Attachment 1 - Summary of Proposed Changes to the Planning Act and Ontario Heritage Act and City Staff Comment and Impact of Change

Bill 23 - Bill 23, *More Homes Built Faster Act, 2022* was released on October 25, 2022 with proposed changes to several pieces of legislation including the *Planning Act,* the *Development Charges Act*, the *Conservation Authorities Act,* the *Ontario Heritage Act* and the *Ontario Land Tribunal*.

This chart is intended to accompany report CS-22-149

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Proposed Changes to the Ontario Planning Act and Regulations		
1	New limits on third-party appeals to the Ontario Land Tribunal (OLT) for official plans, official plan amendments (OPAs), zoning by-laws, zoning by-law amendments (ZBLAs), consents, and minor variances. Appeals limited to a list of "specified persons". This will include municipalities, applicants, the province and other bodies such as utility provider. Public or third party appeals by resident groups will not be permitted. Appeals by Conservation Authorities will be limited to natural	This is a significant change for members of the public who may receive notice of a public meeting and decide to participate in the planning process. The right of appeal has been a basic tenement of the land use planning process in Ontario. It has not been one overused in the City of Owen Sound in the last 20 years. The inability of the public to appeal a decision of council on these matters may create a significant amount of pressure on municipal councils and planning staff. This emphasizes the need for an excellent and up to date land use policy framework (Official Plan and Zoning).

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	The changes will be retroactive to October 25 and any matter appealed but not scheduled for a hearing will be dismissed.	The importance of technical studies and how these are reported in planning reports that accompany applications will be very important. Planners will need to show in more detail and justify recommendations either to approve or deny any application based on the policy merits of the application. Often planners work with community members and developers to find solutions to issues prior to a recommendation report coming forward. The willingness of applicants to participate in this type of dialogue may be negatively impacted by the change. Public trust will be impacted by this change and people may be discouraged from participating in the planning process. Changes are also being proposed which would limit conservation authorities from appealing a planning matter, except in the case of a natural hazard issue (i.e., a matter under section 3.1 of the PPS). For the four conservation authorities within Grey, it has been very rare that a conservation authority would appeal a planning decision or policy. In County staff's experience this had generally been limited to natural hazard, whereas matters of natural heritage were generally limited to advisory roles.

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		In the last 20 years in Owen Sound, staff can not recall an appeal of a planning decision by GSCA. Staff have been supported however in appeals by GSCA with respect to hazard zoning in relation to a natural hazard. The City has a long and positive relationship with Conservation Authorities. Further comments on the impact of changes to the Conservation Act are included in that section.
2	As-of-right permissions for up to three residential units per property in a settlement area that is serviced by municipal water and sewer services, with no minimum unit sizes and no zoning by-law amendments.	The province has introduced a new definition for "parcel of urban residential land" which is generally defined to mean a residential lot in a settlement area that is serviced by municipal water and sewer services. This proposed change is augmenting earlier changes to the *Planning Act* which allowed for a dwelling as well as two additional residential units (ARUs) per property. The province is clear that through these changes no official plan can contain any policy that has the effect of prohibiting the main dwelling and two ARUs per property in a serviced settlement area. No minimum unit sizes can be required by municipalities, and no more than one parking space per unit can be required.

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		Existing official plans that are in effect that contravene these changes are deemed to be of no effect. Overall, staff are supportive of ARU's and the benefit they have in the range of housing that is required to meet the need. The City will need to ensure that the hydraulic reserve capacity calculations for the water and wastewater treatment plant consider this "as of right" allocation for ARUs. A technical report addressing the Zoning component of ARUs is on Committee Agenda on November 16. There are practical considerations to adding additional parking in residential areas. The Zoning will have to include other site and building regulations with respect to ARUs. The City is currently considering licensing Short Term rentals, and this should consider ARU's to ensure, that these units remain available for rental and not consumed only by short-term rentals. Building permits are required, and the safety of these units will be important.

