

Region of Waterloo
Planning, Development, and Legislative Services
Community Planning

To: Planning and Works Committee

Meeting Date: November 8, 2022

Report Title: Comments on the More Homes Built Faster Act, 2022 – Bill 23 - Proposed New Legislation under the Planning Act, the Development Charges Act, the Heritage Conservation Act, and the Conservation Authorities Act

1. Recommendation

For information.

2. Purpose / Issue:

On October 25, 2022, the Province released the More Homes Built Faster Act, 2022 (Bill 23). The purpose of this report is to identify the significant legislative changes, specifically as it relates to the proposal to eliminate the Region’s planning responsibilities, explain the implications for the Region, and provide responses for the Province’s consideration.

3. Strategic Plan:

The proposed legislation highlights the importance of delivering housing supply and housing affordability, both of which align with focus areas from the Corporate Strategic Plan. Access to housing is a universal human right and by ensuring a substantial range and mix of housing supports a Thriving Economy, continuing to work towards Healthy, Safe and Inclusive Communities, and enables the implementation of policies, plans, and programs that support Sustainable Transportation, Environment and Climate Action.

The elimination of Regional planning responsibilities has implications on most of the other focus areas in the Corporate Strategic Plan, including Environment and Climate Action, Protecting Water Resources, Promoting the Efficient Use of Land, and Protection of Agricultural and Natural Areas.

4. Key Messages:

- The purpose of Bill 23 is to put in place the conditions to build more homes faster and more cost effectively. The Region of Waterloo is in full support of that objective.
- **Aspects of Bill 23 will support housing supply and affordability.** Examples include requirements for ‘as of right’ additional residential units, a streamlined development approvals process, and the assignment of housing targets.
- **If Bill 23 is passed, there will no longer be a Regional Official Plan.** A strategic, integrated, ‘big-picture’ planning approach is critical to support our fast-growing urban and rural municipalities, including ensuring an adequate supply of land for housing. Mechanisms for coordination of policies for the protection of water supply, natural heritage, agricultural and cultural heritage resources, the integration of land use and transportation planning, and shared infrastructure would be required.
- **The strong and established working relationships between the Region, Area Municipalities and First Nations should continue to be leveraged.** These conversations and relationships are reconciliatory, and have enabled successful delivery of not only significant housing and land supply, but also protection of the Countryside Line, protection of the environment, and delivery of intensification and transit-oriented development via 15-minute neighbourhoods.
- **Collectively, there are efficiencies to be gained in the development approvals process.** Delegation of planning approvals at the request of the Area Municipalities is a way to streamline process, provided there is a transitional period to address capacity challenges, that consideration is given for the Region to provide this service to Area Municipalities without capacity, and that mechanisms are in place to allow meaningful participation from all municipal tiers so that we may continue to pool resources, exchange technical expertise, and address community-wide challenges and opportunities that cross area municipal boundaries.
- **The financial aspects of the proposed legislation may unintentionally increase the cost of home ownership for all – reducing housing affordability.** The proposed legislation reduces the amount of Development Charges, Parkland Dedication fees and Community Benefits Charges collected by municipalities to fund the growth-related capital cost of infrastructure and services needed for new housing to be built and to provide the essential services to its residents. Existing taxpayers and ratepayers will pay more of the cost of

growth-related infrastructure, and as such the total cost of housing will increase due to higher property taxes and user rates.

- **Bill 23 will impose new difficult decisions regarding infrastructure on municipalities.** Municipalities have limited revenue sources to fund both the operating costs and capital investments needed to deliver essential services. The reduction of development charges proposed in the legislation will force municipalities to delay the construction of infrastructure needed to service new housing, increase risk by taking on additional long-term debt, and consider service level reductions.

5. Background:

In December 2021 Ontario's Minister of Municipal Affairs and Housing appointed a Housing Affordability Task Force (HATF) whose mandate was to recommend ways to accelerate progress in closing the housing supply gap to improve housing affordability. The HATF released a report in early February 2022 that included a series of 55 recommendations to increase future housing supply. Report PDL-CPL-22-05/COR-CFN-22-06 provided a summary and a preliminary assessment of the recommendations within the report, highlighting how the recommendations either aligned or caused concern with current Regional initiatives, policies and programs.

