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Building Faster and Smarter, at last? Province of Ontario Introduces Bill 17

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Amidst economic uncertainty and a trade war, one thing remains constant: the Province of Ontario (the "**Province**")'s attempts to boost housing supply. On May 12, 2025, the Province introduced Bill 17, the *Protect Ontario by Building Faster and Smarter Act, 2025* (the "**Bill**" or "**Bill 17**"). Currently in its second reading, the Bill, if passed, would make changes to development charges, planning instruments, and provincial infrastructure development. We explore these changes below.

Development Charges

Among the biggest proposed changes are those to the *Development Charges Act, 1997* (the "***DCA***"). Notable proposals include:

Exemption of Long-Term Care Homes from Development Charges

In 2022, certain types of development were exempted from paying development charges ("**DCs**"), including "affordable" and "attainable" housing units, non-profit housing development and housing units built pursuant to inclusionary zoning policies. Bill 17 now proposes to add to this list by exempting "any part" of a building or structure "intended for use as" a long-term care home, provided such a development is proposed after the Bill comes into force. Long-term care homes proposed before the Bill comes into force would still pay DCs, pursuant to transition provisions.

Notably, the language "intended to" seemingly contemplates instances where a long-term care home is proposed as a component of a development but later changed to another use. It remains to be seen whether this was legislatively intended.

Deferral of DCs for "Non-Rental" Residential Development + Removal of Certain Interest on Rental Housing and Institutional Development

Residential development that is not "rental housing development" (as defined in the *DCA*), is proposed to be subject to a separate payment scheme, on a date to be proclaimed by the Lieutenant Governor in Council. DCs for such development would be payable upon "occupancy", being the earlier of (1) the day an occupancy permit is issued under the *Building Code Act, 1992*, or (2) the day the building is first occupied. The later payment of DCs does not affect the date that the DC is calculated.

While the Bill, as proposed, would restrict municipalities from requiring earlier payment of DCs for such residential development (such as the date the first building permit is issued), it would allow municipalities to request securities in future prescribed situations.

Rental housing development and Institutional development would remain subject to the annual payment scheme introduced in 2022 under Bill 23, but municipalities would no longer be allowed to charge interest on the annual installments if such interest accrues after the Bill comes into force. For clarity, municipalities would retain the ability to charge interest between the date the DC is calculated

and the date the first installment is paid.

De-facto "Cap" on Charges Payable

As currently written, the *DCA* calculates the payment amount based on the date a site plan application is submitted. If no site plan application is submitted, the calculation is based on the date a Zoning By-law Amendment application is made. If neither application is submitted, the calculation defaults to the date the building permit is issued (the "**BP Date**").

Under Bill 17, municipalities may still charge interest; however, if the accrued interest would cause the amount payable to exceed what would have been owed if calculated on the BP Date, the Bill would effectively "cap" development charges at the BP Date amount.

Local Services

As currently written, the *DCA* allows for builders to recoup the costs of eligible infrastructure that they build in the form of "credits". Such credits, however, are restricted to the same services as the infrastructure built (for example, DC credits for road construction could only be used to pay "road" DCs). Bill 17 would enable the Lieutenant Governor in Council to make regulations allowing for credits from one type of DC to be payable towards another (for example, using road credits to pay for transit DCs).

In addition, Bill 17 would allow the Lieutenant Governor in Council to make regulations determining what constitutes a "local service" given such a term is undefined within the *DCA*. Combined, such future regulations could clarify what DCs are used to pay for, and what developers must fund as part of a development.

Potential Changes to Capital Cost Calculation

The *DCA* currently includes the costs "to acquire land or an interest in land" as part of the capital costs recoverable through development charges (DCs). In practice, however, land valuation exercises have at times led to inflated estimates of eligible land costs, thereby increasing DC rates. While the Lieutenant Governor in Council already had the discretion to exempt land costs for certain services through regulations, Bill 17 would expand this authority to allow the Lieutenant Governor in Council to prescribe limits, exemptions, and conditions related to land costs, thus making the valuation process more predictable and consistent.

Other Changes

The Bill would amend the *DCA* to specifically allow the early payment of DCs, even in absence of an agreement with the payee municipality. It would also create greater flexibility for developers by repealing the requirement for immediate payment of DCs in case changes are made to the development proposed.

Finally, the Bill introduces technical changes that remove procedural requirements—such as the need for a background study, public meeting, and appeal rights—for amendments to a DC By-law that either reduce the amount payable or repeal or amend provisions related to DC indexing.

Building Code Act

The *Building Code Act, 1992* (the "***BCA***") is proposed to be amended to facilitate the greater use of "innovative material[s], system[s] or building design[s]". This would happen by restricting the Building Materials Evaluation Commission's powers in certain circumstances, such as where the materials have been evaluated by the federal agency, the Canadian Construction Materials Centre. Reflecting a move toward greater pan-Canadian alignment and federal cooperation in building standards, the amendments are

proposed to come into force on the later of the date the Bill receives Royal Assent or Canada Day, 2025.

