Appendix A – Comments on Impact of Proposed Changes

Note re: Coming into Force – *most proposed amendments come into force upon the Bill receiving Royal Assent; however, some amendments will not come into force until proclamation by the Lieutenant Governor at a later date.*

Summary of Proposed Change	***Comments on Impact of Proposed Changes***
Inclusionary Zoning, Affordable Housing, Attainable Housing – Exemption from DCs, parkland dedication and CBCs (Planning Act, O. Reg 232/18, and Development Charges Act)	
• Units created through inclusionary zoning, and units that meet the Province's definition of "affordable" and "attainable" will be exempt from paying development charges (DCs), and be given discounts from Community Benefits Charges (CBC) and parkland dedication. • Units created through "gentle intensification" – three units on any one residential lot – are also exempt from DCs (discussed more below).	• As more exemptions or discounts to these fees and charges are created, the City will face pressure to reduce its services or find ways to fund them through another source. Currently the only other source would be existing rate taxpayers, or through higher DCs elsewhere. • Province has indicated that some relief will be provided through its Affordable Housing Accelerator Fund, but there are no details on the program design and allocation formula at this time. • In order for affordable and attainable units to be exempt from DCs, an agreement with the City is required. Administering this may require additional FTE(s).
• New category "attainable housing" to be defined by regulation, relying on Provincial reporting. • Both "affordable" and "attainable" remain unclear, since their definitions rely on a yet-to-be-released bulletin from the Province. For example, we know that "affordable rent" means rent that is no more than 80% Average Market Rent (AMR), but not how AMR is calculated.	• The full budgetary impact of these new exemptions cannot be fully quantified in part because the thresholds for "affordable" and "attainable" housing remain unclear. Depending on how they are determined, it is likely that units exempt from these charges will be concentrated in certain parts of the City, meaning those areas will have fewer parks, services, community benefits and funds for infrastructure improvements.

• IZ limited to 5% set aside and 25-year affordability. Lowest price for IZ units is 80% AMR or average purchase price.	• These metrics were previously within the municipalities' discretion based on the findings of their respective Assessment Reports and housing market analysis. • Ottawa has nearly completed its Assessment Report (which underwent a peer review). The status of the recommendation and findings of this study may not be consistent with provincial limits. • Regulating these metrics Province-wide fails to consider unique local conditions where deeper and longer affordability could be achieved; for example, even within municipalities different MTSAs have the potential to support varying degrees of inclusionary zoning. • Staff's proposed approach to IZ is quite cautious (IZ Policy Directions Report, June 2022), but these metrics from the Province would result in even fewer units, compromising the feasibility of IZ as a tool for securing affordable housing.
Parkland Dedication (Planning Act)	
• Maximum amount of land that can be conveyed for parks or paid in lieu is capped at 10% for sites under 5 ha, and 15% for sites greater than 5 ha. • Maximum "alternative" dedication rates are reduced from 1 ha/300 units to 1 ha/600 units for land and from 1 ha/500 units to 1 ha/1000 units for CIL.	• Council approved a new parkland dedication by-law on August 31, 2022. The by-law is informed by a study completed in May 2022. Revisions to this by-law would need to be made to account for these amendments. • Lowering the upper limit of what the City can ask for in its Park Dedication By-law compromises livability, health and safety of intensified areas. Acquiring that land or developing facilities through taxes will result in an additional financial burden for municipal rate payers. • These amendments may necessitate a review of the design of communities, including updates to secondary plans and servicing studies, which will take City planning resources away from new housing approvals and could lead to additional approval delays. • The proposed new caps would impact stormwater management in at least two ways: ○ A decrease in the amount of parkland represents a decrease in the amount of impervious services, putting direct and immediate strain on our stormwater management infrastructure and may require the reopening of master servicing studies.

