

Appendix A Overview of Bill 23

Legislation that the province proposes to change is posted to the Environmental Registry of Ontario (ERO) and the Ontario Regulatory Registry (ORR). A list of the postings for the proposed changes to legislation by Bill 23 includes:

| ERO-ORR Posting | Title and link |
|-------------------------------|---|
| BULLETIN | |
| ERO 019-6171 | 2031 Municipal Housing Targets |
| STATUTES | |
| ERO 019-6172 | Proposed Planning Act and Development Charges Act, 1997 Changes: Providing Greater Cost Certainty for Municipal Development-related Charges |
| ERO 019-6163 | Proposed Planning Act and City of Toronto Act Changes (Schedules 9 and 1 of Bill 23 - the proposed More Homes Built Faster Act, 2022) |
| ERO 019-6196 | Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 |
| 22-MAG011 | Proposed Ontario Land Tribunal Act Changes |
| REGULATIONS | |
| ERO 019-6141 | Proposed Conservation Authorities Act and Regulatory Changes |
| ERO 019-6217 (added Nov 8) | Proposed amendments to the Greenbelt Area boundary regulation |
| ERO 019-6173 | Proposed Inclusionary Zoning Regulatory Changes |
| ERO 019-6197 | Proposed Changes to Ontario Regulation 299/19: Additional Residential Units |
| ERO 019-2927 | Proposed Natural Hazards Regulatory Changes |
| 22-MMAH016 | Proposed Building Code Regulatory Changes |
| ERO 019-2927 | Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario |
| ERO 019-6211 | Proposed Changes to Sewage Systems and Energy Efficiency for the Next Edition of Ontario's Building Code |
| POLICIES | |
| ERO 019-6216 (added Nov 8) | Proposed Amendments to the Greenbelt Plan |
| ERO 019-6160 | Ontario Wetland Evaluation System Proposal |
| ERO 019-6177 | Provincial Policy Statement and A Place to Grow review proposal |
| ERO 019-6167 | Proposed Revocation of the Parkway Belt West Plan |
| ERO 019-6161 | Conserving Ontario's Natural Heritage |

The Bill 23 proposals are accompanied by public commenting periods with deadlines ranging from November 24 to December 30, 2022.

In the time since Bill 23 was introduced, the province has revised its proposals around third party appeals and extended most of the November 24, 2022, commenting periods out to December 9, 2022.

OVERVIEW OF BILL 23

The provincial proposals are sweeping in nature with the intent of increasing housing supply by reducing duplication of process, reducing financial costs, and streamlining approvals.

Town staff supports the creation of opportunities to increase housing supply, along with identifying ways to make the development approvals process more efficient. Always seeking continuous improvement, the town is in the midst of several process reviews with our partner agencies to address these challenges.

The changes proposed by the province include:

- integrating the 2020 Provincial Policy Statement with the 2019 Growth Plan,
- removing planning responsibilities from upper-tier municipalities including Halton Region,
- revoking the Parkway Belt West Plan and the corresponding implementing Minister's Zoning Orders,
- implementing standardized tools for zoning,
- removing requirement for public meetings for draft plans of subdivision,
- altering the functionality of municipal funding tools including Development Charges, Community Benefit Charges, and parkland dedication rates,
- limiting a Conservation Authority's ability to review and comment on development applications,
- granting as-of-right permissions for up to three residential units per lot,
- significant changes to how/when heritage properties are identified and conserved
- excluding developments of less than 10 units from site plan control,
- removing the ability to review exterior design and landscaping from site plan control,
- administrative changes to the Ontario Land Tribunal (OLT) respecting the dismissal of appeals, cost awards and prioritisation of certain proceedings, and
- eliminating some third party appeal rights to the OLT.

The balance of this section provides a more detailed overview of the proposed changes and early indications around implications and implementation for Oakville.

Proposed new 2031 Municipal Housing Targets

ERO Number: 019-6171

Commenting Period: Bulletin - no commenting period

The province has assigned municipal housing targets to 29 of the region's largest and fastest-growing municipalities to address the "gap" of housing supply already experienced today. The Town of Oakville is assigned a housing target of 33,000 units as part of the province's overall

target of 1,229,000 homes. This works out to Oakville delivering 3,300 units per year, for the next 10 years.

