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November 24, 2022

Ministry of Municipal Affairs and Housing
Municipal Finance Policy Branch
777 Bay St, College Park 13th Floor
Toronto, ON M7A 2J3

Email: MFPB@ontario.ca

Re: ERO 019-6172- Proposed Planning Act and Development Charges Act Changes

Thank you for the opportunity to comment on the proposed changes to the *Development Charges Act* (*DC Act*) as outlined in *Bill 23, More Homes Built Faster Act, 2022*. Please note that these comments are provided by Region of Peel staff and may be considered by Regional Council for endorsement. If additional or differing comments are provided through a Council resolution, they will be forwarded to the Ministry for consideration.

The Region of Peel appreciates the Province’s efforts to increase housing supply and improve affordability. While the Region shares the Province’s goal in this regard, the changes proposed in Bill 23, including changes to the *DC Act*, will have considerable financial impacts and unintended consequences that would be counterproductive to reaching this overall goal.

The new growth and intensification targets and removal of upper-tier planning responsibilities, coupled with Development Charge (DC) revenue reductions due to various changes to the *DC Act*, will negatively affect the Region’s ability to plan and invest in critical infrastructure required to service land and build non-market housing.

DCs are an important revenue source for municipal investments in growth capital infrastructure required for growth and development. In the face of various priorities, such as responding to the affordable housing crisis, the climate emergency, asset management, a slowing economy, and other community pressures, municipalities do not have room to absorb additional financial burdens related to growth. If implemented, the proposed changes to the *DC Act* could amount to a $2-6 billion revenue shortfall over the next 10 years, according to preliminary analysis.

Risks to dedicated DC revenues will force the Region to take on additional debt, which may become stranded and, without additional provincial funding, would force significant increases to property taxes and utility rates. Such an outcome would further aggravate the growing property tax burden on residents and businesses in Peel, impact housing affordability, and reduce the pace of growth and housing development.

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Should Bill 23 be enacted, the Region will be forced to make a choice between increasing taxes and utility rates or reducing service levels. The Region has experienced rising service demand, which has been exacerbated by the COVID-19 pandemic due to heightened service needs for health services and housing. Reductions in services would disproportionately impact the most vulnerable who are the focus of many Regional services.

The Region is committed to working with the provincial government, the development industry and other stakeholders to address these challenges. While the Region pursues efforts to explore and identify tools and measures to address the housing affordability crisis meaningfully and effectively, consideration must be given to the Region’s financial condition and financial sustainability.

Staff have identified four key issues for consideration and have also provided some preliminary recommendations as summarized below.

Issues and Recommendations:

1. DC Eligible Services

Bill 23 proposes to eliminate housing services, growth-related studies, and certain land costs from being eligible for DCs. These changes challenge the principle of “growth should pay for growth”.

The Region’s 2020 DC Study included approximately $200 million in DC funding for Housing Services, $127 million for studies, and $250 million for lands, over the next 10 years. The removal of these costs would result in the inability to build much-needed affordable housing and would cause an immediate shift of these costs to taxpayers and ratepayers, including businesses.

Recommendations

Regional staff recommend that the Province maintain the principle that “growth should pay for growth” and retain housing services, studies, and land costs as DC eligible.

Municipal housing services were downloaded from the Province. If the intent of the proposed changes is that housing capital costs cannot be paid for, in part, by growth, municipalities would require predictable and sustainable long-term provincial funding to make sure there is adequate funding to meet community needs for housing services. If these revenue losses are not offset with funding, municipalities will not have the means to build affordable housing and the Region’s Housing Master Plan (HMP) will not proceed.

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The HMP is one of the country’s non-market affordable housing building programs of any significance underway and includes new development projects as well as regeneration of existing Peel Housing Corporation sites. Proposed changes to the *DC Act,* if passed, would immediately jeopardize the HMP, putting approximately 1,000 units at risk of cancellation, and the loss of around a quarter billion dollars in federal financial commitments. This is further detailed in the later part of this letter under *Section 4 - Housing Services*.

2. Various DC Exemption and Reductions

Bill 23 proposes various DC exemption or reduction measures. The Region appreciates that there is a need to provide incentives for affordable housing and has put various Regional incentive programs in place. For example, the Peel Affordable Rental Incentives Program provides capital grants to developers building affordable rental units for moderate income households. The Region also implemented various DC policies to provide incentives, cost predictability, and stability for development. These policies include a zero percent DC deferral interest rate for all housing projects that are eligible for DC deferral, a fixed DC freeze interest rate, and DC exemption for eligible long-term care and hospice units.