	○ Less land taken for parks means more land taken for development, so the City will need to reevaluate its infrastructure needs.
• Municipalities will be required to spend or allocate at least 60% of parkland reserve at the start of each year.	• This will make it challenging for the City to save for and deliver large projects that require larger sums that historically have taken multiple years of savings. Typically, only the city-wide CIL account is used for larger expenditures, while ward-wide CIL is used regularly for smaller-scale improvements or amendments.
• Encumbered lands and privately owned public spaces (POPS) are eligible for parkland credits. • Owners can identify land they intend to provide for parkland, and this can be appealed to the Tribunal if municipality does not accept the conveyance.	• The ability for landowners to propose lands for parkland conveyance, and for the Ontario Land Tribunal to compel conveyance of those lands, should the City refuse to accept them could compromise the quality of lands taken by the City for park purposes. In particular: ○ The City does not support the ability for encumbered lands to serve as parkland; subsurface infrastructure or other easements on the property can significantly hinder the amenities that can be provided by the City and the ultimate usability and desirability of the land for parks purposes. For example, trees and certain structures that create a desirable park space require both depth and height – if either are taken away by an encumbrance on title, then the park is compromised. ○ The new appeal process to the Ontario Land Tribunal would create added delays that could compromise the City's ability to meet the new timelines established by Bill 109.
Development Charge Act	
• The City is permitted to charge interest on DCs for the period between when the amount is calculated and when it is payable. Bill 23 puts a new cap on interest of prime +1% • IZ, affordable and attainable units exempt from DCs (also mentioned above). Affordable and attainable units are only exempt if there is an agreement with the municipality. Minister may provide a template agreement.	• Growth-related studies currently have an annual cost of $1.51 million. Exemptions for housing services from DC recovery will result in a loss of capital funding of $741,000 annually. New phase-in requirements for DCs will result in a loss of revenue, potentially in the range of $26M annually (estimated based on previous 5-year DC rates) with additional unknown revenue loss resulting from DC exemptions that will need to be offset from other revenue sources. • Municipalities have made significant effort with respect to asset management planning and investment because of the requirements of Ontario Regulation 588/17. Upcoming budget impacts are considerable and, as mentioned above, unpredictable. This represents a possible significant gap in the City's budget planning that hinders its ability to accommodate new growth and maintain existing infrastructure. ○ Existing levels of services (flooding and fire risks) and state of repair will be degraded as a result of increased infrastructure funding gap. ○ The funding growth-related infrastructure may also slow down going forward.

• DC discount for purpose-built rentals, and a greater discount for larger units. • Regulation will set services for which land costs are not an eligible capital cost recoverable through DCs.	• With increased reliance on taxpayers to fund the necessary growth infrastructure, Council will be forced to make choices between maintaining existing assets and building new infrastructure with the limited tax levy/user rate sources - putting at risk the progress made to date and limiting future progress with respect to asset management planning and investment in municipal assets. • The existing growth-related funding gap will increase. Unless other sources of consistent funding are provided, there will be a further erosion in the timely expansion of growth-related infrastructure such as the LRT, the City's overall level of service will rapidly decrease, property taxes and user fees for residents and businesses will have to increase to fund the downloaded costs and there will be less support in existing neighbourhoods and communities for intensification. • Further, the variability of DCs presents a major hurdle for City planning. With no understanding of the ratio of market to affordable/attainable units, and therefore no understanding of the DC shortfall, long-term planning City-wide becomes very challenging. Whether and how much of this shortfall will be recoverable from the Province, and for how long, remains unknown. ○ Constantly evolving DC requirements create risk of error re: undercharge, overcharge, incorrect application • Exempting “gentle intensification” units from development changes significantly hinders the City’s ability to fund infrastructure renewal and ensure that parks, community facilities and local infrastructure keep pace with increasing pressures from new demand, particularly in existing neighbourhoods. It compromises the City’s ability to keep water and sewer systems in a state of good repair, despite the added pressure to the systems directly from the new units. • Exempting “affordable” and “attainable” units requires legal agreements with the City, and therefore more administration from staff.
• Cost of studies (including background studies) are excluded from DC recovery.	• Studies related to development charges, such as development charge background studies, groundwater studies, and community infrastructure plans, are necessitated by growth; eliminating these studies from the Act and forcing the City to fund them in other ways runs contrary to the idea that growth should pay for growth. A funding gap already exists for growth-related costs. The City cannot afford to subsidize development on the backs of its rate payers.

