



## **The Corporation of the Town of LaSalle**

**To:** Mayor and Members of Council

**Prepared by:** G. Beggs, Director of Planning & Development & D. Langlois, Director of Finance/Treasurer

**Department:** Planning & Development

**Date of Report:** December 19, 2022

**Report Number:** PD-40-2022

**Subject:** Bill 23, the More Homes Built Faster Act Summary Report

### **Recommendation**

That the report prepared by the Director of Planning and Development and the Director of Finance/Treasurer dated December 19, 2022 (PD-40-2022) regarding *Bill 23, The More Homes Built Faster Act* be received;

And that our current practice whereby a public meeting pursuant to the removal of a Holding Zone symbol associated with a property's zoning classification, be discontinued given the intent of *Bill 23* to streamline the municipal approval process for residential development.

### **Report**

On October 25<sup>th</sup>, 2022, Ontario's Ministry of Municipal Affairs and Housing introduced *Bill 23, More Homes Built Faster Act* ("*Bill 23*"), for a first reading of the legislature. *Bill 23* was drafted as a way to support Ontario's Housing Supply Action Plan 2022-2023, with a direct focus on increasing the housing supply within the province. More specifically, the new provincial legislation calls for 1.5 million new homes to be built over the next ten years, with certain major cities in the province being held accountable for achieving defined housing targets. To achieve this goal, the legislation recommends several regulatory changes to the following Acts, to remove perceived barriers that restrict residential development approvals:

1. *The Planning Act*
2. *The Ontario Land Tribunal Act*
3. *The Conservation Authorities Act*
4. *The Development Charges Act, 1997*
5. *The Ontario Heritage Act*

## 6. *The City of Toronto Act, 2006 / Municipal Act, 2001*

While it is commendable by the province to explore the ways in which to address the housing affordability crisis, many of the legislative changes propose sweeping and substantive modifications to well-supported municipal land-use planning principles, while also having large-scale implications associated with the current financial operating model for the Town. There are other impacts related to development charges reform, the diminished role of conservation authorities, and removing all legislated planning responsibilities from certain upper-tier municipalities which, when applied together, fundamentally alter the way the current development approval processes are conducted and paid for. Ultimately, the scope of the legislation is broad and the associated impacts for the municipality are far-reaching.

After a very brief commenting period, *Bill 23* received Royal Assent on **November 28<sup>th</sup>, 2022**, and remained largely unchanged compared to the initial Bill originally proposed. While some of these changes take effect immediately, others are retroactive to the date *Bill 23* was introduced, and others have still yet to come into effect, relying on implementing regulations to be drafted. This report will highlight the legislative changes that are pertinent to the Town of LaSalle and explore the ways in which the amendments alter current municipal operations related to both planning and development as well as finance. As supplementary information, attached to this report there are five letters from Watson & Associates Economists Ltd. (see Attachments 1, 2, 3, 4 and 5), which go into greater detail exploring the substantial impacts of the new legislation on municipal operations.

The chart below outlines the substantive changes associated with *Bill 23* along with Administration's commentary related to the proposed change.

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
Planning Act	Site Plan Control	<p>Developments of up to <b>10 residential</b> units will be <b>exempted</b> from the <b>site plan approval</b> process and will go straight to the building permit process as of right.</p> <p>The amendments also <b>restrict the municipality's authority to regulate matters of exterior design</b> and the appearance of buildings through the site plan control process. This includes the municipality's ability to comment on the appearance of buildings, including character, scale, and massing, as well as matters relating to landscaping, parking lots, lighting, tree planting and fencing.</p>	November 28 <sup>th</sup> , 2022

