

HALDIMAND COUNTY
FRONT-END FINANCING OF
DEVELOPMENT

Final Report

MARCH 2014



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 **Planning for growth**

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1. INTRODUCTION

1. INTRODUCTION

1.1 Background

Haldimand County initiated a study of options to assist developers of employment-generating projects in financing the upfront costs of constructing municipal infrastructure necessary to facilitate development in areas not currently serviced. As part of the study, it was identified that policy(ies) were needed that clearly identify the cost sharing criteria and cost recovery methodologies to be applied to various development scenarios (for employment lands) on a County-wide basis.

Key aspects of the study were to include:

1. Identify the key financial and development principles that would be applied to ensure a consistent approach across the County, including establishment of a cost sharing structure between the development industry and the municipality, as well as sound methodologies for ensuring cost recovery.
2. Identify an acceptable level of risk based on the requirement for both the municipal and development sector interests to share in this risk to ensure that County ratepayers are not unreasonably negatively impacted in terms of future tax or rate increases.
3. Hold a workshop with Council to review the various options and obtain direction before drafting front end financing policies.
4. Once the policies have been adopted in principle, undertake the financial analysis to apply these to the North Caledonia employment lands as a pilot initiative and, if necessary, recommend amendments to the policies.
5. Develop an easy to follow decision making matrix, including criteria that can be incorporated into the review of future County development applications where front end financing/oversizing of services is being considered.

In addressing the above, two documents have been prepared thus far:

1. Haldimand County Front-End Financing of Development (attached as Appendix A) addressed items 1, 2 and 5.
2. Haldimand County Council Presentation on Front-End Financing of Developments, June 17, 2013 (attached as Appendix B) addressed items 3 and 4.

The final step in the process was to review the findings with legal counsel and to prepare a draft agreement to be used to enter into with non-residential landowners wishing to front-end finance works to service development areas. The firm of Aird & Berlis was retained to assist in this process which will be the basis for this final report. They have provided comments on the

proposed policy (as discussed in Chapter 2) and have provided a draft agreement (discussed in Chapter 3). A copy of the draft agreement is provided in Appendix C.

2. REVIEW OF POLICY FRAMEWORK

2. REVIEW OF POLICY FRAMEWORK

The draft policy was reviewed by Aird & Berlis, Solicitors. To recap, a policy framework is provided to assist in considering front-ending assistance for ICI developments. This framework provides:

- potential lands to be considered – lands must be industrial, commercial or institutional (ICI);
- an evaluation of the economic development merits must be provided;
- development for the land – 25-33% of the developable lands benefiting from the servicing should be developable immediately or in the near future;
- level of front-ending assistance – County should target the servicing costs on a 50/50 basis;
- levels of investment to be made toward front-ending – in the early term (i.e. five years), the County should allocate up to 5% of its debt capacity towards this policy. This would provide for approximately \$7-10 million, depending upon the interest rate and term of debt.

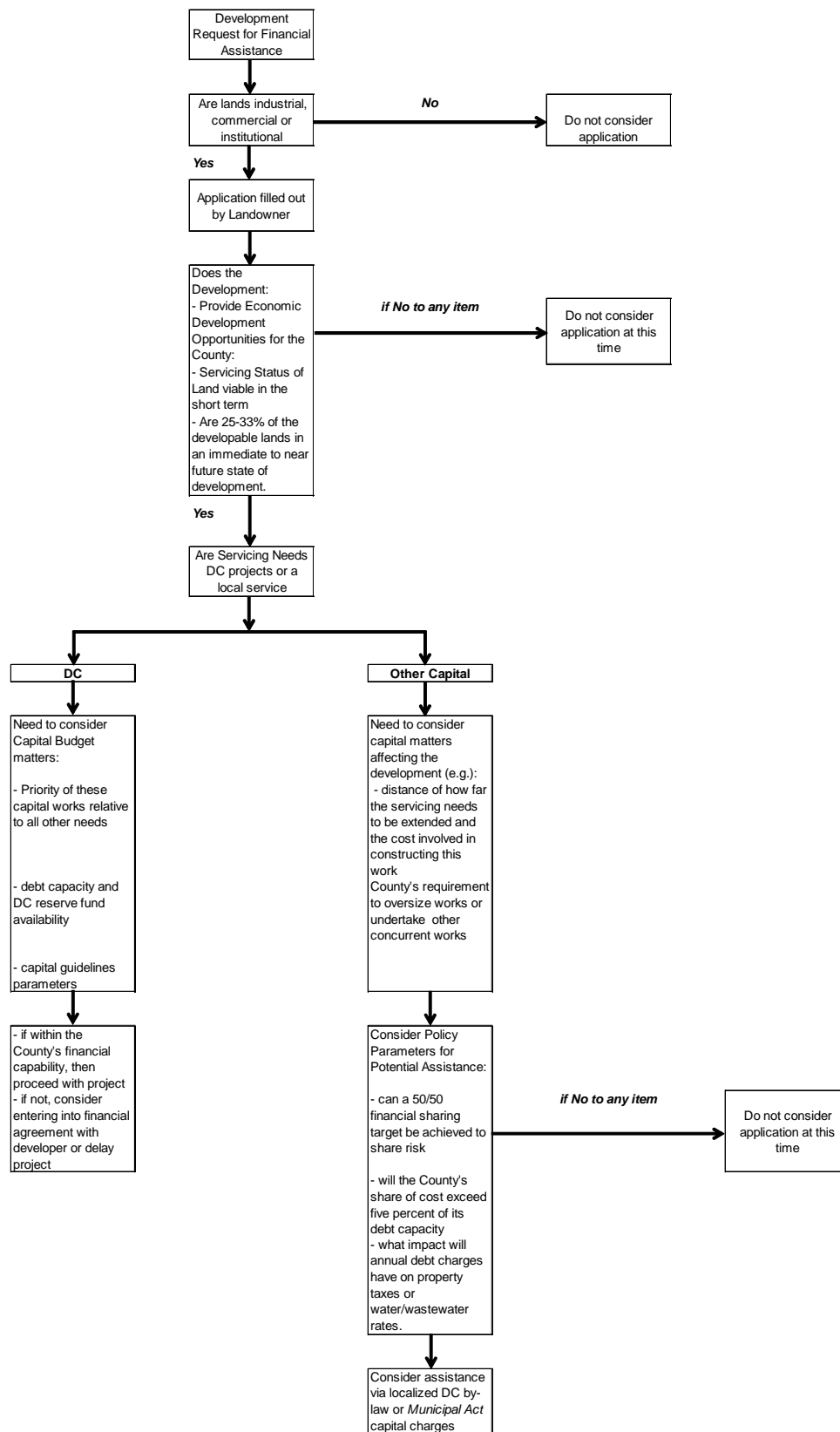
An application review process was also considered as part of the policy. Based upon comments provided by Aird & Berlis, the review process should not be limited to a local service but should be broader to recognize a variety of potential servicing needs which may arise through this evaluation. As such, the policy and application review will be amended to consider non-DC works. Figures 2-1 and 2-2 provide for the updated application process.

Figure 2-1
Review of Funding Opportunities for Development Related Capital Works

	Infrastructure Type		Recovery for DC Projects				Recovery for Other Service Projects			
	Development Charge Projects	Other Servicing Projects	Development Charge Collections	Front-Ending Agreements	Accelerated Payment Agreements	Service Emplacement Agreements	Local Service Projects	Localized DC	Part 12 Municipal Act Capital Charge	
Capital works included	<ul style="list-style-type: none"> - major arterial roads and collector roads external and not related to development - major intersections, sidewalks, streetlights related to roads defined above - water supply, treatment, storage and major pumping stations - wastewater treatment, biosolids storage and major pumping stations <p>Note that the County defines what is a DC project</p>	<ul style="list-style-type: none"> - local and collector roads internal to development or within the area of the development - local intersections, sidewalks, streetlights internal to or within the area of the development - small to large localized watermains, localized pumping stations - small to large localized sewer mains, localized pumping stations - Other related works 	- development charge defined projects	- development charge defined projects	- development charge defined projects	- development charge defined projects	- local service defined projects	- local service defined projects	- other defined projects	
Applicable Capital Works	n/a	n/a	- capital works for any DC service	- Water, Wastewater, Storm Water and Roads services only	- capital works for any DC service	- capital works for any DC service	- capital works for any local service	- capital works for any local service	- other capital works for any local service	
Responsibility for Constructing Capital Works	n/a	n/a	County	County	County	Developer	Developer	County or Developer	County	
Responsibility for Cash Flow for Capital Works	n/a	n/a	County	Developer	Developer	Developer	Developer	County or Developer	County	
Assessment of Risk to County for Cost Recovery	n/a	n/a	Medium to High	Low	Low (if accelerated payment equals project cost)	Low	Low	Low if Developer Agreement is used to cash flow works	Low	
Positive Attributes	<ul style="list-style-type: none"> - County determines the timing of when works are constructed - in defining capital works, the less the County has to build, the lower the DC and less risk for cash flowing works - County has control over design and construction 	<ul style="list-style-type: none"> - developer builds work when they are ready to proceed with the development - in defining capital works, the less the developer has to build, the lower the risk for cash flowing works - better for project viability 	- provides statutory basis for recovery of growth related costs	- provides full funding for specific capital works	- Can provide full funding for less costly capital works	- provides full funding for specific capital works	- provides full funding for specific capital works	- provides full funding for specific capital works	- provides full funding for specific capital works	- provides full funding for specific capital works
Negative Attributes	<ul style="list-style-type: none"> - County assumes risk for cashflow - may build works but development may not occur for a long time - the more works which are assumed by the County, the higher the DC 	<ul style="list-style-type: none"> - in defining capital works, the more the developer has to build, the more difficult it is to get financing for the development - if developer is not the builder, the costs must be recovered through lot prices - County has less control over design and construction 	<ul style="list-style-type: none"> - as most water, wastewater, storm water projects need to be built prior to development, County must often incur debt to cashflow work - DC calculations provide for full recovery over a long term - numerous deductions and exemptions which may not allow for full cost recovery 	<ul style="list-style-type: none"> - public process required to enter into agreement - subject to appeal - significant administrative commitment for cost recovery and annual reporting 	<ul style="list-style-type: none"> - may not provide enough contribution to fund the project - some administrative requirements to track credits 	<ul style="list-style-type: none"> - some administrative requirements to track credits 	<ul style="list-style-type: none"> - developer may need to build works which benefit other lands but may not be able to recover costs 	<ul style="list-style-type: none"> - municipality will need to prepare background study and undertake public process - will need to combine with a developer agreement to facilitate cost recover to developer 	<ul style="list-style-type: none"> - requires a public process and by-law - may also need to refine local service definition - benefiting landowners may request loans to repay over long term - County must debenture 	

H:\Haldimand County\Front End Financing\Figure 2-1 and 2-2-march 2014.xlsx\Fig 2-1

Figure 2-2
Application Review Process



H:\Haldimand County\Front End Financing\Figure 2-1 and 2-2-march 2014.xlsx\Fig 2-2

3. PROPOSED AGREEMENT

3. PROPOSED AGREEMENT

As noted earlier, a draft agreement has been prepared by Aird & Berlis and is included as Appendix C to this report.

In general, the agreement has two key components:

- Under the authority of Section 110 of the *Municipal Act*, the municipality will be lending money and charging interest for 50% of the cost of the capital works (note the Act refers to them as Capital Facilities).
- Under the authority of Part XII of the *Municipal Act*, the County will impose charges on all lands benefiting from the constructed capital works and will collect those monies and remit them to the front-ending landowner. As noted in Appendix B, the benefiting land for North Caledonia is the Gateway Business Park to which an estimated capital charge of \$2.63 per sq.ft. of building space would provide for full recovery of the capital works.

An overview of the agreement clauses is summarized below:

- **Recitals** – acknowledges the County and landowner are parties to the agreement, establishes the authority for the loan and for the recovery of the front ended funds;
- **Clause 1** – acknowledges that recitals are true;
- **Clause 2** – provides the statutory basis for the loan;
- **Clause 3** – acknowledges the list of capital facilities to be included within the agreement. All works must commence within 18 months of agreement signing;
- **Clause 4** – provides for the details of the loan, to include:
 - Capital facilities estimated to be \$3,224,927;
 - Loan to be for 50% of the capital facilities, or \$1,612,463;
 - Term of loan is 10 years;
 - Interest rate to be the one in effect at time of signing (presently 2.96%);
 - Loan advances will be based on progress payments made to the contractor;
 - Any loan overages are to be borne by the landowner. Loan will not exceed 50% of actual cost if actual is less than the estimated cost;
- **Clause 5** – Acknowledgment that the municipal capital facilities will benefit the landowner lands estimated at 33%. The residual amounts will be recovered from other benefiting landowners;
- **Clause 6** – provides for the County to pass a by-law under Part XII of the *Municipal Act* to impose capital charges on other benefiting lands to recover the cost for capital facilities;
- **Clause 7** – acknowledgment that any sale of the front-end owner lands will require the purchaser of the land to be advised of the agreement;
- **Clauses 8 and 9** – provision for communication between the landowner and County;

- **Clauses 10 to 18** – various caveats surrounding the agreement. Note that Clause 17 requires the payment of a legal and administrative fee;
- **Clause 19** – provides for a maximum twenty year term for the agreement.