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		The City will develop a guide for ARU's that combines planning, servicing, and building in one guide.
3	Public meetings are now optional prior to the draft approval of a plan of subdivision.	Public meetings for subdivisions will be optional. In addition to the limitation of third-party appeals, this change may impact how the public feels about participating in planning matters. Normally subdivisions are processed once there is a planning policy framework (i.e.. OP and Zoning) in place to permit the residential development. More minor applications such as variance or consent will still require a public meeting. This does emphasize the need for progressive and current policies and technical subdivision standards to ensure that subdivisions are designed and constructed in a manner consistent with the provincial and local policy framework.
4	Removal of upper-tier planning responsibilities for the Regions of Durham, Halton, Niagara, Peel, Waterloo, and York, as well as the County of Simcoe and any other upper-tier municipality that is prescribed.	The Province is proposing two classes of upper tiers – those with and those without planning authority. Currently, the County of Grey is not on the list as an upper tier without planning authority.

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		For those upper tiers without planning responsibilities: • They no longer have any planning approval responsibilities; • They are no longer able to appeal decisions to the OLT; • They are no longer able to request road widening on a site plan; • Their official plans are deemed to constitute an official plan of the lower tier until the municipality revokes it or amends it to provide otherwise; and, • They are no longer able to establish official plans, even with respect to specific upper-tier infrastructure, such as roads. If this were to apply to Grey, this would pose issues for local municipalities in the following ways: • The lack of ability to coordinate on matters such as county roads; • Many lower tiers are smaller and do not have full time land use planners and rely on the county for advice and for providing the official plan policy relevant to the local municipality. The local staff do not have resources in many cases to absorb the additional work of these responsibilities and time would be required to ensure the

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		planning policy framework is in place for such a change; • There would be a cost for lower tiers to retain staff necessary to approve plans of subdivision and many lower tiers do not have the existing policy framework; • This could have a negative impact on growth management which is led by Grey County for the entire county a comprehensively; and, • The County of Grey also leads on matters such as identifying archaeological resource potential, significant woodlands, etc.
5	Changes to site plan control include; • Exempting developments of 10 residential units or less; • Making land lease developments of any size subject to site plan control, • Revised wording on road widening; and, • No longer being able to apply site plan control to architectural or landscape design details.	Operationally, subdivisions usually define blocks for multi-unit residential development, including semis, towns or apartment blocks. Detail is not provided at the time of subdivision approval with the detailed design on matters including pedestrian connectivity, accessibility and landscape to be addressed through site plan control. Often these blocks may include less than 10 units in the form of semis or towns. (Note: site plan control has been delegated to staff per Bill 109 Planning Act changes).

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		This change may result in developments being constructed without safe pedestrian connections, lack of accessibility and no landscaping. This is a step back in the goal to build communities that are sustainable and in the long-term interest of communities. It may be that more details will be required of the developer at the time of subdivision approval. The removal of architectural control has potential to have a negative impact on the built form, particularly in the downtowns of communities. Architectural control, massing of buildings, materials, colour are important. It is requested that the Province consider allowing municipalities to use architectural control particularly in historic downtowns with a character that should be respected. The removal of landscape from site plan control will have a significant and negative impact not only on the aesthetic of development but in responding to the impacts of a changing climate, reducing greenhouse gas emissions, and increasing resiliency. It is requested that the province reconsider the removal of the landscape from site plan approval.

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		The City's Official Plan carefully considered roads where widening may be required, and these are outlined. This change should not be an issue for the City.
6	• Changes to parkland dedication including; • changes to the maximum alterative dedication rates; • freezing parkland rates at the time of zoning or site plan for two years; • parkland dedication will apply to new units only and not to ARUs; • park plans will be required prior to the passing of future parkland dedication by-laws; • encumbered parkland as well as privately operated public spaces is eligible for parkland credits; • municipalities are required to spend or allocated 60% of parkland reserve funds at the start of each year; and, • developers can identify land they intend to convey for parkland purposes and if the municipality refuses to accept the developer may appeal to the OLT.	Historically, the City has collected only the minimum amount of parkland prescribed by the Planning Act. The difference between 'allocating' and 'spending' is very significant. Like DC-funded projects, there are many park projects that require years of funding contributions before they can be completed. If the province were intending for municipalities to spend 60% of the reserves each year, it could pose a significant impediment to municipalities. The province is requested to clarify this distinction between spending and allocating in this regard. The City's Recreation, Parks and Facilities Master plan identifies areas of the City where park land is required. It also identifies areas where new parks would be beneficial, especially in areas such as the Sydenham Heights Planning Area. The importance of having well-set out park master plans is highlighted in this change. Staff will want to ensure a clear link between the City Official Plan and the Recreation, Parks