Municipalities with a target will be responsible for developing a “housing pledge”, and identifying the tools and strategies that will be used to achieve their housing targets. Pledges may include, but are not limited to, priorities for site-specific planning decisions to expedite housing in priority areas, plans to streamline the development approval process, commitments to plan, fund and build critical infrastructure to support housing, and strategies to use municipal surplus lands.

For context, over the last five years, the town has approved development applications for approximately 10,000 residential units. This works out to 2000 units per year representing a mix of apartments, townhouses and detached dwellings. At present, the town has approximately 13,000 residential units under review.

The direction from the province around the housing target states, “these pledges are in addition to existing, longer-term targets in municipal plans”. It is not evident what Oakville’s “existing, longer-term targets” actually are and to what the pledge would be added to and town staff are seeking clarity from the province on this.

Estimates by town staff indicate that the total number of units (a combination of planned and new) to be accommodated by the town by the year 2031 could be as high as 52,000 units. In addition to seeking clarity from the province on the amount of growth to manage, town staff will be evaluating opportunities to accommodate this additional housing growth within the town-wide urban structure with an emphasis on existing strategic growth areas.

Proposed *Planning Act* and *City of Toronto Act* Changes

Schedules 9 and 1 of Bill 23

ERO Number: 019-6163

Consultation Closes: December 9, 2022

Zoning Requirements for Protected Major Transit Station Areas

The province is proposing new legislation through changes to the *Planning Act* that affect Protected Major Transit Station Areas (PMTSAs). Midtown Oakville and Bronte GO comprise the town’s PMTSAs.

The changes would require municipalities to update their zoning by-law to ensure as-of-right zoning is in place that specifies minimum heights and densities to meet minimum density targets within one year of PMTSA approval.

Appeals of these zoning by-law amendments would only be permitted if a municipality does not implement the changes within the one-year timeframe, so there is an incentive to update the zoning by-law within this year.

In this current process, Halton Region is the approval authority for official plan amendments for PMTSAs. Under the new legislation, the Minister of Municipal Affairs and Housing would become the approval authority.

In addition to the uncertainty around timing and transition related to planning Midtown Oakville and Bronte GO, with the changes to approval authority, the province's proposed changes would require existing staff resources to be re-allocated to update the zoning by-law within the specified timeframe in order to utilize the ability to shelter the amendments from appeals.

Although the province recently approved Regional Official Plan Amendment 49 with several modifications, there are further implications to the town's Official Plan Review due to uncertainty around the future role of regional planning and the unfinished Regional Official Plan Review and the completion of the Municipal Comprehensive Review (MCR).

Site Plan Control

Bill 23 introduces changes to section 41 of the *Planning Act* relating to the exemption of site plan control for any residential development with less than 10 units. This can be in any form – a single-detached house up to a townhouse development of 9 units. These will not be subject to site plan control, and will only need a building permit to proceed to construction.

Site plan control for such developments enables the municipality to govern such matters as stormwater management, environmental protections, protection of municipal and boundary trees, ingress and egress, and appropriate on-site vehicular and pedestrian circulation.

The exemption of site plan control over such developments could result in grading, drainage and flooding possibilities for adjacent and downstream properties, safety issues with respect to inappropriate driveway locations and impacts on the road and traffic network, the inability to acquire identified hazard lands and associated buffers, along with identified road widenings.

The cumulative impact could diminish and undermine environmental protection, vehicular and pedestrian safety. The inability to require robust landscaping could undermine the municipal tree canopy objectives and establishing appropriate screening and buffering from adjacent properties.

Oakville has seen an increasing trend of redevelopment of single lot residential properties, or "tear down/rebuilds". Typically, this involves a large lot with a small home, and replacing it with a larger dwelling along with hardened amenity spaces including patios, pools, basketball courts and decks.

For infill redevelopment (tear down/rebuild) applications for single units, the Development Engineering Site Plan (DESP) process is used. The DESP is a scoped site plan, under the Site Plan by-law. The DESP process provides oversight of grading and drainage, as well as tree protection requirements. The scoped site plan review considers the increase of hardened surfaces on a lot basis, which is typically significant for this type of redevelopment. This results in additional runoff, with less soft areas to allow infiltration and recharge of groundwater.

Without the DESP, or similar, process and required mitigative stormwater management, the cumulative impacts of the additional runoff from hardened residential lots could overwhelm the town's stormwater system, increase flood risk and erode any climate change resiliency available.