There are expected to be three schedules to the agreement:

- **Schedule A** – description of the lands owned by the front-ending parties
- **Schedule B** – listing of capital facilities
- **Schedule C** – loan repayment

4. CONCLUSIONS AND OBSERVATIONS

4. CONCLUSIONS AND OBSERVATIONS

This report provides for the final step in the front-end policy process. To-date, three reports have been developed to assist the County in evolving a policy framework to assist developers of employment-generating projects in financing the upfront cost of constructing municipal infrastructure to facilitate development in areas not presently serviced. These reports include:

- **Appendix A** – a detailed discussion on the policy framework. This framework includes potential lands to be considered, development potential for the lands, economic development benefits of the developments, what level of financial assistance to provide and the amount of investment to be made available by the County. As well, the review process steps and an evaluation questionnaire were developed.
- **Appendix B** – the North Caledonia Gateway development was evaluated under the policy framework set out in Appendix A. The evaluation recommended that the County could extend assistance to these lands under this policy framework. As such, capital works to service these lands (and others) were identified, totalling \$3.2 million. A loan amount of \$1.6 million was recommended.
- **Appendix C (and this report)** – provides for minor refinements to the policy and a draft agreement for North Caledonia Gateway lands.

Based upon the aforementioned material, the policy is put forth for Council's final consideration.

APPENDIX A
HALDIMAND COUNTY FRONT-END FINANCING,
OCTOBER 12, 2012

**HALDIMAND COUNTY
FRONT-END FINANCING
OF DEVELOPMENT**

OCTOBER 31, 2012



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1. INTRODUCTION

1. INTRODUCTION

1.1 Background

The County of Haldimand has requested a study of options to assist developers of employment-generating projects in financing the upfront costs of constructing municipal infrastructure necessary to facilitate development in areas not currently serviced. As part of this study, policy(ies) are needed that clearly identify the cost sharing criteria and cost recovery methodologies to be applied to various development scenarios (from employment lands) on a County-wide basis.

Key aspects of the study include:

1. Identify the key financial and development principles that would be applied to ensure a consistent approach across the County, including establishment of a cost sharing structure between the development industry and the municipality, as well as sound methodologies for ensuring cost recovery.
2. Identify an acceptable level of risk based on the requirement for both the municipal and development sector interests to share in this risk to ensure that County ratepayers are not unreasonably negatively impacted in terms of future tax or rate increases.
3. Hold a workshop with Council to review the various options and obtain direction before drafting front end financing policies.
4. Once the policies have been adopted in principle, undertake the financial analysis to apply these to the North Caledonia employment lands as a pilot initiative and, if necessary, recommend amendments to the policies.
5. Develop an easy to follow decision making matrix, including criteria that can be incorporated into the review of future County development applications where front end financing/oversizing of services is being considered.

The purpose of this report is to address items 1, 2 and 5 with items 3 and 4 to be addressed subsequently.

Analysis of cost sharing and cost recovery methodologies should consider a range of acceptable options between the following two extremes:

1. Status Quo: extension of services that are not part of the current development charges background study are 100% upfront financed by the developer (the "no risk" option).

2. Front End Financing: 100% upfront financing by the County with future cost recovery from the benefitting land owners (the "high risk" option).

This report is structured to provide the following information:

- **Chapter 2** – provides an overview of the *Development Charges Act*, distinguishing the types of capital expenditures the developing landowner is responsible to build vs. what the municipality will build and cost recover through development charges.
- **Chapter 3** – provides a discussion on evaluating employment land development applications and an analysis of cost sharing and cost recovery methodologies.
- **Chapter 4** – provides observations and conclusions on the discussions provided within the report along with a recommended policy framework for considering front-ending assistance for employment-generating developments.

2. DEVELOPMENT CHARGES

2. DEVELOPMENT CHARGES

The following discussion provides a brief overview of the *Development Charges Act* (DCA). As provided by the Act, a municipality must determine what type of capital works will be constructed by the municipality (and cost recovered through the DCA) and what type of capital works will be built directly and paid for by the developing landowner. This policy needs to be established in order to distinguish responsibility for constructing the capital works and determining how the cost recovery for the works will be undertaken.

2.1 Overview of Development Charges

Development-related charges have been used in Ontario since the 1950's. Prior to 1989, these charges were referred to as "Lot Levies" as they were imposed under the *Planning Act* at the time a new lot was created (either by severance or subdivision). Subsequently in 1989, the Province of Ontario introduced the *Development Charges Act, 1989* which standardized the basis on which these charges were calculated and imposed on development. In 1997 the Act was amended to refine the basis for the calculation and introduced a number of deductions, reductions, limitations and exemptions.

Generally, the development charge:

- Provides an ability for a municipality to recover the capital costs associated with residential and non-residential growth within the municipality;
- May not include certain services (Parkland acquisition, City Halls, Tourism/Arts/Culture Facilities, Solid Waste Service, Hospitals) and certain capital items (Vehicle & Equipment with average life of less than 7 years, Computer Equipment);
- Provides a number of exemptions, reductions, deductions and limitations which reduce the recoverable portion of eligible costs. Hence, most often, there is a non-growth component to many projects which requires the municipality to finance a portion of the project at the same time the growth component is funded.

In its simplest form, the DC is equal to all eligible growth costs during the period divided by all growth during the period, as follows:

$$\frac{\text{Eligible Costs for Period}}{\text{Total Growth for Period}} = \text{DC}$$

As provided above, the calculation of the charge provides that the full cost recovery of the eligible growth-related cost would be spread over the growth for the period. For "hard" services, such as roads, water, wastewater, storm water, police and fire, the planning period is most often

20 years or more. For all other municipal services, the planning period is 10 years. Given that the timing for full collection is collectively at the end of the planning period, municipalities often experience a cash flow issue. This necessitates the need to seek a form of bridge funding (i.e. debentures, developer agreements, etc.).

Cash flow issues are also further experienced based on the need to build the infrastructure in advance of growth. Figure 2-1 depicts graphically, the general timing of need for a municipal service relative to the timing of the development. For example:

- Water and sewage treatment capacity needs to be in place prior to a subdivision agreement being granted full approval;
- Prior to the issuance of building permits, storm water management facilities and the broader water distribution and waste collections systems need to be constructed and accessible to the developing lands;
- The need for additional road works may occur at various time in the development process based on volume capacity needs (i.e. an initial road may be constructed and then expanded as development in the area proceeds);
- Generally the “soft” services tend to follow population (i.e. post occupancy).

As payment of DCs normally occurs at the time of building permit issuance, greater cash flow problems can be experienced by the municipality, once again, requiring forms of bridge funding (i.e. debentures, developer agreements, etc.) to assist in paying for these works.

2.2 Local Services

The *Development Charges Act* acknowledges that municipal infrastructure is constructed not only by the municipality but also by the developing landowner. For example, a residential developer may construct the watermains, sewer mains, storm works, roads, sidewalks and streetlights within their subdivision (and subsequently dedicate these works to the municipality) whereas the municipality would build the water treatment/major distribution system, wastewater treatment/collection system and major road system. The municipal cost is generally funded by development charges whereas the developer pays directly for their internal works. These internal developer costs are referred to in the Act as “Local Services”.

In preparing a Development Charge Background Study, municipalities need to establish a policy regarding what is to be considered a local service (i.e. what infrastructure costs are to be borne directly by the developing land owner) and what costs are to be included in the Development Charge. Section 59(2) provides local services are related to a plan of subdivision or within the area to which the plan relates, to be installed or paid for by the owner as a condition of approval under section 51 of the *Planning Act*." A sample policy is provided in Appendix A to this report.

Figure 2-2 provides generally, the water, wastewater, storm and road components which are included in the County's development charge calculation and which components are deemed a local service and built directly by the developing landowner.

2.3 Cost Recovery for Local Services if Costs Installed by Municipality

As noted above, local services are generally costs borne directly by the developing landowner. In some instances, in order to facilitate development, municipalities have constructed the localized costs and recovered these costs directly from the benefitting landowners. This has been achieved in two ways: localized DC by-law or *Municipal Act* capital charges imposed on benefitting lands.

In regard to localized DC by-law, the municipality may undertake an area specific DC by-law to recover the direct local service costs for an area. The process to be followed is exactly the same as a regular DC process and specific rules can be developed pertaining to timing of payment, basis of the charge, exceptions, etc. It is noted that if there is existing development (i.e. existing homes or businesses) within the benefitting area, that the proportionate benefit of the works must be deducted from the DC calculation. However, these costs may be recovered from the benefitting existing developments by the imposition of a similar capital charge imposed under Part 12 of the *Municipal Act* (discussed below).

Part 12 of the *Municipal Act* is where municipalities draw their authority to impose a wide range of capital and operating fees and charges. Many municipalities use this section of the Act to impose capital charges for localized water and sewer services instead of using the traditional Local Improvement Regulation. Generally the benefits of using Part 12 include:

- broader forms of charges can be imposed;
- more flexibility to address specific issues within the calculations;
- provides for full-cost recovery;
- the charge cannot be appealed to the OMB.

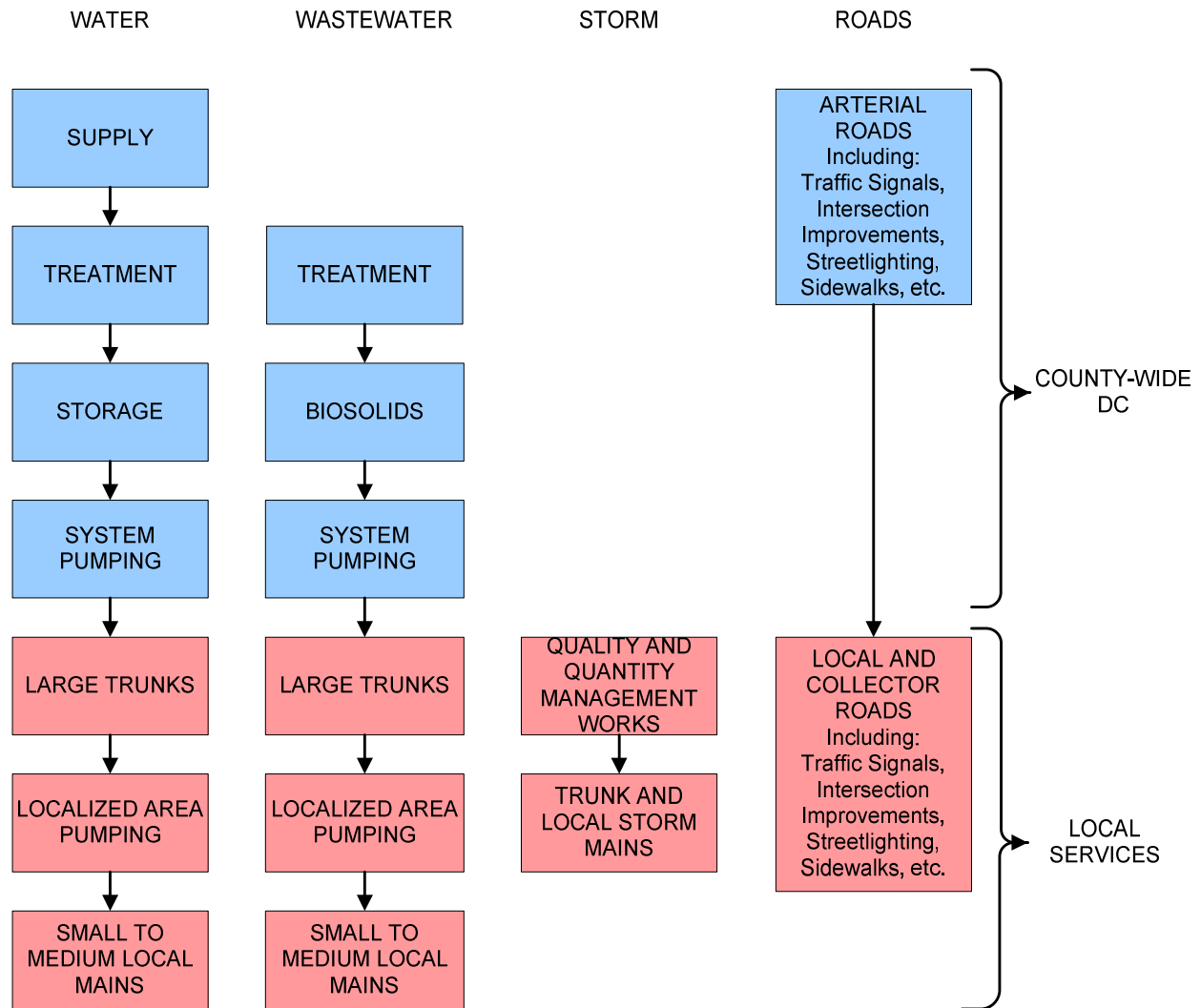
Similar to local improvements, the capital charges can be imposed immediately or on a delayed benefit basis. As well, loans can be provided (similar to local improvements) with interest and repaid over a period of time.

Both methods discussed above would facilitate recovery of the capital costs invested to service the lands. However, the DC By-law may have a longer cost recovery period (as full recovery would be when full development of the area occurs). The capital charge accelerates the timing of recovery.

