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November 17, 2022

The Honourable Steve Clark  
Minister of Municipal Affairs and Housing  
17th Floor, 777 Bay Street  
Toronto, Ontario  
M7A 2J3

**Subject: Niagara Region - Response to Proposed Bill 23**

Dear Minister Clark,

Niagara Region appreciates the Province's commitment to providing more housing across Ontario. Niagara Region has long been committed to this goal as demonstrated through various Regional housing initiatives and our new Niagara Official Plan. There are many opportunities to continue to support and improve on the creation of housing in Niagara and to contribute to the goal of building 1.5 million new homes across the Province. However, Niagara Region is concerned that some of the foundational changes proposed through Bill 23 particularly as they relate to municipal development charges and the Planning Act will result in unintended consequences that will prevent the Province, in collaboration with the municipalities, from achieving the desired housing outcomes. With a focus on recommendations and potential solutions, the Region's comments relate to the following matters:

- Financial sustainability and growth-related infrastructure funding;
- Provision of affordable housing;
- Supporting growth through integrated land use and infrastructure planning;
- Coordinated development planning; and
- Protection of resources.

**Financial sustainability and growth-related infrastructure funding**

Bill 23 proposes a variety of development charge discounts and exemptions and it also introduces changes to the types of eligible charges that could be used to calculate development charge (DC) rates. While the precise financial implications for the Niagara Region are not entirely clear, preliminary analysis suggests that the impacts will be negative and serve to exacerbate existing gaps in DC revenue and weaken the financial condition of the Region.

The Region of Niagara recently approved a new development charge by-law which, based on preliminary analysis of Bill 23, will be subject to a phase-in of development charge rates. We anticipate that a 20 per cent reduction in the development charge rates will result in an approximate \$12 million dollar deficit in the first year alone. It is estimated that over the five-year life of the by-law the phase-in will have an estimated impact of \$34.2 million, which represents 3.79% of estimated DC collections over the by-law's five-year term.

Additionally, growth-related studies and land acquisitions are also proposed to be removed from the list of eligible DC services. In the Region's 10 year capital plan the estimated value of DC recoverable growth-related studies and land acquisition is \$47 million and \$74 million respectively. These studies and land acquisitions support the Region in managing growth and planning/building growth-related infrastructure and will require funding from alternative sources.

The proposed changes to development charges in Bill 23 will limit the Region's ability to fund the capital costs of growth related infrastructure. To provide the necessary infrastructure for growth, municipalities will be tasked in making decisions between funding repairs to existing infrastructure and building new infrastructure to accommodate for growth which is financially unsustainable. In a time of historically high rates of inflation, pandemic recovery and aging infrastructure, any decision that exasperates the existing challenges we are experiencing related to funding growth-related capital projects could be detrimental to our community.

## **RECOMMENDATIONS**

- 1) The Province could develop mechanisms to offset lost funding to keep municipalities whole from an infrastructure funding perspective.

### **Provision of affordable housing**

As proposed in Bill 23 municipalities will no longer be permitted to include housing services on the list of eligible DC services. The DC's collected for housing services are a key funding component for new assisted and affordable housing initiatives in Niagara to support vulnerable populations. In the Niagara Region's 10 year capital plan, the estimated value of DC recoverable growth-related affordable housing costs planned to be funded with development charges is approximately \$60 million. These projects will no longer be able to be funded by development charges. It goes without saying that the long-term ramifications of this policy decision is that fewer affordable housing projects will be completed in Niagara as it is unlikely that future councils will decide to make up this significant shortfall through increased property taxes.

The propose legislation provides exemptions for “attainable” housing which ensures that developers will receive the greater level of incentives for units that are more affordable, however, the proposed definition refers to associated regulations that have not yet been released. As such, it is not clear what other criteria may apply. Income eligibility needs to be considered with respect to households who can access the newly created attainable units with appropriate administrative oversight to ensure that those that require the units are the ones that are provided access to them.

### **RECOMMENDATIONS**

- 1) Maintain Housing Services as an eligible DC service.
- 2) Establish a working group with municipalities, the Federal and Provincial governments to discuss the expansion of existing grant programs available to assisted housing providers.
- 3) That there be a definition for attainable housing which ensures that developers will receive the greater level of incentives for units that are more affordable.