DESP also allows the town to set canopy targets for these single lot redevelopments. Without this process, there will be a gap in tree protection requirements. Tree replacement requirements

may be considered through the Private Tree Protection By-Law, however preservation and protection are not prescribed through the Building Code.

In addition to the exemption identified above, Bill 23 proposes removal of the town's ability to review the exterior design of the built form. Matters relating to exterior building design include the character, scale, appearance and design features of buildings, and their sustainable design.

As well, the proposed changes exempt the consideration of the appearance of elements, facilities and works through site plan review, except to the extent that the appearance impacts are matters of health, safety, accessibility or the protection of adjoining lands.

Removing the ability to guide the detailed design of buildings and landscape treatments will restrict the implementation of crucial urban design policies directed at achieving 'innovative and diverse urban form and excellence in architectural design'. Assessing and driving matters of design that can create compatibility with existing and planned community character and establish a positive relationship to the public realm will be limited and voluntary.

Upper-Tier Planning Responsibilities

Bill 23 proposes to remove planning responsibilities from upper-tier municipalities including Halton Region. This is a significant change to land use planning in the Greater Toronto Area.

Existing upper-tier official plans are proposed to be subsumed by the lower-tier official plans until such time as the lower-tier official plan is updated. The Minister of Municipal Affairs and Housing would become the approval authority for lower-tier official plan amendments and the lower-tier municipality would absorb other approvals previously required from the upper-tier, such as applications for subdivision approval or consent. Appeal rights and party status at Ontario Land Tribunal hearings for upper-tier municipalities is proposed to be removed. These changes would come into effect upon proclamation or a date to be determined, following Royal Assent.

The role of these upper-tier municipalities in providing advice and assistance to lower-tier municipalities on planning matters generally and the implications of removing a coordinated regional approach to land use planning in Ontario are not fully understood at this time.

There is a variety of reviews and oversight currently undertaken by regional staff that the town lacks both resources and expertise to undertake internally. This includes the review of servicing for wastewater and drinking water, review of contaminated sites and review of groundwater reports.

Halton Council received report [LPS72-22/FN-34-22](#), dated November 9, 2022 which provided a detailed analysis, from the region's perspective, of the changes proposed in Bill 23.

Appeal Rights and Public Meetings for Plans of Subdivision

Limits on 'third party' appeals which are appeals made by someone other than the person who made the planning application, were originally proposed for all planning matters: official plans, official plan amendments, zoning by-laws, zoning by-law amendments, consents and minor variances.

An amendment at the Standing Committee proposes to restore third party appeal rights for official plans, official plan amendments, zoning by-laws, zoning by-law amendments.

For variances and consents, appeal rights would be restricted for key participants (e.g., applicants, the province, public bodies).

The limit on third-party appeals would apply to any matter that has been appealed, but has not yet been scheduled for a hearing by the OLT on the day the bill was introduced. Although third parties will not have appeal rights, there is still the potential for third parties to seek party status at an OLT hearing.

The province also proposes to remove the statutory public meeting requirement for draft plans of subdivision.

Proposed Changes to the *Ontario Heritage Act* and its Regulations: Bill 23

Schedule 6

ERO Number: 019-6196

Consultation Closes: November 24, 2022

The province is proposing changes to the *Ontario Heritage Act* to update how heritage properties are identified and conserved, including:

- new requirements for municipal heritage registers and the inclusion of non-designated properties on the municipal heritage register;
- an increase in the threshold for designation of individual properties and new limitations on designation for properties subject to proposed development; and
- changes to heritage consideration districts.

The province has typically advocated for the development of municipal heritage registers as a means to document these resources in the community, to be transparent with property owners and to allow protections to be introduced, as appropriate, when the property is threatened with demolition.

The province is proposing new criteria that would require the removal of non-designated properties from the Register. This includes existing listed properties that are not designated within a two-year period beginning from the date the Act comes into effect. The two-year period would also apply to new listings from the date they are added to the Register. These properties would be automatically removed from the Register and cannot be placed back on the Register for five years.

The province is proposing to increase in the threshold for individual designation under the *Ontario Heritage Act* by requiring that the property meet two or more of the criteria for designation in the regulation.

Also included on the Cultural Heritage proposals from the province are new limitations on designation for properties subject to proposed development. The proposal would preclude stating an intention to designate unless the property is already listed on the heritage register.