Figure 2-1
Timing of Servicing Needs for Development

Service	Capital Item	Development Timing						
		OPA/ Secondary Plan	Draft Approval	Subdivision Approval	Building Permit	Post Occupancy		
Water:	Treatment							
	Distribution							
	Local							
Wastewater	Treatment							
	Collection							
Stormwater Management	Local							
	Facilities							
Roads and Related	Roads							
	Rolling Stock							
Library	Facilities							
	Collection Materials							
Transit	Facilities							
	Vehicles							
Parking	Parking Spaces							
	Facilities							
Police	Vehicles							
	Police Communication Equipment							
Health Unit	Police Officer Equipment							
	Facilities							
Ambulance	Facilities							
	Vehicles							
Child Care	Facilities							
	Facilities							
Provincial Offences Act	Parkland Development							
	Facilities							
Recreation	Facilities							
	Vehicles							
Fire	Facilities							
	Vehicles							
Administrative	Firefighter Equipment							
	Growth Studies							

**FIGURE 2-2
DEVELOPMENT CHARGE VS. LOCAL SERVICE WORKS**



3. POLICY MATTERS

3. POLICY MATTERS

3.1 Potential Development Considerations

Generally, the County is seeking to facilitate the acceleration of developing business, industry and commercial lands as part of its strategic objective for promoting economic development. As such, the County wishes to evaluate opportunities and assess the potential for front-ending options to assist in this objective.

At the outset, it is observed that the servicing of undeveloped land is expensive and the County needs to ensure that it invests in developing lands which will provide the County with the best overall return on investment. In certain instances, it may be in the County's best interest to allow the development market to invest and finance the servicing of lands and alternatively, there will be times where the County should invest in servicing the lands.

As part of this undertaking, an analysis of cost sharing and cost recovery methodologies needs to consider a range of acceptable options between the following two extremes:

1. Status Quo: extension of services which may or may not be part of the current development charges background study are 100% upfront financed by the developer (the "no risk" option).
2. Front End Financing: 100% upfront financing by the County with future cost recovery from the benefitting land owners (the "high risk" option).

The County has suggested that the trigger for such analysis will be a "complete application" under the *Planning Act* to the County (including fees) supported by the following:

- a. Demonstration of the short term need for services and demand through market analysis;
- b. Demonstrated commitment to timely development through executed purchase of sale/lease agreements or other legal mechanisms;
- c. Land owner commitment to share in the financial risk of extending services.

Based on the above, a number of suggested criteria for evaluation is proposed:

Economic Development Needs Considerations:

1. Review of projected growth forecasts (from O.P or Strategic Plan);
2. Consider existing applications and market supply of land in general area;
3. The development advanced has a compelling advantage to the County;

4. This is an emergent economic development opportunity involving significant job creation (other than construction of infrastructure to facilitate the development) that makes accelerating longer term capital works desirable;
5. if it may facilitate the development of a major facility that is needed by the adjacent development servicing area or localized community (e.g. new school or community centre).

Servicing Status of Land

1. Availability of existing municipal servicing, and extent of accelerated servicing required;
2. Determine whether the servicing required is a DC project vs. a local service.
3. Is servicing capacity available for water and wastewater?
4. Environmental Assessment (EA) and Environmental Impact Statement (EIS) are completed;
5. DC projects to be advanced are within the first five year capital budget and are included within the existing DC Background Study;
6. Consider logical progression of development to contiguous areas of the community - development proposal does not constitute blatant "leap frog" development;
7. An engineering evaluation to be undertaken to examine the technical feasibility of extending services to the area;
8. An engineering evaluation to analyze the capital improvements that may be required to facilitate additional flows or demands, including oversizing.

Development Evaluation

1. Implications on service capacity and any servicing allocation commitments to development properties /proposals already within the serviced area;
2. The benefitting area to be defined, including allocations of the benefit if there are multiple affected property owners;
3. An evaluation of the likely or necessary phasing or staging of services from an engineering and development perspective;
4. An evaluation of the likely timeline to achieve 'build-out' of the lands by phase;
5. An assessment of the costs of providing services for each phase;
6. An evaluation of the timeline for the municipality to achieve 'financial payback' of its investment costs through the assessment generated from new development;

7. Consideration of whether the County's front end financing of a particular development creates an unfair competitive advantage.

Based on the above, a sample evaluation form has been developed and is included in Appendix D.

The following provides a discussion of various issues to be considered as part of the policy evaluation process. At the end of this chapter are a comparative table providing the funding opportunities available to the County (Figure 3-1) along with a flow chart regarding the decision-making process (Figure 3-2).

3.2 Financial Considerations

In regard to financial considerations of front-end financing of the works, it is important to define whether the capital project(s) in question are regarded as a DC project or a local service. Generally, DC projects will be more costly but will service a broader development area whereas local service works are smaller, less costly and service a more localized area. As well, DC projects are the responsibility of the County to build whereas local service projects are normally the responsibility of the local developing landowner to build.

3.2.1 Assessment of Risk

Conceptually, Risk Management is the process of measuring or assessing risk and then developing strategies to manage it. Strategies may include ways of avoiding the risk, reducing the risk or transferring the risk.

In regard to servicing land for future development, the County and developing landowners presently share the risks. The County assumes risk in providing the broader water and wastewater services which allow large planning areas to proceed with development. These large investments are financed upfront by the County and are then paid for as total area builds out. Similarly developing landowners assume the risk of building the local services and then look to build out all of their lands in order to recover their upfront servicing investment.

Clearly, both the developing landowners as well as the County seek to manage their risk. From a County perspective, risk assessment would consider:

- how much upfront cost is needed to undertake the project;

- based on perceived market and other factors, how quickly can the costs be recovered;
- impact on debt capacity for funding the capital costs;
- impact on property taxes or water/wastewater rates for annual debt charge funding shortfalls while development is proceeding.

3.2.2 Development Charge Projects

In regard to DC projects, these works would normally be identified as part of DC Background study, be included within the DC calculation and, at some point in the future, be included in the County's capital budget forecast. Generally, these works then have a financial planning status and potential funding attached to them and their timing for construction is considered annually based on the priority planning policies of the County. The need for front-end financing assistance would normally occur when potential developments wish to proceed at a faster pace than established by the County's priority planning policies. In these instances, the County may be faced with competing needs (i.e. projects it intended to build and a request from other developments to accelerate the timing of their works) and not have the funding available to complete. In these instances, the County may seek to negotiate to have developing landowner assist in accelerating the payment of DC's to the County (via one of agreements noted in Appendix B).

From a broad perspective, the capital budget process is a form of risk management for the County. This process seeks to manage the County's financial investment in infrastructure by emplacing works which would foster growth in the residential and non-residential sectors with the hope of receiving various social, economic and financial benefits in return. A process of annually monitoring the markets, assessing the development land needs for various areas of the County and aligning capital infrastructure construction in concert with this evaluation, assists in minimising this risk. As noted, if there are areas of competing needs for capital funding, the County would need to assess this situation and either prioritize the works or, as mentioned above, share the risk by entering into agreements to share the financing burden with developing landowners.

The above capital budget needs (regarding growth related capital works) will need to be considered relative to all competing needs for the debt and other capital funding (e.g. reserves). This consideration normally falls within the capital guideline parameters established annually for the budget process and should be considered in light of all competing needs, at that time.

3.2.3 Local Service Projects

There may be times where a developing Industrial, Commercial or Institutional (ICI) landowner may request that the County consider assisting in accelerating the construction of the localised

works that would allow their development to proceed. The reasons for such a request may include:

- general cash flow problems for the development
- the distance of how far the servicing needs to be extended and the cost involved in constructing this work, makes it unviable to undertake the project
- the County's requirement to oversize works or undertake other concurrent works (e.g. requirement to undertake water main looping to regulate water pressure to the area)
- etc.

Should the County move forward to establish a policy to assist in these circumstances, the owner's request should include an explanation of how the proposed capital works are in the public interest and the merits of the County undertaking the lead on the project. Any other elements the developer would wish to advance as part of the application (concessions on financing elements of the work, assurances of project viability, elements of agreement and risk allocation) should be identified with their submission. Consideration of this request would then need to be considered as to the viability of the development to occur as a result of the service and in light of the County's Economic Development Strategy.

As was noted earlier in section 2.3, in order to facilitate development, County could construct the localized costs and recover these costs directly from the benefitting landowners over time. This could be achieved in two ways: localized DC by-law or *Municipal Act* capital charges imposed on benefitting lands. Of these two methods, the use of Part 12 would have the least financial risk associated with it as it would impose a capital charge directly on the benefitting properties (i.e. the subject lands along with any other lands which immediately benefit from these works). Implementing a localized DC would require full build out of the lands in order to achieve full cost recovery.

Under both scenarios, the construction of the servicing would directly benefit lands adjacent to the works and ultimately increase the opportunity for those lands to develop. As well, land values should increase with having the direct servicing available. Based on this observation, as the initiating landowner and other landowners adjacent to the servicing benefit directly, the Municipal Act Part 12 charge appears to be a reasonable approach to cost recovery.

As an alternative to the local services discussion above, the County could consider refining the definition of local services for the purposes of ICI properties (only). The County could deem water, wastewater, storm and road projects which are external to the developments (but bring the services adjacent to the developing properties) as development charge works. This would then provide that the County is responsible for constructing all of these works and would then establish a new County-wide charge to recover the costs. The County could then enter into an agreement with a developing landowner to assist in cashflowing the work. The advantage of

this change in definition is to allow the County full control in being able to fund these works with the financial resources available (i.e. taxes, rates, grants, development charges, etc.). The downside to this approach is that the County may ultimately assume more costs than it would normally assume. This policy change would have to be measured against the benefits of stimulating ICI growth within the County. At this time it is not recommended as it significantly increases the overall cost burden to the County.

3.3 Proposed Policy Framework

Based upon the foregoing discussion, an initial policy framework is recommended for the County's consideration. It is recognized that this framework needs to be flexible enough to not restrict potential development opportunities while ensuring the financial risk and exposure is maintained at acceptable levels. This framework will be tested on the North Caledonia lands as a pilot initiative and if necessary, amendments to the policies will be recommended.

3.3.1 Potential Lands to be Considered

The front-ending policy is to assist industrial, commercial and institutional lands only. An evaluation discussion is provided in section 3.1, which establishes the economic development merits for the potential developments.

3.3.2 Development Potential for the Lands

The front-end policy is meant to assist lands which are potentially viable to develop either immediately or in the very near future. However, it is recognized that the servicing may benefit other lands which are either not ready to develop or may have a delayed benefit (i.e. contiguous lands which will require internal servicing to occur before lands can have access to services). In these instances, the County would wish to have 25-33% of the developable lands in an immediate to near future state of development.

3.3.3 Level of Front-ending Assistance

In considering an individual application, the County would wish to share as much risk as possible with the developing lands. On the one hand, the financial burdens placed on the development should not be too significant a level which may stifle the development. Alternatively, there should be enough financial investment by the developing lands to have incentive to develop as quickly as possible. On this basis, a 50/50 financial sharing target is suggested for these forms of agreements.

3.3.4 Level of Investment to be made Towards the Front-end Policy

Given that the recovery of the funds invested in this policy are based upon how quickly the benefiting lands develop, there should be a “ceiling” on the total amount of works undertaken, at least in the early years of the policy. This ceiling would preserve the County’s overall financial flexibility to carry on its regular capital program, while still allowing for some flexibility to address ad hoc requests for financial assistance. It is suggested that the level of assistance be no more than five percent of the County’s debt capacity. At this time, this would translate into between \$7-\$10 million in capital projects (depending upon the term and interest rate of the debt). As it is recommended that the cost recovery be based on capital charges imposed on benefiting lands, it is assumed that the County would borrow the funds to cash flow the project(s). It is also recommended that this policy be in place for five years initially and that it be reviewed at the end of the period to assess its success, both in terms of assisting ICI development to proceed and for the County to recoup its investment.

It is noted that this policy may have impacts on property taxes or water/wastewater rates; that being that the debt charges must be paid and if an offsetting revenue from the developing lands is not available, these payments must be paid from operating revenues. The suggested level of debt recommended above would provide for annual debt charges of \$600,000-\$900,000 (based on 20-year debt). This would have an impact of 1%-1.7% on property taxes or a 3.5%-5.7% impact on water/wastewater rates.

