in this letter, there are proposed changes to the D.C.A. which we would anticipate may limit the future supply of housing units. For urban growth to occur, water and wastewater services must be in place before building permits can be issued for housing. Most municipalities assume the risk of constructing this infrastructure and wait for development to occur. Currently, 26% of municipalities providing water/ wastewater services are carrying negative development charge (D.C.) reserve fund balances for these services[1] and many others are carrying significant growth-related debt. In addition to the current burdens, Bill 23 proposes to:

- Phase in any new by-laws over five years which, on average, would reduce D.C. revenues by approximately 10%;
- Introduce new exemptions which would provide a potential loss of 10-15% of the D.C. funding;

[1] Based on 2020 Financial Information Return data.

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- Remove funding of water/wastewater master plans and environmental assessments which provide for specific planning and approval of infrastructure; and
- Make changes to the *Planning Act* that would minimize upper-tier planning in two-tier systems where the upper-tier municipality provides water/wastewater servicing. This disjointing between planning approvals and timing/location of infrastructure construction may result in inefficient servicing, further limiting the supply of serviced land.

The loss in funding noted above must then be passed on to existing rate payers. This comes at a time when municipalities must implement asset management plans under the *Infrastructure for Jobs and Prosperity Act* to maintain existing infrastructure. Significant annual rate increases may then limit funding to the capital budget and hence delay construction of growth-related infrastructure needed to expand the supply of serviced land.

The above-noted D.C.A. changes will also impact other services in a similar manner.

The removal of municipal housing as an eligible service will reduce municipalities' participation in creating assisted/affordable housing units. Based on present D.C. by-laws in place, over $2.2 billion in net growth-related expenditures providing for over 47,000 units (or 3.1% of the Province's 1.5 million housing target) would be impacted by this change.

The proposed changes to the D.C.A. result in a subsidization of growth by the existing rate/taxpayer by reducing the D.C.s payable. Over the past 33 years, there have been changes made to the D.C.A. which have similarly reduced the D.C.s payable by development. These historical reductions have not resulted in a decrease in housing prices; hence, it is difficult to relate the loss of needed infrastructure funding to affordable housing. The increases in water/wastewater rates and property taxes would directly impact housing affordability for the existing rate/taxpayer.

While the merits of affordable housing initiatives are not in question, they may be best achieved by participation at local, provincial, and federal levels. Should the reduction in D.C.s be determined to be a positive contributor to increasing the amount of affordable housing, then grants and subsidies should be provided to municipalities to fund the growth-related infrastructure and thereby reduce the D.C. In this way, the required funding is in place to create the land supply. Alternatively, other funding options could be made available to municipalities as an offset (e.g., the Association of Municipalities of Ontario (AMO) has suggested municipalities have access to 1% of HST, consideration of a special Land Transfer Tax, etc.).

A summary of the proposed D.C.A. changes, along with our firm's commentary, is provided below.

2. Changes to the D.C.A.

2.1 Additional Residential Unit Exemption: The rules for these exemptions are now provided in the D.C.A., rather than the regulations and are summarized as follows:

- Exemption for residential units in existing rental residential buildings – For rental residential buildings with four or more residential units, the greater of one unit or 1% of the existing residential units will be exempt from D.C.
- Exemption for additional residential units in existing and new residential buildings – The following developments will be exempt from a D.C.:
    - A second unit in a detached, semi-detached, or rowhouse if all buildings and ancillary structures cumulatively contain no more than one residential unit;
    - A third unit in a detached, semi-detached, or rowhouse if no buildings or ancillary structures contain any residential units; and
    - One residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-detached, or rowhouse contains no more than two residential units and no other buildings or ancillary structures contain any residential units.

Analysis/Commentary

- For existing single-family homes, this change will not have an impact. For other existing low/medium-density units and for all new units, however, this allowance of a third additional unit that will be exempt from D.C.s adds a further revenue loss burden to municipalities to finance infrastructure. This is of greatest concern for water and wastewater services where each additional unit will require additional capacity in water and wastewater treatment plants. This additional exemption will cause a reduction in D.C.s and hence will require funding by water and wastewater rates.
- Other services, such as transit and active transportation, will also be impacted as increased density will create a greater need for these services, and without an offsetting revenue to fund the capital needs, service levels provided may be reduced in the future.

2.2 Removal of Housing as an Eligible D.C. Service: Housing services would be removed as an eligible service. Municipalities with by-laws that include a charge for housing services can no longer collect for this service once subsection 2 (2) of Schedule 3 of the Bill comes into force.

Analysis/Commentary

- The removal of housing services will reduce municipalities' participation in creating assisted/affordable housing units and/or put further burden on municipal

taxpayers. This service seeks to construct municipal affordable housing for growing communities. The removal of this service could reduce the number of affordable units being constructed over the next ten years, if the municipalities can no longer afford the construction. Based on present D.C. by-laws in place, over $2.2 billion in net growth-related expenditures providing for over 47,000 additional units (or 3.1% of the Province's 1.5 million housing target) would be impacted by this change.