On October 25, 2022, the Province released proposed legislation under the More Homes Built Faster Act, 2022 (Bill 23). Bill 23 introduces legislative changes to the Planning Act, Development Charges Act, Heritage Act, and the Conservation Authorities Act to address the issue of the need for more homes. Bill 23 supports the ambitious goal recommended by the HAFT to build 1.5 million homes over the next 10 years. While some pieces of the legislation have the potential to advance this goal (e.g., generally supports the development of all forms of housing through gentle density), other pieces will have the opposite effect (e.g., freezing development charges), in addition to adding to the overall long-term costs of building and maintaining sustainable infrastructure.

This Act aims to make changes to the land use planning system to support building more homes faster based on the five following categories:

- A. Building more homes by,
 - Addressing Housing Through Provisions For Additional Residential Units;
 - Building More Homes Near Transit; and,
 - Assigning 2031 Housing Targets to high growth Area Municipalities.
- B. Reducing costs, fees, and taxes by,
 - Freezing and/or reducing development charges for new homes and

- exempting fees;
- Reducing taxes on affordable housing; and,
- Capping Inclusionary Zoning and introducing rental replacement rules.

C. Streamlining development approvals by,

- Streamlining the process through eliminating planning responsibilities from regional municipalities;
- Improving the Ontario Land Tribunal; and,
- Exploring Heritage Planning Designations.

D. Helping homebuyers and renters by,

- Introducing a new attainable housing program;
- Addressing vacant homes; and,
- Protecting homebuyers through fines.

and,

E. Better planning through,

- Merging policy documents (Growth Plan and Provincial Policy Statement);
- Identifying more land for housing; and,
- Locating schools in urban growth areas.

This report will highlight the areas of support and also areas of concern with respect to addressing housing supply and affordability through the More Homes Built Faster Act, 2022 (Bill 23), based on these five categories.

A) Areas of Support and Further Considerations for Building More Homes

i) Addressing Housing through Provisions for Additional Residential Units

The Planning Act currently requires area municipalities to update their zoning by-laws to permit up to three dwelling units on a residential lot. This would include up to three units in the primary building, or up to two units in the primary building and one unit in an ancillary building such as a detached building. These types of units are commonly referred to as second units, accessory dwellings, laneway housing or garden suites.

Bill 23 proposes to enhance these planning permissions by requiring municipalities to allow such units “as-of-right” (without the need to apply for a rezoning). Staff supports this proposal to help accelerate the creation of new affordable housing in existing neighbourhoods close to services and other amenities.

As a further policy enhancement, staff recommend that the Province revise Bill 23 to also permit “missing middle” housing “as-of-right” on a residential lot consistent with the Amendment No. 6 to the Regional Official Plan (ROP), which was adopted by Council on August 18, 2022.

ii) More Homes Near Transit

Bill 23 will require area municipalities to update their zoning by-laws within one year to provide for “as of right” minimum density targets within 800m of Major Transit Station Areas (MTSAs). In Waterloo Region, there are 24 MTSAs, most with a minimum density target of 160 people and jobs/hectare (pj/ha); the Region has submitted a request to the Province for lower alternative density targets for three MTSAs (Laurier-Waterloo, Block Line, and Delta), as they will not be able to meet 160 pj/ha.

There is support for this direction. Transit-oriented development has been supported and realized in Waterloo Region and the proposed change in Bill 23 highlights this direction. Since the approval of ION LRT, the Region has seen private sector investment of approximately \$3.8 billion in the Central Transit Corridor, largely in MTSAs. As the Province states, it is logical to put more housing near transit so that people can more easily live, work, and play.

iii) Housing Targets

Bill 23 proposes to assign housing targets based on population size and growth and are directing area municipalities to accelerate growth to meet the 1.5 million home goal through pledges, which means outlining a concise set of actions and process improvements to address the increasing need for housing. In Waterloo Region, the Province indicates that 70,000 housing units are required by 2031, and this is broken down as follows:

- City of Cambridge – 19,000 additional housing units
- City of Kitchener – 35,000 additional housing units
- City of Waterloo – 16,000 additional housing units

The cities of Cambridge, Kitchener and Waterloo (Cities) currently have an ability to accommodate 125,000 housing units, which is a significantly higher number of units presented through the Housing Targets in Bill 23. Development activity within the Cities typically occurs in two locations - greenfield lands and the existing Built Up-Area. Greenfield land development typically represents 40% of the development within the Cities, which occurs through plans of subdivision. This means that of the 70,000 units the Province has identified for the Cities, approximately 28,000 units will occur through plans of subdivision, either through plans under review, plans that have been approved, or through lots that have been created but not yet built. Within the Cities, there are approximately 13,000 units in plans of subdivision that have been approved, and approximately 6,000 units through lots that have been created but not yet built. Of the 28,000 units, this results in a total of 19,000 units that are planned and ready for housing.