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		<p><u>Commentary:</u> Evaluating site design and layout is an integral element of the site plan approval process and a key component of creating and building complete communities from a land-use planning perspective. Without these tools available to us as a mechanism to regulate these matters, our ability to ensure and help manage responsible, compatible development opportunities is minimized.</p>	
Planning Act	Permitting As-of-Right Additional Residential Units (ARUs) within the settlement area boundary.	<p><b>Up to three residential units are permitted as-of-right</b> on any parcel of <b>urban residential land</b> (land within the urban boundary). This speaks to ARUs in either a single-detached, semi-detached, or rowhouse/townhouse dwelling, whereby two units are allowed in the main building and one additional unit is permitted in an accessory building. <b>No minimum unit sizes, and no more than one additional parking space</b> is being <b>required</b> as part of the legislation. The goal is to try and <b>encourage and promote more “gentle density/missing middle”</b> within the existing housing stock through intensification.</p> <p><u>Commentary:</u> Our current Official Plan and Zoning By-law allow these units in R1/R2 zones as-of-right. Some of the provisions in our current Zoning By-law related to ARU’s may need to be revisited given the intent of the provincial legislation.</p>	November 28 <sup>th</sup> , 2022
Planning Act		<p>Statutory Public Meetings <b>are no longer required for Draft Plan Approval</b> (Plan of Subdivision) applications.</p> <p><u>Commentary:</u> Municipalities will now make decisions on draft plans of subdivision without holding a public meeting, or hearing feedback from the neighboring community.</p>	This applies to applications received after November 28 <sup>th</sup> , 2022

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		Public meetings for OPAs and ZBAs <b>remain legislated.</b>	
Planning Act	Parkland Conveyance	<p>Caps are being placed on the amount developers are required to pay for new parkland. The rate of dedication will remain at 5% of the land for plans of subdivision, but this rate of dedication will then be <b>multiplied by the ratio of residential units that are affordable, attainable or otherwise exempted</b>, against the total number of residential units forming part of the development or redevelopment.</p> <p>Parkland conveyance requirements are <b>waived for all affordable and attainable housing</b>. Definitions of affordable and attainable housing will form part of future prescribed regulations/bulletin from the province.</p> <p>Landowners are able to identify land they intend to provide for parkland, <b>regardless of the municipality's willingness to accept their proposal</b>. Should the municipality disagree with the proposed parkland location, an appeal to the Tribunal may be filed.</p> <p>Beginning in 2023 and in each calendar year thereafter, <b>municipalities must spend or allocate at least 60% of the monies</b> in the special account for parks at the beginning of each year.</p> <p>A Parks Plan that examines the need for parkland is now required to be prepared <b>before passing</b> a parkland dedication by-law. Parkland fees are frozen to the required value at the time of application.</p> <p><u>Commentary:</u> Many of these changes do not create more affordable housing but instead function to undermine the quality of the</p>	Some of the parkland provisions come into effect on the day the Bill received Royal Assent, others will rely on forthcoming regulation prior to taking effect.

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		<p>communities in which these homes are built, restricting the availability of accessible parkland. With an increase in intensification as part of the other amendments through <i>Bill 23</i>, the need for parkland and public open spaces becomes paramount. Yet these provisions restrict the amount of parkland supply. Public Parks play a vital role in creating vibrant, active, and sustainable communities. These competing interests make it difficult for the municipality to provide adequate parkland to its current and future residents. Ultimately, these provisions will pose public health challenges and create barriers to achieving certain recreational targets, not to mention are perceived as counterintuitive to well-accepted guiding principles of responsible land-use planning.</p>	
Planning Act		<p>All upper-tier municipalities in the Greater Toronto Area, as well as Waterloo and Simcoe will be <b>removed from the Planning Act approval process</b> for both lower-tier official plans and amendments and plans of subdivision, <b>downloading these responsibilities onto the lower-tier municipality</b>. The legislation allows the Minister to add any other upper-tier to this list by regulation.</p> <p>The current status in relation to the County of Essex has not changed through the proposed legislation but could change in the future if prescribed by the Minister.</p> <p><u>Commentary:</u> The County of Essex plays an integral role in coordinating regional matters including roads, environmental features, sustainability etc., in addition to being the designated approval authority for plans of subdivision and our local official plan. If County planning is removed, these responsibilities would be absorbed by the lower-tier municipalities and would</p>	Effective the date of proclamation, however subject to further transitional regulation to be drafted.

