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May 15, 2025

Dear Clients,

**Re: Development Charge Changes Arising from Bill 17**

This letter summarizes proposed changes to development charge (DC) matters introduced by Bill 17, the *Protect Ontario by Building Faster and Smarter Act, 2025*, which received first reading on May 12, 2025. While the bill proposes amendments to several Provincial statutes, the Minister of Municipal Affairs and Housing has indicated that changes to the *Development Charges Act, 1997* are a central focus.<sup>1</sup>

The proposed DC-related changes can be grouped into two categories:

- those that would take effect immediately upon Royal Assent; and
- those that would take effect through Regulations, some of which are enabled by new legislative authority.

The stated objectives of the bill are twofold: to simplify and standardize DCs, and to reduce DCs as part of a broader effort to lower the cost of housing construction.

A blackline version of the changes, prepared by Osler, Hoskin & Harcourt LLP and referenced with kind permission of Chris Barnett, can be found at:

<https://www.osler.com/wp-content/uploads/2025/05/development-charges-act-bill-17-first-reading.pdf>

**A. CHANGES TAKING EFFECT UPON ROYAL ASSENT**

Four key amendments to the *Development Charges Act* would take effect upon Bill 17 receiving Royal Assent:

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<sup>1</sup> Details about the range of amendments proposed can be found at:

<https://news.ontario.ca/en/release/1005903/ontario-getting-homes-and-infrastructure-built-faster-and-smarter>

### **i. DC Exemption for Long-Term Care Homes**

Both non-profit and for-profit developments intended for use as long-term care homes would be exempt from paying municipal DCs.<sup>2</sup> This exemption is intended to encourage the construction of long-term care facilities in response to Ontario’s aging population. Where a long-term care home is part of a mixed-use development—for example, one that includes commercial uses—only the portion of the development dedicated to the long-term care home would be eligible for the exemption.

### **ii. Streamlined Process for Certain By-law Amendments**

Amending a DC by-law can be challenging as the *Development Charges Act* requires that a DC background study and public meeting be a prerequisite to any amendment, no matter how minor.<sup>3</sup> Under Bill 17, municipalities would no longer be required to undertake a background study or hold a public meeting when amending a DC by-law, if the amendment solely:

- decreases one or more DC rate;
- repeals a provision to index DCs; or
- amends an indexing provision that provides for a DC not to be indexed.

### **iii. Deferral of Residential DC Payments Until Occupancy**

A major proposed change is to the timing of DC payments for residential development. Currently, DCs are typically payable at building permit issuance.<sup>4</sup> Under Bill 17, payment would be deferred until occupancy—defined as the earlier of:

- the day an occupancy permit is issued; or
- the actual date of occupancy.

Municipalities may require financial securities to ensure payment, with regulations to define the circumstances under which securities could be required, as well as other limitations.<sup>5</sup>

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<sup>2</sup> Long-term care homes are licensed under the *Fixing Long-Term Care Act, 2021*, and include municipal homes, joint homes, and First Nations homes.

<sup>3</sup> Except where the amendment extends the life of a DC by-law (up to 10 years).

<sup>4</sup> The exceptions are a) where municipalities require payment at the time of subdivision approval (for water and wastewater services); b) where payment in six annual installments for rental housing and institutional development is required; and c) where an agreement under section 27 provides for early or late payment.

<sup>5</sup> The Ministry technical briefing, released on 12 May 2025, suggests that financial securities may only be imposed if a residential development is **not** subject to an occupancy permit. However, the proposed legislation simply states that securities may be required “if the prescribed circumstances exist,” without further elaboration.

Interest would not be able to be charged on deferred payments for residential development. **However, interest on frozen DCs for residential development could be recalculated to apply to the period between the date of the rezoning or site plan application and the date of occupancy.**<sup>6</sup> Additionally, any interest that would have accrued on deferred DCs for rental housing and institutional development after Bill 17 came into force would be cancelled.

Developers eligible for DC deferrals would be permitted to opt for earlier payment - presumably at the date of building permit issuance, although the legislation is not clear on this point - without the need for an agreement under section 27 of the Act.

Building permits would continue to be able to be withheld for developments that have not paid DCs, unless the DCs are payable at occupancy.

#### **iv. Revised DC “Freeze” Rule**

Under the current subsection 26.2 (5) of the *Development Charges Act*, DC rates are frozen at the time of application for rezoning or site plan approval, provided building permits are not issued within 18 months of application approval. Bill 17 would require that the payable DC be the lower of:

- the frozen DC amount (including any interest applied); or
- the DC in effect at the time of permit issuance.

This change is intended to prevent frozen DCs from being higher than current rates. All applicable DCs at the time of payment would be included in the calculation.