In addition, of those 6,000 units in the Cities that have been created, but not yet built,

approximately half have been registered for more than three years, which suggests that there are other tools or levers that need to be explored in order to get these units built.

Although the region has an abundant supply of land, serviced and approved for new residential development, the housing market has been unable to respond to the current housing demand crisis. Significant capacity currently exists for housing in the region's existing Built-Up Area (downtowns and in MTSAs) and on greenfield lands. A discussion is needed with the development industry on why the land is not being built upon – this is crucial to advancing the Province's goal of building more homes faster.

B) Areas of Significant Concern Regarding Reducing Costs, Fees, and Taxes

i) Freeze, Reduce, and Exempt Fees

Through Bill 23, the Province is proposing to amend the Development Charges Act in a way that will reduce costs eligible for Development Charge (DC) recovery, reduce the number of services eligible for DC recovery, and exempt or discount the DCs paid for certain development. Virtually all of the proposed changes result in less revenue collected by area municipalities to fund the costs of essential infrastructure. This includes:

- Exempting more growth from the payment of DCs;
- Mandatory discounts and phase-ins;
- Studies and certain land acquisition would be ineligible for DC recovery;
- Housing will no longer be an eligible service;
- Capping the interest rate on frozen DCs;
- Increasing the historical service standard from 10 to 15 years (thereby creating a lower service standard); and,
- Arbitrary spending allocations that may not align with municipal capital investments.

If approved, this Bill will result in:

- Reduced DC, PD and CBC revenue collected and therefore less municipal capacity to fund the cost of growth-related infrastructure
- A transfer of costs from new development onto existing taxpayers and ratepayers
- Delays in infrastructure projects needed to allow new housing to be built
- Deferred or cancelled infrastructure projects to expand the services needed by new residents
- More long term debt and risk for municipalities
- More pressure on municipal budgets and provincially mandated municipal asset management plans at a time of very high inflation and rising costs of borrowing.

Municipalities are responsible for the infrastructure needed to allow new housing to be built (water supply, wastewater treatment and roads) and the essential services used by its residents (public transit, parks and community centres, arenas, libraries, and emergency services such as police, fire and ambulance). The proposed changes to development charges, parkland fees and community benefits charges will limit the ability of municipalities to fund the capital costs of such infrastructure and services, and will increase the total cost of home ownership through increased property taxes and user rates. There is no demonstrable evidence that a reduction in development charges, community benefit charges, or parkland dedication rates will translate into lower housing prices. For Regional services specifically, the proposed changes to development charges will limit the Region's ability to fund water supply, wastewater treatment, roads, public transit, libraries, police and paramedic services.

Municipalities have limited revenue sources to fund capital investments needed to deliver essential services, and this legislation proposes to reduce municipalities' ability to fund necessary capital investments to allow new housing to be built. The inevitable result of the financial components of the proposed legislation is that existing taxpayers and ratepayers will need to pay more to allow growth to happen and the emplacement of infrastructure required to support housing development will be delayed. Actions such as making more costs ineligible for development charge recovery, discounting and phasing-in development charge rates across all forms of development (including non-residential construction) and exempting certain forms of development from the payment of development charges and community benefits charges all result in reduced revenue for municipalities.

In the absence of the Province developing mechanisms to offset the lost funding to keep municipalities whole from an infrastructure funding perspective, municipalities will be forced to make choices between maintaining existing assets or building new infrastructure with limited tax levy/user rate sources. This will ultimately lead to the deferral of growth-related infrastructure projects, which contradicts the Province's goal to build more homes faster. Discussions are underway through various provincial associations on solutions for the Province to consider to offset the funding gap.

Fee Exemptions for Affordable Housing

Bill 23 proposes to exempt affordable units from paying DCs along with paying Parkland Dedication fees and Community Benefits Charges. This would include:

- Affordable housing units in a development subject to Inclusionary Zoning (IZ);
- Affordable housing units in a development not subject to IZ; and,
- Affordable housing units developed by a not-for-profit regardless of location.

Exempting affordable units from DCs will assist with the financial viability of the affordable units. However, it may impact the ability of the municipality to cover the cost

of growth-related infrastructure. It shifts this burden to the existing tax/rate payers. The decision to subsidize affordable housing from existing tax/rate payers should be a local decision.