	• If funding for studies is compromised, the City will not be able to advise on right-of-way protection, or develop plans for transportation facilities to accommodate growth that would "future-proof" its transportation network. • The cost of studies is comparatively small to the cost of implementation; the findings/recommendations of studies can save the City millions in capital and operating costs.
• Similar to CIL Parkland, Municipalities required to spend or allocate at least 60% of the DC reserves for priority services (i.e., water, wastewater, roads)	• This requirement may make it difficult to plan for larger capital projects, and the ability to change forecast annually. • This might also mean that some projects are deliberately delayed to later in the planning period. • This change has a direct impact on what we show in Budget or DC annual reports and puts pressure on the BTE (Benefit to Existing tax & rate) funds that fund these priority projects.
Community Benefits Charges	
• CBC is capped at 4% of the land value, but Bill 23 adds discounts to CBC for certain units.	• The CBC is a new charge that replaced for the former "Section 37 Agreements". The CBC Strategy and By-law was approved by Council on August 31, 2022. • A reduction in CBCs that is proportionate to the number of affordable and attainable units reduces the City's ability to provide community benefits in areas where those units are provided, disproportionately impacting low-income residents.
Zoning Updates for Major Transit Station Area (MTSA) Policies (Planning Act)	

• Municipalities required to update zoning by-law to align with MTSA policies in the OP within one year of the OP policies being approved. If passed later, they are appealable (new appeal rules would, however, limit who could appeal).
 	
• By contrast, MTSA policies and related zoning regulations have not been appealable since they
	• When a comprehensive review of the OP is done, the City has three years to update its zoning accordingly.
	
	• By requiring that the City rezone within one year of implementing MTSA policies in its official plan, we are no longer incentivized to consider PMTSAs as part of a larger comprehensive review, creating a piecemeal planning framework.
	
	  ○ This represents a barrier to development as the MTSA policy framework would be delayed and not be in place to benefit site-specific zoning amendments.
	
	  ○ Delaying MTSA designation in the OP would also threaten IZ policies, which can only occur in MTSAs.

were first introduced by Bill 139 (2017).	• Staff must consider whether to repeal its MTSA policies from its New OP and wait to reintroduce them when secondary plans are complete. ○ If they are not repealed and Zoning team staff are required to shift focus from the new Zoning to meet the one-year zoning implementation for MTSAs, there be an impact on timelines for delivering the new Zoning. Delay will slow down implementation of zoning provisions necessary to achieve our housing targets.
Gentle Intensification – Additional Residential	

• Up to three units per [municipally serviced] lot will be allowed as of right, with no minimum unit sizes.
• New units built under this section are exempt from CBC, DC and parkland requirements.
• OP policies and ZBL regulations that conflict with this permission are deemed to be of no effect. Therefore, as soon these sections of Bill 23 come into force, building permits can be issued (subject to compliance with other applicable law and the Building Code).
	• The current Zoning already allows at least two units per lot (even in R1) through its secondary dwelling unit and coach house regulations.
	• While the three-unit allowance is not dissimilar from what staff is already studying, the new Zoning By-law will take up to 3 years after the new Official Plan until it is enacted. Zoning and Secondary Plan updates may therefore need to occur sooner than previously planned:
	  ○ An update to the existing Zoning in the short-term may be necessary to implement the three-unit minimum in R1 and R2 zones, with regulations to manage impacts associated with multi-unit development.
	  ○ Similarly, secondary Plans that limit residential development detached dwellings with one unit will need to be updated to consider the new permissions; otherwise, those plans are of no effect.
	• If the three-unit minimum will apply in Villages that have full, municipal services, the following would be required: updates to the IMP to confirm servicing capacity is available; village secondary plans and zoning would need to be updated.
	• The cumulative impact from these amendments has the potential to place strain on existing storm water management infrastructure (see comments above, under *Development Charge Act).*
	• New “gentle intensification” permissions could result in increased pressure for on-site parking, on street parking, driveway widenings, front yard parking, and removal of trees in front and rear yards to provide parking areas, impacting the urban forest canopy and permeable surface area. While infill zoning regulations to manage these issues are in place