2.3 New Statutory Exemptions: Affordable units, attainable units, inclusionary zoning units and non-profit housing developments will be exempt from the payment of D.C.s, as follows:

- Affordable Rental Units: Where rent is no more than 80% of the average market rent as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.
- Affordable Owned Units: Where the price of the unit is no more than 80% of the average purchase price as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.
- Attainable Units: Excludes affordable units and rental units; will be defined as prescribed development or class of development and sold to a person who is at "arm's length" from the seller.
    - Note: for affordable and attainable units, the municipality shall enter into an agreement that ensures the unit remains affordable or attainable for 25 years.
- Inclusionary Zoning Units: Affordable housing units required under inclusionary zoning by-laws will be exempt from a D.C.
- Non-Profit Housing: Non-profit housing units are exempt from D.C. instalment payments due after this section comes into force.

Analysis/Commentary

- While this is an admirable goal to create additional affordable housing units, further D.C. exemptions will continue to provide additional financial burdens on municipalities to fund these exemptions without the financial participation of senior levels of government.
- The definition of "attainable" is unclear, as this has not yet been defined in the regulations.
- Municipalities will have to enter into agreements to ensure these units remain affordable and attainable over a period of time which will increase the administrative burden (and costs) on municipalities. These administrative burdens will be cumbersome and will need to be monitored by both the upper-tier and lower-tier municipalities.
- It is unclear whether the bulletin provided by the Province will be specific to each municipality, each County/Region, or Province-wide. Due to the disparity in

incomes across Ontario, affordability will vary significantly across these jurisdictions. Even within an individual municipality, there can be disparity in the average market rents and average market purchase prices.

2.4 Historical Level of Service: Currently, the increase in need for service is limited by the average historical level of service calculated over the ten year period preceding the preparation of the D.C. background study. This average will be extended to the historical 15-year period.

Analysis/Commentary

- For municipalities experiencing significant growth in recent years, this may reduce the level of service cap, and the correspondingly D.C. recovery. For many other municipalities seeking to save for new facilities, this may reduce their overall recoveries and potentially delay construction.
- This further limits municipalities in their ability to finance growth-related capital expenditures where debt funding was recently issued. Given that municipalities are also legislated to address asset management requirements, their ability to incur further debt may be constrained.

2.5 Capital Costs: The definition of capital costs may be revised to prescribe services for which land or an interest in land will be restricted. Additionally, costs of studies, including the preparation of the D.C. background study, will no longer be an eligible capital cost for D.C. funding.

Analysis/Commentary

- Land
    - Land costs are proposed to be removed from the list of eligible costs for certain services (to be prescribed later). Land represents a significant cost for some municipalities in the purchase of property to provide services to new residents. This is a cost required due to growth and should be funded by new development, if not dedicated by development directly.
- Studies
    - Studies, such as Official Plans and Secondary Plans, are required to establish when, where, and how a municipality will grow. These growth-related studies should remain funded by growth.
    - Master Plans and environmental assessments are required to understand the servicing needs development will place on hard infrastructure such as water, wastewater, stormwater, and roads. These studies are necessary to inform the servicing required to establish the supply of lands for development; without these servicing studies, additional development cannot proceed. This would restrict the supply of serviced land and would be counter to the Province's intent to create additional housing units.

2.6 Mandatory Phase-in of a D.C.: For all D.C. by-laws passed after June 1, 2022, the charge must be phased-in annually over the first five years the by-law is in force, as follows:

- Year 1 – 80% of the maximum charge;
- Year 2 – 85% of the maximum charge;
- Year 3 – 90% of the maximum charge;
- Year 4 – 95% of the maximum charge; and
- Year 5 to expiry – 100% of the maximum charge.

Note: for a D.C. by-law passed on or after June 1, 2022, the phase-in provisions would only apply to D.C.s payable on or after the day subsection 5 (7) of Schedule 3 of the Bill comes into force (i.e., no refunds are required for a D.C. payable between June 1, 2022 and the day the Bill receives Royal Assent). The phased-in charges also apply with respect to the determination of the charges under section 26.2 of the Act (i.e., eligible site plan and zoning by-law amendment applications).