Similarly, exempting affordable units from Parkland Dedication and Community Benefits Charges will assist with the financial viability of the affordable units. However, it may affect the ability of area municipalities to deliver parkland and other community benefits.

Staff recommend that income eligibility be considered with respect to households who can access the newly created affordable housing units with appropriate administrative oversight to ensure that those that require the units are the ones that are provided access to them.

ii) Reduce Taxes on Affordable Housing

While the Province has signalled that they will explore potential refinements to the property tax assessment methodologies for affordable housing and approaches to reduce the current property tax burden on multi-residential apartment buildings, these items have not been included in the proposed legislation. If property tax reductions are considered in the future, this could provide an incentive for affordable housing units but would have implications for tax revenue.

iii) Inclusionary Zoning and Rental Replacement Rules

Bill 23 proposes the following changes to regulations that relate to Inclusionary Zoning (IZ) (O.Reg 232/18):

- Limit the requirement for affordable housing to a maximum of 5% of the proportion of units or floor area of a building. Currently, there is no cap on the proposed units and the % or proportion of units was to be identified through the financial analysis required by the Regulation;
- Limit the affordable term to 25 years. Currently, there is no cap on the duration of affordability; and,
- Limit the depth of affordability for both IZ rental and ownership units at 80% of Average Market Rent (AMR) or Average Purchase Price (APP). Currently, affordability is defined as the lower of the market rate (Average Market Rent or 10% of APP) or the income measure (30 percent of gross annual household income for low and moderate income households).

There is a benefit to providing more certainty to developers about the parameters of IZ. However, establishing an upper limit of a 5% of units to be affordable may limit the ability to create more affordable housing units in stronger market areas that could absorb a greater percentage of affordable units. Within Major Transit Station Areas, establishing a 5% cap on affordable housing would work against the overall target of a

minimum of 30 percent of new ownership and rental housing being affordable to low and moderate income households and would also work against Regional Council's equity objectives by decreasing the number of lower income households living in housing close to rapid transit services.

The proposed length of time (25 years) that units are required to be affordable is supported for affordable units provided through IZ. If further incentives are mandated, this affordable term should be extended. Staff would also support the depth of affordability (80% AMR) proposed for the IZ units as a minimum, but note that this percentage should be reviewed periodically to take into consideration factors such as changing household incomes.

Bill 23 is also proposing to give the Minister of Municipal Affairs and Housing the authority to impose limits and conditions on the powers of an area municipality to prohibit and regulate the demolition and conversion of residential rental properties. This could lead to the loss of existing rental stock either through conversion or demolition without replacement.

Maintaining the stock of rental housing is an important part of having sufficient housing. Consideration needs to be given to having area municipalities continuing to have the tools necessary to determine if a demolition or conversion of a current rental property is in the best interests of maintaining the housing supply.

C) Areas of Support and Further Considerations Regarding Streamlining Development Approvals

i) Streamlining Process

There is full support for taking action to address the housing supply crisis – collectively the Region and Area Municipalities have had a uniquely successful history supporting the Province's direction with respect to growth, intensification, and, housing supply and housing affordability. Similar to comments provided above, many of the proposed changes in Bill 23, as presented, will not easily advance the objective of building more homes faster. The points contained in the sections below are offered for consideration, related to the following:

- Clarifying roles and responsibilities;
- Delegation of approval for subdivisions and condominiums;
- Delegation of approval for Local Official Plan Amendments (OPAs);
- Changes to the Ontario Land Tribunal (OLT) by Limiting Third Party Appeals for Official Plan Amendments (OPAs) and Zoning By-law Amendments (ZBAs); and,
- Transition, Capacity and Resourcing.

Clarifying Roles and Responsibilities

Bill 23 proposes significant changes to the roles and responsibilities of upper-tier municipalities in the development approvals process, specifically with respect to approval authority responsibilities and rights of appeal.

Streamlining development application approval, specifically those that clarify roles and responsibilities and reduce duplication in processes that may exist in a two-tier environment is beneficial. There is strong community support for good planning across the rural and urban areas.

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. This includes considerations related to file transfer and staggering this process, the optimal way to address ongoing files and sufficient resources at the local level to support any new functions and responsibilities.

