



Staff Report to Council - for Direction

Title: Spring 2024 Planning Legislation and proposed Provincial Policy Statement

From: Jack Van Dorp, Director of Planning and Development

Date: May 2, 2024

Staff Recommendation:

That staff submit the attached comments as presented in the draft letters dated May 2, 2024, to the province through the Environmental Registry of Ontario.

Report Summary:

On April 10th the provincial government tabled Bill 185, the *Cutting Red Tape to Build More Homes Act* and initiated consultation on a proposed Provincial Planning Policy Instrument and other planning matters as outlined in the table below. This report discusses changes relevant the County and its local Municipalities. Staff prepared the attached draft comments on the Planning Act, PPS, Development Charges, and Additional Residential Units postings.

Posting	Subject Matter	Due by
019-8369	Proposed Planning Act, City of Toronto Act, 2006, and Municipal Act, 2001 Changes (Schedules 4, 9, and 12 of Bill 185)	May 10
019-8371	Changes to the Development Charges Act, 1997 to Enhance Municipalities' Ability to Invest in Housing-Enabling Infrastructure	May 10
019-8642	New Provincial Planning Policy Instrument (PPS)	May 12
019-8366	Discussion: Removing Barriers for Additional Residential Units	May 10
019-8370	Planning Act and Development Charges Act, 1997: Newspaper Notice Requirements and Consequential Housekeeping Changes	May 10
019-8368	Proposed Amendments to Ontario Regulation 73/23: Municipal Planning Data Reporting	May 10

Background:

This report addresses the most recent changes that are being proposed by the provincial government that relate to Land Use Planning and could be of interest to Bruce County and local Municipalities. Other schedules of Bill 185 are beyond the scope of this report.

ERO POSTING 019-8369 PLANNING AND MUNICIPAL ACT CHANGES - BILL 185

Staff has prepared draft comments on this posting, which are attached.

This bill sets out to make some direct changes to the Planning system through the Planning Act and to set the stage for further changes through regulations.

Proposed Changes to the Planning System through the Planning Act:

- **Limit third-party appeals of official plans or by-laws, or of amendments to them - unless a merits hearing was scheduled before April 10, 2024.**

This change was proposed as part of Bill 23 and did not move forward at that time.

Third party appeals have previously been limited for land division applications (severances & plans of subdivision/condominiums), additional residential unit policies, and various other policies to support provincial priorities.

The result would be that the Ontario Land Tribunal would be focused primarily on disputes between Municipalities, First Nations, Agencies, and Utilities.

The posting notes that this can reduce project delays by up to 18 months.

Staff note that further constraints to appeals could increase pressure on councils, agencies, and First Nations, and lead concerned members of the public to pursue other avenues such as judicial review, with unknown costs, timeframes, and results.

- **Allows appeal of refusal / failure to adopt boundary expansion (except related to greenbelt lands)**

The province instituted no appeal rights for refusal/failure to adopt boundary expansions in 2006, in an effort to provide municipalities the opportunity to focus on planning for growth within their settlement areas, and to determine where best to grow and direct services etc.

This change, together with the proposed Provincial Planning Statement, would enable private parties to request a boundary expansion at any time, subject to criteria, and appeal to the Tribunal if the Council does not approve the request.

- **Mandatory refunds eliminated for Zoning Bylaw Amendments and Site Plan Control applications that exceed provincial timelines - refunds would be required up to the date the change comes into force; for applications not yet decided the in-force date is considered to be the decision date.**

Mandatory refunds were enacted through Bill 23 and intended to come into effect for applications received as of January 1, 2023, however this was delayed until July 1, 2023 and are now proposed to be eliminated.

Mandatory refunds did not necessarily have the desired effect because they targeted a specific stage of the development review process, and led to municipalities focusing their efforts with proponents on ensuring high-quality submissions that could be processed quickly through more rigorous and mandatory pre-submission consultation.

Staff would suggest revising the in-effect date to April 10, 2024 - the date the legislation was tabled.

- **Removes ability to require pre-submission consultation**

As part of the provinces' application processing review, this change would make pre-submission consultation discretionary. If enacted, staff may recommend minor adjustments to align application resubmission fees with pre-submission consultation fees.