	for lots inside the Greenbelt, there are limited controls in place for the suburban areas and villages where Infill regulations do not apply. • Staff is also concerned that these provisions, as worded, could have the unintended consequence of allowing singles, semis and towns next to transit or in other areas planned for greater density (since the zoning cannot prohibit them in serviced areas). Clarity has been requested from the Province on this.
Site Plan Control (Planning Act)	
• The authority for the City to regulate exterior features, sustainable design, character, scale, design features and the like through site plan control (paragraph 41(4)2(d) of the Act) is repealed. • A new section 41(4.1.1) would allow regulation of the appearance of certain features if there are health and safety impacts.	• Staff strongly objects to the proposed repeal of paragraph 41(4)2(d). In particular, repealing this paragraph would: o Impact site plan control for non-residential development as well, significantly overreaching the intent of the Bill. o Impact the City's ability to create desirable streetscapes, attractive spaces and promote sustainable development. This will compromise our climate change mitigation efforts and impair our ability to deliver a livable, resilient and attractive City in line with the provincial interests. These city features also support economic development and tourism. o Constrain the City's ability to provide quality housing, risking the loss of walkable, livable and sustainable environments that are promoted in our New OP. o Eliminate the City's ability to comment on – and challenge – the design merits of architectural and design proposals that do not properly consider context, for the city skyline, or its impact on the public realm. o Compromise of the ambitions of the new Official Plan policy, various Secondary Plans, Community Design Plans, Design Guidelines and the general community desire to ensure neighbourhood character is a cornerstone of planning review. ▪ Updating these documents would require staff resources, funding and time. o Compromise the sustainable design components of Ottawa's High Performance Development Standards (ex. energy, ecology, roof requirements).

	• The new subsection 41(4.1.1) currently lacks clarity; Staff requested guidance from the Province on how this section could be used.
• Development of up to 10 residential units will be exempt from site plan control, as opposed to Ottawa's current maximum exemption of 6 units.	• This is intended to reduce barriers to missing-middle housing forms. • Fewer SPC approvals means fewer opportunities to review development for storm water management. This amendment could impair the City's ability to manage existing flooding risks. The City may no longer have a legislative tool to ensure stormwater is properly managed for this form of development in existing neighbourhoods. • Fewer SPC applications means fewer opportunities to acquire ROW land at no cost to the City. More land for road widenings, for example, would need to be taken through alternate means at a cost to the City.
Rental Replacement	
• Minister has new regulation-making authority for regulations related to replacement of rental housing when it is proposed to be demolished or converted.	• Staff was directed to look at the feasibility of a Rental replacement By-law in the Renovictions report. The result of the regulations will impact the outcome of the feasibility report. Staff will be reviewing this and will provide future comment on this item. • The Rental replacement by-law feasibility report is due to Council in Q2 2023.
Removal of Third-Party Appeals	
• Restriction on appeals from third parties (such as neighbours, community associations, local businesses, etc. who made submissions at or to Planning Committee or ARAC) on planning decisions. Utility companies, applicants and public bodies will still be able to appeal planning decisions. • Matters that are before the OLT through a third-party appeal will be deemed to be dismissed unless a hearing date has been scheduled.	• Planning appeals currently before the OLT that were brought by a third-party and do not have a hearing scheduled or a valid other appellant will be dismissed.
Ontario Heritage Act	