Lastly, the provincial proposals include new criteria and clarifications for designating and repealing heritage consideration districts. To date these details have not been released.

In the context of the province's proposal, town staff continue to assess and seek clarity on the implications for the town with a view towards resourcing to support timely responses once the legislation comes into effect.

Review of A Place to Grow and Provincial Policy Statement

ERO Number: 019-6177

Consultation Closes: December 30, 2022

The province is undertaking a housing-focused policy review of the 2019 Growth Plan and the 2020 Provincial Policy Statement. Municipal Affairs and Housing is seeking input on how to create a streamlined province-wide land use planning policy framework that enables municipalities to approve housing faster and increase housing supply.

The ERO posting outlines core elements for a new policy instrument to enable municipalities to accelerate the development of housing, increase housing supply and that could include approaches focused on:

- residential land supply including settlement area boundary expansions, rural housing and employment area conversions,
- attainable housing supply and mix including housing mix, major transit station areas and urban growth centres,
- growth management including population and employment forecasts, intensification and large and fast-growing municipalities,
- environment and natural resources including agriculture, natural heritage, natural and human-made hazards, aggregates and cultural heritage,
- community infrastructure including infrastructure supply and capacity and school capacity, and
- streamlined planning framework that is outcomes-focused, relevant, fast and flexible.

The province is asking the following questions as part of this consultation:

1. What are your thoughts on the proposed core elements to be included in a streamlined province-wide land use planning policy instrument?
2. What land use planning policies should the government use to increase the supply of housing and support a diversity of housing types?
3. How should the government further streamline land use planning policy to increase the supply of housing?

4. What policy concepts from the Provincial Policy Statement and A Place to Grow are helpful for ensuring there is a sufficient supply and mix of housing and should be included in the new policy document?
5. What policy concepts in the Provincial Policy Statement and A Place to Grow should be streamlined or not included in the new policy document?

Town staff is reviewing these questions to prepare a response for the December 30 deadline and will also be commenting when the new policy instrument is introduced.

Proposed Amendment to O. Reg 232/18: Inclusionary Zoning

ERO Number: 019-6173

Consultation Closes: December 9, 2022

Bill 23 proposes changes to regulations for inclusionary zoning. Inclusionary zoning is a tool in the *Planning Act* that allows municipalities to require the inclusion of affordable housing units within buildings or projects, containing other residential units, which are to be maintained as affordable housing units over time.

Inclusionary zoning is implemented through zoning by-laws, subject to policies provided in an official plan. Within Oakville, the use of inclusionary zoning is only available within identified protected major transit station areas, as identified within the official plan. This includes the Bronte GO Major Transit Station Area and Midtown Oakville.

Municipalities are required to prepare an Assessment Report under section 16(9) of the *Planning Act*, as prescribed in Ontario Regulation 232/18, to inform the development of official plan policies, which are required to enable inclusionary zoning.

Should the Assessment Report identify that inclusionary zoning is feasible in Oakville (i.e. Bronte GO and/or Midtown Oakville), official plan policies that set out the approach to authorize inclusionary zoning are required.

Proposed changes to O. Reg. 232/18 (inclusionary zoning) being considered through Bill 23 would limit certain aspects of how inclusionary zoning can be implemented, from what could previously be considered, including:

- the number of affordable housing units, or gross floor area to be occupied by the affordable housing units, within a development;
- the period of time for which affordable housing units would be maintained as affordable; and,
- how the price or rent of affordable housing units would be determined.

Proposed changes through Bill 23 limit inclusionary zoning to:

- inclusionary zoning units being a maximum of 5% of the total number of units or 5% of the total gross floor area of all residential units (not including common areas);
- a maximum affordability period of 25 years; and,

- a prescribed approach to determine the lowest price/rent that can be required for inclusionary zoning units, set at 80% of the average resale purchase price of ownerships units or 80% of the average market rent for rental units.

The town has not yet undertaken the required Assessment Report to implement inclusionary zoning. As such, it is unknown what impact the changes being made through Bill 23 would have made in the Oakville context. Notwithstanding, there is now less flexibility for municipalities when implementing inclusionary zoning.

Proposed Changes to Ontario Regulation 299/19: Additional Residential Units

ERO Number: 019-6197

Consultation Closes: December 9, 2022

Bill 23 has introduced “as-of-right” zoning permissions (i.e. without the need to apply for a rezoning) for up to three dwelling units per lot in many existing residential areas. This is referred to as “gentle intensification” since the built form is intended to remain relatively static and complement the existing context.