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		<p>necessitate an increase in current staffing levels within the department.</p> <p>The elimination of upper-tier approval authority will require significant changes to the Provincial Policy Statement (2020).</p>	
Planning Act	Eliminating rights to Third-Party Appeal	<b>No 3<sup>rd</sup> Party Appeals</b> by the public will be allowed for minor variances and consents, with the exception of the applicant, the municipality, certain public bodies (utility providers, transit agencies), and the Minister. 3 <sup>rd</sup> Party Appeals by the public <b>will still be allowed for Official Plan Amendments and Zoning By-law Amendment proposals.</b>	October 25 <sup>th</sup> , 2022
Ontario Land Tribunal Act	Increased Powers to Tribunal	The Ontario Land Tribunal will have increased powers to order costs against a party who loses a hearing. The Tribunal is also being given increased power to dismiss appeals for undue delay.	TBD by future regulation
Conservation Authorities Act	Restrict Powers of Conservation Authorities	<p>The <i>Conservation Authorities Act</i> was amended to <b>limit the powers of Conservation Authorities (CA)</b>. Clear limits are imposed on what CAs are permitted to comment on as part of any <i>Planning Act</i> application, restricting their focus to natural hazards and flooding, and <b>prohibiting any commentary on matters relating to natural heritage and preservation.</b></p> <p>Where development has been authorized under the <i>Planning Act</i> it will be <b>exempt from required permits to authorize the development under section 28 of the Conservation Authorities Act.</b></p> <p>Further amendments seek to allow proponents to appeal a non-decision of a permit after 90 days versus the current 120 days, as well as prevent CAs from increasing their fees and charges.</p>	<p>January 1, 2023 (subject to further regulation)</p> <p>Supporting Regulation TBD. New regulations will include specific municipalities and areas within municipalities.</p> <p>January 1, 2023</p>

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		<p><u>Commentary:</u> The Town of LaSalle currently relies on ERCA to provide natural heritage review required under the PPS (2020). With so many existing and protected natural heritage areas within our municipal boundary, we rely heavily on this service from the Conservation Authority to help us preserve and protect our natural environment. Removing this ability from ERCA will shift the responsibility to the municipality to address natural heritage considerations. Consultants who maintain this level of expertise will need to be retained to review and comment on matters relating to natural heritage impacted by new development proposals, or the municipality will be required to retain in-house natural heritage experts who can advise on these matters.</p>	
Development Charge Act	Eliminating items that can be included in a D.C. calculation	<p>The definition of capital costs will be revised to prescribe services for which land or an interest in land will be restricted. The prescribed services have not yet been announced. Additionally, costs of studies, including the preparation of the D.C. background study, will no longer be an eligible capital cost for D.C. Funding.</p> <p><u>Commentary</u></p> <p>Land represents a significant cost to provide new services to residents in many instances, such as road widening, drainage, etc. This is a cost required due to growth and will result in significant cost to the tax base if it is eliminated from the D.C. calculation.</p> <p>Additionally, the elimination of studies from the D.C. calculation will also result in a shift to the tax base to pay for the growth related portion of these various studies (D.C. background studies, official plan reviews, storm water management master plans,</p>	When next D.C. background study takes effect retroactive to January 1, 2022 (January 1, 2026 for Town of LaSalle)

Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		master water study, various other infrastructure master plans).	
Development Charges Act	Mandatory Phase-in of a D.C.	<p>All D.C. by-laws passed after January 1, 2022 must be phased in annually over the first five years the by-law is in force as follows:</p> <p>Year 1 – 80% of maximum charge</p> <p>Year 2 – 85% of maximum charge</p> <p>Year 3 – 90% of maximum charge</p> <p>Year 4 – 95% of maximum charge</p> <p>Year 5 to expiry – 100% of maximum charge</p> <p><u>Commentary</u></p> <p>This will significantly shift the financial impact of growth related costs to the tax base for the first five years after the next D.C. bylaw takes affect.</p>	When next D.C. background study takes effect retroactive to January 1, 2022 (January 1, 2026 for Town of LaSalle)
Development Charges Act	D.C. By-law Expiry extension	<p>A D.C. bylaw will expire 10 years after the day that it comes into force (D.C. bylaws currently expire after 5 years)</p> <p><u>Commentary</u></p> <p>Theoretically, this should not have any impact on municipalities as D.C.s are indexed annually by the non-residential construction price index (NRCPI). However, often actual annual rise in costs related to the construction of infrastructure is significantly higher than the NRCPI. New D.C. background studies allow municipalities to increase the cost included in the D.C. calculation to the actual cost at the time the background study is completed. This D.C. timeframe extension will prolong the ability for municipalities to increase the estimated costs a further five years, which will shift a</p>	When next D.C. background study takes effect retroactive to January 1, 2022 (January 1, 2026 for Town of LaSalle)