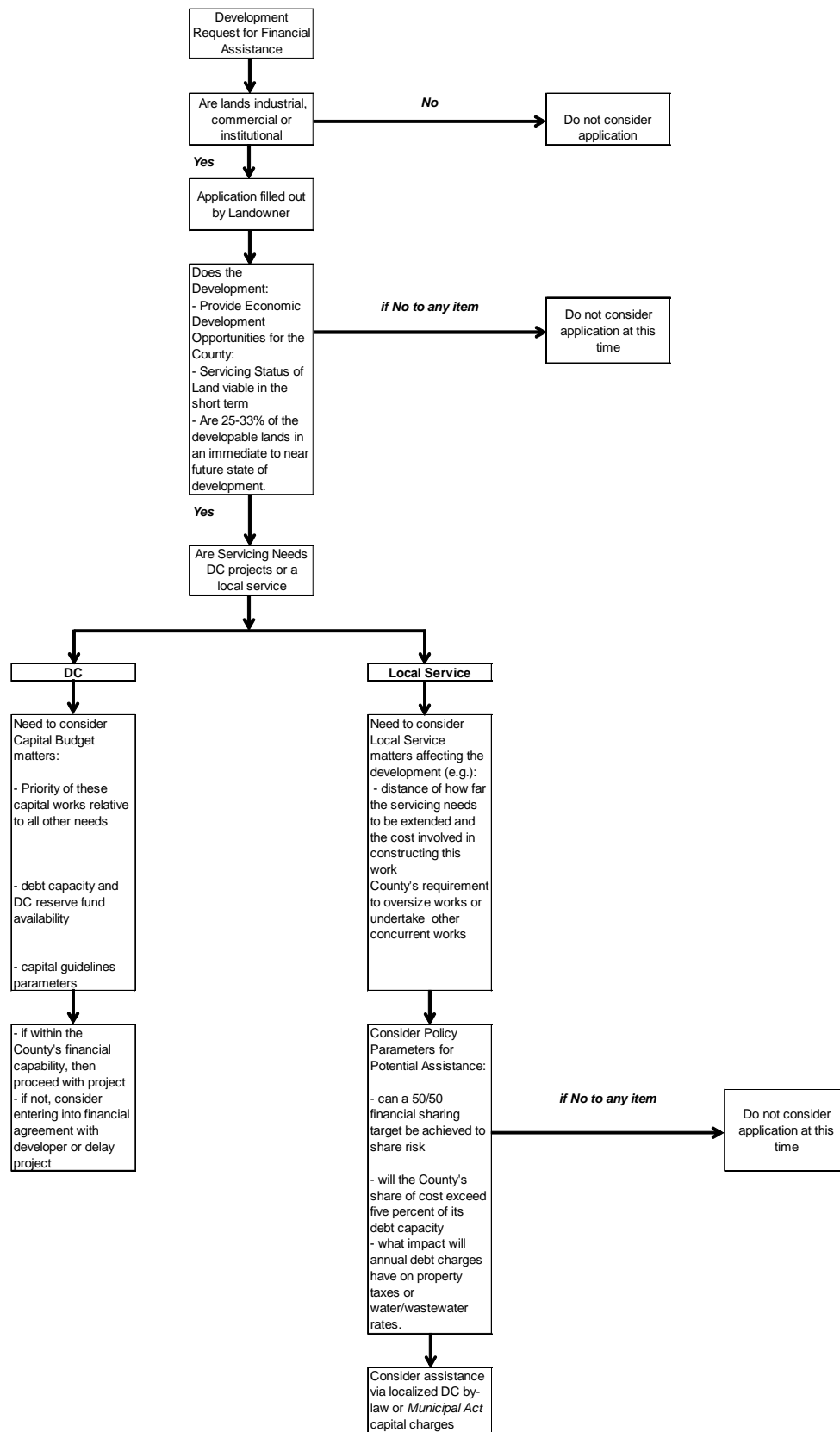
3.3.5 Next Steps

Based upon a presentation of this policy framework to Council, and Council’s direction to do so, a financial analysis of the North Caledonia lands will be undertaken. This initial pilot evaluation will provide insight into the effectiveness of the policies in assisting employment land development within the County. Subsequently, a financial evaluation report will be prepared and submitted to Council for their consideration.

Figure 3-1
Review of Funding Opportunities for Development Related Capital Works

	Infrastructure Type		Recovery for DC Projects				Recovery for Local Service Projects		
	Development Charge Projects	Local Service Projects	Development Charge Collections	Front-Ending Agreements	Accelerated Payment Agreements	Service Emplacement Agreements	Local Service Projects	Localized DC	Part 12 Municipal Act Capital Charge
Capital works included	<ul style="list-style-type: none"> - major arterial roads and collector roads external and not related to development - major intersections, sidewalks, streetlights related to roads defined above - water supply, treatment, storage and major pumping stations - wastewater treatment, biosolids storage and major pumping stations <p>Note that the County defines what is a DC project vs. a Local Service project</p>	<ul style="list-style-type: none"> - local and collector roads internal to development or within the area of the development - local intersections, sidewalks, streetlights internal to or within the area of the development - small to large localized watermains, localized pumping stations - small to large localized sewer mains, localized pumping stations <p>Note that the County defines what is a DC project vs. a Local Service project</p>	- development charge defined projects	- development charge defined projects	- development charge defined projects	- development charge defined projects	- local service defined projects	- local service defined projects	- local service defined projects
Applicable Capital Works	n/a	n/a	- capital works for any DC service	- Water, Wastewater, Storm Water and Roads services only	- capital works for any DC service	- capital works for any DC service	- capital works for any local service	- capital works for any local service	- capital works for any local service
Responsibility for Constructing Capital Works	n/a	n/a	County	County	County	Developer	Developer	County or Developer	County
Responsibility for Cash Flow for Capital Works	n/a	n/a	County	Developer	Developer	Developer	Developer	County or Developer	County
Assessment of Risk to County for Cost Recovery	n/a	n/a	Medium to High	Low	Low (if accelerated payment equals project cost)	Low	Low	Low if Developer Agreement is used to cash flow works	Low
Positive Attributes	<ul style="list-style-type: none"> - County determines the timing of when works are constructed - in defining capital works, the less the County has to build, the lower the DC and less risk for cash flowing works - County has control over design and construction 	<ul style="list-style-type: none"> - developer builds work when they are ready to proceed with the development - in defining capital works, the less the developer has to build, the lower the risk for cash flowing works - better for project viability 	- provides statutory basis for recovery of growth related costs	- provides full funding for specific capital works	- Can provide full funding for less costly capital works	- provides full funding for specific capital works	- provides full funding for specific capital works	- provides full funding for specific capital works	- provides full funding for specific capital works
Negative Attributes	<ul style="list-style-type: none"> - County assumes risk for cashflow - may build works but development may not occur for a long time - the more works which are assumed by the County, the higher the DC 	<ul style="list-style-type: none"> - in defining capital works, the more the developer has to build, the more difficult it is to get financing for the development - if developer is not the builder, the costs must be recovered through lot prices - County has less control over design and construction 	<ul style="list-style-type: none"> - as most water, wastewater, storm water projects need to be built prior to development, County must often incur debt to cashflow work - DC calculations provide for full recovery over a long term - numerous deductions and exemptions which may not allow for full cost recovery 	<ul style="list-style-type: none"> - public process required to enter into agreement - subject to appeal - significant administrative commitment for cost recovery and annual reporting 	<ul style="list-style-type: none"> - may not provide enough contribution to fund the project - some administrative requirements to track credits 	<ul style="list-style-type: none"> - some administrative requirements to track credits 	<ul style="list-style-type: none"> - developer may need to build works which benefit other lands but may not be able to recover costs 	<ul style="list-style-type: none"> - municipality will need to prepare background study and undertake public process - will need to combine with a developer agreement to facilitate cost recover to developer 	<ul style="list-style-type: none"> - requires a public process and by-law - may also need to refine local service definition - benefiting landowners may request loans to repay over long term - County must debenture developer

Figure 3-2
Application Review Process



4. OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

4. OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

The County is seeking to facilitate the acceleration of developing business, industry and commercial (ICI) lands as part of its strategic objective for promoting economic development. As such, the County wishes to evaluate opportunities and assess the potential for front-ending options to assist in this objective.

At the outset, it is observed that the servicing of undeveloped land is expensive and the County needs to ensure that it invests in developing lands which will provide the County with the best overall return on investment. In certain instances, it may be in the County's best interest to allow the development market to invest and finance the servicing of lands and alternatively, there will be times where the County should invest in servicing the lands.

In regard to financial considerations of front-end financing of the works, it is important to define whether the capital project(s) in question are regarded as a DC project or a local service. Generally, DC projects will be more costly but will service a broader development area whereas local service works are smaller, less costly and service a more localized area. As well, DC projects are the responsibility of the County to build whereas local service projects are normally the responsibility of the local developing landowner to build.

In servicing land for future ICI development, the County and developing landowners presently share the risks. The County assumes risk in providing the broader water and wastewater services which allow large planning areas to proceed with development. These large investments are financed upfront by the County and are then paid for as total area builds out. Similarly developing landowners assume the risk of building the local services and then look to build out all of their lands in order to recover their upfront servicing investment.

The report provides that requests to accelerate the timing of construction for the broader Development Charge works be considered as part of the annual capital budget process. In this way, consideration may be given to how much investment will be made to growth related servicing works vs. the needs for all other County programs. For growth related works, there may be a need to reprioritise the capital works to allow for higher priority development areas to proceed. Should requests for lower priority projects be made by the development community, then the County may consider entering into financial agreements (as provided in Appendix B) to assist in sharing the financial burden with the ICI development.

The report has also acknowledged that there may be times where a developing ICI landowner may request that the County consider assisting in accelerating the construction of the localised works that would allow their development to proceed. Chapter 3 has provided a basis for evaluating those requests in order to ensure that they are consistent with the County's

Economic Development strategy and that the development is potentially viable. Based on acceptance request, the County may consider constructing the localised works with financial recovery to be from the benefitting lands service by the capital works.

The use of *Municipal Act* (Part 12) was identified as providing the County the least financial risk associated with cost recovery as it would impose a capital charge directly on the benefitting properties (i.e. the subject lands along with any other lands which immediately benefit from these works). This method was preferred over implementing a localized DC as full build out of the lands would be needed in order to achieve full cost recovery.

A policy framework is provided to assist in considering front-ending assistance for ICI developments. This framework provides:

- potential lands to be considered – lands must be industrial, commercial or institutional (ICI). An evaluation of the economic development merits is provided in section 3.1;
- development potential for the lands – 25-33% of the developable lands benefitting from the servicing should be developable immediately or in the near future;
- level of front-end assistance – County should target to cost share the servicing costs on a 50/50 basis;
- level of investment to be made towards the front-end policy – in the early term (i.e. five years), the County should allocate up to 5% of its debt capacity towards this policy. This would provide for approximately \$7-\$10 million, depending upon the interest rate and term of the debt.

The above proposed framework will be tested on the North Caledonia lands as a pilot initiative. If necessary, amendments to the policies will be recommended. Based upon completion of financial evaluation, a final policy will be proposed and submitted to Council for their consideration.

APPENDIX A
LOCAL SERVICE POLICY

**HALDIMAND COUNTY
GENERAL POLICY GUIDELINES ON LOCAL SERVICE FUNDING
FOR ROAD-RELATED, STORMWATER MANAGEMENT, WATER
AND SANITARY SEWER WORKS**

1. Local and Collector Roads

- 1.1. Local and collector roads internal and external to development - Direct developer responsibility under s.59 of the DCA (as a local service).

2. Traffic Signals

- 2.1. Traffic signalization associated with development – Direct developer responsibility under section 59 of the DCA (as a local service).

3. Intersection Improvements

- 3.1. New roads (collector and local) and road (collector) improvements – Direct developer responsibility under section 59 of the DCA (as a local service).
- 3.2. Intersections improvements within specific developments and all works necessary to connect to entrances (private and specific subdivision) to the roadway - Direct developer responsibility under s.59 of the DCA (as a local service).
- 3.3. Intersections with provincial highways – Direct developer responsibility under section 59 of the DCA (as a local service).

4. Streetlights

- 4.1. Streetlights within specific developments – Direct developer responsibility under s.59 of the DCA (as a local service).

5. Sidewalks

- 5.1. Sidewalks related to section 1 Roads - Direct developer responsibility through local service provisions (s.59 of the DCA).
- 5.2. Other sidewalks external to development (which are a local service within the area to which the plan relates) - Direct developer responsibility as a local service provision (under s.59 of the DCA)

6. Bike Routes/Bike Lanes/Bike Paths/Multi-Use Trails/Naturalized Walkways

- 6.1. Bike lanes, within road allowance, internal to development – Direct developer responsibility under s.59 of the DCA (as a local service).
- 6.2. Bike paths/multi-use trails/naturalized walkways internal to development – Direct developer responsibility under s.59 of the DCA (as a local service).

7. Noise Abatement Measures

- 7.1. Internal to Development - Direct developer responsibility through local service provisions (s.59 of DCA)

8. Traffic Control Systems

- 8.1. If related to section 1 Roads – Direct developer responsibility under s. 59 of the DCA.

9. Land Acquisition for Road Allowances

- 9.1. Land Acquisition for collector or local roads – Dedication under the *Planning Act* subdivision provision (s.51) through development lands.

10. Land Acquisition for Easements

- 10.1. Easement costs internal to subdivisions – Direct developer responsibility under s.59 of the DCA.

11. Storm Water Management

- 11.1. Quality and Quantity Works, direct developer responsibility through local service provisions (s. 59 of the DCA).
- 11.2. Oversizing of stormwater management works for development external to developments will be subject to best efforts clauses by area municipality.

12. Water

- 12.1. Trunk watermains external to subdivisions – Direct developer responsibility under s.59 of the DCA.

- 12.2. Localized mains and pumping stations within or external to the subdivision – Direct developer responsibility under s.59 of the DCA.
- 12.3. Connections to trunk mains and pumping stations to service specific areas, to be direct developer responsibility.

13. Sanitary Sewer

- 13.1. Trunk sanitary sewers external to subdivisions – Direct developer responsibility under s.59 of the DCA.
- 13.2. Connections to trunk mains and pumping stations to service specific areas, to be direct developer responsibility.
- 13.3. Localized sanitary sewer works and pumping stations – Direct developer responsibility under s.59 of the DCA.

APPENDIX B
DEVELOPMENT CHARGE AGREEMENTS

APPENDIX B - DEVELOPMENT CHARGE AGREEMENTS

As discussed in Section 2.1, there are various types of agreements provided for within the *Development Charges Act*. The following provides for a discussion of these agreements. Note that these agreement may be used for a County wide development charge or to facilitate an area specific charge which recovers local service works.