Analysis/Commentary

- Water, wastewater, stormwater, and roads are essential services for creating land supply for new homes. These expenditures are significant and must be made in advance of growth. As a result, the municipality assumes the investment in the infrastructure and then assumes risk that the economy will remain buoyant enough to allow for the recovery of these costs in a timely manner. Otherwise, these growth-related costs will directly impact the existing rate payer.
- The mandatory phase-in will result in municipalities losing approximately 10% to 15% of revenues over the five-year phase-in period. For services such as water, wastewater, stormwater, and to some extent roads, this will result in the municipality having to fund this shortfall from other sources (i.e., taxes and rates). This may result in: 1) the delay of construction of infrastructure that is required to service new homes; and 2) a negative impact on the tax/rate payer who will have to fund these D.C. revenue losses.
- Growth has increased in communities outside the Greater Toronto Area (G.T.A.) (e.g. municipalities in the outer rim), requiring significant investments in water and wastewater treatment services. Currently, there are several municipalities in the process of negotiating with developing landowners to provide these treatment services. For example, there are two municipalities within the outer rim (one is 10 km from the G.T.A. while the other is 50 km from the G.T.A.) imminently about to enter into developer agreements and award tenders for the servicing of the equivalent of 8,000 single detached units (or up to 20,000 high-density units). This proposed change to the D.C.A. alone will stop the creation of those units due to debt capacity issues and the significant financial impact placed on

ratepayers due to the D.C. funding loss. Given our work throughout the Province, it is expected that there will be many municipalities in similar situations.

- Based on 2020 Financial Information Return (F.I.R.) data, there are 214 municipalities with D.C. reserve funds. Of those, 130 provide water and wastewater services and of those, 34 municipalities (or 26%) are carrying negative water and wastewater reserve fund balances. As a result, it appears many municipalities are already carrying significant burdens in investing in water/ wastewater infrastructure to create additional development lands. This proposed change will worsen the problem and, in many cases, significantly delay or inhibit the creation of serviced lands in the future.
- Note that it is unclear how the phase-in provisions will affect amendments to existing D.C. by-laws.

2.7 D.C. By-law Expiry: A D.C. by-law would expire ten years after the day it comes into force. This extends the by-law's life from five years, currently. D.C. by-laws that expire prior to subsection 6 (1) of the Bill coming into force would not be allowed to extend the life of the by-law.

Analysis/Commentary

- The extension of the life of the D.C. by-law would appear to not have an immediate financial impact on municipalities. Due to the recent increases in actual construction costs experienced by municipalities, however, the index used to adjust the D.C. for inflation is not keeping adequate pace (e.g., the most recent D.C. index has increased at 15% over the past year; however, municipalities are experiencing 40%-60% increases in tender prices). As a result, amending the present by-laws to update cost estimates for planned infrastructure would place municipalities in a better financial position.
- As a result of the above, delaying the updating of current D.C. by-laws for five more years would reduce actual D.C. recoveries and place the municipalities at risk of underfunding growth-related expenditures.

2.8 Instalment Payments: Non-profit housing development has been removed from the instalment payment section of the Act (section 26.1), as these units are now exempt from the payment of a D.C.

Analysis/Commentary

- This change is more administrative in nature due to the additional exemption for non-profit housing units.

2.9 Rental Housing Discount: The D.C. payable for rental housing development will be reduced based on the number of bedrooms in each unit as follows:

- Three or more bedrooms – 25% reduction;

- Two bedrooms – 20% reduction; and
- All other bedroom quantities – 15% reduction.

Analysis/Commentary

- Further discounts to D.C.s will place an additional financial burden on municipalities to fund these reductions.
- The discount for rental housing does not appear to have the same requirements as the affordable and attainable exemptions to enter into an agreement for a specified length of time. This means a developer may build a rental development and convert the development (say to a condominium) in the future hence avoiding the full D.C. payment for its increase in need for service.

2.10 Maximum Interest Rate for Instalments and Determination of Charge for Eligible Site Plan and Zoning By-law Amendment Applications: No maximum interest rate was previously prescribed. Under the proposed changes, the maximum interest rate would be set at the average prime rate plus 1%. How the average prime rate is determined is further defined under section 9 of Schedule 3 of the Bill. This maximum interest rate provision would apply to all instalment payments and eligible site plan and zoning by-law amendment applications occurring after section 9 of Schedule 3 of the Bill comes into force.

Analysis/Commentary

- Setting the maximum interest rate at 1%+ the average prime rate appears consistent with the current approach for some municipalities but is a potential reduction for others.
- It appears a municipality can select the adjustment date for which the average prime rate would be calculated.
- The proposed change will require municipalities to change their interest rate policies, or amend their by-laws, as well as increase the administrative burden on municipalities.

2.11 Requirement to Allocate Funds Received: Similar to the requirements for community benefits charges, annually, beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the regulation.

Analysis/Commentary

- This proposed change appears largely administrative and would not have a financial impact on municipalities. This can be achieved as a schedule as part of the annual capital budget process or can be included as one of the schedules

with the annual D.C. Treasurer Statement. This, however, will increase the administrative burden on municipalities.

2.12 Amendments to Section 44 (Front-ending): This section has been updated to include the new mandatory exemptions for affordable, attainable, and non-profit housing, along with required affordable residential units under inclusionary zoning by-laws.