### **Supporting Growth through Integrated Land Use and Infrastructure Planning**

Niagara Region has a longstanding and successful integrated approach to planning for growth that ensures land use, infrastructure, and financial planning are integrated and ensuring efficient use of infrastructure and capacity that is coordinated across the Region. Integrated planning is one of the most critical roles carried out by the Region from a planning perspective. As proposed, Bill 23 hinders the Region’s role in coordinating infrastructure with growth and financing. The removal of the Region from this role will challenge the ability of Niagara Region to plan for and support growth in a financially sustainable and timely manner.

In addition, there are implementation issues that would arise with Bill 23 if enacted as proposed as it relates to Regional infrastructure planning. As one example, the changes would eliminate any mechanism for Niagara Region, as “an upper-tier municipality without planning responsibilities” to require the conveyance of land for road widenings necessary to support the Regional road network and goods movement.

### **RECOMMENDATIONS**

- 1) Provide a formal mechanism or tool for upper tier municipalities without planning responsibilities to continue supporting growth through integrated planning with land use/infrastructure/finance.
- 2) Amend the legislation to include provisions to ensure that any necessary Regional right-of-way widenings can be achieved through the development approvals process.

### **Coordinated Development Planning**

The proposed changes in Bill 23 appear to have negative impacts on the extensive work already undertaken by Niagara Region and the Area Municipalities to address housing supply and affordability including, streamlining initiatives, to harmonize and improve the development review process to provide consistency throughout Niagara Region. The Region with the area municipalities has a standing working group tasked with continuous process improvement and a Memorandum of Understanding among area municipalities and commenting agencies that sets out responsibilities to ensure there is no duplication of services.

The proposed changes will impact the Region's ability to provide assistance related to harmonization and consistency in planning matters. There is also a likelihood that shifting responsibilities could result in capacity constraints at the area municipal level.

### **RECOMMENDATIONS**

- 1) As an alternative to removing planning responsibilities from upper tier municipalities, the Province could require upper tier, lower tier, and external commenting agencies enter into a Memorandum of Understanding or service level agreements to delineate roles and responsibilities in the planning review process, to eliminate duplication of services and create consistency in commenting.
- 2) Should Bill 23 proceed as proposed, consideration needs to be given to ensure that an appropriate transition period is provided to ensure any disruption or delays are minimized with the proposed changes to approval authorities and responsibilities to allow discussion related to the provision of advice.
- 3) Consider providing for the creation of planning services boards for shared services so that multiple municipalities can seek efficiencies in the delivery of services through shared resources.

### **Protection of Resources**

The proposed changes to the Conservation Authorities Act would result in a significant change to the role of Conservation Authorities (CA) in reviewing Planning Act applications, issuing permits, and the scope of their regulations. The role of CAs within our community is critical to the protection of life and property from natural hazards and features. The decrease of CA responsibilities in combination with the removal of upper tier planning responsibilities and other recent postings on the ERO related to OWES and merging the Provincial Policy Statement (PPS) and A Place to Grow (P2G) are concerning as the changes could be detrimental to the health and wellbeing of our community as well as signal a reduction in environmental protection and a regression in efforts to fight the effects of climate change.

## **Moving Forward**

Finally, Niagara Region notes that the Planning Act, as well as Provincial planning policies, plans and targets have been in a state of flux since the initiation of the Coordinated Plan Review in 2015. There have been multiple changes to the PPS, P2G, the Greenbelt Plan, in addition to changes to the Development Charges Act. Each change resulted in a need for municipalities to regroup and adjust creating barriers and distractions from focusing on streamlining initiatives and development approvals.

We request that the Province pause and consult further on the changes proposed, allowing municipalities the opportunity to implement changes related to Bill 109, complete local official plan and zoning by-law updates and focus on planning approvals. The goal of seeing 1.5 million homes built over the next ten years is ambitious and challenging in its own right. Working to achieve this goal in the context of the significant changes could challenge and slow the process. Stabilizing the planning framework in Ontario will serve to expedite the creation of housing.

Respectfully,

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Chief Administrative Officer  
Niagara Region

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Niagara Region

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