Provincial Act	Area of Amendment	Impacts to the Municipality	Timeline to Take Effect
		portion of the burden of growth related infrastructure to the tax base if NRCPI is not representative of actual cost increases.	
Development Charges Act	Historical Level of Service cap period extension	<p>Currently, the increase in need for service is limited by the average historical level of service calculated over the ten year period preceding the preparation of the D.C. background study. This average will be extended to the historical 15-year period.</p> <p><u>Commentary</u></p> <p>For municipalities experiencing significant growth for various D.C. categories in recent years, this may reduce the level of service cap, and the corresponding D.C. recovery as the time period is extended back to when lower rates of growth may have occurred.</p>	When next D.C. background study takes effect retroactive to January 1, 2022 (January 1, 2026 for Town of LaSalle)

**Bill 23 Changes that are expected to have minimal impact on the Town of LaSalle development charge revenue**

The following changes are expected to have minimal impact on the Town of LaSalle, as historically there have not been many affordable housing, attainable housing, or rental housing constructed in Town.

- Additional residential unit exemption:
  - Exemption for residential units in existing rental residential buildings
  - Exemption for additional residential units in existing and new residential buildings
- Removable of Housing as an eligible D.C. Service
- Affordable units, attainable units, inclusionary zoning units and non-profit housing developments will be exempt from the payment of D.C.s
- D.C. payable for rental housing development will be reduced based on the number of bedrooms in each unit
- Maximum interest rate will be set at prime plus 1% for installments and determination of charge for eligible site plan and zoning by-law amendment applications

Although minimal impact is expected in the areas mentioned above, if *Bill 23* spurs affordable housing, attainable housing or rental housing in LaSalle, there will be a financial impact to the tax base which is not possible to calculate at this time.

### **More Legislative Changes to Come**

As part of the province's long-term strategy to increase housing supply and affordability, a housing-focused policy review of the current Provincial Policy Statement (2020) "PPS" is also being undertaken. Where the PPS is deemed to be inconsistent with policies under *Bill 23*, we anticipate amendments will be made. For example, the PPS currently has a definition of affordable housing that may no longer be relevant or consistent with the new definitions adopted as part of the amendments to *the Development Charges Act* or the *Planning Act*. Also, it is proposed that a review of the current PPS could include changes to natural heritage policy direction, given recent changes to the *Conservation Authorities Act*, and matters of natural heritage preservation.

The province continues to draft both transitional regulations and new regulations intended to complement and support the changes enforced as part of *Bill 23*. As a result, we anticipate additional changes to be forthcoming that will further alter the municipal land-use planning regime.

### **Overall Assessment**

*Bill 23* has been touted as representing the single most significant transformation to Ontario's land-use planning system. The amendments in effect will fundamentally change how land-use planning is conducted in the Province of Ontario. There are certain amendments that undoubtedly will assist in facilitating more housing by streamlining the planning approval process. However, good and responsible land-use planning is key to creating healthy and vibrant communities. Certain amendments captured as part of *Bill 23* remove many of our municipal land-use planning tools that we rely upon to facilitate the development of complete communities.

The popular notion of "growth pays for growth" is wholeheartedly undermined by the current amendments made to the *Development Charges Act*. Unfortunately, the implications that come out of *Bill 23* will inevitably force an additional financial burden onto the taxpayer. There does not appear to be a mechanism as part of *Bill 23* that would require developers to construct homes, regardless of the municipality's ability to provide fast-tracked approvals or grant development-related discounts. While the province suggests a commitment to ensuring municipalities are kept whole for any impact on their ability to fund housing-enabling infrastructure because of *Bill 23*, this does not appear to be possible unless dedicated subsidies from the province are provided.

### **Current Process for Removal of a Holding Zone Symbol**

Up until now, it has been Town of LaSalle policy, via a Council resolution (although not required as part of the legislation) that a public meeting be held pursuant to the removal

of a holding symbol. More specifically, the public meeting request is a result of a prior resolution of the Town of LaSalle Council (1994) to help keep the residents informed of adjacent development being brought forward on neighbouring properties.