Analysis/Commentary

- This change is administrative to align with the additional statutory exemptions.

2.13 Amendments to Section 60: Various amendments to this section were required to align the earlier described changes.

Analysis/Commentary

- These changes are administrative in nature.

We will continue to monitor the legislative changes and advise as the Bill proceeds.

Yours very truly,

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November 14, 2022

To Our Conservation Authority and Municipal Clients:

Re: Assessment of Bill 23 (*More Homes Built Faster Act*) – *Conservation Authorities Act*

On behalf of our many conservation authority and municipal clients, we are continuing to provide the most up-to-date information on the proposed changes to the *Conservation Authorities Act* (C.A. Act) as proposed by Bill 23 (*More Homes Built Faster Act*). As identified in our October 31, 2022 letter to you, our firm is providing an evaluation of the proposed changes to the C.A. Act along with potential impacts arising from these changes. The following comments will be included in our formal response to the Province.

1. Overview Commentary

The Province has introduced Bill 23 with the following objective: *"This plan is part of a long-term strategy to increase housing supply and provide attainable housing options for hardworking Ontarians and their families."* The Province's plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this plan, Bill 23 introduces a number of changes to the C.A. Act., along with nine other Acts including the *Development Charges Act* and the *Planning Act*, which seek to increase the supply of housing.

One of the proposed amendments to the C.A. Act is that the Minister of Natural Resources and Forestry would have the authority to prevent a conservation authority from increasing their fees and charges. Providing the Minister with this power is proposed to limit the financial burden of any fee increases on developers and landowners in an attempt to accelerate housing in Ontario and make housing more affordable. The proposed limitation would result in a cross-subsidization of the costs of plan review and permitting for development to existing taxpayers. This is a result of these costs having to be offset by the municipal levy charged by conservation authorities.

If these costs cannot be recovered from the municipal levy, then conservation authorities would be under pressure to provide the intended level of service for development approvals with less funding. When considered in combination with the other changes proposed that would limit the scope of conservation authority involvement in the development approvals process, this may impact the quality and efficiency of the approvals process, and potentially impair the Province's goal of accelerating an increase in housing development.

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Over the past 33 years, there have been other changes to legislation, such as the *Development Charges Act,* that have reduced the costs payable by development. These historical reductions have not resulted in a decrease in housing prices; hence, it is difficult to relate how further limiting funding for municipal and conservation authority services will increase the supply of affordable housing. Moreover, conservation authority fees for plan review and permitting in the Greater Toronto Area and outer rim typically comprise less than 0.1% of the cost of a new home. This further illustrates the limited impact this proposal would have on making housing more affordable. The potential increase on the municipal levy, however, would add to the burden of housing affordability for the existing taxpayer, particularly when coupled with the other legislative changes proposed by Bill 23.

2. Changes to the C.A. Act

2.1 Changes to conservation authority involvement in the development approvals process

- Programs and services that are prohibited within municipal and other programs and services**:**
    - Authorities would no longer be permitted to review and comment on a proposal, application, or other matter made under a prescribed Act (if not related to their mandatory programs and services under O. Reg. 686/21). The Province proposes that a new regulation would prescribe the following Acts in this regard:
        - The *Aggregate Resources Act*
        - The *Condominium Act*
        - The *Drainage Act*
        - The *Endangered Species Act*
        - The *Environmental Assessment Act*
        - The *Environmental Protection Act*
        - The *Niagara Escarpment Planning and Development Act*
        - The *Ontario Heritage Act*
        - The *Ontario Water Resources Act*
        - The *Planning Act.*
- Exemptions to requiting a permit under section 28 of the *Conservation Authorities Act*
    - Where development has been authorized under the *Planning Act* it will be exempt from required permits to authorize the development under section 28 of the *Conservation Authorities Act*. Exemptions to permits would also be granted where prescribed conditions are met.
    - Regulation making authority would be provided to govern the exceptions to section 28 permits, including prescribing municipalities to which the exception applies, and any other conditions or restrictions that must be satisfied.

- Shortened timeframe for decisions
    - Applicants may appeal the failure of the authority to issue a permit to the Ontario Land Tribunal within 90 days (shortened from 120 days currently).

Analysis/Commentary

- These changes would focus an authority's role in plan review and commenting on applications made under the above Acts (including the *Planning Act*) to the risks of natural hazards only, limit the developments in which permits under section 28 of the C.A Act would be required, and shorten timeframes for issuing permits. Authorities would no longer be able to review applications with respect to the natural heritage impacts.
- With respect to natural heritage review requirements, the Province is proposing to integrate the Provincial Policy Statement, 2020 (P.P.S.) and A Place To Grow: Growth Plan for the Greater Golden Horseshoe into a new Province-wide planning policy instrument. It is proposed that this new instrument could include changes to natural heritage policy direction.
- Recent amendments to the C.A. Act have already been implemented to limit a conservation authority to programs and services within their core mandate unless they have entered into an agreement with a municipal partner. Conservation authorities are able to efficiently provide services, such as natural heritage review required under the P.P.S., to municipalities across their watershed. Removing this ability from conservation authorities may result in municipalities having to find other external sources with the expertise to undertake this review, adding to the cost and timeframes for development approvals and negatively impacting the Province's goal of creating more housing.