B.1 DC Collection Timing

The *Development Charges Act* (DCA) provides for two points in time where a municipality can, by by-law, mandate the collection of the development charge:

- Section 26(1) provides the charge shall be payable at the time the building permit is issued
- Section 26(2) provides that for Water, Wastewater, Storm Water and Roads services, a municipality may provide that the development charge be payable immediately upon the parties entering into a subdivision agreement or consent agreement

The Act also provides that the municipality may enter into different forms of municipal servicing agreements; however, these agreements are ad hoc and are based on negotiated terms. The Act provides for three types of agreements, as provided below. Appendix B provides further insight into the mechanics of these agreements.

B.1.1 Front-Ending Agreements (s. 44 and 45)

Section 44 and 45 of the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. Such an agreement can provide for the upfront costs to be borne by one or more parties to the agreement who are, in turn, reimbursed in future, by persons who develop land within an area defined in the agreement. The services for which an agreement may be entered into are limited to Water, Wastewater, Storm Water and Roads services. The agreement may allow for “tiering” which provides for sharing the burden of the upfront costs by prorating the upfront costs (which is initially paid by one or more landowners) and then recovering these costs on a prorated sharing basis (i.e. as more landowners within the defined benefiting area come on-stream they shoulder a portion of the upfront costs). A front-ending agreement must be advertised and an opportunity is provided for a land owner within the defined benefiting area to object to the agreement. A front-ending agreement may provide for the following costs to be included in the cost of the work:

1. The reasonable costs of administering the agreement.
2. The reasonable costs of consultants and studies required to prepare the agreement

B.1.2 Accelerated or Delayed Payment Agreements (s. 27(1))

Section 27(1) of the DCA provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. The total amount of a development charge payable through an agreement under this section is the amount of the development charge that would be determined under the by-law on the day specified in the agreement. If no day is specified, at the earlier of:

- a) the time the development charge or any part of it is payable under the agreement;
- b) the time the development charge would have been payable in the absence of the agreement.

Accelerated agreements most often assist municipalities with cash flow to build specific smaller projects and most often applies to water, wastewater and road improvements. Usually involves the prepayment of all or a portion of the DC with a credit provided at the time the DC is payable (i.e. building permit issuance).

Delayed payment agreements normally assist the developing landowner with cash flow by delaying the payment to a specified time period or to provide for instalments over time.

B.1.3 Service Emplacement Agreements (s. 38)

Section 38 of the DCA provides that a developing landowner may construct or provide a service which relates to a service in the DC by-law. If a municipality allows this work to be provided then the municipality shall give the person a credit towards the development charge in accordance with the agreement. The amount of the credit is the reasonable cost of doing the work as agreed by the municipality and the person who is to be given the credit. A credit given in exchange for work done is a credit only in relation to the service to which the work relates (i.e. an agreement to build a park will provide that the credit is against the parkland component of the Development Charge). Service emplacement agreements most often apply to smaller water, wastewater and road improvements projects and to parkland development projects.

Of the three types of agreements described above, the Service Emplacement Agreement is the most often used by Ontario municipalities for assisting in cash flow followed by the Accelerated Payment Agreement. The Front-ending agreement appears to be the least used either because it is the most complex, requires the most administration, is appealable by other landowners or is best used for very large capital works which generally require a significant investment and have a long term for recovery.

Accelerating project construction involves an increased risk to the municipality in that no new net revenues accrue to the DC reserve funds, but new liabilities arise for the accelerated infrastructure. In instances where repayments are based on set timing schedules, the municipality assumes a risk that revenues may not be available to make the repayment. This risk could be counterbalanced by agreements with the developer with respect to providing timely DC revenue payments. In effect, the developer would be required to assume some or all of the risk of a slowdown in the housing market and correspondingly, the slowdown in DC revenues to be collected.

It is noted that in order to facilitate municipal service financial agreements, additional preparation and administration is required to oversee the credits and repayments. Additions to the DC administration systems and processes used by Finance and the Building Departments to accommodate the credit/repayment system is often necessary.

B.2 DC Credits vs. Cash Repayments

Based on the three municipal servicing agreement discussed in the prior section, the value of the project or cash contribution provided may be recognized in different ways, i.e. either by a credit or repayment. A “credit” is a deduction at the time the DC is to be paid (i.e. at the time the DC is paid at building permit, the credit will be deducted in order to reduce the charge payable). It is generally restricted to the lands and/or developer who has undertaken the work or prepaid their DCs. A “repayment” is a collection from others which is given to the person who did the work or made the initial contribution (i.e. the repayment for a front-ending agreement would collect from other benefitting landowners to pay the front-ender).

Under a DC credit system, a credit would be available against development charges otherwise payable (i.e. it is recognised at the time the building permit is issued). The credit would be limited in its application to the service component that was accelerated. For example, if a storm water management (SWM) pond was accelerated, credit would be applied to the SWM pond component of the DC upon application for building permit in that developer’s subdivision. In this way, the credits for the construction of growth-related infrastructure would only be recovered upon development of the property facilitated by the accelerated infrastructure. The developer bears the risk and rewards of either slow or fast build out of the accelerated development.

If a credit system is used, all three types of agreements may be used to accelerate the project timing. If a repayment system is to be used then only the front-ending agreement would be used as the two other types of agreements relate to credit recoveries not repayments.

Both credits and repayments can impact a municipality’s DC revenue stream. Repayments generally impact cash flow sooner as the payment has a stipulated date whereas credits generally impact later and are recognised when the development actually proceeds and the

development charges are paid. Based on the ability to align the liability and collection directly with the specific development, agreements providing credits are the preferred.

APPENDIX C
HYPOTHETICAL DC SERVICING AGREEMENT
EXAMPLES

APPENDIX C - HYPOTHETICAL DC SERVICING AGREEMENT EXAMPLES

As noted in Appendix B, an example would be provided to demonstrate how each of the agreements would be developed for a specific example. These agreements are discussed in sections 3.1.1 to 3.1.3 and sample agreements are provided in the following Appendices.

1. Example #1

The first industrial land application within a development area requires a trunk sanitary sewer extension to extend the servicing to the area. This first development will build 600,000 sq. ft. of building space, of which 2,000,000 sq. ft. will be built in total (by this landowner and others) for the area. Cost of the Sanitary Sewer extension is \$1,000,000. The total development charge is \$10.00 per sq. ft. of which this service component is \$2.00 per sq. ft.

1(a) Accelerated Payment Agreement

Section 27(1) of the Act provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. In this example, the proposed development would ultimately provide for \$1,200,000 towards sanitary sewer services (600,000 sq. ft. x \$2.00/sf = \$1,200,000) in general. The future total amount payable for this service exceeds the amount needed to fund the project so this form of agreement would be well suited to fund this project. Under this agreement, the subdivision would contribute the \$1,000,000 project cost to the municipality and the project would be built. The value of the contribution (\$1,000,000) would be recognised as a credit or reduction to the DC payable at the time the building permits are taken out for this subdivision.

The credit (or reduction of the DC payable at building permit) may be handled in two ways:

1. The credit may be spread equally across all units within that development (i.e. \$1,000,000 funding divided by 600,000 sq. ft. equals a \$1.667 credit per sq. ft.), or
2. The credit may be equal to the DC service component \$2.00/sf and would be granted for the number of sq. ft. needed to use up the credit (i.e. \$1,000,000 in credit divided by \$2.00/sf for sanitary sewers = 500,000 sq. ft of building space)

Under both options, the \$1,000,000 is repaid by a reduction (or credit) in the DC payable at the time the building permits are taken out for this subdivision. In the first instance, all 600,000 sq. ft. within the development receive a reduction of \$1.667 whereas in the second instance, 500,000 sq. ft of building space receive a reduction of \$2.00 per sq. ft.).

1(b) Service Emplacement Agreement

Section 38 of the Act provides that a developing landowner may construct or provide a service which relates to a service in the DC by-law. If a municipality allows this work to be provided then the municipality shall give the person a credit towards the development charge in accordance with the agreement. Hence this agreement functions in a very similar manner as the Accelerated Payment Agreement however instead of paying the \$1,000,000 to the Municipality, the land developer builds the project and receives a credit (or reduction) against the DC payable at the time of building permit issuance. Note that approving the land developer to construct these works would be subject to process described in section 3.2 of this report.

1(c) Front-ending Agreement

Section 44 and 45 of the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. Such an agreement can provide for the upfront costs to be borne by one or more parties to the agreement who are, in turn, reimbursed in future, by persons who develop land within an area defined in the agreement. As noted in Appendix B, front-ending agreements are often used for very large projects where the cost recovery exceeds what can be recognised as a reduction (or credit) at the time the DC is paid at building permit issuance. For this particular example, a front-ending agreement would not be used.

2. Example #2

The first industrial land application within a development area requires a SWM pond to provide stormwater servicing to the area. The first development will build 600,000 sq. ft. of building space, of which 2,000,000 sq. ft. will be built in total (by this landowner and others) for the area. Cost of the SWM pond is extension is \$2,000,000. The total development charge is \$10.00 per sq. ft. of which this service component is \$2.00 per sq. ft.

2(a) Accelerated Payment Agreement

As noted earlier, Section 27(1) of the Act provides that a municipality may enter into an agreement with a person who is required to pay a development charge providing for all or any part of a development charge to be paid before or after it would otherwise be payable. In this example, the proposed development would ultimately provide for \$1,200,000 towards storm water services (600,000 sq. ft. x \$2.00/sf = \$1,200,000). The total cost for this project (\$2 million) in excess of the DC payable for this service for the entire subdivision (\$1,200,000) and therefore a credit for this service against the DC is not possible. Although the total DC's for all services (600,000 sq. ft. x \$10.00/sf = \$6,000,000) to be paid for the subdivision exceed the project costs, granting a credit against the full DC would in effect be borrowing money from all

other services. This may cause cash flow issues for the other services and is not recommended. This form of agreement would not function well for this example.

2(b) Service Emplacement Agreement

As noted earlier, this form of agreement functions similar to Accelerated Payment Agreements except the subdivider would build the service. For the reasons noted in 2(a), this form of agreement would not function well for this example.

2(c) Front-ending Agreement

As noted, the DCA provides a municipality with the ability to enter into an agreement with parties to upfront the costs of a project which will benefit an area in the municipality to which the DC By-law applies. This form of agreement would provide for the upfront costs to be borne by the initial subdivider and would provide them to be reimbursed in future by development within the area defined in the agreement. In this example, there is 2,000,000 sq. ft of building space within the defined area. The amount of DC's to be paid for the storm water services within this area is \$4.0 million (2,000,000 sq. ft x \$2.00/sf = \$4,000,000) which is sufficient to recover the full project costs (\$2.0 million). A front-ending agreement would provide for the following:

- Developer provides the Municipality with \$2 million to construct the SWM ponds
- Agreement would provide that the costs for this project would be recovered from the benefiting area
- The subdivider would receive a credit for their portion of the DC's payable for this service (600,000 sq. ft. x \$2.00/sf = \$1,200,000)
- The remaining \$800,000 would be recoverable from development within the area (i.e. the remaining 1,400,000 sq. ft). The Municipality would flow back the \$2.00/sf (the storm water portion of the charge) for each of the next 400,000 sq. ft to develop in the area (i.e. 400,000 sq. ft at \$2.00/sf = \$800,000). Depending upon the conditions established in the agreement, this could be collected at building permit issuance or the charges could be paid when other subdivisions in the area are approved.

APPENDIX D
SAMPLE DEVELOPMENT EVALUATION FORM

Applicant Information:	Name:						
	Address:						
	Phone No.						
	Email address						
Description/Location of the Subject Land	Municipality:						
	Concession Number		Lot Number				
	Registered Plan		Lot(s)/Block(s)				
	Reference Plan No.		Parcel Number(s)				
	Street no.		Name of street/road				
	Approximate Area of the Subject Lands		Hectares		Acres		
Roll Number							
Description of Proposed Use:	<input type="checkbox"/> Retail <input type="checkbox"/> Industrial –Manufacturing <input type="checkbox"/> Industrial - spec. building <input type="checkbox"/> Office <input type="checkbox"/> Industrial- Warehouse/Distribution <input type="checkbox"/> Other - specify _____						
	Number of Potential Employees:						
What is the current use(s) of the subject land?							
Municipal Staff Contact Information:	Staff Name:						
	Position:						
	Phone Number:		E-Mail:				

Economic Development Needs Consideration			
1. Review of projected growth forecasts (from O.P. or Strategic Plan)	Provide Forecast Objectives:		
2. Consider existing applications and market supply of land in the general area	Is there an over/under supply in the area?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Does this development assist in achieving targets	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Explain:		
3. The development advanced has a compelling advantage to the County	Explain:		
4. This is an emergent economic development opportunity involving significant job creation (other than construction) that makes accelerating longer term capital works desirable;	Explain:		
5. if it may facilitate the development of a major facility that is needed by the adjacent development servicing area or localized community (e.g. new school or community centre)	Explain:		

Servicing Status of Land			
1. Availability of existing municipal servicing, and extent of accelerated servicing required;	Explain:		
2. Is servicing capacity available for water and wastewater?	Service:	Yes	No
	Water		
	Wastewater		
3. EA/EIS are completed?	Yes <input type="checkbox"/>		No <input type="checkbox"/>
4. Projects to be advanced are within the five year capital budget timeframe and are included within the existing DC Background Study;	Yes (is within 5 years) <input type="checkbox"/>		No (is not within 5 years) <input type="checkbox"/>
	Explain:		Not In Capital Budget <input type="checkbox"/>
5. Consider logical progression of development to contiguous areas of the community - development proposal does not constitute blatant "leap frog" development;	Explain:		
6. An engineering evaluation to be undertaken to examine the technical feasibility of extending services to the area;	Explain:		
7. An engineering evaluation to analyze the capital improvements that may be required to facilitate additional flows or demands, including oversizing	Explain		

Development Evaluation			
1. Implications on service capacity and any servicing allocation commitments to development properties /proposals already within the serviced area;	Available Capacity in Area		
	What level of Capacity is needed for the development?		
2. The benefitting area to be defined, including allocations of the benefit if there are multiple affected property owners;	List Properties		
	A	Property Size	Development Type
	B		
	C		
	D		
	E		
3. An evaluation of the likely or necessary phasing or staging of services from an engineering and development perspective;	Provide description of phases and timing:		
4. An assessment of the costs of providing services for each phase;	Explain:		
5. An evaluation of the likely timeline to achieve 'build-out' of the lands by phase;	Commencement Year		
	Build-out Year		
6. An evaluation of the timeline for the municipality to achieve 'financial payback' of its investment costs through the assessment generated from new development;	Explain:		
7. Consideration of whether the County's front end financing of a particular development creates an unfair competitive advantage.	Explain:		

APPENDIX B

**HALDIMAND COUNTY COUNCIL PRESENTATION ON
FRONT-END FINANCING OF DEVELOPMENT
JUNE 17, 2013**

Haldimand County

Front end Financing of Development

June 17, 2013

Watson & Associates Economists Ltd.