- **Applicant can appeal complete application requirements at any time (currently, only within 30 days of reporting app as incomplete)**

This change provides more flexibility for applicants to ask the tribunal to determine whether the information being required as part of a complete application is appropriate, or whether the materials submitted have met the requirement. Staff cannot recall such an appeal being filed in Bruce County in at least the past decade. Efforts to provide clear policy direction for submission requirements in the new Official Plan and maintaining current study guidelines and terms of reference will help municipalities and proponents move applications through the process without engaging the tribunal on these matters.

- **Site Plan Approvals can include a 3-year lapse date (provided a building permit is not issued); lapse dates can be applied to previously approved site plan approvals, with notice to the owner. The Province may regulate how this applies.**
- **Draft plan of subdivision approvals must include a lapse date of at least 3 years (unless otherwise established by provincial regulations; draft approvals from before March 27, 1995 would lapse 3 years after the legislation comes into force unless / until outstanding appeals are addressed)**

This is part of the provincial government's effort to give municipalities 'use it or lose it' tools in response to concerns that inventories of "paper approvals" are not being developed. The concept is intended to spur development by increasing the risk of losing long-standing approvals where a developer has not moved forward with building.

In respect of subdivisions, the County already applies a 3-year lapsing date to draft plan of subdivision approvals, and the Official Plan provides for extensions to be granted.

The province also recently enacted provisions to allow subdivisions that have lapsed within the past 5 years to be deemed not to have lapsed, under certain conditions.

There are very few draft approved (unregistered) subdivisions from before 1995. The proposed legislation would not permit these draft approvals to be extended or deemed not to have lapsed. The only mechanism for extension would be for an appeal to be filed.

There may be merit to providing approval authorities the sole discretion to extend these 'legacy' draft approvals, in the event that they have reason to do so, or to consider how to limit the time and cost associated with addressing appeals to these legacy subdivisions that may be filed to prevent their lapsing.

- **Removal of Section 34.1 provisions for Minister's Zoning Order at the request of a municipality**

This section was added to the Planning Act and described as the 'Community Infrastructure and Housing Accelerator' (CIHA) tool and was paired with an implementation guide. The province is proposing to delete this section and has recently [published a new framework](#) for requesting Ministers Zoning Orders (under Section 47 of the Planning Act), which is intended to provide for greater transparency.

Potential Planning System changes through future regulations:

Bill 185 creates opportunities for regulations that could be implemented in the future which would impact the planning system or process. We would anticipate the regulation development process to include consultation periods using the Environmental Registry of Ontario.

- **Broader powers for regulations to function as zoning provisions for multifamily development.**

This could provide regulatory relief for provisions like setbacks, height, and/or lot coverage, and could be used to facilitate (or eliminate the need for) planning act approvals for standardized building designs. The ERO posting notes that this is intended to apply to specified lands of a minimum lot size such as fully serviced urban lands outside the greenbelt area.

- **Restricting, limiting, or removing Planning Act requirements for school boards, long term care homes, hospitals**

Where applications are required, staff generally appreciate the significance of these facilities and ensure timely review with due consideration of the planning interests and potential for offsite impacts that should be addressed through the planning process.

- **Regulations may limit application of Community Planning Permit Systems (CPPS) to single / semi / townhouse dwellings, including those with Additional Residential Units on ‘urban residential land’ or within ancillary structures.**

There are currently no Community Planning Permit Systems in effect in Bruce County. CPPS require significant effort to establish but have been under discussion in terms of their potential to streamline the approval process while increasing alignment of development with planning objectives. The potential for regulatory change may impact interest in the advancement of CPPS as a tool.

- **No minimum parking requirements in major transit station areas, planned higher order transit, *other areas prescribed* (could be future regulations) - contrary policies are of no effect / deemed amended to conform.**

Mandatory versus market-based parking requirements are increasingly seen as adding significant costs to development and impacting community form. This change would eliminate parking requirements in circumstances where major transit infrastructure is planned or available (not currently applicable in Bruce County). Future regulations could outline other overrides for parking requirements in zoning by-laws.

Proposed Changes to the Municipal Act

- **Water and Sewer Capacity Allocation By-laws**

This change replaces regulation-making authority in the Planning Act with new Municipal authority under the Municipal Act.

Municipalities may adopt by-laws for allocation of water and sewage capacity, including:

- Tracking available capacity;
- Criteria for:
 - Circumstances when water / sewage capacity is assigned to approved development
 - Circumstances when allocation of capacity is withdrawn
 - Circumstances when approved development, with withdrawn capacity, may be reallocated capacity.

