



HEALTHY COMMUNITIES • SUSTAINABLE COMMUNITIES

January 10, 2014

John Ballantine
Manager
Local Government and Planning Policy Division
Municipal Finance Policy Branch
Ministry of Municipal Affairs and Housing
777 Bay Street, Floor 13th
Toronto, ON M5G 2E5

Re: Development Charges Act, 1997 Consultation EBR Registry #012-0281

Dear Mr. Ballantine,

On behalf of the Ontario Professional Planners Institute (OPPI), please find below comments on the review of the Development Charges Act. We appreciate this opportunity to provide input.

OPPI is the recognized voice of the Province's planning profession. Our more than 4,000 members work in government, private practice, universities, and not-for-profit agencies in the fields of urban and rural development, community design, environmental planning, transportation, health, social services, heritage conservation, housing, and economic development. Members meet quality practice requirements and are accountable to OPPI and the public to practice ethically and to abide by a Professional Code of Practice. Only Full Members are authorized by the Ontario Professional Planners Institute Act, 1994, to use the title "Registered Professional Planner" (or "RPP").

OPPI supports the Province's timely review of the Development Charges Act, 1997 (DC Act). Over the past sixteen years municipalities and the private sector have worked within the framework of this Act. This framework has a direct impact on the financial health of Ontario's communities. The DC Act provides the basis for how municipalities recover growth-related infrastructure costs. OPPI strongly supports enhancements that will help to improve the financial sustainability of our communities. In light of this, we offer the following:

1. Development Charge Process

Does the development charge methodology support the right level of investment in growth-related infrastructure?

- The DC Act allows for a number of exemptions (such as arts and cultural facilities, solid waste facilities, municipal headquarters) and limitations (such as the 10%

reduction for some services and the 10-year historic average service calculation) that effectively limit the potential for municipalities to recover the full cost of new, growth-related infrastructure. As a result, municipalities rely on other sources of revenue (mainly property taxes) to pay for short-falls for new, growth-related infrastructure costs. Accordingly, the current framework does not allow for full-cost recovery. OPPI strongly support measures that would allow municipalities to recover the full cost of municipal infrastructure investment.

Should the DC Act more clearly define how municipalities determine growth-related capital costs recoverable from development charges?

- While complex, the Act does provide a relatively clear set of definitions as to how municipalities determine growth-related capital costs recoverable from development charges. It is our understanding that the current suite of definitions and concepts articulated in the Act have been sufficiently tested at the Ontario Municipal Board over the past sixteen years and the introduction of new terminology, notwithstanding the intent, would likely lead to additional litigation and delay.

Is there enough rigour around the methodology by which municipalities calculate the maximum allowable development charges?

- We believe that the current level of rigour by which municipalities calculate the maximum allowable development charges is sufficient. The accepted approach to calculating the charges is based on a well-established methodological framework.

2. Ineligible Services

The Development Charges Act, 1997 prevents municipalities from collecting development charges for specific services, such as hospital and tourism facilities. Is the current list of ineligible services appropriate?

- Given the Provincial policy focus on building complete communities, we believe there are opportunities to revise the list of ineligible services to better align the cost of growth-related infrastructure with the long-term needs of Ontario's communities. As a general principle, the DC Act should exclude only those infrastructure elements which are not funded (either whole or in part) by municipalities. Cultural and entertainment facilities, such as museums and art galleries, convention centres, waste management facilities/services, hospitals and municipal headquarters are all important elements that contribute to complete communities and should be considered within the Act (except in instances where the facilities are not funded by the municipality).

The Development Charges Act, 1997, allows municipalities to collect 100% of growth-related capital costs for specific services. All other eligible services are subject to a 10% discount. Should the list of services subject to a 10% discount be re-examined?