Collectively, there are efficiencies to be gained in the development approval process. Delegation of planning approvals at the request of the Area Municipalities is a way to streamline process, provided there is a transitional period to address capacity challenges, that consideration is given for the Region to provide this service to Area Municipalities without capacity, and that mechanisms are in place to allow meaningful participation from all municipal tiers so that we may continue to pool resources, exchange technical expertise, and address community-wide challenges and opportunities that cross area municipal boundaries.

Streamlining the Site Plan approvals process is a beneficial step. However, consideration needs to be given as to how the proposed changes may impact the ability of area municipalities to use tools such as Green Development Standards, which are critical to meeting environment and climate change goals in local contexts.

Delegation of Approval for Subdivisions and Condominiums

Bill 23 proposes a mandatory delegation of approval authority responsibilities for subdivisions and condominiums from upper-tier municipalities to area municipalities, regardless of capacity of the area municipality.

The Region has had the ability to download this responsibility under the Planning Act for many years. To date, only the City of Kitchener has actively pursued this responsibility. Delegation of approval for subdivisions and condominiums should be at the request of the area municipality and take into account the willingness of the municipality and the availability of resources rather than a mandatory delegation. Mandatory delegation without the proper support in place could result in further delays and inefficiencies in process.

The Province should require upper-tier municipalities to delegate upon request rather

than the mandatory delegation to area municipalities. Ultimately, the delegation of approval authority needs to account for readiness and any resource or capacity constraints at the lower-tier level and include a transition plan for in process applications. If adequate transition is not provided, there a high likelihood of disruption and delay to the supply of housing and could result in slowing down the processing of development applications until capacity is addressed.

Delegation of Approval for Local Official Plan Amendments (OPAs)

Bill 23 proposes to remove approval authority responsibilities for lower-tier Official Plans (OPs) and Official Plan Amendments from upper-tier municipalities.

Delegation of approval authority for local Official Plan Amendments (OPAs) for site specific applications could streamline the process for housing approval. However, for Official Plans or OPAs with growth-related components there is a benefit from the coordinated and integrated approach to growth afforded by a Regional review as the current approval authority. Further clarity is required on whether as drafted, new OPs and OPAs would be exempt from Provincial approval.

There is question around whether there is Provincial capacity to act as the approval authority for these applications, which could result in delayed approvals.

ii) Changes to the Ontario Land Tribunal (OLT) - Limiting Appeals for Official Plan Amendments (OPAs) and Zoning By-law Amendments (ZBAs)

Bill 23 proposes to remove third party appeal rights for planning decisions on Official Plan Amendments and Zoning By-law Amendments, meaning that members of the public would no longer be able to appeal a Council's decision on these types of applications.

Limiting third party appeals for OPAs and Zoning By-law amendments has the potential to speed up the delivery of housing and mitigating appeals based on "NIMBY" sentiments. Maintaining public meetings for these applications will be of utmost importance given this proposed change to ensure public participation remains a foundational element of responsible land use planning.

Consideration should be given to how this may impact the political nature of land use planning decisions. Consideration should be given to adding additional resources to the OLT to prioritize and/or triage appeals rather than a full removal of appeal rights.

Bill 23 also proposes to remove appeal rights from 'upper-tier municipalities without planning responsibilities' for all categories of planning decisions, including new Official Plans, OPAs, Zoning By-laws amendments, consents, minor variances and plans of subdivisions.

In many cases, upper-tier municipalities, such as the Region of Waterloo, provide

services that are essential to growth including water and wastewater servicing, transit and roads. In addition to this, the Region of Waterloo reviews development applications to ensure aspects of public health and safety are addressed, including achieving land use compatibility, source water protection and the clean-up of contaminated sites.

The legislation as currently proposed would limit the Region's participation in the development application approvals process to a commenting agency with no appeal rights (including the right to be added to a party at a hearing). The change to the appeal rights differentiates the Region from other public bodies or specified persons in the draft legislation. Given the essential nature of the services the Region provides to support growth and the need to adequately address items of public health and safety, it is critical that 'upper-tier municipalities without planning responsibilities' continue to be afforded the right of appeal. For example, the Region has a strong interest in coordinated greenfield development and protecting the region's groundwater supply; being excluded from the review and commenting process, and the elimination of appeal rights that are directly related to a Regional interest, would have a significant impact on critical services and infrastructure that the Region provides.

Consideration needs to be given to changes to the proposed legislation that would ensure appeal rights are afforded to upper-tier municipalities directly related to the Region's corporate interests or public health and safety.