The by-law may apply to all or part of a municipality and requires assignment of an administrator who makes final decisions. The province could use regulations to exempt specific developments or classes of development from part or all of this type of by-law.

- **Authority to Grant Assistance**

This change would grant the Lieutenant Governor in Council the authority to make regulations that allow a municipality to grant direct or indirect assistance to a specified manufacturing business or other industrial or commercial enterprise during a specified period, and governing the granting of the assistance, including:

- setting out the types of assistance that may be granted;

- imposing restrictions, limits or conditions on the granting of the assistance, including providing that specified assistance may only be granted with respect to specified areas within the municipality; and
- specifying conditions that must be met before the assistance may be granted.
- This authority would be available when ‘it is necessary or desirable in the public interest to attract investment in Ontario’.

Procedural requirements for granting levy/charge/fee relief under the Building Code or Development Charges Act would not apply in these cases.

There is some concern that this could kick off competition between municipalities to offer greater incentives to land a business; alternately, it could be seen as an effort to stack or align incentives in specific locations in very specific circumstances.

ERO POSTING 019-8371 CHANGES TO THE DEVELOPMENT CHARGES ACT

Staff has prepared a brief draft comment on this posting, which is attached.

These changes would reverse a number of changes that the province made to the Development Charges (DC) Act in 2019 and 2022. In response to municipal concerns about being ‘made whole’ after provincial legislation impacted how they can pay for growth-related infrastructure, the province suggested tracking growth-related costs that were unfunded due to the legislative changes. Legislative changes now proposed would:

- **Repeal the mandatory five-year phase-in of DCs;**

Bruce County adopted development charges with a longer phase-in period than required by the (current) DC Act, with more of the costs of growth unfunded by DC charges than required by the legislation.

This change could affect the tracking of the unfunded cost to Municipalities of the 2022 DC Act changes by making all, rather than part, of the phase-in costs a County decision.

- **Reinstate studies as an eligible capital cost for DCs;**

The 2021 DC background study identified study costs of approximately \$1,345,000 of which \$851,900 would be DC recoverable. Due to the change in the DC Act, study costs were not included in the DC background study or by-law passed by the County in 2023.

- **Opportunity to amend by-law to address phase-in and studies changes:**

The proposed legislation exempts municipalities from the by-law preparation process and from appeals provisions of the DC Act if they are updating a DC by-law within 6 months of this part of Bill 185 coming into effect to remove phase-in periods and/or to include studies as an eligible cost as permitted by Bill 185.

- **Reduce the timeframe for the DC rate freeze from two years to 18 months from a planning approval;**

Currently Development charges are ‘locked’ at the rate applicable when zoning or site plan control application is made, for 2 years from the time that approval is given. Reducing this ‘locked in’ period from 2 years to 18 months is intended to encourage developers to proceed

to construction more quickly, lest they be subject to higher DC rates (whether due to phasing or inflation indexing). Section 3.17 of the County's DC By-law references 2 years per the current act. The province does not appear to have included a similar ability to amend by-laws to reflect this change.

- **Streamline the process for municipalities to extend existing DC by-laws.**

Currently DC by-laws require an update and replacement every 10 years; this change would provide that if they are working well and rates remain appropriate, municipalities can undergo a streamlined process to extend the by-law; if a municipality wants to update the rates at the end of the 10-year period then it would be subject to the regular DC by-law process.

Bill 185 would not reverse the provincial decision in 2022 to prevent municipalities from resourcing housing through development charges. The 2021 DC Study indicated at that time, that the County would have been eligible to offset approximately 47% of the loan payments on its next Housing Build through Development Charges - the estimated budget impact was approximately \$6 million dollars, albeit reduced by the County's phase-in.

ERO POSTING 019-8642 NEW PROVINCIAL PLANNING POLICY INSTRUMENT (PPS)

Staff has prepared draft comments on this posting, which are attached.

Section 2 of the Planning Act provides the province the authority to issue policy statements and requires planning decisions to be consistent with Policy Statements that are in effect. The province can also prepare and implement plans and require planning decisions to be consistent with these plans.

The Provincial Policy Statement (2020) is currently in effect. In April 2023 the province initiated consultation on a proposed "Provincial Planning Statement" that would consolidate the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe into a single document with application provincewide. Portions of Northern Bruce County would continue to be subject to the Niagara Escarpment Plan.