- In the interests of promoting the financial sustainability of Ontario's municipalities, no services within the Act should be subject to a discount. While some services are not subject to the 10% discount, such as water, sanitary, stormwater, highways, fire, police, and electrical power, all other services are subject to the 10% discount, including all forms of transit. Given the strategic role that transit plays in promoting completing communities, and also the challenges associated with funding transit, it seems reasonable to remove the requirement for a 10% discount.

Amendments to the Development Charges Act, 1997, provided Toronto and York Region an exemption from the 10 year historical service level average and the 10% discount for growth related capital costs for the Toronto-York subway extension. Should the targeted amendments enacted for the Toronto-York subway extension be applied to all transit project or only higher order transit projects?

- As noted above, providing transit services is a key element for a number of Ontario's communities (although not exclusively). Applying discounts and service level caps to this critical piece of infrastructure is counter-intuitive and undermines efforts to promote, plan and implement sustainable transportation systems. The 10% discount should be removed for all types of transit. The Province should consider alternative approaches to estimating the service level, as reliance on historical averages is problematic for some types of services, but is especially problematic for transit services, where service levels are anticipated to be significantly different in the future. Anticipated service levels near community or district built-out are more indicative of the actual requirements.

3. Reserve Funds

Is the requirement to submit detailed reserve fund statement sufficient to determine how municipalities are spending reserves and whether the funds are being spent on projects for which they were collected?

- The existing requirements within the DC Act appear to be sufficient for reporting purposes.

Should the development charge reserve funds statements be more broadly available to the public, for example, requiring mandatory posting on a municipal website?

- Most of the information contained in the reserve fund statements is presented and delivered to local municipal councils. This information should be made available to the public in an easily accessible and transparent format. Some authority over the

level of detail which is posted, however, should be left within the discretion of local municipalities.

Should the reporting requirements of the reserve funds be more prescriptive, if so, how?

- The existing requirements appear to be sufficient for reporting purposes.

4. Section 37

How can Section 37 and parkland dedication process be made more transparent and accountable?

- Section 37 of the Planning Act allows municipal councils to increase densities and building heights for development proposals in exchange for specific services or facilities (such as improvements to transit station, public art, heritage restoration or public realm improvements) provided by the proponent. Typically, most municipalities that have enacted Section 37 provisions have included some policy guidance and criterion in local Official Plans and associated implementing by-law.
- Section 42 of the Planning Act provides the framework for parkland dedication. The Act facilitates the transfer of up to 5% of the developable area for new residential developments and 2% for commercial and industrial developments, to the municipality. The Act also allows for cash-in-lieu payment.
- The Planning Act does not include specific reporting requirements for Section 37 and 42. The appropriate location for reporting requirements for Section 37 & 42 would be within the Planning Act (although it should be noted that some municipalities do have established reporting protocols in place and these established protocols could be used as the basis for any consideration of legislative changes).

How can these tools be used to support the goals and objectives of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe?

- Sections 37 and 42 of the Planning Act are examples of policy instruments that can be used to implement aspects of Provincial Policy. Section 37 promotes compact forms of development and Section 42 provides opportunities for active, healthy community infrastructure. There are opportunities to improve, enhance and expand the precedents established in Section 37. These should be further explored through the next review of the Planning Act.

5. Voluntary Payments

What role do voluntary payments outside of the Development Charges Act, 1997 play in developing complete communities?

- Voluntary payments outside of the Development Charges Act provide additional funding for municipal projects and initiatives that are not captured in the current DC calculations for growth-related infrastructure (resulting from discounts, exemptions, etc.). Given the nature of the payments, these are not considered to be a reliable, consistent, sustainable form of funding and accordingly should remain outside of the Development Charges Act. A more appropriate approach would be ensure that municipalities are in a better position to recover the full cost of municipal infrastructure (reducing the need for voluntary payments).

Should municipalities have to identify and report on voluntary payments received from developers?

- Municipalities should have to identify and report on voluntary payments received from developers and private citizens. The appropriate location for this reporting would be within the annual budgets prepared by municipalities.