The 1994 resolution established that once a development agreement was signed and municipal servicing capacity was confirmed, a public meeting associated with the removal of the holding provision would be held to advertise future development. There is no legislated *Planning Act* requirement to hold a public meeting pursuant to the removal of the holding provision, and engaging public feedback is not a requirement for this *Planning Act* process. What we have experienced is that it can have the detrimental effect of causing confusion for the public, establishing a false hope that public input is considered as part of the framework for the request to remove the holding.

Section 36 of the *Planning Act* provides the legislative framework for a municipality to add and remove a holding provision. A formal public meeting is not required, nor can the decision be appealed by a member of the public. Removal of the holding provision is further addressed under Section 7.6.3 of the Town of LaSalle's Official Plan, wherein it stipulates that the holding symbol will not be removed until such time as Council is satisfied that the required development agreements are in place and that there are adequate municipal services available to support the intended development.

Considering the new legislation, with the intention of *Bill 23* to streamline the planning approval process and reduce the timeframe associated with municipal development approvals, Administration is recommending that we discontinue the current practice whereby a public meeting associated with a holding symbol is held. Accordingly, Administration recommends that we follow the policy framework outlined within our Official Plan that properly stipulates the requirements necessary for removal of the holding provision, in accordance with the *Planning Act*.

## Financial Implications

Based on the changes proposed, particularly related to the *Development Charges Act* and *Conservation Authorities Act*, *Bill 23* will have a significant impact on municipal finances. While the exact financial impact is unknown at this time, it is likely that an increase in annual tax rates is anticipated, to offset anticipated development charge funding shortfalls. We may also be looking to hire additional staff or retain external consultants, to satisfy new administrative procedures, currently outside the scope of our municipal mandate.

The following is the estimated direct financial impact of *Bill 23* on development charges based on historical average of \$2.5m per year:

Year	Mandatory D.C. Phase-in	Elimination of Growth Related Studies in D.C. Calculation	Elimination of Land in D.C. Calculation	Total
2026	\$500,000	\$25,000	\$250,000	\$775,000

Year	Mandatory D.C. Phase-in	Elimination of Growth Related Studies in D.C. Calculation	Elimination of Land in D.C. Calculation	Total
2027	\$375,000	\$25,000	\$250,000	\$650,000
2028	\$250,000	\$25,000	\$250,000	\$525,000
2029	\$125,000	\$25,000	\$250,000	\$400,000
<b>Average</b>	<b>\$312,500</b>	<b>\$25,000</b>	<b>\$250,000</b>	<b>\$587,500</b>

Given the provincial goal to increase the rate at which residential buildings are constructed, the financial impact will likely be much greater as development occurs at a higher rate.

### Prepared By:



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Gudrin Beggs



Director of Finance/Treasurer

Dale Langlois

### Consultations:

This report was prepared in consultation with the Town's Legal Counsel as well as with input from Watson and Associates.

### Link to Strategic Goals

1. Enhancing organizational excellence - Not Applicable
2. Strengthen the community's engagement with the Town - Not Applicable
3. Grow and diversify the local economy - Not Applicable

4. Build on our high-quality of life - Not Applicable
5. Sustaining strong public services and infrastructure - Not Applicable

**Report Approval Details**

Document Title:	PD-40-22 - Bill 23, the More Homes Built Faster Act Summary Report.docx
Attachments:	<ul style="list-style-type: none"><li>- Assessment of Bill 23 (More Homes Built Faster Act) Conservation Authorities Act.pdf</li><li>- Assessment of Bill 23 (More Homes Built Faster Act) – Development Charges---new.pdf</li><li>- Assessment of Bill 23 (More Homes Built Faster Act) - Parkland Dedication - November 16, 2022.pdf</li><li>- Bill 23 Client Response Letter Re Planning Matters - Nov 14 2022.pdf</li><li>- Bill 23 Letter to Our Clients Nov 29 2022.pdf</li></ul>
Final Approval Date:	Dec 20, 2022

This report and all of its attachments were approved and signed as outlined below:



Chief Administrative Officer

Joe Milicia