More specifically, up to three units would be allowed in the primary building, or up to two units would be allowed in the primary building and one unit would be allowed in an ancillary building such as a garage. These “as-of-right” zoning permissions would supersede any municipal local official plans and zoning by-laws and would automatically apply to any parcel of land where residential uses are permitted in settlement areas with full municipal water and wastewater infrastructure. These permissions would not apply in the case of legal non-conforming uses, where, for example, an existing dwelling may encroach into hazard lands.

The permissions for three additional units only apply to single detached dwellings, semi-detached dwellings, and row townhouses, where each additional unit must have one dedicated parking space, even if that space is a tandem space.

Proposed Changes to Municipal Rental Replacement By-Laws

Schedule 4

ORR Number: 22-MMAH017

Consultation Closes: December 9, 2022

Schedule 4 of Bill 23 proposes to amend the Municipal Act, 2001 to give the Minister the authority to make regulations imposing limits and conditions on the powers of a local municipality to prohibit and regulate the demolition and conversion of residential rental properties.

Currently, municipalities can set their own requirements for rental housing replacement by by-law. To date, only Mississauga and Toronto have enacted such by-laws. Through rental replacement by-laws, municipalities can require developers or landlords to replace rental units impacted by renovation or redevelopment at a similar affordable rent. This allows municipalities to maintain the existing stock of affordable rental housing, and in doing so, protect renters from displacement.

In its current form, Bill 23 does not propose any “limits and conditions” on a municipality’s authority concerning the demolition and conversion of residential rental properties. It is unclear the extent of the changes that may be considered. Further information is expected with the release of the associated regulations.

Proposed Amendments to the Greenbelt Plan

ERO Number: 019-6216

Consultation Closes: December 4, 2022

The province is proposing changes to the Greenbelt Plan that would add lands in the Paris Galt Moraine as well as Urban River Valleys (URV).

For the town, the proposed addition of Fourteen Mile Creek to the URV designation for the section from the QEW to Lake Ontario is a welcome addition. Likewise, adding portions of the Paris Galt Moraine to the Greenbelt Plan is welcome since it benefits the broader watershed within which Halton and Oakville are situated.

The Town of Oakville has regularly supported Growing the Greenbelt. These latest additions are consistent with town comments, requests and engagements under previous provincial Growing the Greenbelt initiatives.

Conserving Ontario’s Natural Heritage

ERO Number: 019-6161

Consultation Closes: December 30, 2022

Natural heritage recognizes a linked system of natural areas including natural features, hazard lands, buffers and linkages. It is intended that these natural areas be protected from development and preserved for the long term in order to promote sustainability and contribute to the quality of life in the town.

The province is also proposing changes to how to manage natural heritage, including wetlands, by introducing opportunities to use *ecological offsetting*. This is understood to mean enhancing/replacing natural heritage, or enabling an opportunity to pay into a fund to compensate for development impacts on natural heritage.

Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0

ERO number 019-6141

Consultation Closes: November 24, 2022

The province is proposing to clarify, streamline and scope Conservation Authority (CA) roles regarding development review and development permits, focusing permitting decisions on matters related to the control of flooding and erosion hazards.

The proposed changes include exempting development under the *Planning Act* from requiring a permit from the conservation authority, pending conditions to be established in regulation.

Currently the town relies on the conservation authorities, and their expertise, to issue permits relating to natural hazard areas. A Memorandum of Understanding (MOU) between the Town and CA allows the CAs to undertake limited monitoring. Without the ability to rely on the MOU, the town does not have the resources (i.e. environmental planning, water resources engineering, ecology, biology) to also issue permits for works within regulated areas or undertake a monitoring program as intended by the province's new framework.

Proposed Updates to the Regulation of Development for the Protection of People and Property from Natural Hazards in Ontario

ERO Number: 019-2927

Consultation Closes: December 30, 2022

The province is proposing a regulation that outlines how conservation authorities permit development and other activities for impacts to natural hazards and public safety.

Ontario's 36 CAs currently have individual regulations, and the proposed legislation would consolidate that to a single regulation seeking to streamline approvals for low-risk activities, and which may include exempting the need for a permit in certain situations.