Should voluntary payments be reported in the annual reserve fund statement, which municipalities are required to submit to the Ministry of Municipal Affairs and Housing?

- See response above.

6. Growth and Housing Affordability

How can the impacts of development charges on housing affordability be mitigated in the future?

- Housing affordability is influenced by a complex set of factors that spans a variety of scales - including national policies which govern mortgage regulation to regional economic conditions to local neighbourhood conditions. While the cost of development charges is typically transferred directly to the purchaser, the overall percentage of the total cost of development is relatively small. Housing affordability has historically been a key challenge in Ontario and given the myriad of recent changes in the mortgage regulation at the federal level, combined with recent economic challenges in some Ontario communities, there is a need for the Province to conduct a wider review of housing affordability.

How can development charges better support economic growth and job creation on Ontario?

- Implementing recommendations noted in our response that encourage full-cost recovery and promote other Provincial objectives should help to support economic growth and job creation in Ontario.

7. High Density Growth Objectives

How can the Development Charges Act, 1997 better support enhanced intensification and densities to meet both local and provincial objectives?

- The current provincial planning framework directs municipalities to proactively plan for intensification. Both the Provincial Policy Statement and the Growth Plan include policies that promote intensification and a number of municipalities across the Province have updated (or are in the process of updating) their local Official Plans to promote and support intensification. Notwithstanding local market and physical supply constraints, there are a number of challenges related to infrastructure provision in existing built-up area. Typically, water, sanitary and stormwater infrastructure in older, established areas is dated and requires significant upgrades (compared to greenfield areas). Additionally, the relationship between “growth-related” development in an intensification scenario can prove murky in instances where redevelopment in part of a city could potentially require downstream upgrades in other parts of the city. The net effect of these factors can be higher overall area-specific charges, notwithstanding lower per unit charges for medium and high density units (compared to low density units typically found in greenfield areas).
- In addition to the above, a number of municipalities provide DC waiver programs to encourage intensification and brownfield redevelopment. In these situations, the infrastructure redevelopment costs are borne the municipality’s property tax base.
- The current framework is not likely to result in a significant uptake in intensification. While development charges constitute a relatively small portion of overall development costs, DC waivers can offer a significant incentive for developers, particularly in instances where there are significant risks associated with redevelopment (such as brownfields) . In lieu of the above, and given the strong provincial support for intensification at the provincial level, the Province should consider providing a dedicated infrastructure redevelopment fund for intensification areas. Access to the funding could be tied to integrated plans completed jointly under the Planning Act and Environmental Assessment Act (such as a master plan or secondary plan for a downtown or derelict waterfront). The grant program would be undertaken outside of the DC Act and could include specific qualification criteria which could help to promote and encourage a range of other provincial objectives, such as active transportation, “green” infrastructure, transit, affordable housing, energy efficiency, etc.

How prescriptive should the framework be in mandating tools like area-rating and marginal cost pricing?

- The current DC framework provides municipalities with the flexibility to choose between area rating and average cost pricing. The framework should not be overly

prescriptive. The Province could, however, consider providing a guideline document, including case studies and best practices, which may better equip municipalities and councils to make decisions on when to provide area specific charges and when to use average cost pricing.

What is the best way to offset development charge incentives related to densities?

- See response to item 7.

Finally, while the review is limited to the specifics of the DC Act, we would like to express our support for a broader review of municipal finance in Ontario. The sources of revenue that municipalities have the ability to draw upon is limited (property tax, fees, & grants) and OPPI would welcome any Provincial initiative which seeks to improve the fiscal health of Ontario's communities.

Thank you again for the opportunity to provide comments. To further discuss our submission or to schedule a meeting, please contact me at (416)668-8469 or by email at policy@ontarioplanners.ca

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Ryan', followed by a horizontal line.

Loretta Ryan, MCIP, RPP, CAE
Director, Public Affairs
Ontario Professional Planners Institute