2.2 Minister's ability to freeze fees

- The Minister would have the ability to direct an authority to not change the amount of any fee it charges (including for mandatory programs and services) for a specified period of time.

Analysis/Commentary

- Limiting the ability of conservation authorities to recover the costs of plan review and permitting from benefiting developers and landowners will place additional financial burdens on conservation authorities and municipalities to fund these activities.
- As the goal of the Province is to create more housing, it is suggested that any limitations to conservation authority fees that are implemented should only apply to plan review and permitting fees related to the construction of new homes.

We will continue to monitor the legislative changes and advise as the Bill proceeds.

Yours very truly,

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Watson & Associates ECONOMISTS LTD.

November 16, 2022

To Our Parkland Dedication By-Law Clients:

Re: Assessment of Bill 23 (*More Homes Built Faster Act*)

On behalf of our many municipal clients, we are continuing to provide the most up-to-date information on the proposed changes to the parkland dedication requirements of the *Planning Act*, as proposed by Bill 23 (*More Homes Built Faster Act*). As identified in our October 31, 2022 letter to you, our firm is providing an evaluation of the proposed changes to section 42 of the *Planning Act*, along with potential impacts arising from these changes. The following comments will be included in our formal response to the Province, which we anticipate presenting to the Standing Committee on Heritage, Infrastructure and Cultural Policy later this week.

1. Overview Commentary

The Province has introduced Bill 23 with the following objective: *"This plan is part of a long-term strategy to increase housing supply and provide attainable housing options for hardworking Ontarians and their families."* The Province's plan is to address the housing crisis by targeting the creation of 1.5 million homes over the next 10 years. To implement this plan, Bill 23 introduces a number of changes to the *Planning Act* (along with nine other Acts, including the *Development Charges Act* (D.C.A.)), which seek to increase the supply of housing.

As discussed later in this letter, the proposed changes to parkland dedication would significantly reduce the amount of parkland conveyance and payments-in-lieu (P.I.L.) of parkland to municipalities. The proposed changes under Bill 23 would impact municipalities by:

- Reducing the amount of development subject to parkland dedication by exempting affordable, attainable, non-profit and additional residential dwelling units;
- Reducing P.I.L. revenues for some developments by grandfathering in charges by up to 2 years, reflecting land values at the time of Site Plan and Zoning By-law Amendment applications;
- Reducing and capping the alternative requirements for parkland dedication, which results in significant reductions in parkland conveyance and P.I.L. revenues, particularly for high-density developments;
- Increasing the administrative burden on municipalities by requiring the preparation of and consultation on a parks plan with the passage of a parkland

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dedication by-law, whether utilizing the standard or alternative requirements, and by requiring the allocation and reporting on funds annually; and
- Limiting local decision-making by allowing the Province to prescribe criteria for municipal acceptance of incumbered lands and privately owned public space (POPs) for parks purposes.

It is anticipated that the resultant loss in parkland dedication from development will result in either a cross-subsidization from existing taxpayers having to provide increased funding for parks services to maintain planned levels of service in their community, or an erosion of service levels over time. The timing of these changes, and others proposed in Bill 23 to limit funding from development, is occurring at a time when municipalities are faced with increased funding challenges associated with cost inflation and the implementation of asset management plans under the *Infrastructure for Jobs and Prosperity Act*.

A summary of the proposed parkland dedication changes under section 42 of the *Planning Act*, along with our firm's commentary, is provided below.

2. Changes to Section 42 of the *Planning Act*

2.1 New Statutory Exemptions: Affordable residential units, attainable residential units, inclusionary zoning residential units, non-profit housing and additional residential unit developments will be exempt from parkland dedication requirements. For affordable, attainable, and inclusionary zoning residential units, the exemption is proposed to be implemented by:

- discounting the standard parkland dedication requirements (i.e., 5% of land) based on the proportion of development excluding affordable, attainable and inclusionary zoning residential units relative to the total residential units for the development; or
- where the alternative requirement is imposed, the affordable, attainable and inclusionary zoning residential units would be excluded from the calculation.