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		and Facilities Master Plan. Municipalities may be forced to accept lands that are not suitable for parkland or face costly OLT hearings to 'fight' being given unsuitable lands.
7	Changes to exempt aggregate resources applications from the two-year freeze after a new zoning by-law or official plan is approved.	No comment
8	Exempt affordable and attainable housing from DC, Community Benefit Charges, and Parkland dedication.	The City has for many years exempted non profit housing in accordance with the definition as per the City's development charges bylaw. Staff support in general the concept of exempting affordable housing from DC's, CBC's and Parkland. Staff are concerned about the definition of affordable and attainable housing. Setting the rate at no greater than 80% of market value would appear to conflict with the affordable definitions in the Provincial Policy Statement, and therefore in most official plans. If these changes are a signal of future PPS changes with respect to how 'affordable' is defined, it will require municipalities across the province to update their official plans.

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		If this is what is considered affordable, there will be many people who will be further restricted from proper housing. Staff would further note that in communities with high average rents or home values, it may not have the desired effect, e.g., if the average home price is $1,000,000, then that means anything at $800,000 or less would be considered affordable. In many municipalities this would mean developers would get DC exemptions and other exemptions for development that is still unaffordable to large portions of the population. This will also result in a significant loss of municipal income from DCs, which would mean that taxes would need to increase for all taxpayers to pay for growth-related capital infrastructure. The province has noted that these values for determining the 80% market value will be identified in the *'Affordable Residential Units for the Purposes of the Development Charges Act, 1997 Bulletin"*, as amended from time to time. At this point, it is not clear how often this bulletin would be updated and whether these values would be set by county/region or if the values would be set by the municipality.

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		Staff request the Province reconsider these definitions if the intent is really to help those with low and modest income with housing.
9	Inclusionary zoning regulations set an upper limit of 5% of the total number of units to be affordable for a maximum period of 25 years.	City staff support the County's comment and: "Request that the province consider allowing for broader use of inclusionary zoning across the province, rather than the current limitations which restrict use to protected major transit station areas and areas within a development permit system. Most municipalities in Ontario have no protected major transit station areas. Furthermore, a development permit system requires a major overhaul of the planning approvals process and is therefore an impediment to many municipalities. Allowing for broader use of inclusionary zoning would 'level the playing field' for smaller and rural municipalities that want to utilize inclusionary zoning".
Conservation Authorities Act		
10	Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario. Changes within this section would: • Exempt the need for a permit from the conservation authority where	Conservation authorities were initially created in the 1940s in response to the flooding caused by Hurricane Hazel. Their role has broadened over time and today they are an important partner of the City in protecting public health and safety but also in protecting the environment in the long term.

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	approval has been issued under the *Planning Act;* • Add restrictions on the matters to be considered in permit decisions, including removing "conservation of land" and "pollution", while adding in the term "unstable soils and bedrock"; • Allow for appeals of a non-decision of a permit after 90 days versus the previous 120 days; • Require conservation authorities to issue permits for projects subject to a Community Infrastructure and Housing Accelerator order; • Extend the regulation-making authority of the Minister where there is a Minister's Zoning Order; and, • propose a single regulation for all 36 conservation authorities in Ontario.	The exemption from a CA permit where there has been a previous Planning Act approval is not always practical. As an example, a plan of subdivision may have lots in an area proximate to a river, steep slope etc. At the time of the approval of the subdivision, the need for a CA permit is identified as a condition for certain lots. This allows the CA to then consider a permit with the information provided in a more detailed site plan for the development of the individual lot. Again, this may have the unintended impact of slowing Planning Act approvals as more detail will be required to support certain applications if there can not be the benefit of a subsequent CA permit. The shorter timelines will only be achievable if CA's are properly staffed and resourced. Appropriate funding is an important consideration for the Province for Conservation Authorities who work as partners with local and county governments to protect the environment and people from development in hazardous areas.
11	Focusing conservation authorities' role in reviewing development-related proposals and applications to natural hazards	The Provincial Policy Statement has definitions of Hazardous Lands means property or lands that could be unsafe for development due to naturally occurring processes. Along the