• Heritage Register listing process is amended; for example, non-designated properties listed on the Register must be removed after two years if a Notice of Intention to Designate has not been issued by City Council. • Where a prescribed event (application for OPA, ZBLA or Subdivision) has occurred, the municipality can only issue a Notice of Intention to Designate if the property was already listed on the Register when the prescribed event occurred.	• The City of Ottawa Heritage Register recognizes properties of cultural heritage value, and the conservation of heritage resources contributes to local identity and sense of place. The Register includes designated properties and non-designated, listed properties. Listed properties have potential cultural heritage value and may be candidates for designation under the *Ontario Heritage Act*. Owners of listed properties must provide the City 60 days' notice in advance of demolition. • The City recently completed a comprehensive, city-wide heritage inventory that reflects best practice in heritage conservation. This project resulted in the listing of approximately 4000 properties city-wide. One of the goals of the project was to provide transparency and certainty for owners of heritage properties. The implementation of the proposed legislation would remove interim demolition protections for these properties. • The introduction of a time limit on non-designated listings disregards the use of the Register as a tool to recognize all of the properties in the municipality that contribute to the sense of place and collective histories. It also limits the use of the Register as a tool that includes properties recognized by other levels of government, National Historic Sites or UNESCO sites. Cultural heritage value does not disappear after two years, the timeline is arbitrary and will result in the loss of heritage resources. o No transition has been provided, the intended timeline for implementation is January 1, 2023. As written, Bill 23 will leave staff scrambling to assess which of the 4000 properties are of highest significance and then bring forward designations, potentially against the will of the property owner. ▪ At current resourcing levels, staff will not be able to accommodate the additional work required to be done in 2023-2024 and then potentially on an ongoing basis. o Currently, heritage staff bring forward 3 to 5 designations per year. • Changes to the register listing process may result in more properties being designated under Part IV of the Act and more Heritage Conservation Districts designated under Part V of the Act, as tools to conserve important properties and areas. This will have the net impact of reintroducing inefficiency and divisiveness for both the City and property owners as designations are undertaken proactively to safeguard properties, rather than through negotiation in the development review process.

	• The new timelines introduced through Bills 108, 109 and Bill 23 will reduce the City's ability to ensure that development proposals meaningfully incorporate significant heritage resources. • There will be a greater burden on the Built Heritage Sub-Committee and staff to hold special meetings to meet statutory timelines or to consider reactive designations where the alternative is demolition.
• Heritage Register must be online. • New process will be proposed to allow Heritage Conservation District Plans (HCDPs) to be amended or repealed. • Proposal to increase the threshold for new Part IV (individual) designations to two prescribed criteria, instead of one.	• Staff supports the requirement to put the Heritage Register online and the amendment process for HCDPs. • The City's Heritage Register is already available online through GeoOttawa. • Staff objects to the proposal to increase the threshold for designation. Increasing the threshold for designation, while at the same time putting time limits on listing of properties will make it more difficult for the City to address reconciliation, equity, diversity and inclusion in its heritage program. There are many properties that tell the stories of underrepresented groups or geographies that may no longer meet the threshold for designation under Part IV and can only be listed for two years as non-designated listings. This will mean that the current inequity in the legislation will continue to assign significantly more value to the contributions of architecture and well documented, mainstream histories rather than allowing municipalities to recognize their diverse histories.
• New authority would allow exemptions from compliance where the exemption could potentially advance a provincial priority.	• This authority will apply only to provincial heritage properties only, so will have minimal impact in Ottawa. However, Staff notes that this provision is both vague ("could potentially") and contrary to the intent of the legislation, which is to protect heritage resources. As such, Staff does not support bringing the consideration of other provincial priorities into this legislation.
Ontario Land Tribunal Act	
• Regulations can prescribe categories of matters to be prioritized by the Tribunal. • AG can regulate service standards with respect to timing of scheduling hearings and making decisions.	• Staff is concerned that certain OLT matters are being prioritized over infrastructure, design and environmental protection.