For non-profit housing and additional residential units, a parkland dedication by-law (i.e., a by-law passed under section 42 of the *Planning Act*) will not apply to these types of development:

- Affordable Rental Unit: as defined under subsection 4.1 (2) of the D.C.A., where rent is no more than 80% of the average market rent as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.
- Affordable Owned Unit: as defined under subsection 4.1 (3) of the D.C.A., where the price of the unit is no more than 80% of the average purchase price as defined by a new bulletin published by the Ministry of Municipal Affairs and Housing.

- Attainable Unit: as defined under subsection 4.1 (4) of the D.C.A., excludes affordable units and rental units, will be defined as prescribed development or class of development and sold to a person who is at "arm's length" from the seller.
- Inclusionary Zoning Units: as described under subsection 4.3 (2) of the D.C.A.
- Non-Profit Housing: as defined under subsection 4.2 (1) of the D.C.A.
- Additional Residential Units, including:
    - A second unit in a detached, semi-detached, or rowhouse if all buildings and ancillary structures cumulatively contain no more than one residential unit;
    - A third unit in a detached, semi-detached, or rowhouse if no buildings or ancillary structures contain any residential units; and
    - One residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-detached, or rowhouse contains no more than two residential units and no other buildings or ancillary structures contain any residential units.

Analysis/Commentary

- While reducing municipal requirements for the conveyance of land or P.I.L. of parkland may provide a further margin for builders to create additional affordable housing units, the proposed parkland dedication exemptions will increase the financial burdens on municipalities to fund these exemptions from property tax sources (in the absence of any financial participation by senior levels of government) or erode municipalities' planned level of parks service.
- The definition of "attainable" is unclear, as this has not yet been defined in the regulations to the D.C.A.
- Under the proposed changes to the D.C.A, municipalities will have to enter into agreements to ensure these units remain affordable and attainable over a period of time, which will increase the administrative burden (and costs) on municipalities. An agreement does not appear to be required for affordable/ attainable units exempt from parkland dedication. Assuming, however, that most developments required to convey land or provide P.I.L. of parkland would also be required to pay development charges, the units will be covered by the agreements required under the D.C.A. As such, the *Planning Act* changes should provide for P.I.L. requirements if the status of the development changes during the period.
- It is unclear whether the bulletin provided by the Province to determine if a development is affordable will be specific to each municipality or aggregated by County/Region or Province. Due to the disparity in incomes across Ontario, affordability will vary significantly across these jurisdictions. Even within an individual municipality there can be disparity in the average market rents and average market purchase prices.

- While the proposed exemptions for non-profit housing and additional residential units may be easily applied for municipalities imposing the alternative requirement, as these requirements are imposed on a per residential unit basis, it is unclear at this time how a by-law requiring the standard provision of 5% of residential land would be applied.

2.2 Determination of Parkland Dedication: Similar to the rules under the D.C.A., the determination of parkland dedication for a building permit issued within two years of a Site Plan and/or Zoning By-law Amendment approval would be subject to the requirements in the by-law as at the date of planning application submission.

Analysis/Commentary

- If passed as currently drafted, these changes would not apply to site plan or zoning by-law applications made before subsection 12 (6) of Schedule 9 of the *More Homes Built Faster Act* comes into force.
- For applications made after the in-force date, this would represent a lag in P.I.L. value provided to municipalities, as it would represent the respective land value up to two years prior vs. current value at building permit issuance. For municipalities having to purchase parkland, this will put additional funding pressure on property tax funding sources to make up the difference, or further erode the municipality's planned level of parks service.

2.3 Alternative Parkland Dedication Requirement: The following amendments are proposed for the imposition of the alternative parkland dedication requirements:

- The alternative requirement of 1 hectare (ha) per 300 dwelling units would be reduced to 1 ha per 600 dwelling units where land is being conveyed. Where the municipality imposes P.I.L. requirements, the amendments would reduce the amount from 1 ha per 500 dwelling units to 1 ha per 1,000 net residential units.
- Proposed amendments clarify that the alternative requirement would only be calculated on the incremental units of development/redevelopment.
- The alternative requirement would be capped at 10% of the land area or land value where the land proposed for development or redevelopment is 5 ha or less; and 15% of the land area or land value where the land proposed for development or redevelopment is greater than 5 ha.

Analysis/Commentary

- If passed as currently drafted, the decrease in the alternative requirements for land conveyed and P.I.L. would not apply to building permits issued before subsection 12 (8) of Schedule 9 of the *More Homes Built Faster Act* comes into force.
- Most municipal parkland dedication by-laws only imposed the alternative requirements on incremental development. As such, the proposed amendments