Transition, Capacity and Resourcing

Bill 23 proposes to limit the roles of upper-tier municipalities, including the Region, in the development application approvals process.

Given the role that the Region plays in delivering services essential to growth such as water, wastewater, roads and transit, it is imperative that upper-tier municipalities, such as the Region of Waterloo, continue to be given notice of application and the ability to provide comments and recommend conditions of approval.

It is unclear, based on the proposed changes, whether 'upper-tier municipalities without planning responsibilities' would continue to have the ability to enter into agreements and require land dedications, which are essential functions to ensuring the Region's corporate interests are reflected in the development approvals process. Without this ability, there could be a shift to additional burden on the taxpayer for items previously covered through the development review process.

The Region has an existing Memorandum of Understanding through which the Region reviews development applications on behalf of the Province with respect to areas of Provincial interest. Based on the proposed changes, it is unclear whether this responsibility would remain with the Region or whether further uploading or downloading of this function would occur. The Region can and should continue to exercise the delegated planning responsibilities from the Province outlined in the

Region / Province Memorandum of Understanding. Any uploading or downloading of these responsibilities will require additional staff support to implement these public interest matters.

The Province needs to consider refinements to the proposed legislation to ensure proper authority exists for upper-tier municipalities to continue to comment on development applications, enter into agreements, require land dedications and implement existing Memorandums of Understanding to ensure that there are no undue delays or disruptions to the development application approvals process.

Summary Comments on Streamlining Development Approvals

There are inherent issues with the terminology used in the draft legislation with respect to 'upper-tier municipalities without planning responsibilities.' Given the services provided by upper-tier municipalities, including roads, water and wastewater, and the necessity of an integrated approach to growth, upper-tier municipalities inherently have planning responsibilities. The terminology should more adequately reflect the proposed legislated changes, such as upper-tier municipality with limited, or focused, planning responsibilities.

iii) Heritage Planning

Bill 23 proposes changes with respect to heritage conservation in an effort to remove perceived impediments to building more homes faster. The proposed changes include:

- Limiting heritage designations to properties already included on a Municipal Heritage Register;
- Requiring the removal of currently listed properties on a Municipal Heritage Register, if designation is not pursued within 2 years of the Act coming into effect;
- Exempting Provincially-owned and other publicly owned heritage properties from compliance with Provincial heritage standards and guidelines, if the Province is of the opinion that such exemption could advance one or more Provincial priorities;
- Permitting the development of ancillary residential units on properties of cultural heritage significance, with no restriction on the form, size or location of the units;
- Exempting developments of 10 units or less from Site Plan Control, consequently exempting those same developments from undertaking required Archaeological Assessments or other cultural heritage related studies; and

- Removing the ability to enforce exterior design standards through Site Plan Control for developments on or adjacent to heritage properties, within Heritage Conservation Districts or Cultural Heritage Landscapes.

These proposed changes, in addition to several amendments to the Ontario Heritage Act as part of Bill 108, will impede the ability to conserve significant cultural heritage resources in favour of housing development; in particular, exempting the need for Archaeological Assessments would be at odds with commitments made to First Nations as part of Reconciliation.

Consideration should be given to providing additional resources to area municipalities in the short to medium term to bring heritage planning processes into conformity with the proposed changes. Consideration should also be given to an alternative approach to exempting developments of 10 units or less from Site Plan Control such as scoped or limited review to ensure that cultural heritage conservation is adequately addressed through the review process.

D) Areas of Support and Concern for Helping Homebuyers and Renters

i) New Attainable Housing Program

Bill 23, in addition to exempting affordable housing units from DCs, parkland dedication fees, and community benefits charges, is also proposing to exempt “attainable” ownership housing as part of a new attainable housing program.

At this time, there is no proposed definition of “attainable housing”. The proposed legislation indicates that it only needs to remain attainable for the first sale. The Province has indicated that the sale of “attainable” housing shall be at ‘arms length’.

While there is a need to facilitate “attainable” ownership housing in our market, the concern is that the proposed legislation could make it more favourable for developers to invest in attainable home ownership projects rather than affordable rental projects given both types of projects have the same Development Charge and Parkland exemptions. Staff recommend that there be a definition for attainable which ensures that developers will receive the greater level of incentives for units that are more affordable.

There is also a risk that investors could purchase the “attainable” units and then resell them for profit given lack of criteria regarding resales. Staff recommend the duration be extended from first purchase to a maximum of 25 years. This is in line with the proposed duration put forward in areas subject to IZ.