Natural Heritage (Regulatory changes)	
• Ontario Wetland Evaluation System (OWES) is being reviewed. This evaluation system is a standardized system for studying wetlands in Ontario, and thus designating lands as Provincially Significant Wetlands. • Considering new "offset policy"	• The proposed amendments risk loss of wetlands, biodiversity and flood attenuation across the province. • Staff do not support the proposed removal of wetland complexing or the inability to re-evaluate existing complexes. These changes would expose most of Ottawa's provincially significant wetlands to potential loss of PSW status and bring complex lands into consideration for urban boundary expansion. Partnered with the described, but not yet outlined, changes to the Provincial Policy Statement, the proposed changes could significantly exacerbate local flooding, erosion issues and biodiversity loss. o For example, this change could bring the Goulbourn Wetland Complex (Stittsville West) back into consideration for urban expansion. o Cumulative loss of wetlands will expose the City to increased financial liabilities from flooding and erosion along the Rideau River and other urban watercourses originating in the rural area. o Piecemeal dealing with wetlands means that there would be increase in the number of wetland re-evaluations, for which the City would have to review and decide on – this will require additional staff resources. • Official Plan and Zoning Amendments will be able to take place before knowing whether offsetting will be feasible on a given property; this could add costs and delays to development, if it is allowed to proceed at all. o Similarly, the approval timelines for site plan from Bill 109 mean that offsetting plans will not be developed until after approval.
Conservation Authorities Act	
• Addition of "unstable soils and bedrock" as considerations for permitting/conditions.	• Staff supports the addition of "unstable soils and bedrock" to matters considered in permits, as this is good for slope stability hazards.

• A single regulation is proposed for all 36 authorities in the province.	• Staff is concerned that a single regulation for the entire Province, or even a regulation for each activity, will not be able to capture local conditions and constraints.
• Conservation authorities (CAs) required to identify, from lands that they own or control, lands that could support housing. This is supplementary to the inventory already required to be completed by end of 2024.	• Staff is concerned that this will adversely impact natural heritage groups and preservation efforts.
• Streamlining approvals for low-risk activities. List of proposed "low risk activities" is included. Criteria are to be determined and may include the need to be "registered with an authority" • Prescribed acts under which a CA cannot perform review as part of a municipal program or service (includes *Planning Act, Drainage Act* among others)	• Exclusion of CAs from review and comment on *Drainage Act* processes leaves municipal requests for Environmental Appraisals as the only tool to assess impacts of proposed or expanded drains on wetlands. o A capital budget should be created to cover the costs of Environmental Appraisals. • If the CAs are no longer permitted to review development applications in accordance with the City/CA Memorandum of Agreement (Aug 28, 2018), there will be significant additional work for City staff, particularly in geoscience/hydrogeology. These are essential reviews, as the issues relate to public health (groundwater quality). The City would likely have to create one or more new FTEs. • If Ottawa is prescribed as one of the municipalities where activities approved under the *Planning Act* no longer require CA permits, the burden for the related issues, policy reviews, technical reviews shift to City planning staff. This could have the following impacts: o Additional challenge in meeting the Bill 109 timelines for site plan approval. o Increased risks to wetlands, floodplains, and watercourses in cases where CA permit requirements served as a check on egregiously bad proposals. (We do not yet know if this will be a single regulation prescribing the whole City, or if it is intended to authorize site-specific regulations for particular areas of the City.)
Housing Targets (detailed in Appendix B)	
• The Province has assigned Ottawa a housing target of 151,000 over the next 10 years. The City is meant to "pledge" that it will adopt this target, but the consequences	• This housing target is 70% higher than what Ministry of Finance projections would yield to 2031 and double the City's projection to 2031. This represents 63,000 more homes over ten years than the Province's own estimates. o Staff have requested clarification on how these targets were calculated and assigned to municipalities.

for not doing so, or failing to meet the target, if any, are unknown.	• Staff have also requested clarification on when a unit can count toward the target: for instance, does it need to be construction starts or another measure of supply, such as building permits or pending applications. o Staff notes that if construction starts is the proper metric, then the target for Ottawa is too high; builders will not finance and construct units for them to sit vacant and unpurchased, especially with interest rate increases and other current economic factors. Further, this number of construction starts per year far exceeds historical precedent, which are determined not just by municipal approvals but also labour, material and equipment availability.