## **B. CHANGES THROUGH FUTURE REGULATION**

Some of the most far-reaching implications of Bill 17 may be implemented through future regulations. As such, these proposed regulatory powers warrant detailed financial impact analysis. Bill 17 would grant the Minister authority to make regulations that:

#### **i. Merge Services for DC Credits**

This would permit the merging of service categories for the purposes of issuing DC credits. While this could increase flexibility for developers—allowing credits to apply across multiple services—it also risks undermining municipalities’ ability to pay for other unrelated capital

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<sup>6</sup> See s.26.2 (3) of the *Development Charges Act*.

works. A credit issued against multiple services could erode revenue available for infrastructure not directly connected to the credited work.

## ii. **Limit Eligible Capital Costs**

In 2023, the Province created authority to identify services for which land is an ineligible capital cost. Bill 17 proposes to expand this authority further, allowing the Minister to provide for exceptions—including conditional exceptions—to **any capital costs** otherwise eligible for DC funding, not just those related to land.

The potential to remove previously eligible capital costs is a concern. If DCs cannot be used to fund key infrastructure, municipalities may face financial shortfalls, which could lead to capital project delays and negatively affecting housing supply. This is especially problematic for municipalities relying on DCs for roads, transit, water and wastewater infrastructure, which typically account for 70% to 80% of DC revenues.

If the Province is focused on limiting the eligibility of land costs, it is important to emphasize that acquiring land is a fundamental first step in many capital projects. More broadly, the uncertainty introduced by this regulatory power could hamper municipal efforts to prepare accurate and predictable capital plans.

## iii. **Define Local Services**

Municipalities may require developers to fund or install “local services” as a condition or agreement to subdivide land. These services are not eligible for DC recovery. While the term “local services” is not currently defined in legislation, most DC background studies in Ontario establish clear definitions to guide both municipalities and developers and to avoid disputes.

Bill 17 proposes to grant the Minister authority to define local services. Hemson welcomes a standardized approach—provided it reduces disputes, clarifies funding responsibilities, and allows municipalities to plan and build infrastructure consistent with local policies and community objectives.

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In addition to the new regulatory powers noted above, the Minister has indicated an intent to use existing authority to pass regulations addressing the following matters:

**iv. Prescribe Benefit to Existing (BTE) Methodology**

The Minister has suggested that, following consultations with municipalities and the development industry, regulations may be introduced to prescribe criteria for determining the extent to which an infrastructure project benefits existing development.

Hemson supports Provincial guidance on BTE methodologies to promote consistency and fairness in cost allocation. We note that Hemson recently developed similar guidance on growth-funding tools, including cost allocation for DCs, for the Province of British Columbia.<sup>7</sup> In our view, any BTE framework should preserve the principle that cost allocations should reflect actual benefits received by existing versus new development.

**v. Standardize DC Background Studies and Annual Reports**

To improve transparency and consistency in the DC framework, the Minister has indicated potential regulations that would:

- expand the current requirement to spend or allocate 60% of DC reserve funds annually to apply to all services;
- broaden the reporting requirements for annual Treasurer’s DC statements;
- standardize DC background studies; and
- improve public access to annual Treasurer’s statements.

**vi. Permit London DC Index**

Currently, DCs can be indexed using the Statistics Canada Non-Residential Construction Price Index for either Toronto or Ottawa-Gatineau. It is proposed that London’s new index also be permitted for use, enabling municipalities in southwestern Ontario to more accurately align their DCs with local construction costs.

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<sup>7</sup> See: [https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/local-governments-and-housing/dcc\\_best\\_practices\\_guide.pdf](https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/local-governments-and-housing/dcc_best_practices_guide.pdf); and [https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/local-governments-and-housing/acc\\_best\\_practices\\_guide.pdf](https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/tools-for-government/local-governments-and-housing/acc_best_practices_guide.pdf)

## C. MINISTER'S COMMITMENT TO CONSULT

Comments on Bill 17 can be submitted through the Regulatory Registry of Ontario until **June 11, 2025**: <https://www.regulatoryregistry.gov.on.ca/proposal/50333>.

The Minister has also committed to further consultation with municipalities and the development industry, particularly regarding BTE methodologies and reporting requirements. Hemson will be seeking to actively participate in this consultation process.

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Hemson remains committed to supporting changes to the *Development Charges Act* that promote a fair and effective framework for recovering development-related capital costs. We continue to work closely with the Municipal Finance Officers' Association (MFOA), the Association of Municipalities of Ontario (AMO), and our municipal clients to monitor the financial and policy impacts of Bill 17.

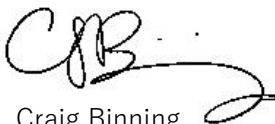
While we expect Bill 17 to proceed swiftly through the legislative process, it remains in draft form and subject to change. That said, the regulatory changes being considered could materially alter how DCs are calculated. Municipalities currently undertaking, or planning to initiate, DC background studies within the next six months should closely monitor these changes and build flexibility into their workplans to respond as needed.

Finally, we note that while the newly elected Federal government campaigned on a platform that included changes to DCs, there is currently no indication of the scope or timing of any Federal action. Until more information becomes available, it is premature to assess potential impacts on Bill 17 or on DC matters more broadly.

Should you have any questions, please don't hesitate to contact us.

Yours Truly,

**HEMSON Consulting Ltd.**



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