In reviewing proposed changes, significant gaps were identified resulting from the DC exemptions and DC reductions proposed in Bill 23:

- The definition of “affordable” for the purpose of providing full DC exemption is much broader than the definition set out in the Provincial Policy Statement and is not tied to income levels. It is estimated that more than 50%, or as high as 80% depending on the average price published in the bulletin, of new ownership housing units in Peel in 2021 would have been eligible for the DC exemption as proposed as part of the affordable housing definition in Bill 23. For context, at 2021 year-end, 80% of the average resale purchase price of ownership units equated to $841,950 in Peel, whereas a moderate-income household (in the sixth income decile) could only afford a maximum house price of $465,718. This is an affordability gap of $376,232. The implications of the new definition would be a significant DC revenue shortfall that would pose challenges to funding growth while not creating housing that is affordable to low- or moderate-income households. This change potentially runs counter to the intent of the legislation.
- Peel Housing Corporation is a municipal housing provider that is wholly owned by the Region of Peel, however it does not satisfy the requirements of the definition proposed in the *DC Act* for “non-profit housing development.” This issue impacts most local housing corporations, as these agencies, like Peel Housing Corporation, were

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incorporated under the *Ontario Business Corporations Act*. These municipal housing corporations would therefore not be statutorily eligible for the proposed exemptions.

- Clarification is required as to the definition of "attainable" and the objective of these proposed DC exemptions.
- The proposed DC reduction, such as mandatory DC rates phase-in and full and partial DC exemption, is universal in nature. There is a lack of a connection between the incentives and benefit outcome for the public.

Recommendations

Regional staff recommend that the Province reconsider the proposed global DC rate exemption or reduction from Bill 23. In striking a balance between providing a public benefit and utilizing scarce public funding in an effective and efficient way, the following measures may be considered to help provide incentives, while ensuring control and affordability performance measurements are in place:

- Launch a provincial rebate program that provides performance and merit-based rebates to development projects that meet the existing Provincial Policy Statement's affordable housing thresholds and criteria.
- Provide funding to municipalities that allows for the expansion of existing municipal incentive programs. This will help provide targeted funding to address affordability issues with meaningful breadth and depth. The design of these programs can cater to community characteristics and growth. Additionally, this approach can help programs to adapt quickly in addressing evolving community needs.
- Should Bill 23 proceed as proposed, Regional staff also recommend the following:
    - Provide dedicated funding to municipalities to cover the DC revenue shortfall due to Bill 23 DC incentive measures to ensure revenue neutrality
    - Incorporate the necessary technical amendment to the definition of "non-profit housing development" to include those projects developed by "a Local Housing Corporation as defined in the *Housing Services Act, 2011*". This change would:
        - a) put public housing corporations, such as Peel Housing Corporation, on level footing with other non-profit housing developers;
        - b) support and ensure consistency with existing provincial housing legislation; and

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- c) be responsive to the unique history of public housing corporations and the manner in which they were incorporated prior to their transfer from the Province to municipalities.

- Maintain the existing Provincial Policy Statement approach to affordability as the lesser of either an income-based calculation for low and middle-income households or a percentage below average market price, and work with Service Managers for affordable housing systems to establish a standardized methodology for calculating income-based affordability.
- With respect to the mandatory DC rate phase-in, only the increased portion should be phased in, and non-residential development should be excluded from this change as there is not a link between reduced non-residential charges and increasing housing supply.

3. Emplacing Infrastructure Projects Required to Service Lands to Accommodate Growth

The October 25 announcement referenced increased growth targets of 120,000, 113,000 and 13,000 units for the City of Mississauga, the City of Brampton and the Town of Caledon respectively. These targets are approximately 2.5 times the forecast prepared as part of the Peel 2051 Municipal Comprehensive Review as approved by the Province. The 246,000 residential unit target (2022-2031) set by the Province through Bill 23 is close to the 273,000 units planned to 2051 in the Region’s Official Plan. To meet the Province’s new targets, the Region would need to leapfrog infrastructure investments that were originally planned for outer years to be advanced and in place over the next 10 years. The magnitude of this pressure and the resulting impacts should be understood and analyzed through comprehensive growth management and infrastructure servicing review and consideration.

This has far-reaching impacts across the development and construction industry. Preliminary analysis clearly indicates that the Region has limited financial capacity or service capacity to procure, design, build and maintain infrastructure at this pace and at this scale. Further, within the context of heightened risks of an economic downturn in 2023, the issue of labor shortages and other economic conditions may limit the market’s ability and willingness to produce and absorb the number of targeted units set by the Province.

As noted previously, preliminary analysis estimates that the DC revenue shortfall resulting from the proposed changes to the *DC Act* could amount

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to $2-6 billion over the next 10 years. Actual revenue shortfall would vary depending on the final definitions of certain DC reduction measures in the legislation as well as the actual level of development activities.

There are no financial tools that can be utilized to address the anticipated large revenue shortfall or forecasted gap between DC revenues and expenditures. Unprecedented growth and density targets would put significant pressure on infrastructure and services emplacement and create challenges for asset management and lifecycle costs. These pressures would likely leave municipalities with no choice other than to defer capital projects and infrastructure investments necessary for land servicing.