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		shorelines of the Great Lakes - St. Lawrence River System, this means the land, including that covered by water, between the international boundary, where applicable, and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along the shorelines of large inland lakes, this means the land, including that covered by water, between a defined offshore distance or depth and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along river, stream and small inland lake systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits as well as Natural Heritage Features: Natural heritage features and areas: means features and areas, including significant wetlands, significant coastal wetlands, other coastal wetlands in Ecoregions 5E, 6E and 7E, fish habitat, significant woodlands and significant valley lands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Mary's River), habitat of endangered species and threatened species, significant wildlife habitat, and significant areas of natural and scientific interest, which are important for their environmental and social values as a legacy of the natural landscapes of an area.

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		The City of Owen Sound has had a formal arrangement with the GSCA through an MOU that supports providing the City's development team with comments on both hazard lands as well as natural heritage features. Recent legislative amendments (Bill 229) to the Conservation Authorities Act required a fee review for programs and services on a cost-recovery basis. (CS-22-124) The recent City staff report noted, based on the legislative changes for Conservation Authorities, programs and services offered by all CA's are categorized as: • Mandatory – related to natural hazards, groundwater monitoring etc; • Municipal programs and services – related to natural heritage features; and • Other programs. Under the new legislation, CAs are required to develop MOU's for these municipal programs and develop a schedule of fees that sets out the programs and services for which a fee is charged, the amount of the fee for

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		these programs and services and the manner in which the fee has been determined. The proposed fee structure for these services was presented in September on the understanding that an administrative MOU would follow. Conservation Authorities and upper and lower-tier municipalities have spent a significant amount of time and effort on these fees which are based on the premise that for municipal programs which include natural heritage, these costs would be passed on to developers. It is understood that Bill 23 now proposes that CA's be restricted to only comment on hazards and not natural heritage and that no administrative MOU to contract such services would be permissible. The following is an excerpt from the previous staff report on the CA Fees review that is very relevant to this change proposed by Bill 23: City staff fully support the following statement in the County report PDR-CW30-22 with respect to the value of the relationship between the County and the lower tiers with GSCA:

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		Conservation authorities across Grey County play an integral role in the plan review and development application process. Conservation authorities have mandated roles in natural hazard and flood protection. Most municipalities in Grey, including Grey County itself, also rely on conservation authorities for comments on natural heritage matters (i.e. comments on the natural environment). Without these comments, municipalities and/or the County would need to hire staff with natural heritage expertise or contract out that review to a third-party consultant. Grey County does not have such expertise on staff and as such relies on conservation authorities to help fill this role. This role has become increasingly important with less provincial ministry staff support on natural heritage matters. Occasionally the County also undertakes third-party peer reviews of environmental impact studies (EIS) for development applications, at the developer's expense, where they exceed the ability of local conservation authority staff. / It's also worth noting that when a conservation authority reviews a development application, they are assessing different components than the County or municipal staff review of that same application. Although each staff member may be reviewing the same application, they bring differing expertise to their review and are

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		providing different comments on the proposal. Conservation authority staff have both natural hazard and natural heritage backgrounds that typically are not found in County or municipal staff complements in Grey County. Some larger municipalities may have an ecologist on staff, but this is not common for smaller or rural municipalities, often in part due to conservation authorities being able to fill this role. Without the GSCA providing these services to the City, the City would be required to hire third-party experts to undertake a peer review of reports and studies (e.g. EIS) where the City does have the required technical expertise in-house. Smaller municipalities rely on the relationship and the ability to have these administrative MOUs. Having CA's restricted to natural hazards fails to see the relationship which often exists with natural heritage features and will result in a duplication of effort with the municipality being forced to contract this service to a qualified professional. The City asks the Province to reconsider and revert to the premise of Bill 229.