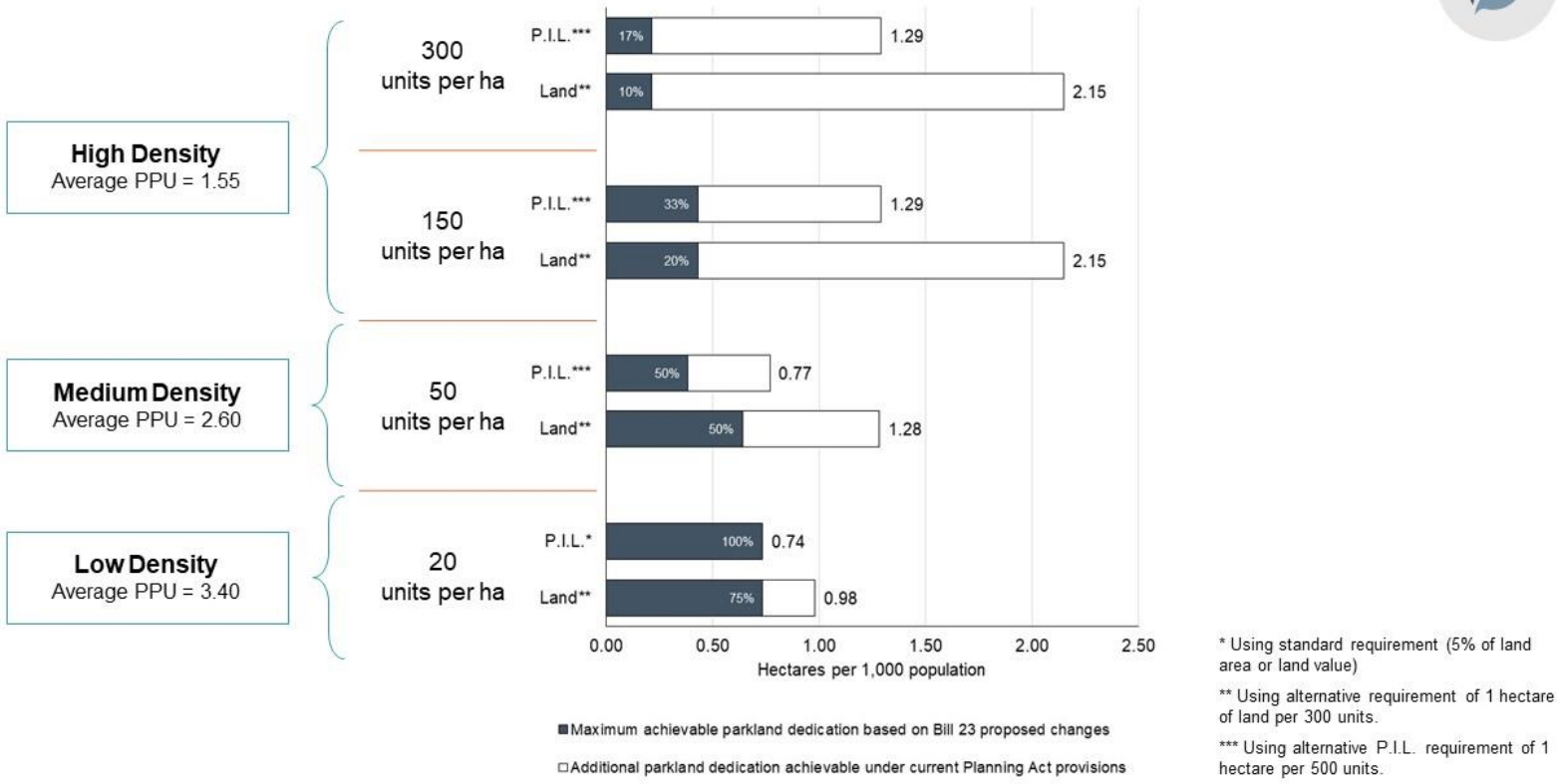
for net residential units seek to clarify the matter where parkland dedication by-laws are unclear.

- Section 42 previously imposed the alternative requirement caps of 10% and 15% of land area or value, depending on the respective developable land area, for developments only within designated transit-oriented communities. By repealing subsection 42 (3.2) of the *Planning Act*, these caps would apply to all developable lands under the by-law.
- As illustrated in the figure below, lowering the alternative parkland dedication requirement and imposing caps based on the developable land area will place significant downward pressure on the amount of parkland dedication provided to municipalities, particularly those municipalities with significant amounts of high-density development. For example:
    - Low-density development of 20 units per net ha (uph), with a person per unit (P.P.U.) occupancy of 3.4, would have produced a land conveyance of 0.98 ha per 1,000 population. The proposed change would reduce this to 0.74 ha, approximately 75% of current levels.
    - Medium-density development of 50 uph, with a P.P.U. of 2.6 would produce land conveyance at 50% of current levels (0.64 vs. 1.28 ha/1,000 population).
    - Low-rise development of 150 uph, with a P.P.U. of 2.6 would produce land conveyance at 20% of current levels (0.43 vs. 2.15 ha/1,000 population). P.I.L. would be approximately 1/3 of current levels.
    - High-rise development of 300 uph, with a P.P.U. of 2.6 would produce land conveyance at 10% of current levels (0.22 vs. 2.15 ha/1,000 population). P.I.L. would be approximately 17% of current levels.[1]

[1] Low-rise and high-rise developments with sites larger than 5 ha would only be marginally better under the proposed changes, at 30% and 15% of land conveyance and 50% and 25% P.I.L., respectively.