In addition, while providing incentives (such as exempting fees) will help facilitate the development of attainable housing units in the ownership market, there are no Provincial mechanisms to offset the lost funding for infrastructure. The funding of this infrastructure will likely fall on the existing taxpayers (rather than increasing other

development charge rates). These incentives are a primary mechanism to promote attainable housing however there is significant financial uncertainty on how to fund this incentive exemption.

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.

ii) Address Vacant Homes

The Province currently permits a municipality to impose a tax on vacant residential units to potentially return supply to market for use as housing and create housing supply more quickly than simply building new units. A Vacant Home Tax (VHT) can also generate a stream of revenue to offset implementation and administrative costs and to fund future affordable housing initiatives.

Starting last fall, Regional staff undertook exploratory work with respect to the option of a VHT in the Region of Waterloo. Based on the available information to date, staff have concluded that there is currently not a significant number of vacant residential units in the Region. As such, there appears to be no strong policy rationale to consider implementation of a VHT at this time.

iii) Protect Homebuyers

The legislation includes measures that would protect a future homebuyer from unethical actions taken by a developer.

E) Areas of Support and Significant Concerns Regarding Better Planning

i) Planning Policy Review

Bill 23 proposes to integrate the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe (Growth Plan) into a new province-wide planning policy document to remove or streamline policies that result in duplication, delays or burden in the development of housing. The intent is to enable area municipalities to accelerate the development of housing and increase housing supply (including rural housing), through a more streamlined, province-wide land use planning policy framework.

The PPS and the Growth Plan currently provide a solid, clear and effective policy framework. Although consideration to the level of detail/direction provided could be made, one document that would apply province-wide may not provide sufficient direction on coordinated, fiscally sustainable growth and the appropriate protection of resources. In addition, it would may not recognize the differences between different geographies across Ontario. Under the Planning Act, municipal planning decisions must be “consistent” with the PPS and must “conform” with the Growth Plan. This policy

language provides decision makers sufficient flexibility to address policy overlaps and resolve conflicting policy interests, while ensuring provincial interests are protected across the Greater Golden Horseshoe.

While there may be room for additional policy refinements there is a question as to how merging the two documents would accelerate the development of housing and increase housing supply, through a more streamlined, province-wide land use planning policy framework. Merging the two documents would also result in more strain on area municipalities to address broad planning interests currently undertaken at the Regional level, in addition to the detailed planning matters currently the focus of area municipal planning (e.g., zoning, site planning, community plans, parks and recreation, and other matters of local interest).

In the absence of regional planning through a mechanism that mimics a Regional Official Plan or a role in development application review and approvals, there could also be an impact to consistency in planning across the seven area municipalities. There is a value in creating some new form of systems-level planning across our community.

Taken together, the PPS and the Growth Plan currently provide clear direction on what can be done and removes uncertainty so that those involved in municipal plan-making and those involved in making development applications know what would be acceptable under the provincial policy.

ii) Identify More Land for Housing

Bill 23 proposes to 1) prohibit conservation authorities (CAs) from commenting on conservation and environmental matters beyond flooding and erosion, 2) exempt development authorised under the Planning Act from requiring a permit under the Conservation Authorities Act, and 3) identify conservation authority-owned lands suitable for housing.

There is concern with the proposed changes because of the significant and irreversible cost to environmental areas. CAs should continue to have regard for impacts to natural heritage systems, habitat for sensitive species, and ecosystem service provision when evaluating permit applications. Healthy, well-connected ecosystems serve as valuable green infrastructure that provides essential services to residents (e.g. wetlands for stormwater retention, urban forests for thermal regulation). Such services can be difficult and expensive to replicate with traditional built infrastructure.

Furthermore, the ecological function of the natural systems in our communities is largely determined by habitat connectivity, matrix influences, and landscape-level factors that extend beyond municipal boundaries. CAs are uniquely positioned to monitor and evaluate ecological function given their watershed-scale perspective that spans such boundaries and considers both site and landscape level impacts of land use change and climate change. Thus, the Province should consider maintaining the existing

permitting function provided by CAs in order to ensure that development proceeds in a sustainable manner that minimizes damage to local ecosystems, thereby supporting livable and resilient communities.

