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**For Information**

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**REPORT TITLE:**     **Bill 185 – Changes to the Development Charges Act, 1997**

**FROM:**             Davinder Valeri, Chief Financial Officer and Commissioner of Corporate Services

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**OBJECTIVE**

To provide Council with information regarding the proposed changes to the *Development Charges Act, 1997* in the tabled omnibus legislation, Bill 185, *Cutting Red Tape to Build More Homes Act*.

**REPORT HIGHLIGHTS**

- On April 10, 2024, the Province tabled omnibus legislation, Bill 185, *Cutting Red Tape to Build More Homes Act*. The proposed legislation includes implications for the *Planning Act* and the *Development Charges Act, 1997*(DC Act).
  - Recent proposed changes to the DC Act appear positive for municipalities by reversing some amendments originally introduced in Bill 23 which limit municipalities' ability to collect development charge revenue.
  - It is estimated that over a future 10-year period the changes currently proposed could reduce estimated DC revenue shortfalls for Peel Region by approximately \$320 million.
  - Updating a December 2023 Peel Region staff estimate related to DC Act changes introduced in Bill 23, the proposed changes in Bill 185 would reduce the estimated DC revenue shortfall further from \$1.5 billion to \$1.2 billion over a 10-year period.
  - Any DC revenue shortfall resulting from changing legislation, which are necessary to deliver infrastructure for new development, would need to be made up through property taxes and/or utility rates unless the Province makes Peel Region financially "whole" through other funding streams.
  - Staff will continue to monitor DC Act changes related to Bill 185 and also continue to advocate that growth pays for growth to the extent possible for community housing services and statutory DC exemptions.
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**DISCUSSION**

**1. Background**

On November 28, 2022, the Province passed Bill 23, the *More Homes Built Faster Act* ("Bill 23"), to support the provincial commitment to facilitate the construction of 1.5 million homes over the next 10 years. In a report to Council on December 8, 2022, staff summarized the significant reductions that Bill 23 would impact Peel's ability to collect development charges (DC). Many of the Bill 23 changes were seen to run counter to the Province's stated

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housing targets and may limit Peel Region’s ability to advance housing supply. Changes included eliminating the ability to collect DC for the following areas:

- Removal of community housing services from DC eligibility
- Removal of Studies and certain lands from DC Eligibility
- Mandatory 5-year phase-in of DC rates
- DC exemptions/reductions (affordable/attainable housing, discount to rental units)

Preliminary analysis estimated that the DC revenue shortfall in Peel resulting from changes to the *Development Charges Act, 1997* could amount to approximately \$2 billion over a 10-year period.

On September 28, 2023, the Province introduced Bill 134, the *Affordable Homes and Good Jobs Act, 2023*, which proposes changes to the definition of affordable residential units in the DC Act. These changes proposed to incorporate income-based factors into the definition in which affordable housing units would be exempt from paying DCs. The change proposed was a positive change that many municipalities had recommended during the original consultation phase for Bill 23. As mentioned above in December 2022 staff estimated that the Bill 23 DC revenue shortfall in Peel Region was approximately \$2 billion. Updating this analysis, assuming the new definition for DC exemptions for affordable housing in a report to Council on December 7, 2023, (*Prioritization of Housing Affordability Task Force Recommendations and Bill 134, Affordable Homes and Good Jobs Act*), the DC revenue shortfall was estimated to be \$1.5 billion over the next 10 years.

In addition to the Province’s announcement on December 13, 2023, that Peel Region would no longer be fully dissolved, the Province also announced that it would engage in consultations with its municipal partners on the impacts of Bill 23 and municipalities ability to fund growth-related infrastructure. The following were highlighted as potential DC changes to be consulted on for inclusion in future legislation were:

- The requirement to phase-in DC rates over the five years for DC by-laws passed as of January 1, 2022; and
- The removal of studies as an eligible capital cost for DC

As Peel Region’s current DC By-law (77-2020) was passed on December 10, 2020, the DC By-law was unaffected by the effects of phased in rates or the ability to collect for studies as an eligible capital cost for DC under the by-law. The only way the amendments would have impacted Peel Region would be if Peel Region decided to reopen the DC By-law prior to the expiry date of January 22, 2031.

## **2. Cutting More Red Tape to Build More Homes Act, Bill 185**

On April 10, 2024, the Province tabled omnibus legislation, Bill 185, *Cutting Red Tape to Build More Homes Act*. The proposed legislation includes implications for operations and responsibilities within Peel Region, largely the removal of statutory powers under the Planning Act, 1990 from regional municipalities. The new bill also proposes amendments to the *Development Charges Act, 1997*. This report focuses on discussions regarding proposed changes to the DC Act.

Bill 185 moves forward with DC exemptions for affordable units as announced on December 13, 2023. Peel Region has supported the inclusion of income criteria in the definition of

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affordable housing in terms of DC exemptions. Similarly, the changes announced in Bill 185 in terms of changes to the DC Act would make steps towards returning municipalities ability to fund growth-related infrastructure, these steps are as follows:

### **a) Repeal of the Mandatory Five-year Phase-in of DC Rates**

Bill 23 introduced the mandatory phase-in of DC rates over five years for DC by-laws passed on or after January 1, 2022. DCs are discounted by 20 per cent in Year 1, 15 per cent in Year 2, 10 per cent in Year 3, and 5 per cent in Year 4. The five-year phase in of increased development charges introduced in Bill 23 is proposed to be withdrawn by Bill 185. Although the mandatory phase-in did not impact Peel Region as the current DC By-law was passed prior to January 1, 2022, future DC by-laws for Peel Region will now continue to be unaffected by any legislated phase-in of rates. Based on the current by-law, an estimate of the revenue shortfall for a mandatory phase-in of DC rates would have been approximately \$190 million over a 10-year period.