Significantly, the Bill's changes as proposed would also remove the ability of Municipalities including the City of Toronto, to pass by-laws relating to the construction or demolition of buildings. While the *BCA* has always specified that its provisions supersede all municipal by-laws where there is a conflict, some municipalities like the City of Toronto have passed supplementary by-laws.

The Bill as worded, would not by itself make these existing by-laws null and void, but it would prevent the introduction of new such by-laws, thus moving to a more unitary system. Unlike the remainder of the proposed changes to the *BCA,* such restrictions would come into force immediately once the Bill receives Royal Assent.

Changes to Planning Instruments

The Bill also proposes significant changes to the *Planning Act* and the *City of Toronto Act*, *2006* ("***COTA***"). We detail these below.

Ministerial Oversight of Planning Application Materials

Several proposed amendments relate to the studies and report requirements for applications under sections 17, 22, 34, 41, 51, and 53 of the *Planning Act* as well as under section 114 of *COTA*. Upon the Bill's Royal Assent, written approval from the Minister would be immediately required where council or a planning board adds to, amends, or revokes the materials required by the Official Plan for Official Plan Amendments, Zoning By-law Amendments, Site Plan Applications, Plan of Subdivision Approvals, and Consent Applications. Any such amendment adopted on or after May 12, 2025, without Ministerial approval would be deemed not to have been adopted.

The Bill also proposes that any "other materials" a council may request in connection with Official Plan Amendments or Zoning By-law Amendments would be subject to regulations. The requirement for Ministerial approval is intended to be temporary and will be repealed on a date to be proclaimed by the Lieutenant Governor in Council, likely once the supporting regulations are in force. Proposed regulations have been released on the Environmental Registry of Ontario.

The prescribed or other information required for all planning applications would be deemed to meet the applicable requirements if the information or materials are prepared by a person authorized to practice a prescribed profession. These changes are expected to expedite an Applicant's process to obtain a complete application declaration.

Development of Schools

The Bill also proposes amendments so that no Official Plan policy or Zoning By-law may prohibit the use of a parcel of urban residential land for an elementary school or secondary school or a school board or any ancillary uses to such schools, including the use of a childcare centre located in the school. It also retroactively deems existing by-laws with such restrictions to be of no force and effect.

Moreover, while portable classrooms on school sites in existence on January 1, 2007, are subject to site plan control under section 41 of the *Planning Act* and section 114 of *COTA,* the Bill proposes to remove such controls, thus increasing the speed at which portable classrooms can be placed.

Prescribed Setback Distances

Section 34 is proposed to be amended to add a definition of setback distance which "means the distance that a building or structure must be setback from a boundary of the parcel on which the building or structure is located in accordance with a by-law passed under

this section." The minimum setback distance is deemed to be the prescribed percentage of the setback distance. This would seemingly allow a planning proposal to be permitted as of right if the proposal fell within the prescribed percentage, which the ministry would have flexibility to adjust in the future. The Province expects that this will reduce or eliminate the need for some minor variance applications and has released a draft proposal of its regulations on the Environmental Registry of Ontario.

Notably, this amendment would not apply to buildings or structures located: in the Greenbelt Area; on a parcel of land that is not a parcel of urban residential land, or; on a parcel of land that includes any land prescribed under subsection 41(1.2) of the *Planning Act.* Additionally, despite any changes that may result from the change to the percentage prescribed, the minimum setback distance is deemed to be the minimum setback distance on the day a permit is issued under subsection 8(1) of the *Building Code Act* or the day that the lawful use of the building or structure was established.

Conditions for Ministerial Zoning or Subdivision Control Orders

The Bill would grant the Minister added powers under section 47 regarding zoning and subdivision control orders, to impose such conditions on the use of land as are reasonable in the opinion of the Minister. When such a condition is imposed the Minister may require an owner of land to which the order applies to enter into an agreement relating to the condition with the Minister or with the municipality in which the land is situate; the agreement may be registered against the land to which it applies. The Minister or the municipality, as the case may be, may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land.

Accelerating Infrastructure Development

The Bill proposes to amend both the *Metrolinx Act* and the *Ministry of Infrastructure Act, 2011,* to repeal the definition of agencies and include the definition of "municipal agencies" which would include every local board, corporation and secondary corporation as defined in the *Municipal Act, 2001*, in addition to the local boards and corporations established by the *City of Toronto Act, 2006*. Both acts would also allow the Minister to issue directives to municipalities and municipal agencies to require them to provide the Minister or the Corporation with information that the Minister believes may be required to support the development of a provincial transit project or transit-oriented community project.

The Bill proposes some definitional changes to the *Building Transit Faster Act, 2020* such that the Act would expand its application from the current six projects to all provincial transit projects that Metrolinx has authority to carry out, including expansions or improvements to the GO Train system. The Transit-Oriented Communities Act, 2020 (the "**TOCA**") would be similarly changed. The Bill, as proposed, would also amend the TOCA so the Minister may delegate their powers in whole or in part to Metrolinx, the Ontario Infrastructure and Land Corporation, or a public body within the meaning of the *Public Service of Ontario Act*, subject to any conditions or restrictions that are set out in the delegation.

We will continue to monitor the development of the new changes imposed by Bill 17. If you have any questions regarding Bill 17 or any other land use planning matter, please do not hesitate to contact us.

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