Maximum Achievable Parkland Dedication (hectares per 1,000 population)

Development Sites ≤ 5 hectares



* Using standard requirement (5% of land area or land value)

** Using alternative requirement of 1 hectare of land per 300 units.

*** Using alternative P.I.L. requirement of 1 hectare per 500 units.

- Based on the proposed alternative requirement rates and land area caps, municipalities would be better off:
    - For land conveyance, imposing the alternative requirement for densities greater than 30 units per ha.
        - Sites of 5 ha or less, land conveyance would be capped at 10% of land area at densities greater than 60 units per ha.
        - Sites greater than 5 ha, land conveyance would be capped at 15% of land area at densities greater than 90 units per ha.
    - For P.I.L. of parkland, imposing the alternative requirement for densities greater than 50 units per ha.
        - Sites of 5 ha or less, land conveyance would be capped at 10% of land area at densities greater than 100 units per ha.
        - Sites greater than 5 ha, land conveyance would be capped at 15% of land area at densities greater than 150 units per ha.
    - For densities less than 30 units per ha, imposing the standard requirement of 5% of land area for land conveyance and P.I.L. of parkland.

2.4 Parks Plan: The preparation of a publicly available parks plan as part of enabling an Official Plan will be required at the time of passing a parkland dedication by-law under section 42 of the *Planning Act*.

Analysis/Commentary

- The proposed change will still require municipal Official Plans to contain specific policies dealing with the provision of land for parks or other public recreational purposes where the alternative requirement is used.
- The requirement to prepare and consult on a parks plan prior to passing a by-law under section 42 would now appear to equally apply to a by-law including the standard parkland dedication requirements, as well as the alternative parkland dedication requirements. This will result in an increase in the administrative burden (and cost) for municipalities using the standard parkland dedication requirements.
- Municipalities imposing the alternative requirement in a parkland dedication by-law on September 18, 2020 had their by-law expire on September 18, 2022 as a result of the *COVID-19 Economic Recovery Act* amendments. Many municipalities recently undertook to pass a new parkland dedication by-law, examining their needs for parkland and other recreational assets. Similar transitional provisions for existing parkland dedication by-laws should be provided with sufficient time granted to allow municipalities to prepare and consult on the required parks plan.

2.5 Identification of Lands for Conveyance: Owners will be allowed to identify lands to meet parkland conveyance requirements, within regulatory criteria. These lands may include encumbered lands and privately owned public space (POPs).

Municipalities may enter into agreements with the owners of the land regarding POPs to enforce conditions, and these agreements may be registered on title. The suitability of land for parks and recreational purposes will be appealable to the Ontario Land Tribunal (OLT).

Analysis/Commentary

- The proposed changes allow the owner of land to identify encumbered lands for parkland dedication consistent with the provisions available to the Minister of Infrastructure to order such lands within transit-oriented communities. Similar to the expansion of parkland dedication caps, these changes would allow this to occur for all developable lands under the by-law. The proposed changes go further to allow for an interest in land, or POPs.
- The municipality may refuse the land identified for conveyance, providing notice to the owner with such requirements as prescribed. The owner, however, may appeal the decision to the OLT. The hearing would result in the Tribunal determining if the lands identified are in accordance with the criteria prescribed. These "criteria" are unclear, as they have not yet been defined in the regulations.
- Many municipal parkland dedication by-laws do not except encumber lands or POPs as suitable lands for parkland dedication. This is due, in part, to municipalities' inability to control the lands being dedicated or that they are not suitable to meet service levels for parks services. Municipalities that do accept these types of lands for parkland or other recreational purposes have clearly expressed such in their parkland dedication by-laws. The proposed changes would appear to allow the developers of the land, and the Province within prescribed criteria, to determine future parks service levels in municipalities in place of municipal council intent.

2.6 Requirement to Allocate Funds Received: Similar to the requirements for C.B.C.s, and proposed for the D.C.A. under Bill 23, annually beginning in 2023, municipalities will be required to spend or allocate at least 60% of the monies in a reserve fund at the beginning of the year.

Analysis/Commentary

- This proposed change appears largely administrative, increasing the burden on municipalities. This change would not have a fiscal impact and could be achieved as a schedule to annual capital budget. Moreover, as the Province may prescribe annual reporting, similar to the requirements under the D.C.A. and for a C.B.C under the *Planning Act*.

We will continue to monitor the legislative changes and will keep you informed as the Bill proceeds.

Yours very truly,

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