Construction activities are already constrained due to increased labor challenges and are anticipated to continue to have limited growth over the coming years. According to BuildForce, Canada's national report, while most of the sector's growth is expected to occur by 2025, all industries across the province will have to replace approximately 259,100 workers by the end of the decade due to retirements. This accounts for almost 22% of the current workforce.

Recommendations
Should Bill 23 proceed, Regional staff recommend the following funding streams and actions:

- Targeted infrastructure funding to municipalities to stimulate investment and construction.
- Exploration of policy solutions to address labor market challenges that constrain growth.
- Dedicated funding to cover municipal revenue shortfalls and ensure revenue neutrality.
- Incremental funding to provide financial support for asset management costs associated with incremental municipal assets required due to the increased housing targets for the City of Mississauga and the City of Brampton.
- Funding and financial tools for municipalities to manage imbalanced cash flow resulting from the anticipated significant gap between DC revenues and DC expenditures.
- Discussion with municipalities regarding the feasibility of achieving the new substantially increased growth targets and potential solutions.

4. Housing Services

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Proposed changes in the *DC Act* related to housing services would put many non-market housing, emergency shelter projects and services across the province at risk of not proceeding or being delayed. In Peel, this would impact approximately 1,000 units that are currently underway. In addition, the loss of DC funding for housing services, if remain unfunded, would likely cause the loss of committed Provincial funding and the National Housing Strategy funding committed by Canada Mortgage and Housing Corporation, as noted below:

Project	Number of Units	Allocated Development Charges Funding ('000s)	Provincial Funding ('000s)	CMHC Mortgage ('000s)	CMHC Forgivable Loan ('000s)
East Avenue	151	$18,466	$23,259	$14,433	$6,403
Brightwater (PCWV)	150	$17,500	$13,128	$13,878	$6,156
Chelsea Gardens	200	$41,000	$0	$18,504	$8,209
Mayfield West Phase 1 (Family)	50	$13,500	$0	$4,626	$2,052
Peel Manor	194	$30,000	$0	$17,949	$7,962
Peel Family Shelter	60	$7,202	$0	$0	$2,463
Riley Court	138	$2,400	$0	$12,768	$5,664
Total	**943**	**$130,068**	**$36,386**	**$82,158**	**$38,909**

These projects, which represent almost all new non-market housing provision in Peel, cannot be replaced by for-profit housing provision. The total CMHC funding committed to the Region is $276.4 M (repayable and forgivable loans), which supports a total of 16 projects.

Further, proposed *DC Act* changes would also result in housing units secured through inclusionary zoning (IZ) being exempted, while the exemption may help improve IZ financial viability, the complementary regulations proposed for IZ limit the set-aside rate to 5%, cap the duration of affordability, and adjust the affordability threshold upwards to higher-income levels. IZ is the only *Planning Act* tool that can secure more affordable housing. However, these regulatory changes would constrain the provision of IZ units in stronger markets, like Peel, where feasibility studies and local municipal by-laws have already identified the viability of greater set-aside rates, duration of affordability, and deeper affordability. This would likely result in many municipalities no longer pursuing IZ, especially in municipalities like Peel where the purpose-built rental market is vulnerable. This would slow down efforts to address housing

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affordability and reduce the number of units that could potentially be secured through IZ. The implications of this change would be a loss in DC revenue that would pose challenges to funding growth, not yield affordable housing, and hinder the adoption of inclusionary zoning. This change in IZ contradicts the stated objective of Bill 23.

Recommendations
Regional staff recommend the following:

- Housing Services should remain an eligible service for DCs to support the ongoing provision of non-market housing.
- Reconsider the proposed changes to inclusionary zoning regulations, and the shift in the definition of affordability to maximize the public benefit realized from exempting affordable units from charges and fees associated with the planning and development process
- Provide additional provincial funding to enable municipalities to address operational and capital needs for affordable housing, as well as respond to the scale of the housing affordability crisis (an estimated 91,000 households in Peel are living in core housing need).
- Launch a municipal Vacant Home Tax (VHT) working group and consider feasibility of introducing a provincial home occupancy status declaration through annual income tax filing. Such data would then be available in the Municipal Property Assessment Corporation database for municipal VHT tax billing and collection
- In partnership with municipalities, revisit the funding formula for housing and consider opportunities to allow municipalities to expand "made-in-the-region" incentive programs to meet community needs.

Conclusion

As noted above, there are significant negative implications for the Region, should the changes to the *DC Act* as outlined in Bill 23 be implemented. Without additional funding support, the Region's ability to finance future growth will be severely impacted.

We trust that the Region's comments are helpful as the Ministry considers amendments to the *DC Act* provisions in Bill 23. As these legislative and regulatory changes move forward, consideration of the Region's concerns and recommendations is greatly appreciated.

The Region is committed to continuing to work with the Province, local municipal partners, and other stakeholders, to meeting our shared objective of building more housing supply that is affordable to Peel residents. If

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additional information or clarification is required, please do not hesitate to contact me directly.

Sincerely,

G. Kent.

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