Furthermore, the proposed changes would exempt development under the *Planning Act* from a permit under the *Conservation Authorities Act*. The authority to review these forms of development would rest with the local municipality, but as noted above, the town does not have the requisite expertise or resources (i.e. environmental planning, water resources engineering, ecology, biology).

Proposed updates to the Ontario Wetland Evaluation System

ERO Number: 019-6160

Consultation Closes: November 24, 2022

The province is proposing updates the Ontario Wetland Evaluation System that would remove duplicate requirements and streamline the evaluation process. The proposal includes:

- new guidance related to re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries; and
- changes to recognize the professional opinion of wetland evaluators and the role of local decision makers (e.g. municipalities).

Wetland evaluation is currently undertaken by CA staff (on behalf of the Ministry of Natural Resources and Forestry) who have expertise and knowledge on these matters. As a component of the co-ordinated, integrated and broad-based planning framework, town staff has relied on CA expertise to inform aspects of development review involving wetland evaluation.

This role, as well as other key roles covered under the existing MOU are integral to the development review process. Wetlands are a key component of the hydrologic system, and require due consideration during the development review process.

Proposed Planning Act and Development Charges Act, 1997 Changes Providing Greater Cost Certainty for Municipal Development Related Charges
ERO Number: 019-6172
Consultation Closes: December 9, 2022

Significant changes are proposed to the *Development Charges Act, 1997* (DCA) and the *Planning Act* that impact the town's three main growth funding tools (GFT): Development charges (DC), community benefit charges (CBC), and parkland dedication.

The town utilizes GFTs to collect funds from development to pay for increased land and infrastructure needs driven by growth, thereby minimizing the impact on the existing residents and businesses as the town grows. The town strives to ensure that "growth pays for growth", however, as reported earlier in 2022 there is an annual cost of growth to the town of \$15 million due to legislative restrictions on GFTs.

The proposed changes in Bill 23 will result in a significant reduction in the amount the town can collect from development to pay for growth-related land and infrastructure to maintain service levels, thereby increasing the cost of growth to the town substantially. In the absence of alternative funding from the provincial and federal government, the delivery of growth-related infrastructure may be slowed or there will be an impact on property taxes.

Bill 23 includes both targeted measures to incent certain types of housing and general measures that lower the cost for all types of development. Targeted measures aimed at lowering the cost of development for specific types of housing are through statutory exemptions and discounts as follows:

- To encourage the supply of gentle intensification, further exemptions for additional residential units on a lot for DCs and parkland dedication are proposed. There are also new exemptions for affordable units, attainable units, and inclusionary zoning units for all three GFTs.
- To encourage the supply of purpose-built rental buildings, DC discounts are proposed based on number of bedrooms per unit (15% for 1 bedroom, 20% for 2 bedrooms, 25% for 3+ bedrooms).

More information is to come as a bulletin from the Minister of Municipal Affairs and Housing that will provide the information needed to support municipal determination of the eligibility of a unit for exemptions.

It does appear that to benefit from an exemption, the town can require a developer to enter into an agreement, which may be registered on title, to enforce the affordability period of 25 years and any other applicable terms set out by the municipality.

The additional exemptions and discounts would be funded by the municipality, effectively through the tax levy, similar to current DC exemptions. The reduction in revenue to the town associated with these targeted measures will depend on their success, and the amount of these type of units constructed. There would be an increased administrative burden associated with the determination of eligibility of units for discounts and exemptions, and the execution of agreements to ensure units remain affordable and attainable over a period of time.

There are other measures proposed for each GFT that would lower the cost for all types of development as follows:

Development Charges

Proposed adjustments to the DCA would change the rules for calculation and collection of DCs. Already in place through Bill 108 is the DC “rate freeze” which sets the DC rate at the time of planning application. This has the goal of providing cost certainty and minimizing the impact of major increases from a new by-law when a developer pays DCs at the time of building permit.

Bill 23 proposes a five-year phase in of new DC rates as a further measure to lower rates and provide cost certainty. The DC phase in would apply to rates set out in new by-laws where a percentage reduction from the full rate is provided that gradually decreases each year: 20% reduction in year 1, 15% in year 2, 10% in year 3, 5% in year 4, full rate in year 5.

