

BILL 23 UPDATE: REVISIONS PROPOSED TO BILL 23 FOLLOWING LENGTHY SECOND READING

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Considering all the attention that has been paid to Bill 23, the *More Homes Built Faster Act* (the “**Bill**”), and related [Proposed Amendments to the Greenbelt Plan](#) and [Bill 39, the Better Municipal Governance Act](#), it comes as no surprise that some substantive revisions have been made prior to the Bill’s Third Reading (the “**Revisions**”).

The Bill passed through its Second Reading on November 22nd after debate and consideration by the Standing Committee on Heritage, Infrastructure and Cultural Policy. Considerations at the Standing Committee resulted in a number of proposals for revision. Notably, many such proposals were from Independent or NDP Members of Parliament, and were not ultimately incorporated. The key Revisions to the Bill primarily affect the [City of Toronto Act](#), the [Development Charges Act](#), and the [Planning Act](#). As of the date of this bulletin, the Bill is in debates for its Third Reading (current status available [here](#)).

Below, we provide a brief summary of the notable Revisions that, if adopted, may have a significant impact on development and land use planning province-wide. For a more in-depth summary of Bill 23’s proposed amendments, please see our [earlier bulletin](#).

Proposed Revisions Impacting the *Planning Act*

- **Third Party Appeals:** The Revisions walk back the absolute restriction on third-party appeals that was initially proposed, including the retroactive effect that would dismiss any third-party appeal unless a hearing had been scheduled before October 25, 2022. The Revisions remove the proposed restrictions for a third-party appeal of official plan amendments (“**OPAs**”) and zoning by-law amendments (“**ZBAs**”); however, for minor variances, plans of subdivision and consents, third-party appeal rights continue to be limited to the Minister, a “specified person” and public bodies who have an interest in the matter. The Bill proposes a strict definition of “specified person”, which would only include:
 - a corporation/company operating an electric utility, natural gas utility, or an oil or natural gas pipeline in the local municipality or planning area;
 - Ontario Power Generation Inc.;

- Hydro One Inc.;
 - a person required to prepare a risk and safety management plan in respect of an operation under O. Reg. 211/01 (Propane Storage and Handling), if any part of the distance established as the hazard distance applicable to the operation and referenced in the risk and safety management plan is within the area to which the relevant planning matter would apply;
 - a company operating a railway line any part of which is within 300 metres of any part of the area to which the relevant planning matter would apply; or
 - a company operating as a telecommunication infrastructure provider in the area to which the relevant planning matter would apply.^[1]
- **Removing 2-year Prohibition:** The Revisions now propose to repeal the *Planning Act* provisions that currently preclude an application for an OPA, ZBA, or minor variance within 2-years of the plan or by-law coming into effect.
 - **CBC Agreements:** The Revisions also impact Community Benefit Charges (“**CBCs**”), proposing amendments to the *Planning Act* to allow municipalities to require an owner of lands to enter into an agreement where the municipality is permitting that owner to provide CBCs which include facilities, services or other matters. This agreement may be registered on title, which enables the municipality to enforce the agreement against the owner and any subsequent owners.
 - **Environmental Features & Site Plan Control:** While the Bill initially proposed to remove exterior design features from site plan control entirely, the Revisions now propose amending the *Planning Act* to remove exterior requirements from site plan control, with an exception for environmental exterior features included in the *City of Toronto Act* or the *Municipal Act*, such as green roofs, alternative roof services or other environmental standards in the construction of buildings.

Proposed Revisions to Bill 23 Impacting the *City of Toronto Act*

- **Environmental Features & Site Plan Control:** The Bill proposed to repeal certain site plan control provisions of the *City of Toronto Act*, preventing certain matters of exterior design from being addressed through site plan control. As with the *Planning Act*, the Revisions still propose to remove exterior features from site plan control as originally intended, however certain environmental exterior features would be excluded from this restriction on exterior design elements.

Proposed Revisions to Bill 23 Impacting the *Development Charges Act*

- **New Transition Date:** The Revisions move up the transition date relating to the 4-year reduction of development charges (“**DCs**”) to a DC by-law passed on or after January 1, 2022 instead of June 1, 2022.
- **New Transition Provision:** The Revisions also introduce a new transition provision, stating that the

reduced DCs do not apply if the building permit for the development was issued before the provision comes into force, which will be on the day Bill 23 receives Royal Assent. A corresponding amendment was also made to allow the Lieutenant Governor to make regulations prescribing developments for the purposes of the transitional provision.

McMillan will continue to monitor these and other developments to Ontario's planning legislation. If your lands or interests may be impacted, or you wish to advocate on certain policies to guide the future of Ontario's planning, development, and land use, please contact Mary Flynn-Guglietti, Annik Forristal, Kailey Sutton or Patrick Pinho, and our team would be pleased to discuss this important piece of legislation and its potential impacts with you.

Our previous bulletins on the topic can be found below:

- [Bill 23: The More Homes Built Faster Act, 2022 and the Proposed Amendments to the Greenbelt Plan and Oak Ridges Moraine Conservation Plan](#)
- [Bill 39: The Province's Newest Addition to the Tool Belt for Combating the Housing Crisis](#)

[1] [Bill 23 as amended by the Standing Committee](#), Schedule 9 section 1(1).

by [Annik Forristal](#), [Kailey Sutton](#) and [Patrick Pinho](#)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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