Presentation Overview

- We were before Council in early November 2012 to discuss the findings of the first stage of the study process
- We provided policy recommendations (which will be highlighted in the following slides) which were to be applied to North Caledonia as an initial test of the policy
- The presentation will consider the evaluation of the policy relative to the North Caledonia development

Recap - Study Purpose

- Consider options to assist developers of employment-generating projects in financing the upfront costs of constructing municipal infrastructure necessary to facilitate development in areas not currently service
- Identify the cost sharing criteria and cost recovery methodologies to be applied to various development scenarios (from employment lands) on a County-wide basis.

Study Purpose

- As part of this process:
 - Identify the key financial and development principles that would be applied
 - Identify an acceptable level of risk based on the requirement for both the municipal and development sector interests to share in this risk
 - Once the policies have been adopted in principle, undertake the financial analysis to apply these to the North Caledonia employment lands as a pilot initiative

Recap of Proposed Policy Framework

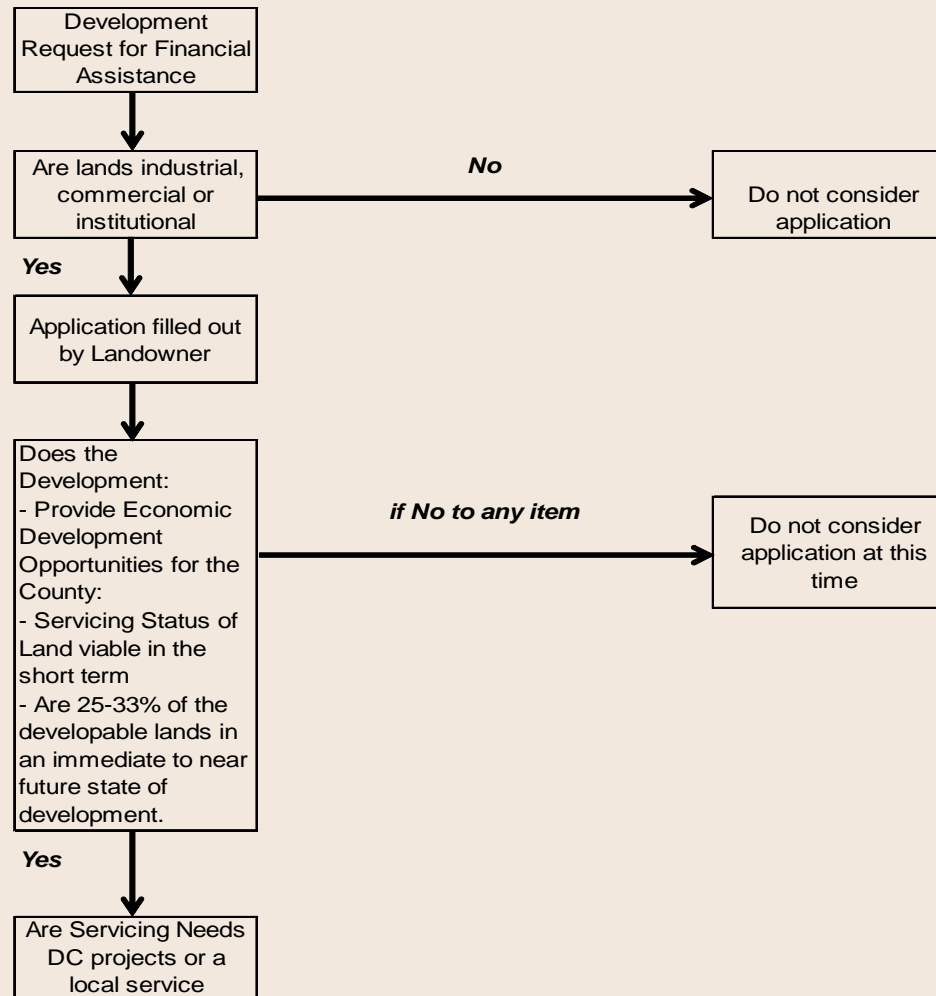
- A policy framework is provided to assist in considering front-ending assistance for ICI developments. This framework provides:
 - potential lands to be considered – lands must be industrial, commercial or institutional (ICI). An evaluation of the economic development merits
 - development potential for the lands – 25-33% of the developable lands benefiting from the servicing should be developable immediately or in the near future;

Recap of Proposed Policy Framework

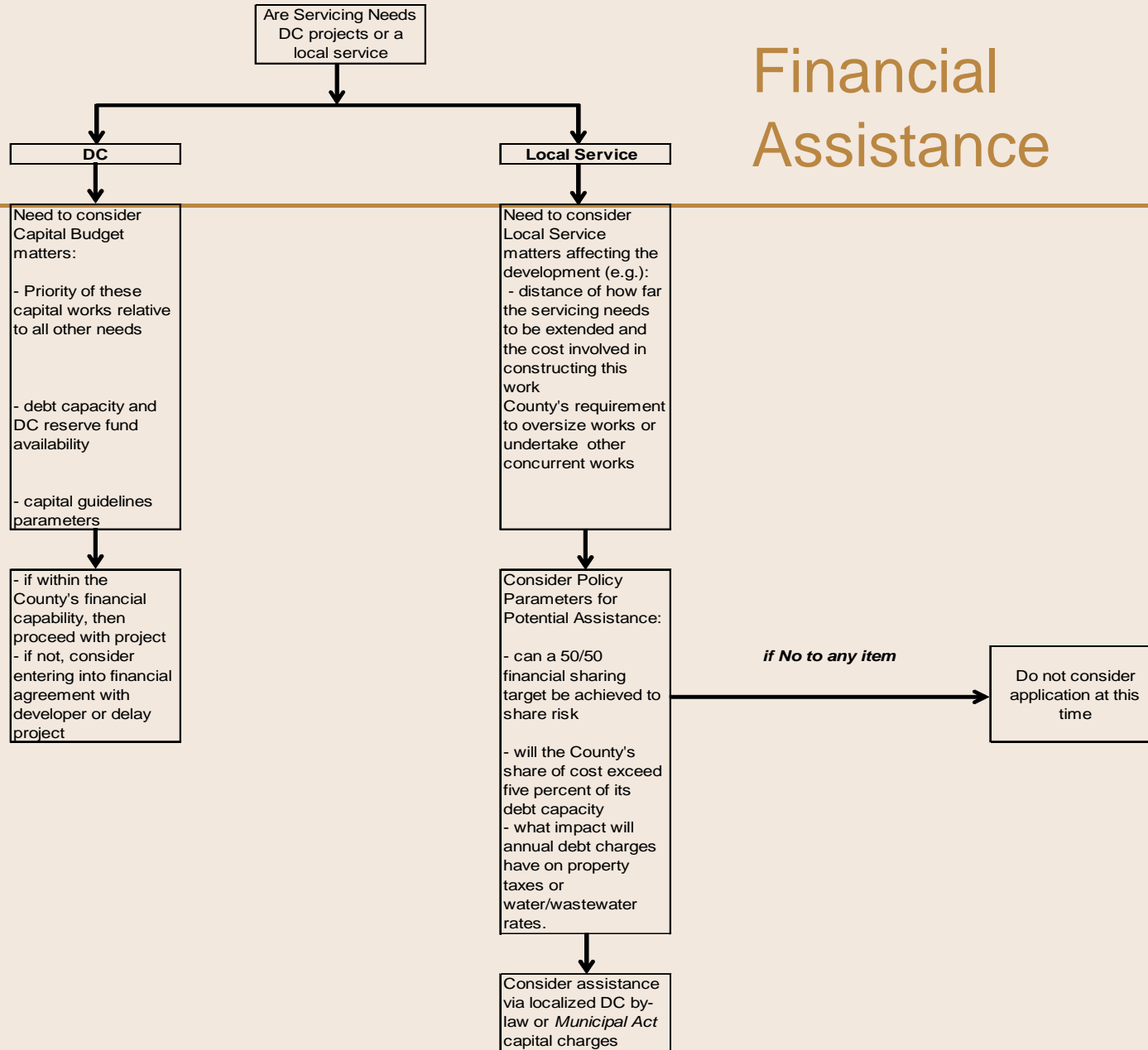
- level of front-end assistance – County should target to cost share the servicing costs on a 50/50 basis;
- level of investment to be made towards the front-end policy – in the early term (i.e. five years), the County should allocate up to 5% of its debt capacity towards this policy. This would provide for approximately \$7-\$10 million, depending upon the interest rate and term of the debt.

Recap of Evaluation of the Application

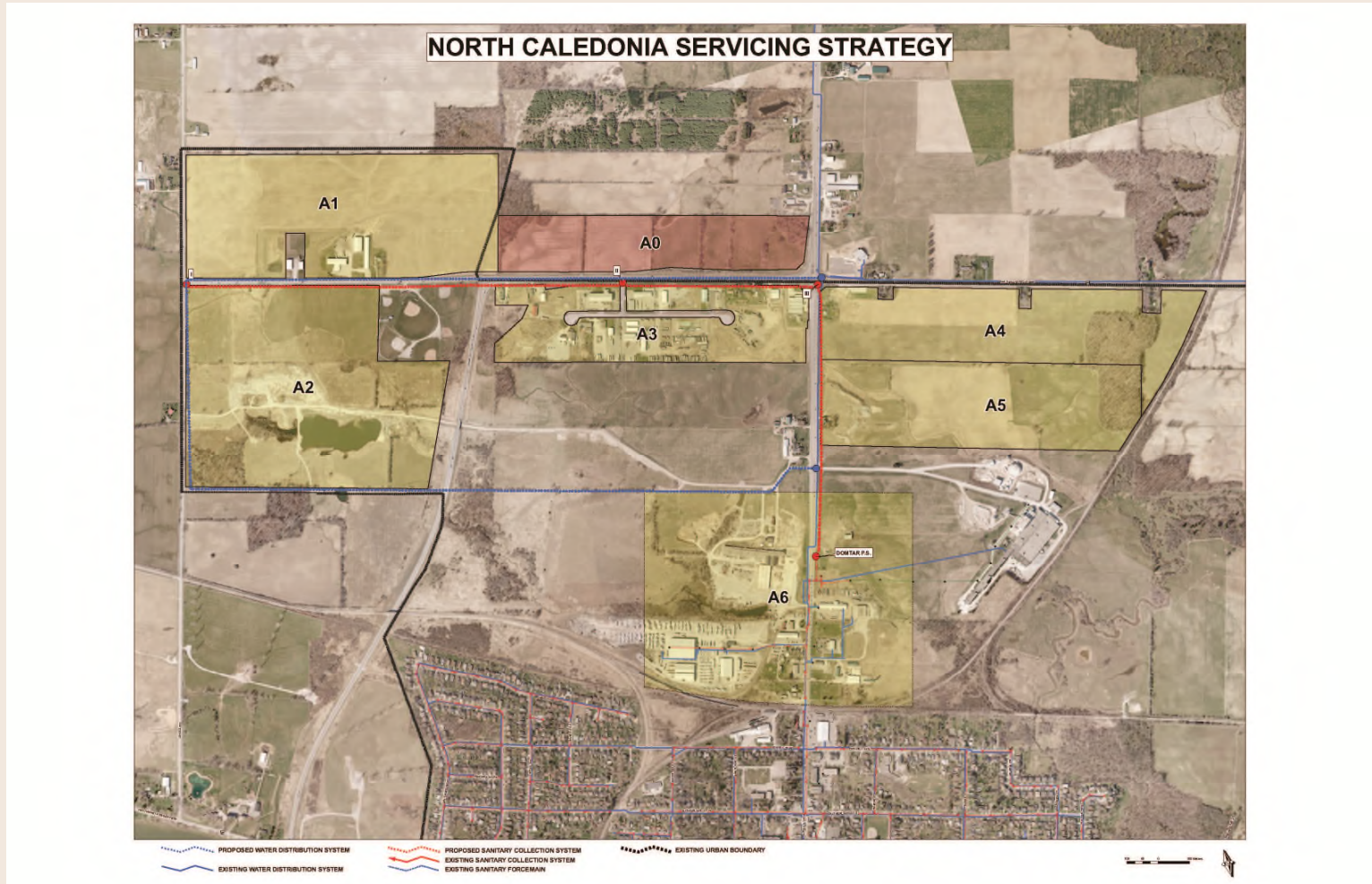
Application Review Process



Financial Assistance



North Caledonia Development Area



North Caledonia Development Area

Land Area	Land Designation	Area		Potential Building Area (20% Coverage Assumption)	
		Ha	Acres	M ²	Ft. ²
A1	INDUSTRIAL	38.11	94	76,220	820,432
A2	INDUSTRIAL (existing without municipal services)	32.607	81	65,214	701,963
A3	INDUSTRIAL	17.727	44	35,454	381,627
A4	INDUSTRIAL / COMMERCIAL	30.76	76	61,520	662,201
A5	INDUSTRIAL / COMMERCIAL	12.49	31	24,980	268,885
A6	INDUSTRIAL / COMMERCIAL /RESIDENTIAL (incl. 14.2 ha of exist. and serviced, so net area for future development equals to 13.643 ha)	13.643	34	27,286	293,707
A0	(Note: Zone: AGRICULTURAL, OUTSIDE URBAN BOUNDARY)	17.33	43	34,660	373,080
	Total	162.667	401.79	325,334	3,501,895