These rates would apply to by-laws passed since January 1, 2022, which would include the town’s DC By-law 2022-068 passed on July 12, 2022. This proposed rate reduction will significantly reduce DC collections by approximately 12.5% (\$34M) of the anticipated DC revenue over the four-year phase in period. Clarity is being sought regarding the discount on the full rate, versus a discount on the incremental increase of the rates in a new DC by-law. In the case of the town, the phase in required over the four years would result in DC rates that are below the DC rates that existed prior to the new by-law.

The time period that a DC by-law can be in place is proposed to be extended from the current five-year expiration date to a 10-year expiration date.

The town may still update the DC by-law at any time as new by-laws are imperative for ensuring that the town is collecting appropriate charges required to service growth and taking into consideration updated capital needs and growth forecasts.

Bill 23 also proposes a cap on interest that can be charged related to DC rate freeze and instalment payments. The cap is to be set at the average Canadian banks prime rate plus 1%. There would be an increased administrative burden to ensure compliance with the maximum prescribed interest rate. As the town’s Development Charges Interest Policy includes a fixed rate of prime, modifications will likely be required to the Policy and DC calculations going forward to adjust the rate and ensure compliance.

There are also adjustments proposed to DC cost eligibility and how DCs can be calculated that would apply to new by-laws on a going forward basis as follows:

- Certain costs would be deemed ineligible for DCs with the intent of ensuring greater cost certainty. Land is a significant component of the cost to provide infrastructure such as new facilities and roadways and it is proposed that a regulation-making authority will prescribe services for which land costs would not be an eligible capital cost to be recovered through

DCs. This would result in a reduction in DC revenue by 5%-30% (2022-2031) depending on which services are prescribed.

- The cost of studies would also be deemed ineligible and would result in a reduction in DC revenue of 2% (2022-2031) depending on the types of studies this would apply to such as official plans, master plans, and DC background studies. Further clarity is being sought on this matter.
- The current 10-year historical service level which is used to calculate eligible costs that can be collected through DCs is being extended to a 15-year historical service level. This component of the DC calculation already limits the town in collecting for growth related costs, and as a growing community, this will further reduce DC revenue and the town's ability to maintain service levels through DCs.

Based on the 2022-2031 DC Study, the proposed changes listed above would result in a total decrease in revenue in the range of 12% to 37% (\$79M to \$237M) depending on final details to come.

In the absence of alternative funding made available by other levels of government, there will be an increase in DC supported debt as a result of cash flow pressures, and growth-related costs no longer eligible for DCs would be funded by the municipality, effectively through the tax levy. The changes proposed through Bill 23 both increase the need for debenture financing and reduce the DC revenue and debt capacity for growth-related capital projects. The town's Corporate Debt Policy restricts DC supported debt costs to 25% of a five-year average of forecasted DC revenues. This policy is in place so that in the event of an economic downturn resulting in lower than expected revenue, debt obligations can still be met and planned projects to accommodate growth can continue as required. Deviating from this policy would increase financial risk to the town.

Parkland Dedication

The proposed changes to the parkland dedication legislation include a maximum amount of land that can be conveyed or paid in lieu. This is now capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha.

This direction counters that which was recently approved by Council in its endorsement of the Town's new *Parks Plan 2031*, and new parkland dedication by-law. The *Parks Plan 2031* is a strategic document that identifies long-term needs for parkland, how it will be delivered, an urban parks hierarchy, and acquisition options, among other elements. There is also consideration for parks needs in the established community and where it is appropriate to take cash-in-lieu of parkland dedication. As well, the strategy outlined how the town will continue to maintain its parkland standard of 2.2 ha per 1000 people; and establishes a mechanism to ensure sufficient land and cash-in-lieu is available to support the town-wide parkland standard.

The proposed changes will make it extraordinarily challenging for the town to realise the goals of the strategy and it needs to be re-visited.

For residential development, the *Planning Act* provides for a maximum of 5% of land value for PD. Municipalities also have had the authority to impose an alternative rate of 1 hectare of land per 300 units or 1 hectare in payment per 500.

The proposed change would reduce the maximum alternative rate by half, to 1 hectare in land per 600 units or 1 hectare in payment per 1,000 units.

The town's recently approved Parkland Dedication By-law includes a unit rate of \$22,269 in Strategic Growth Areas, and the *Planning Act* maximum in other areas. In both cases, the amount of land, or payment in lieu, will be significantly reduced as a result of the new *Planning Act* maximum and land area caps. The full impact of these changes is difficult to quantify due to the varying types and locations of growth, and that a significant portion of growth in North Oakville is subject to the North Oakville East Master Parkland Agreement. A high-level estimate of the impact within Strategic Growth Areas projects that the town could lose between 60% and 70% (\$65-\$75 million) of the total \$109 million required between 2022-2031 for parkland. On a site by site basis, reductions for a high density development could be up to 85% of current requirements under the by-law.