### **b) Reinstate Studies as an Eligible Capital Cost for DCs**

Bill 23 removed the cost of studies as an eligible capital cost that municipalities could recover through DCs. This removal of costs did not apply to municipalities with DC By-law(s) passed prior to January 1, 2022 and therefore the removal did not have an impact on Peel Region's ability to collect DCs for studies. Through Bill 185 the cost of DC eligible studies will again be included as a capital cost when calculating the charge and future DC by-laws for Peel Region will continue to be unaffected. Based on the current by-law, an estimate of the revenue shortfall for removal of studies as an eligible cost would have been approximately \$130 million over a 10-year period.

### **c) Streamlined Process for Extending DC By-laws**

Bill 185 proposes to streamline the process to enable a municipality to extend their existing DC by-law(s) by not legislating the requirement to prepare a new background study or the procedural requirements in passing a new by-law (i.e. Public Meeting, etc.). This will allow municipalities to extend the expiry date of the by-law(s), currently 10 years from the date a DC by-law(s) is in force and continue to charge the existing rate (plus indexing). This currently does not impact Peel Region as the current DC by-law is not to expire until 2031. This amendment will allow municipalities to align DC by-law(s) updates perhaps to better align with updates to master plans. Municipalities will continue to have the ability to reopen their DC by-law(s) prior to expiry.

### **d) Reduce the Time Limit on the DC Freeze**

There is currently a two-year time lapse on the DC freeze (an application is not eligible for a DC freeze if the DC payable is not within two years of the approval of the planning application). This time lapse requirement is proposed to be reduced to 18 months. The proposed amendment under Bill 185 is a positive change which is intended to encourage expedited development.

### **e) Newspaper Notices Requirements**

The DC Act currently requires providing notification of a public meeting on a proposed DC by-law(s), or passage of a by-law(s) to every landowner in the area by publishing the notice in a newspaper with sufficient circulation in the area to which the by-law(s) would

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apply. As many community newspapers have ceased publication, Bill 185 is proposing to enable municipalities to provide these notices on a municipal website if a local newspaper is not available.

### **3. Environmental Registry of Ontario (ERO) Submission**

Staff has prepared a draft comment (Appendix I) for submission through the Environmental Registry of Ontario on legislative changes to the DC Act and will submit a final version after Council approval.

## **RISK CONSIDERATIONS**

Included as part of the Bill 185 Provincial Backgrounder was the notice that the amended definition, as proposed in Bill 134, for affordable housing DC exemptions will come into force on June 1, 2024. While Peel supports the Province's efforts to increase the supply of affordable housing options, providing exemptions to DCs for affordable residential units could create risks of gaps in infrastructure funding unless otherwise addressed by alternative funding to ensure revenue neutrality.

## **BILL 112 RISKS AND IMPLICATIONS**

The passing of the Hazel McCallion Act (Peel Dissolution), 2023 on June 8, 2023, formalized a plan to dissolve the Region of Peel effective January 1, 2025. On December 13, 2023, the provincial government announced that Peel will not be dissolved, and that new legislation will be passed in 2024 to repeal or amend Bill 112. On April 10, 2024, Bill 185, *Cutting Red Tape to Build More Homes Act* was tabled to amend various acts including the *Hazel McCallion Act (Peel Dissolution), 2023*. Bill 185 will amend the *Hazel McCallion Act (Peel Dissolution), 2023* confirming that Peel will not be dissolved, and includes a recalibrated focus on options to support building more housing faster. The full implications of the *Hazel McCallion Act (Peel Dissolution), 2023* as amended by Bill 185 cannot be determined at this time.

## **FINANCIAL IMPLICATIONS**

In December 2022, Peel Region staff reported to Council that the preliminary DC revenue shortfall resulting from the changes in the DC Act from Bill 23 could amount to approximately \$2 billion over a 10-year period. An update in December 2023 considering changes in Bill 134 lowered this estimated DC revenue shortfall to \$1.5 billion over a 10-year period.

Updating this analysis with the removal of mandatory phase-ins and reinstating studies as an eligible DC cost, results in an estimated DC revenue shortfall of \$1.2 billion over a 10-year period. Additional funding continues to be required to help offset reduced DC revenues from exemptions that could incent more affordable housing choices and may impact the ability to provide housing services and infrastructure to accommodate the Province's goal of 1.5 million new homes over a 10-year period.

Any DC revenue shortfall resulting from legislation, which are necessary to deliver infrastructure for new development, would need to be made up by property taxes and/or utility rates unless the Province makes Peel Region financially "whole" through other funding streams.

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### **CONCLUSION**

While the proposed amendments to the DC Act under Bill 185 shift the estimated DC revenue shortfall in a positive direction since they were first estimated in December 2022, Bill 23 still imposes significant reductions to Peel Region’s ability to collect DCs.

Peel Region will continue to advocate the need to reinstate both community housing services and the cost of land for certain prescribed services (i.e. no service has been prescribed yet) as DC eligible costs.

The Province must make Peel Region and local municipalities financially “whole” as a result of impacts on municipal revenues and expenditures from Bill 23, Bill 134, Bill 185 and related or subsequent legislation. All levels of government have a role to play to work towards the Province’s goal of building at least 1.5 million homes by 2031.

### **APPENDICES**

Appendix I - Peel Region Response to the Province: ERO 019-8371 – Changes to the *Development Charges Act, 1997* to Enhance Municipalities’ Ability to Invest in Housing-Enabling Infrastructure

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