Gateway Business Park

Proposed Development Applying for Frontending Assistance

Proposed Development:	Gateway Development Business Park
Development Area:	A4

	M ²	Ft. ²
Proposed Development	37,161	400,000
Development Area - A4	61,520	662,201
% of Total Development	60%	

Other Potential Developments in the area

Pioneer Gas Bar	320	3,440
Development Area - A4	61,520	662,201
% of Total Development	1%	

	M ²	Ft. ²
Proposed Development	37,161	400,000
Development Area - A4, A5 & A6	113,786	1,224,793
% of Total Development	33%	

ITEM	DESCRIPTION	ESTIMATED COST (2011 \$)			Proposed Funding	
		WATER	SANITARY	TOTAL	DC	Developer Contribution
1	Phase 1 (A4, A5, and A6)					
	a) Stage 1a: FIRST COME - FIRST SERVED* (Portion of A4) <i>Install 846m + 28m of 375mm dia. Sanitary sewer from III to Domtar PS</i>		\$ 695,140			\$ 695,140
	b) Stage 1b: FURTHER DEVELOPMENT (A4, A5 and A6) <i>Upgrade Domtar Pumping Station from 7.3l/s to 76.3l/s and upgrade 433m of forcemain from Domtar PS to MH161 to 375mm dia.</i>		1,852,610			1,852,610
	c) Stage 1c: Further Development (A4, A5 and A6) <i>Upgrade Nairn PS from 69.0 l/s to 116l/s and upgrade forcemain from Nairn PS WWTP to 450mm dia</i>		2,160,000		2,160,000	
	<i>Replace/Upgrade 338m of sanitary sewer to 375mm dia from MH161 to MH156</i>		141,804			141,804
	<i>Replace/Upgrade 186m sanitary sewer to 375mm from MH156 to MH 164</i>		121,830			121,830
	<i>Replace/Upgrade 298 m sanitary sewer to 450mm from MH164 to MH483</i>		223,500			223,500
	<i>Replace/Upgrade 10m of 350mm dia sanitary from MH4P3 to Nairn PS</i>		7,500			7,500
	Total Phase 1		\$ 5,202,384	\$ 5,202,384	\$ 2,160,000	\$ 3,042,384
	Phase 2 (A3 and possible A0) <i>Install 666m of 375mm dia sanitary from II to III</i>		436,230			436,230
	<i>Install approximately 670m of 350 watermain from existing to intersection of Highway 6 and Greendale Drive</i>	469,000				469,000
	Total Phase 2	\$ 469,000	\$ 436,230	\$ 905,230	-	\$ 905,230
	Phase 3 (A1 and A2) <i>Replace/Upgrade 350m of watermain to 350mm dia along Argyle from Orkney to Sutherland and from Caithness St. to the Grand River crossing</i>	245,000				245,000
	<i>Install Check Valve at north reservoir</i>	10,000				10,000
	<i>Install new booster pump at standpipe (Q=0.124m³/s, TDM=10m) with SCADA</i>	600,000				600,000
	<i>Install 4330m of 350mm dia watermain along Greens Road (from intersection of Highway #6 and Greensdale Drive (See Phase 2) through proposed development and looping back to Argyle Street</i>	3,031,000				3,031,000
	<i>Install 1369m of 300mm dia sanitary sewer from I to II</i>		732,415			732,415
	<i>Upgrades to Caledonia Wastewater Treatment Plant (Item 9 in Table 7.18 of MSP)</i>		<i>To be Determined*</i>		<i>DC Funded</i>	
	Total Phase 3	\$ 3,886,000	\$ 732,415	\$ 4,618,415		\$ 4,618,415
	Total Phases 1 to 3	\$ 4,355,000	\$ 6,371,029	\$ 10,726,029	\$ 2,160,000	\$ 8,566,029

Overview of Developer Costs

Front End Costs

Phase	Developer Related Costs		2013 Cost per Sq. Ft. Spread Across:	
	2011 \$	2013 \$	Initial Development Lands ¹ (\$)	All Benefiting Lands ² (\$)
1a	695,140	736,848	1.84	0.60
1b	1,852,610	1,963,767	4.91	1.60
1c	494,634	524,312	1.31	0.43
Total	3,042,384	3,224,927	8.06	2.63
Capital Cost Adjustment:	6%			

¹ Initial Development Lands equal 400,000 sq. ft.

² All Benefiting Lands includes areas A4, A5 and A6 and equals 1,224,800

Front End Assistance

Front End Cost Assistance

Phase	2013 \$	50% Developer Contribution	50% Assistance by County	Annual Debt Charge Payments for County Front End Amount
1a	736,848	368,424	368,424	\$43,191
1b	1,963,767	981,883	981,883	\$115,107
1c	524,312	262,156	262,156	\$30,733
Total	3,224,927	1,612,464	1,612,464	189,030
Debt Charge %		3%		
Term of Loan (years)		10		

Application Evaluation

Applicant Information				
Applicant Information	Name:	Gateway Caledonia Business Park		
	Address:			
	Phone No:			
	Email Address:			
Description/Location of the Subject Land	Municipality:	Caledonia, Geographic Township of Seneca		
	Concession Number:	Range 1 East of Plank Road	Lot Number: Part Lot 8	
	Registered Plan:		Lot(s)/Block(s):	
	Reference Plan No:		Parcel Number(s):	
	Street No:	600	Name of Street/Road:	Argyle Street North
	Approximate Area of the Subject Lands:		Hectares:	19
		Acres:	46	
Roll Number	2810.1052.005.10100			
Description of Proposed Use:	<input checked="" type="checkbox"/> Retail	<input type="checkbox"/> Industrial - Manufacturing	<input type="checkbox"/> Industrial - Spec. Building	
	<input checked="" type="checkbox"/> Office	<input checked="" type="checkbox"/> Industrial - Warehouse/Distribution	<input type="checkbox"/> Other:	
	Number of Potential Employees:	Approximately 530 (Based 320,000 sq.ft divided by 600 sq.ft. per employee)		
What is the Current Use(s) of the Subject Land?	Converted dwelling - used as medical clinic			
Municipal Staff Contact Information:	Staff Name:			
	Position:			
	Phone No:		Email:	

Application Evaluation con't

Economic Development Needs Consideration			
<p>1. Review of Projected Growth Forecasts (From O.P or Strategic Plan)</p>	<p>Provide Forecast Objectives: Growth Plan conformity study identifies these lands as possessing value for employment purposes and notes lands are situated in a key location adjacent to Highway 6 and relatively close to JC Munro Airport. Key disadvantage is area lacks municipal services. Study identifies employment growth between 2006 and 2031 (using Hemson forecasts in Growth Plan as base) at 4,235 jobs* and sets minimum density at 15 jobs per hectare. Subject project would result in approximately 28 jobs per hectare (530 jobs / 19 ha) and contributes to meeting County's obligations per Growth Plan. *study does not break out jobs by community</p> <p>County Official Plan identifies that project to be phased over period of (minimum) 3 years and various components can only advance once forecast market growth and population growth transpires.</p>		
<p>2. Consider Existing Applications and Market Supply of Land in the General Area</p>	<p>Is there an under supply in the area?:</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	<p>Does this Development assist in achieving targets?:</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	<p>Explain:</p>	<p>Presently a gas bar application has been submitted - approx 3,500 sq.ft development</p>	

Application Evaluation con't

<p>3. The Development Advanced as a Compelling Advantage to the County</p>	<p>Explain: From market work completed as part of the Planning applications, the following conclusions were derived:</p> <ul style="list-style-type: none"> • This new space will complement and strengthen the retail structure in Haldimand County and will provide a greater range of shopping opportunities for residents in the growing market • There is currently a limited inventory of retail stores in Haldimand County, and particularly comparison goods stores (i.e. the opportunity to compare similar products in stores is limited due to store selection). As a result, there is a significant outflow of retail dollars from the community. There is the opportunity to recapture a large portion of sales currently being absorbed by stores located outside of Haldimand County (e.g. in Hamilton, Brantford, Simcoe and Welland). • the Caledonia market is presently under-served in a number of important commercial categories such as grocery; home improvement; department store; and service space (medical / dental, professional services, restaurant, financial). • The employment opportunities that the subject site could provide are primarily retail and service oriented jobs, in addition to health care related employment. At the maximum space recommended, close to 1,000 jobs* could be provided on the subject site (excluding construction jobs) <p>*Watson calculation suggests 530 jobs</p>
<p>4. This is an Emergent Economic Development Opportunity Involving Significant Job Creation (other than construction) that makes accelerating Longer Term Capital Works desirable:</p>	<p>Explain: First significant development application in the area. Would provide the catalyst for other developments.</p>
<p>5. It may facilitate the Development of a Major Facility that is needed by the adjacent Development Servicing Area or Localized Community (e.g. New school or community centre)</p>	<p>Explain: N/A</p>

Application Evaluation con't

Servicing Status of Land	
1. Availability of existing municipal servicing, and extent of accelerated servicing required:	<p>Explain:</p> <p>Presently has water servicing capacity is available to these lands. Wastewater treatment capacity is available however servicing upgrades needed for Domtar and Nairn pumping stations, extension of services to the Domtar PS and upgraded capacity to various sewers leading to Nariin PS.</p>
2. Is servicing capacity available for water and wastewater?	<input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Wastewater
3. EA/EIS are completed?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Projects to be advanced are within the Five Year Capital Budget Timeframe and are included within the existing DC Background Study:	<input type="checkbox"/> Yes (Is Within 5 Years) <input type="checkbox"/> No (Is Not Within 5 Years) <input type="checkbox"/> Not In Capital Budget
	<p>Explain:</p> <p>No – projects were not included in the Caledonia Master Servicing Plan or the DC Background Study. Servicing for the north end of Caledonia will be a component of the Caledonia MSP Update in 2013 as well as the DC Background Study Update in 2013.</p>
5. Consider logical progression of development to contiguous areas of the community - development proposal does not constitute blatant "leap frog" development:	<p>Explain:</p> <p>The servicing for this development, provides direct servicing link to the Domtar pumping station. As well, provides capacity upgrades to sewers to allow for transmission to Nairn Pumping station.</p>
6. An engineering evaluation to be undertaken to examine the technical feasibility of extending services to the area:	<p>Explain:</p> <p>Various components have been completed by AMEC, MTE and County staff. The collective results of the various analyses demonstrate the technical feasibility of extending services to the area.</p>
7. An engineering evaluation to analyze the capital improvements that may be required to facilitate additional flows or demands, including oversizing:	<p>Explain:</p> <p>Has been completed.</p>

Application Evaluation con't

Development Evaluation				
1. Implications on service capacity and any servicing allocation commitments to development properties/proposals already within serviced area	Available Capacity in Area:		approximately 7,639 m3/day* of water and approximately 760 m3/day of wastewater	
	What level of Capacity is needed for the development?:		approximately 553 m3/day of water approximately 368 m3/day of wastewater	
2. Benefitting area to be defined, including allocations of the benefit if there are multiple affected property owners.	List Properties			
		Property Size	Development Type	Servicing Needs
	Gateway (Area A4)	46 acres	Industrial	Wastewater
	Rest of Area A4	18 acres (total)	Industrial	Wastewater
	Area A5	31 Acres	Industrial	Wastewater
Area A6	34 Acres	Indust/Comm/Res	Wastewater	
3. An evaluation of the likely or necessary phasing or staging of services from an engineering and development perspective.	Provide description of phases or timing:			
4. An assessment of the costs of providing services for each phase.	Explain: Developer Related Costs are \$3.225 million (2013\$). As build out of areas A5 and A6 occur, the County will need to expand the capacity of the Nairn PS (estimated at \$2.29 million in 2013\$)			
5. An evaluation of the likely timeline to achieve 'buildout' of the lands by phase.	Commencement Year:		2014	
	Buildout Year:		2020	

Application Evaluation con't

<p>6. An evaluation of the timeline for the municipality to achieve 'financial payback' of its investment costs through the assessment generated from new development.</p>	<p>Explain: Developer will pay half of the development cost upfront (\$1.6 million) upon completion of the servicing. County will provide loan for \$1.6 million with 10 year payback at 3% financing. Annual debt payments to the County is \$189,000.</p>
<p>7. Consideration of whether the County's front end financing of a particular development creates an unfair competitive advantage.</p>	<p>Explain: No. This development provides the initial servicing which will subsequently allow other lands to hook onto the system.</p>

Application Evaluation

- ❑ Based upon the above, the applications meets all criteria discussed in the Front End policy presented in November
- ❑ Based on the foregoing, staff would recommend entering onto an agreement with the landowner to provide financial assistance
- ❑ As part of the agreement discussion, staff will also evaluate whether a localized DC by-law or Capital charge by-law will be prepared for councils consideration to provide the front ender a recovery of capita costs from other benefiting lands

Questions???

APPENDIX C
DRAFT FRONT-ENDING AGREEMENT

AGREEMENT FOR THE PROVISION OF MUNICIPAL CAPITAL FACILITIES made this
■ day of ■, 2014

B E T W E E N:

THE CORPORATION OF HALDIMAND COUNTY

(the "County ")

- and -

■

(the "Owner")

RECITALS

- I. The Owner is the registered owner of lands located in the community of Caledonia, described as ■ and municipally known as ■, as shown on Schedule A to this Agreement (the "Lands");
- II. The Owner proposes to develop the Lands for employment and related uses (the "Development") which are categorized as non-residential uses for the purposes of the County's Development Charge By-law No. ■ (the "DCB") and which are in conformity with the County's Official Plan;
- III. Certain municipal capital infrastructure facilities are required in order for the Lands, and other lands in the North Caledonia Development Area, to develop and the Owner has agreed to provide such facilities, as set out in

Schedule B to this Agreement (the “Municipal Capital Facilities”), in accordance with the terms of this Agreement;

- IV. The Owner has requested the County, and Council of the County has determined that it is in the public interest, to provide financial assistance to the Owner for the construction of the Municipal Capital Facilities by lending money, with interest, for fifty percent of the estimated costs thereof, as set out in Schedule B to this Agreement, and to recover from other benefitting owners their proportionate share of the total actual cost of the Municipal Capital Facilities;
- V. Pursuant to Section 110 of the *Municipal Act, 2001* S. O. 2001, a municipality may enter into an agreement for the provision of municipal capital facilities by any person if the agreement provides for the giving of financial assistance by way of lending money and charging interest by the municipality to such person, provided such assistance is in respect of the provision of the facilities that are the subject of the agreement;
- VI. Pursuant to Part XII of the *Municipal Act, 2001* a municipality may impose charges for services provided or done by, or on behalf of, it including a charge imposed for capital costs related to services on persons not receiving an immediate benefit from the services but who will receive a benefit at some later point in time;
- VII. Council of the County has enacted By-law ■ authorizing execution of this Agreement, and the Clerk of the County has provided, or will be providing, written notice of the By-law to the Minister of Education as required by Section 110(5) of the *Municipal Act, 2001*.

VIII. This Agreement is entered into pursuant to the provisions of Section 110 and Part XII of the *Municipal Act, 2001*

NOW THEREFORE in consideration of the mutual covenants herein contained, and for other good and valuable consideration, (the receipt and sufficiency of which is hereby acknowledged by each party), the parties hereby agree as follows:

1. The Recitals above are true and correct and form part of this Agreement.
2. The County hereby declares that the Municipal Capital Facilities are municipal capital facilities for the purposes of Subsections 110(1) and (3) of the *Municipal Act, 2001* and as described in Sections 2 and 3 of Ontario Regulation 603/06, which together authorize the lending of money and charging interest by the County to the Owner for the purposes of providing the Municipal Capital Facilities.
3. The Owner agrees that it shall undertake the design and construction of the Municipal Capital Facilities identified on Schedule B to this Agreement, all to the satisfaction of the County and in accordance with engineering plans and detailed design drawings approved by the County. All terms and conditions with respect to the design and construction of, and the security for, the Municipal Capital Facilities shall be set out in a construction agreement or other agreement satisfactory to the County, between the County and the Owner (the "Construction Agreement"). In addition, the Construction Agreement shall incorporate all the terms of this Agreement and shall also provide that construction of the Municipal Capital Facilities must commence within eighteen months of execution of the Construction Agreement by the County and the Owner.

4. The parties agree that the estimated costs of the Municipal Capital Facilities set out at Schedule B total \$3,224,927.00. **[NTD: all amounts are in 2013 dollars. When the agreement is actually being negotiated with an owner, the amounts can be updated to reflect the then-current amounts and estimates]** The County agrees that it will lend money to the Owner (the "Loan") up to a maximum of fifty percent of the estimated costs of the Municipal Capital Facilities, being \$1,612,463.00 (the "Loan Amount") on the following terms:

(i) the term of the Loan shall be ten (10) years, commencing on the date on which the County makes the first advance on the Loan in accordance with Paragraph 4(iii) herein. The Loan Amount must be fully repaid no later than December 31 of the year that is ten (10) years from the date of such first advance;

(ii) the Owner shall pay interest on the Loan Amount at an annual rate of interest of 2.9600 percent, compounded annually **[NTD: This rate may not be the rate in effect at the time of execution of this agreement with various developers or at the time of commencement of repayment of the Loan Amount, and as such will be adjusted to reflect rate conditions in effect at the appropriate point in time and the rate that the County pays on any debentured amounts in order to advance the Loan Amount]**

(iii) advancement of the Loan Amount by the County to the Owner shall not occur in one lump sum but as follows:

(a) within 30 days of submission to the County of certification of a progress payment required to be made by the Owner to its contractor

or contractors, the County will provide to the Owner a cheque in the amount of fifty percent of that progress payment. The County will continue to advance monies to the Owner on this same condition until such time as the Loan Amount is fully advanced or construction of the Municipal Capital Facilities is substantially complete, whichever is earlier;

(b) in the event that the actual costs of the Municipal Capital Facilities are less than the estimated costs, the County shall be under no obligation to advance the remainder of the Loan Amount to the Owner and the principal amount of the Loan shall be adjusted accordingly; and

(c) in the event that the actual costs of the Municipal Capital Facilities are greater than the estimated costs, the County shall be under no obligation to advance any funds to the Owner in excess of the Loan Amount and the Owner shall be fully responsible to pay any and all costs in excess of the estimated costs.

(iv) the Loan shall be repaid by the Owner to the County in accordance with the Loan Schedule set out in Schedule C to this Agreement, with repayment of the Loan Amount plus interest to commence when construction of the Municipal Capital Facilities is substantially complete. Schedule C shall be amended to reflect (a) the actual date upon which repayment commences in accordance with this Paragraph 4(iv) and the schedule of payment dates thereafter; and (b) the actual Loan Amount in the event that such amount is less than \$1,612,463.00, all without formal amendment to this Agreement. On the concurrence of the Parties as evidenced in writing, a new schedule reflecting the changes referred to in

this Paragraph 4(iv) will be added as Schedule C1 to this Agreement.

(v) notwithstanding Paragraph 4(iv) herein, the Owner shall pay interest throughout the construction period on each advance made to the Owner by the County, calculated by multiplying the interest rate of 2.9600 percent by the amount of the advance for the number of days remaining until the Loan repayment commences in accordance with Paragraph 4(iv) herein.

(vi) all payments made pursuant to Schedule C shall be made by certified cheque payable to the Corporation of Haldimand County;

(vii) the Owner agrees that all monies advanced by the County pursuant to the terms of this Agreement shall be used solely for the purposes of providing the Municipal Capital Facilities and for no other purpose whatsoever;

(viii) the Owner acknowledges and agrees that in the event that it fails or refuses to meet any of its obligations under this Agreement, such failure or refusal shall be deemed to be a substantial default pursuant to this Agreement and such default shall enable the County to realize on all or a part of the Lands in the same manner as if the County was enforcing its rights as a mortgagee under a mortgage registered against the Lands.

(ix) notwithstanding any other remedy available to the County pursuant to this Agreement or at law or in equity, in the event the Owner fails to make a payment or payments as required by this Paragraph 4 or fails to comply with Paragraph 17 herein, such failure shall be deemed to be a substantial default pursuant to this Agreement and such default shall entitle the County to add forthwith the outstanding amounts to the tax roll for the

Lands until such payment or payments are made and the Loan is in good standing, failing which the County may collect such outstanding amounts as, and in the same priority as, taxes. In addition to any other remedy which the County may have, whether or not expressly set out in this Agreement, the County may also require payment of any outstanding amounts to be secured through the Construction Agreement.

5. The County and the Owner agree that the Municipal Capital Facilities benefit other lands in the vicinity of the Lands. All benefiting lands, including the Lands, are shown on Schedule D to this Agreement. The parties acknowledge and agree that the Lands will receive thirty three percent (33%) of the total benefit of the Municipal Capital Facilities, on an acreage and developable/coverage basis, and that the other Benefiting Lands will receive the percentage benefit set out in Schedule C on this same basis.

6. The County has passed a by-law, pursuant to its powers under Part XII of the *Municipal Act, 2001*, imposing a capital charge against all Benefiting Lands shown on Schedule C to recover 100 percent (100%) of the costs of the Municipal Capital Facilities (which by-law comes into effect upon execution of this Agreement) as follows:
 - (i) thirty three percent (33%) from the Owner, which is fully satisfied by construction of the Municipal Capital Facilities and the full repayment of the Loan;

 - (ii) ■ percent (■%) from ■ ; and

 - (iii) ■ percent (■%) from ■

The by-law imposes a charge of \$■ per square foot of building space, payable upon issuance of a building permit, for all development within the Benefitting Lands. Save and except for the benefitting share of the Owner, which is deemed to be fully paid as set out in this Paragraph 6, the charge shall be collected by the County and remitted to the Owner as reimbursement for its costs of construction, on behalf of the County, of the Municipal Capital Facilities that are beyond its benefitting share of thirty three percent (33%).

- 7. The Owner hereby agrees that in any agreement of purchase and sale or agreement disposing of any interest in the Lands, it shall advise any prospective purchaser of the Lands or an interest in the Lands of the terms of this Agreement and the requirement of the County that any purchaser of the Lands or an interest in the Lands must enter into an assumption agreement with the County assuming all the rights and obligations of this Agreement as if such person had been the original signatory to the Agreement.

- 8. All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered or mailed by registered mail postage prepaid to the party entitled to receive the same as follows:

To the County
Attention:

To the Owner :

Attention:

9. The date of receipt of any such notice, demand or other communication shall be the date of delivery thereof; and, if mailed as aforesaid, three (3) business days following the postmark date; provided however, in the case of an interruption of postal services, all notices, demands and other communications shall be delivered. Any party may at any time and from time to time notify the other party in writing as to a change of address and the new address to which notice shall be given to it thereafter until further changed.
10. Nothing in this Agreement shall be construed as requiring the County to issue any building permits including foundation permits. Building permits shall only be issued in accordance with the *Building Code Act (Ontario)* and the subdivision agreement, site plan agreement or other development agreement for the Lands.
11. This Agreement constitutes the entire agreement between the parties with respect to its subject matter. This Agreement may only be amended in writing, and amendment acknowledged in writing by all parties, which expressly states the intention to amend this Agreement.
12. Should any provision of this Agreement be or become invalid, illegal, void or not enforceable, such provision shall be considered separate and severable from this Agreement and the remaining provisions shall remain in full force and effect and be binding upon the parties hereto as though such provisions had not been included. In the event that any such provision is considered to be material, in the sole opinion and discretion of the County, the parties shall in good faith negotiate an amendment to this Agreement that

maintains the intent of the severed provision.

13. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.
14. The County and the Owner covenant, represent and warrant to each other that they have the power, capacity and authority to enter into this Agreement and to perform the obligations hereunder and that there are no covenants, restrictions or commitments given by it which would prevent or inhibit it from entering into this Agreement.
15. The Owner hereby agree not to assign this Agreement without the express written consent of the County. Such consent may be refused by the County unless:
 - (a) the proposed assignee has executed an assumption agreement directly with the County, which assumption agreement shall be in form and content acceptable to the County and shall include, without limitation, the assignee's assumption of all obligations of the Landowners pursuant to this Agreement, and if applicable at the time of such assumption, to the Construction Agreement.
 - (b) the Owner is not in default under any of the terms of this Agreement.
16. The Owner consents to the registration of this Agreement on title to the Lands forthwith upon its execution by both parties, at its sole cost.
17. The Owner shall pay a legal and administration fee in the amount of \$ ■ to

the County upon execution of this Agreement, to reimburse the County for its costs of this Agreement and its administration.

18. This Agreement is binding upon and enures to the benefit of the parties, their heirs, successors and assigns.
19. This Agreement shall remain in force and effect until the date that is twenty years from the date its execution by the County and the Owner, after which the Agreement shall have expired and the parties shall have no further obligations to each under.

IN WITNESS WHEREOF the parties hereto accept the terms of this Agreement subject to the conditions, restrictions and covenants set forth therein and acceptance is confirmed by the authorized signature of the respective proper officers or officials as of the date first written above.

SIGNED, SEALED AND DELIVERED

THE CORPORATION OF HALDIMAND COUNTY

Ken Hewitt, Mayor

Evelyn Eichenbaum, Clerk

Authorized by By-law No. ■

[OWNER]

Name:

Title:

Name:

Title:

I/We have authority to bind the Corporation

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