The province has not yet determined how the new planning statement would come into effect. The province is considering releasing a final version with a transition period to a specified in-effect date for decisions, with an expectation that municipalities would update Official Plans to conform to the statement following their regular review cycle.

The draft provincial planning statement posted for comments by the province in April 2024 is largely similar to the 2023 proposal, on which Bruce County provided comments (overall, and related to natural heritage policies which provided separately).

Key highlights:

- **Maintains current prohibition on residential consents in Prime Agricultural areas, other than surplus farm dwelling severances - however long-term severance potential for additional residential units is unclear**

The proposal directs that 2 additional units be permitted, and that one residence may be severed 'per consolidation' - without defining consolidation or addressing additional units within a primary dwelling.

- **Requires (vs current 'encourages') use of agricultural systems approach**

This aligns with the approach being taken to prepare the new County Official Plan

- **Requires use of provincial Ministry of Finance (MOF) population projections as the basis of population and employment growth forecasts**

MOF forecasts have historically been lower than growth for Rural Ontario, however recent forecasts have seen significant increases in projected growth. We will still need to address household size to derive unit counts, consider urban / rural allocations, and demand for seasonally-occupied units.

- **Time horizon changes from at least 25 years to at least 20 years and not more than 30 years (infrastructure, public service facilities, strategic growth areas and employment areas may have a longer horizon)**

With this change the forecasts to 2046 included in the Growth Management Amendment would meet the time horizon for a new official plan.

- **Employment areas are more narrowly focused on making things, warehousing, and ancillary retail functions**

This change would result in a need to review local Official Plan designations and policies to protect employment areas and address transitions to more sensitive uses

- **Maintains requirement for affordable housing targets, and adds requirement for coordination of housing with Housing Service Managers**

The requirements for targets are useful but capacity for implementation is constrained by the lack of tools under the Planning Act for rural Ontario to direct provision of affordable housing through the planning process.

County-level planning service delivery and the establishment of the Community Development Office and cross-functional teams around housing have enhanced our capacity to coordinate the efforts of Planning and Housing Service Manager functions.

- **Residential intensification and redevelopment continues to be required to facilitate complete communities, albeit with less emphasis on intensification as an alternative to boundary expansion**

Intensification and redevelopment provide some of the best opportunities to grow populations and assessment base without major infrastructure expansion, supporting long-term sustainability of our communities. With this change, Official Plan policies that outline how to evaluate demand for boundary expansions may be of greater benefit.

- **Removal of comprehensive review and regional market area requirements for boundary expansion**

This change addresses a major concern in rural communities that have settlement areas of varying sizes. The potential trade-off however is that municipalities may encounter more frequent requests for expansions from landowners /developers that impact ability to focus efforts on facilitating growth within settlement areas.

- **In rural areas, settlement areas are the focus of growth and specific reference for multi-lot creation in rural areas (proposed in 2023) is removed**

This change helps to avoid low-density rural development and the introduction of land use conflicts throughout the countryside.

- **Intent for more flexibility for servicing development in rural settlement areas, but more clarity needed**

This change relates to provision of partial services (water or sewer) and use of individual onsite services but could be read to build-out of partially serviced communities (beyond infilling/rounding out) to either full services or individual onsite services, and provides for partial services in rural settlement areas (such as hamlets).

- **Upper tier responsibility shifts from setting targets for intensification and redevelopment before boundary expansions to setting density targets for new/expanded settlement areas**

This change affords greater flexibility to local municipalities but may lead to density being focused in expanded areas, typically at the periphery of a community, rather than throughout the community or close to established services and commercial areas

- **Less emphasis on post-extraction rehabilitation to agricultural use for pits/quarries in prime ag areas**

This change is intended to facilitate greater access to mineral aggregate resources

- **Removes encouragement for transportation policy that minimizes trip frequency and distance**

This change may limit emphasis on planning for efficient communities and transportation systems.

- **Planning authorities required to identify hazard lands in collaboration with conservation authorities.**

Current PPS hazards policies speak to a ‘why’ - that long-term prosperity, environmental health, and social well-being depend on reducing public cost or risk from natural or human-made hazards, and speak to the need for the province, planning authorities, and conservation authorities to work together - without identifying a specific responsibility for identifying hazards. The proposed PPS removes the ‘why’ statement and directs that planning authorities are responsible for identifying hazards, in collaboration with conservation authorities where they exist.