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12	Enabling the Minister to freeze conservation authority fees at current levels.	As noted, significant work was done by CAs across the Province to address the requirements of Bill 229 in terms of a fee review. These fees for natural heritage would be paid by the applicant under MOUs between municipalities and CA's. This freeze on fees as proposed undermines the work completed to date to set fees at an amount that recovers from developers the cost of providing the service and potentially increases the burden on the municipal levy which supports a significant portion of the annual CA operating budget (53%). City staff share the county staff comment that a freeze would not have the desired outcome of making housing more affordable to any significant degree. It could however have outcomes of either: 1. Limiting a conservation authority's ability to maintain an appropriate staff complement and protect public safety, or 2. requiring additional municipal tax levy and therefore additional property taxes on all landowners.

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13	Identifying conservation authority lands suitable for housing and streamlining conservation authority severance and disposition processes that facilitate faster development.	Much of the lands acquired by CA's with provincial support since their inception has been to support the preservation of lands with characteristics including natural hazards and natural heritage sites. There are significant areas of CA's land in the watershed that are far from urban services and would result in development that is not sustainable and have a significant negative impact on lands including forests and wetlands that are not suitable for development. Housing should be in urban areas, with transit with access to soft and hard services to support the people who will reside there at densities that efficiently use land and services. Public trust will be undermined by a move to sell public lands that were set aside for passive and active recreation and preservation of hazard and natural heritage features. We ask that the Province look at other lands more suitable for development. As well, there is an inventory of lands owned by other provincial ministries that may be suitable for such use that

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		should be inventoried and considered before CA lands.

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***Proposed Changes to the Ontario Heritage Act* (OHA)**		
1	Generally, the intent of the proposed changes to the OHA under the *More Homes Built Faster Act, 2022* is to support sustainable development that respects natural and built heritage while streamlining approvals.	Planning and Heritage staff find that while the proposed changes to the OHA will generally promote heritage designations to be made in a timely manner, the changes will ultimately result in challenges to the retention of properties that are currently listed on the City's Heritage Register.
2	New requirements to update information on the Municipal Heritage Register available on a publicly accessible municipal website.	The City of Owen Sound website currently contains up to date information on the Municipal Heritage Register and is presented in a way that meets the City's standards for accessibility.
3	Increase to the number of circumstances by which non-designated properties can be removed from the municipal register such as: • Property owners have an increased ability object to the inclusion of their non-designated property on the municipal register. • Listed properties will be removed from the municipal register if council does not pass a designation	City Planning and Heritage Staff only bring forward requests to designate properties in cooperation with property owners. There are currently 139 properties on the City's Heritage Register. Of the 139 total properties only 33 properties are Designated under Part IV of the OHA. The remaining 106 properties are Listed on the register and are vulnerable to being removed from the register if a NOID is issued for each individual property before the second anniversary of the date of proclamation.

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	by-law or is repealed on appeal. • If council withdraws a notice of intention to designate (NOID) a property. • Any non-designated property will be removed from the municipal register if a NOID has not been issued before the second anniversary of the date of proclamation.	Based alone on the proposed change that any non-designated property will be removed from the municipal register if a NOID has not been issued before the second anniversary of the date of proclamation, the City is at risk of losing a minimum of 76% of its Heritage Register. At this time, it is unlikely that even in cooperation with interested property owners, that staff will have the workload capacity to be able to designate more than a few properties before the second anniversary of the date of proclamation as only two (2) properties have been designated as of 2021.
4	Prohibit the re-listing of a property on the municipal register for a period of five (5) years if the property is removed from the register under proposed circumstances listen in Item No. 3.	Prohibiting the re-listing of a property may create barriers to home owners who become interested in participating in the City's Capital Improvement Program Grants such as the Façade and Structural Improvement Grant or in the Heritage Property Tax Relief Programs. One of the purposes of these programs is to provide financial incentives for owners of designated properties seeking to maintain and restore the Heritage properties of value and interest within the City. Staff anticipate that this proposed change will also create administrative challenges for

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		keeping full and ongoing records of properties that have heritage value within the City.
5	Increase to the standard for including a non-designated property on the municipal register by requiring that the property meet prescribed criteria determining that the property holds heritage value or interest.	Planning and Heritage Staff currently require that in order for a property to be considered eligible for the municipal register that it must be determined to have heritage value or interest.
6	The amendment proposed to develop a more rigorous process for identifying and designating Heritage Conservation Districts (HCD).	There are no existing or proposed Heritage Conservation Districts within the City of Owen Sound at this time.