There are also proposed changes to the way that parkland dedication requirements are calculated, as follows:

- To provide cost certainty, a rate freeze (similar to DCs) would be established at the date of a zoning by-law or site plan application, which would expire two years after approval of the relevant planning application. In the case of payment in lieu, calculating parkland requirements this far in advance will very likely result in the reduced purchasing power of funds when they are collected and the town is in a position to acquire parkland.
- With the intent of making more efficient use of available land in a development, developers would be able to identify land that would count towards parkland dedication with the town able to appeal to the Ontario Land Tribunal. This could result in the acceptance of land that is not optimal in the context of the town's Parks Plan – 2031, along with potential legal costs.

The legislation would also make encumbered parkland, strata parks, and privately owned public spaces (POPS) eligible for parkland credit. The town's recently approved Parkland Dedication Policy allows credits for POPS and strata parks subject to Council concurrence and potentially an accompanying agreement. The changes to s.42 of the *Planning Act* now permits an appeal should Council and a proponent disagree on the lands to be conveyed. Clarity is also needed regarding how the new appeal process will work where a municipality opts to require payment in-lieu of land.

Community Benefits Charges

Proposed changes to the new community benefits charge (CBC) include the exemptions for affordable units mentioned above and credits for existing buildings on a redevelopment site. Credits for existing buildings are not expected to have a significant impact based on the recently completed CBC Strategy and developments that are in the pipeline over the near term (~2% of CBC revenue 2022-2031).

Overall, the changes proposed would increase administrative costs for the town and significantly reduce the revenue the town collects to provide growth-related land and infrastructure. In the absence of alternative funding sources to make up for this lost revenue, there could be a delay in the delivery of key infrastructure needed for growth or an increase to property taxes and the overall cost of growth to the town.

Property Taxes

The province plans to explore ways of reducing property taxes for certain residential types. This includes possible reductions to property tax assessments for affordable rental units, potential Harmonized Sales Tax (HST) incentives to support new ownership and rental housing development, and potential approaches to reduce the current tax burden on multi-residential apartment buildings.

Proposed Amendments to the Ontario Land Tribunal Act, 2021

ORR Number: 22-MAG011

Consultation Closes: December 9, 2022

The Ontario Land Tribunal (OLT), which reports to the Ministry of the Attorney General (MAG), plays a critical role in Ontario's land use planning system, including resolving disputes which affect development, including the creation of housing.

Bill 23 proposes amendments to the *Ontario Land Tribunal Act, 2021* with the intent to emphasise the OLT's ability to dismiss appeals which are frivolous or vexatious, and thus allow for streamlining appeals with the goal of prioritizing OLT cases that will "create the most housing".

The proposed amendments to the *Ontario Land Tribunal Act, 2021* consider:

- clarifying the OLT's powers to dismiss appeals due to unreasonable delay by parties;
- clarifying the OLT's powers to order an unsuccessful party to pay a successful party's costs;
- enabling priority criteria to be established in regulation to help ensure that OLT cases that create the most housing, for example, will be resolved as quickly as possible; and,
- enabling service standards (i.e., timelines) for specific case resolution activities at the OLT to be set in regulation.

It is a longstanding principle of law that an appeal of planning policy is not a "lis" or dispute between the specific parties to that appeal. Instead, it engages considerations of public policy and what constitutes good land use planning in the broader public interest. As such, cost awards are rare at the OLT and that practice should be maintained.

There are other service standards which will be set by regulation so the extent is currently unknown.

Revocation of the Parkway Belt West Plan

ERO Number: 019-6167

Consultation Closes: December 30, 2022

Town staff agrees with the proposed revocation of the Parkway Belt West Plan to support the province's direction to streamline, reduce or eliminate financial, policy, administrative burdens and potentially to increase housing supply.

Town staff also agrees with future revocation of the Minister's Zoning Orders used to implement the Parkway Belt West Plan.

Town staff is seeking clarification from the province on the timing of these actions and whether a transition period will be provided. Transition will allow for local official plans and implementing zoning to be updated accordingly.