While defining authority is beneficial, it creates some potential for conflicts given the province establishes the technical guide for hazards and establishes the hazard land regulation, and conservation authorities (where they exist) are ultimately responsible for issuing permits for development in regulated areas which would include hazard lands.

ERO POSTING 019-8366 REMOVING BARRIERS FOR ADDITIONAL RESIDENTIAL UNITS (ARU)

Staff has prepared draft comments on this posting, which are attached.

Bill 185 includes new regulation-making authority to remove barriers to ARUs. Through this posting the province is asking:

1. Are there specific zoning by-law barriers standards or requirements that frustrate the development of ARUs (e.g., maximum building height, minimum lot size, side and rear lot setbacks, lot coverage, maximum number of bedrooms permitted per lot, and angular plane requirements, etc.)?
2. Are there any other changes that would help support development of ARUs?

Staff has been working with local municipal staff to update zoning by-laws to provide greater flexibility for development of ARUs. Areas of opportunity include careful consideration of Building Code requirements, such as setbacks and protected openings to manage fire risk, clearer direction regarding intensification and groundwater quality considerations when ADU are proposed in areas with onsite water/wastewater infrastructure, and considerations for conversion of existing buildings/structures.

ARUs are seen as a significant opportunity for gentle intensification, however broad implementation may constrain municipal infrastructure capacity, however DCs cannot be collected on ADUs to support infrastructure upgrades. Funding to support upgrades to existing infrastructure would further unlock potential for ARUs.

An alternative to province-wide regulations related to Additional Residential Units could be a set of model zoning by-law provisions that could be available to municipalities as a baseline, with an opportunity to amend to align with local context. Bruce County would be happy to contribute to a provincial effort to establish a model by-law.

ERO POSTING 019-8370 PLANNING ACT AND DEVELOPMENT CHARGES ACT, 1997: NEWSPAPER NOTICE REQUIREMENTS AND CONSEQUENTIAL HOUSEKEEPING CHANGES

Staff has not proposed comments for submission on this ERO posting.

This proposal is changes that would be implemented through regulations, and would:

- **allow use of municipal website for posting notice of public meetings “where a newspaper is not available”**

This change reflects the changing media landscape.

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- **Change the text of the statements that are required to be included in notices issued related to planning act applications if appeal rights are narrowed.**

This change is intended to avoid confusion amongst members of the public with respect to appeal rights.

- **Appears to restore a regulatory deadline of 60 days for approval authority to consider information presented to Ontario Land Tribunal that was not provided to the approval authority before it made its decision (if the information may have changed the approval authority’s decision)**

This provision is intended to maintain, where possible, the ability for councils to decide matters based on complete information, while maintaining timely decision-making. A similar provision was in place from 2006-2018 when it was narrowed to only apply to subdivisions.

ERO POSTING 019-8368 PROPOSED AMENDMENTS TO ONTARIO REGULATION 73/23: MUNICIPAL PLANNING DATA REPORTING

Staff has not proposed comments for submission on this ERO posting.

The province proposes to expand the list of municipalities that are required to provide quarterly planning data reports to the province from 29 to 50 municipalities which have provincially-established housing targets. There are no municipalities within Bruce County on the list.

Staff are monitoring data reporting requirements as we develop growth management tools.

Financial/Staffing/Legal/IT Considerations:

Review of proposed system changes requires county and local staff resources that cannot be directed towards other priorities including the Official Plan and application processing. Adaptation is also required after changes are implemented.

Removal of mandatory refund provisions will help to ensure that the department has the resources required to process planning applications.

Changes to appeal pre-submission consultation and appeal rights may impact revenues and may lead concerned persons to pursue other avenues to prevent development from moving forward.

Interdepartmental Consultation:

Government Relations re: Proposed Comments

Corporate Services re: Changes to Development Charges Act.

Link to Strategic Goals and Objectives:

Community and Partnerships - Enhance and grow partnerships

Objective - Live our mission, vision, and values more with partners and the public

Action - Advocate for Bruce County perspective on provincial legislative changes.

Link to Departmental Plan Goals and Objectives, if any:

Completion by the province of a new Provincial Planning Statement will support the completion of the new Bruce County Official Plan.

Departmental Approval:

Jack Van Dorp

Approved for Submission:

Claire Dodds, Commissioner Community Development