There is also concern when identifying CA-owned lands as suitable for housing, as this proposed change could lead to a loss of critical habitat for species, fragmentation of natural heritage systems, and decline in ecosystem service provision where these lands have a clear ecological or hazard-mitigation purpose. As our communities grow, the demand for parkland and connected natural spaces will grow as well. Housing development in such areas could undermine our shared goals for health and wellbeing.

Bill 23 is also seeking feedback on revisions to the Ontario Wetland Evaluation System and developing an offset policy both of which could result in reduced protections for natural heritage resources in favour of housing development.

iii) Schools in Urban Growth Areas

The legislation proposes how to best incorporate schools into high-density communities which aligns to the importance of creating more amenity-rich 15-Minute Neighbourhoods.

6. Area Municipality Communication:

Communication and collaboration with Area Municipal staff has begun and will continue. Staff at the Regional and Area Municipal level engaged in preliminary discussions into Key Messages and the implications of Bill 23 on our planning system, financial systems, housing supply, and collective community-building efforts. On-going dialogue and collaboration will be critical in further understanding the impacts of Bill 23 and any necessary steps from an implementation process if it proceeds as proposed.

7. Legal Implications:

The aim of Bill 23 is to accelerate development and create housing. The following are three areas of significant legal implications for the Region of Waterloo:

1. The Region Becomes a Commenting Agency

As part the proposed changes,

- there will no longer be Regional Official Plans (for the seven Regions and County of Simcoe);
- the current Regional Official Plans will be deemed to be plans of the lower-tier municipalities;
- Regions and the County of Simcoe will no longer have approval authority over any land use planning instruments (including official plans/official plan

amendments and plans of subdivision, and

- there will be no ability for a Region to appeal or request party status before the Ontario Land Tribunal hearings in respect of any land use planning decisions.

As a result of the changes, there will be limited Regional control over future land development on a Region-wide basis, there will be a loss of Regional coordination of Region-wide issues, and a disconnect between new residential development and the provision of Regional services for those developments.

2. Increased Burden on Tax Base

There are various proposed exemptions from the payment of development charges (including the development charge phase-in), community benefit charges and parkland dedication. This means that the increased cost of providing municipal as well as Regional services (including to service the new residential developments) will result in an increased use of general revenues or reduction in the provision of service

3. Access Limited to Ontario Land Tribunal (OLT)

As a result of the proposed changes under Bill 23, members of the public, ratepayer groups, the Regions and the Conservation Authorities (who are also now a commenting agency) no longer have the ability to appeal matters and seek party status for matters at the OLT. This means that the only recourse would be to seek redress by making an application to court asking the court to judicially review any land use planning decisions or quash the by-law permitting the use. Any application to court is a much more formal, costly, complex and time-consuming process.

8. Financial Implications:

The proposed changes to development charges, parkland dedication fees and community benefits charges will limit the ability of municipalities to fund the capital costs of such infrastructure and services. The total cost of home ownership will be higher as a result of further property tax and user rate increases.

The proposed legislation will have a material impact on municipalities' ability to fund the infrastructure required to support the targeted growth in housing supply. Ultimately the total cost of home ownership will increase as, in the absence of federal/provincial funding to offset the impacts, the funding of growth-related infrastructure shifts from new development to existing tax and rate payers.

There is no demonstrable evidence that a reduction in development charges, community benefit charges or parkland dedication rates will translate into lower housing prices, as these prices are driven by market forces. The direct financial impact to the Region is difficult to estimate at this time given the nature of the proposed legislative changes and timing.

9. Conclusion / Next Steps:

The Region of Waterloo is in full support of the Province's objective to build more homes faster and more cost effectively. The More Homes Built Faster Act, 2022 (Bill 23) provides some sound actions to advance building 1.5 million homes over the next 10 years. However, Bill 23 also proposes many changes that will severely limit the ability to accelerate housing supply and affordability.

A strategic, integrated, 'big-picture' planning approach is critical to support our fast-growing urban and rural municipalities, including ensuring an adequate supply of land for housing. Measures could be taken that would address unintended consequences of the proposed legislation and ensure the ability of the Region and Area Municipalities to collaboratively and efficiently plan for an integrated approach to growth and protection of resources to support all residents across Waterloo Region.

Prepared By: Cushla Matthews, Senior Planner

Brenna MacKinnon, Manager, Development Planning

Shane Fedy, Manager, Infrastructure Financing

Reviewed By: Danielle De Fields, Director, Community Planning

Approved By: Rod Regier, Commissioner, Planning, Development, and Legislative Services

Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer