



Committee Report

To: Councillor Steve Hammell, Chair and
Members of the Planning and Development Committee

From: Claire Dodds
Director of Planning and Development

Date: December 15, 2022

Re: Summary of Bill 23, the More Homes Built Faster Act, 2022 and
Additional Provincial Planning Consultation

Staff Recommendation:

That the Director of Planning circulate this report to Clerks/CAOs to share with local Councils;

and

That the Director of Planning and Development prepare comments in response to the Provincial Policy Statement, 2020 review.

Background:

The Government of Ontario introduced an omnibus package of legislative changes called the [More Homes Built Faster Act, 2022](#) on October 25, 2022.

This legislation was introduced by Minister Steve Clark, Minister of Municipal Affairs and Housing to address the housing supply shortage across the province. The provincial government has a goal of building 1.5 million homes over the next 10 years and addressing affordable housing for all income levels across Ontario.

The Act includes changes to several pieces of legislation and regulations related to land use planning, property taxes, Building Code, heritage, conservation authorities and development charges which is the financing framework that many municipalities across Ontario use to support growth.

The legislation makes significant changes to Ontario planning and development system to increase the supply of housing and reduce the costs of development.

This legislation builds on the legislative changes made through Bill 13 & Bill 109 and follows up on the report produced by the [Housing Affordability Task Force](#) released earlier in 2022.

Further legislative changes are anticipated including updates to regulations to implement changes introduced under Bill 23. The province has also opened consultation on a new Growth Plan and Provincial Policy Statement which closes at the end of December 2022.

The commenting period on many aspects of Bill 23 was initially established with a 30- or 31-day commenting period, ending November 24, 2022. On November 23, 2022, the provincial government extended the commenting timeline to December 9, 2022. The province then passed the legislation with third reading and royal assent on November 28, 2022.

As the commenting period was during the transition time between Council terms due to the October 2022 municipal elections, there was no opportunity for staff to bring comments on Bill 23 to County Council for endorsement before the legislations was passed.

Due to the timing of the introduction and commenting period, County Planning staff consulted with municipal staff, Saugeen Ojibway Nation Environmental Office, local Conservation Authorities and senior County staff on the impacts of Bill 23. County Planning staff summarized this consultation in staff comments submitted to the province on November 25, 2022, and subsequently through the associated Environmental Registry (ERO) postings.

The comments provided by County staff to the Province on Bill 23 are attached for information.

Through the Director of Planning and Development, input on Bill 23 was also provided through the Planning Task Force on the [Association of Municipalities of Ontario \(AMO\) submission letter](#), as well as through comments provided by the [Western Ontario Warden's Caucus](#).

County Planning staff are connecting regularly with municipal CAOs and Development staff to talk about the changes made by Bill 23 and their impacts. County and municipal staff are assessing next steps required to implement these changes and ensure operational capacity to inform local and County 2023 budget discussions.

Summary of Changes Implemented through Bill 23

The below section provides a high-level overview of the changes made under Bill 23:

[Note: Changes were made to the legislation between initial release on October 25, 2022 and approval on November 28, 2022. The below section includes changes in the approved version]

Affordable/Attainable Housing

- Permit 'as of right' three residential units in settlement areas on full-municipal water and sewage services. A building permit continues to be required for additional dwelling units, but no planning approval is required.
- Affordable housing defined as 80% of market rate for ownership or rental in the Development Charges Act.

- Attainable housing is not yet defined. A further regulation is required to define categories of development considered attainable housing.

Plan of Subdivision and Condominium

- Public meetings are no longer required for approval of draft plan of subdivision.
- The County is seeking further information as to whether the approval authority has the ability to ask for a public meeting to be held under certain circumstances (e.g. the application is disputed), and if that is required to be established through Official Plan policy or can be established by by-law or procedure.

Site Plan Control

- Site plan control is no longer able to be used to regulate residential developments with 10 or fewer units.
- Site plan control can be used for residential developments with 11 or more residential units, and for commercial/industrial and community facility projects in accordance with a local site plan control by-law.
- Exterior design (architectural features, materials and colour) is no longer permitted to be considered under site plan control.
- The appearance of any element, facility and works may only be considered if its appearance impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands under site plan control. There may be some opportunity to consider landscaping under these exemptions.

Limits to Appeals

- Third party (neighbour) appeals are eliminated for consents and minor variances. Applicants, public bodies and specified persons (i.e. utility and transportation companies) may still appeal consents and minor variances.
- Appeals are still permitted for Official Plans and Zoning By-laws. Appeals for plans of subdivisions and condominiums were removed by previous changes to the Planning Act.

Scope of Conservation Authorities

- Conservation Authorities scope will be limited to comment only on development issues outside core mandate of flood protection and natural hazards.
- Conservation Authorities will no longer have a mandate to review natural heritage issues on Planning applications.
- Subject to regulations, the Conservation Authority may no longer require a permit where development has been approved under the Planning Act. It is anticipated this may only be implemented in certain jurisdictions.
- The Minister has the authority to freeze Conservation Authority fees.
- The legislative changes to the Conservation Authority Act take effect on January 1, 2023, however, the change to the authority of Conservation Authorities on commenting on natural heritage features requires a further regulation to be passed. The timing of this further regulation is unknown at the time of writing this report.

- The County and Municipalities will need to prepare to be able to deliver natural heritage review services to ensure development applications continue to move forward with appropriate review.
- County staff will consult municipal staff to determine preferred service delivery models and bring back recommendations to County Council in 2023.

Heritage

- Municipalities are not permitted to issue a notice of intention to designate a property under the Heritage Act unless a property is already listed on the heritage register within 90 day of the initiation of an official plan amendment, zoning amendment or plan of subdivision.
- Heritage registers are to be reviewed and a decision made whether listed properties are to be designated. Listed properties may only be on the heritage register for 2 years. If not designated within that time, they are to be removed from the register. Removal from the register does not require consultation with the heritage committee. This section of the Heritage Act does include transition provisions for properties listed before and after Bill 23 was passed.
- A property that has been removed from the register cannot be put back on for a period of 5 years.
- A process is established which would allow Heritage Conservation District plans to be amended or repealed
- Additional criteria required to list and designate individual properties and establish Heritage Conservation Districts are proposed to be included in a future regulation.

Development Charges

- Affordable and attainable housing are exempt from development charges.
- Development charge exemptions for attainable housing requires a future regulation [not in effect yet]
- Purpose built rental units will be given a discount on Development Charges (15-25% based on number of bedrooms).
- Development Charges passed as of January 1, 2022 are subject to a mandatory 5-year phase in period (20% reduction in year 1; then decreasing by 5% each year until full new DC rate applied in year 5).
- A new development charge by-law will be in effect for 10 years.
- Historic service levels for DC eligible capital costs (except transit) extended from 10 to 15 years.
- Housing is no longer an eligible DC service.
- DC background studies are no longer an eligible expense.
- Authority is established that a future regulation could be passed to set services for which land costs would not be an eligible capital cost recoverable through DCs
- Cap on interest paid on phased in DCs for projects (rental & not-for-profit) is prime + 1%.
- Municipalities will be required to spend or allocated at least 60% of the revenue received from parkland on an annual basis.

Parkland

- Under section 51.1 of the Act - parkland dedication rates remain 5% of the land area of a plan of subdivision/consent for residential development and 2% for industrial/commercial

development. Cash-in-lieu of parkland can still be collected under Section 51.1 at the same rates.

- A discount on the amount of land to be transferred (or cash-in-lieu of parkland payment) must be provided for the portion of the development that is considered affordable or attainable.
- Non-profit housing is exempted from providing parkland or paying cash-in-lieu).
- Parkland conditions attached to developments approved before the passing of Bill 23 remain in effect.
- Under a Parkland By-law (Section 42), parkland (cash or land) is to be collected at the time building permit is issued. Parkland can be offered to the municipality prior to the issuance of a building permit and an agreement can be entered into with the municipality.
- A parks plan will be required to be developed in order to pass a parkland dedication by-law under section 42 of the Planning Act.
- A process has been established for an owner/developer to identify lands to be provided to the municipality as parkland. If the municipality refuses to accept land offered, the owner/developer can appeal the municipal decision to the Ontario Land Tribunal.
- A further regulation outlining the prescribed criteria of what qualifies as parkland is anticipated to inform municipalities and the Ontario Land Tribunal.
- Municipalities will be required to spend or allocated at least 60% of the revenue received from parkland on an annual basis.

Ontario Land Tribunal

- The changes to the Ontario Land Tribunal Act are not yet in force. Timing is to be determined
 - Tribunal will have increased powers to order costs against a party at a hearing
 - Tribunal is given increased power to dismiss appeals for undue delay
 - Attorney General will have power to make regulations to set service standards

While the following changes do not impact Bruce County directly, they may be of interest to Committee:

Housing Targets

- 29 of the largest municipalities in Ontario have been assigned housing targets adding up to 80% of 1.5 million new homes. Only four municipalities, Ottawa, Kingston, London and Windsor, with housing targets are located outside of the Greater Golden Horseshoe.

Inclusionary Zoning

- Continues to be limited to Major Transit Station Areas in the Greater Golden Horseshoe
- Establishes an upper limit of 5% of the total number of units in a development that must be affordable for a maximum period of 25 years.

Upper Tier - No Planning Authority

- Through Bill 23, the province eliminated the planning authority of seven upper-tier/regional municipalities (Regions of Waterloo, Niagara, Halton, Peel, York, Durham, and the County of Simcoe).

- Upper-tier functions have been delegated to lower-tier municipalities. The Minister of Municipal Affairs is now the approval authority for local Official Plans.
- The implementation of this authority takes passing of further regulation.

Further Consultation:

The province has announced consultations on a review of the Provincial Policy Statement (PPS, 2020), as well as the Places to Grow Act. Comments are due on December 30, 2022.

With the changes brought about through Bill 23, and consideration of the implementation of prior legislative changes made in 2022 (Bill 109), staff have not been able to compile comments to inform the review of the PPS for County Council review.

Staff intend on providing comments to the province on PPS, 2020 focused on:

- the protection of prime agricultural land for food production and value added-agricultural production
- support municipalities to require a certain percentage of development be affordable/extend inclusionary zoning province wide
- concerns that the regional market area methodology required by the province to address growth management in upper-tier official plans limits the ability of local municipalities to grow responsibly to meet local needs for housing
- the need for some flexibility to expand rural settlement areas
- consideration of additional provincial support for First Nations communities to continue to strengthen relationships to consult on planning matters that may impact treaty rights

Staff seek County Council's support for Director of Planning & Development, in consultation with County staff, municipal staff, Conservation Authority and Saugeen Ojibway First Nation Environmental Office staff, to prepare and submit comments to the province on the PPS, 2020 review by the December 30, 2022 deadline.

Financial/Staffing/Legal/IT Considerations:

For those municipalities with development charges, there is significant financial implications in relation to loss of revenue through reduced development charges. There is much uncertainty about the extent of financial impact, as categories of development that would be exempt from paying development charges, such as attainable housing, have yet to be defined. Further regulation is required to define attainable housing. Affordable housing is defined as 80% of market rate for ownership or rental.

Proposed changes to the Development Charges Act would see that development charges would not be collected on additional residential units, affordable projects, not-for-profit housing, and a reduction in development charges for rental housing.

AMO estimated over the next 10 years, the potential impact across Ontario is a loss of \$5.1 billion dollars of revenue that municipalities pay to provide infrastructure, community facilities and amenities that facilitate growth and provide quality of life for residents.

The most significant financial impacts of Bill 23 will be felt in municipalities that currently have development charges. Bill 23 makes a fundamental shift from the long-held principal

that growth should pay for growth. In the absence of alternate funding from the provincial or federal government, the financial burden for the changes introduced through Bill 23 will shift to the existing tax base. Organizations such as AMO and the Municipal Financial Officers Association expressed concerns that existing homes may become more costly where municipalities may be forced to raise revenue through taxes to make up financial shortfalls.

Other changes proposed with the legislation would impact fees and services that are currently delivered by Conservation Authorities in Bruce County. The County, in partnership with local municipalities, will need to consider other staffing/resourcing options to complete natural heritage review on development applications and planning policy documents. Options for considering how best to deliver natural heritage services will come forward to County Council in 2023 as part of budget discussions and once further information is available on timing of the changes in scope for conservation authorities is known.

Interdepartmental Consultation:

The Planning and Development Department consulted with Corporate Services, Transportation and Environment Services, and Human Services to assess the impact of the changes on Bill 23.

Consultation with local Conservation Authorities, Municipal staff and the Saugeen Ojibway First Nation Environment Office has been on-going since the introduction of Bill 23.

Link to Strategic Goals and Elements:

- Goal # 1 Develop and implement tactics for improved communications
 - B. One county - with a unified voice

- Goal # 6 Explore alternate options to improve efficiency, service
 - D. Coordinate working with other agencies
 - E. Eliminate duplication of services

- Goal # 9 Coordinated, concerted effort to advance our agenda
 - B. Politicians and staff lobby associations and government in support of local policy needs.
 - C. Make political and staff participation in provincial and federal committees a priority

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Approved for Submission:

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