

REPORT

Planning and Development Council

Meeting Date: December 5, 2022

FROM: Planning Services Department

DATE: November 29, 2022

SUBJECT: Bill 23, More Homes Built Faster Act, 2022 – December 5, 2022

LOCATION: Town-wide

WARD: Town-wide Page 1

RECOMMENDATION

1. That the report titled “Bill 23, *More Homes Built Faster Act, 2022 – December 5, 2022*” dated November 29, 2022, be received.
2. That the staff comments included in the report titled “Bill 23, *More Homes Built Faster Act, 2022 – December 5, 2022*” dated November 29, 2022, be submitted to the Environmental Registry of Ontario to inform future regulations associated with Bill 23.
3. That the report titled ““Bill 23, *More Homes Built Faster Act, 2022 – December 5, 2022*” dated November 29, 2022, be forwarded by the Town Clerk to the Minister of Municipal Affairs and Housing, Ministry of Citizenship and Multiculturalism, Ministry of Natural Resources and Forestry, Ministry of the Attorney General, Halton Area MPPs, Halton Region, the City of Burlington, the Town of Halton Hills, the Town of Milton, Conservation Halton and Credit Valley Conservation.

KEY FACTS

The following are key points for consideration with respect to this report:

- On October 25, 2022, the province introduced the latest housing initiative *More Homes Built Faster: Ontario’s Housing Supply Action Plan 2022-2023*
- The Action Plan supports the province’s commitment to build 1.5 million new homes over the next 10 years to address Ontario’s housing crisis.

- Central to the Action Plan is Bill 23, the *More Homes Built Faster Act, 2022*. This is an omnibus bill affecting several planning and development statutes, including the *Planning Act*, *Development Charges Act*, *Conservation Authorities Act*, *Ontario Land Tribunal Act* and the *Ontario Heritage Act*.
- In conjunction with Bill 23, the province announced a number of updates to regulations and consultations on various provincial plans and policies including the 2020 Provincial Policy Statement and the 2019 Growth Plan.
- On November 4, 2022, the province proposed policy changes to the Greenbelt Plan that would remove certain areas of land in exchange for the addition of other areas of land including the Paris Galt Moraine.
- Town staff is aligned with the province's objectives to increase housing supply, to reduce duplication in development review and to streamline development approvals.
- Town staff is providing comments to the province on the proposed changes to the legislation through the Environmental Registry of Ontario and the Ontario Regulatory Registry while the commenting periods are open.
- The scope of the proposed legislative changes is broad and the potential implications to the town are extensive. There are a number of questions raised about the continued role of the regional governments and conservation authorities in land use planning and the delegation of planning responsibilities and decision making to local municipalities.
- An initial review of the potential implications to municipal finance and revenue relating to classes of development being exempt from development charges, community benefit charges and parkland dedication raises questions about the longer term impacts on the town's capital forecast and the ability to deliver infrastructure in a timely manner.
- Based on the 2022-2031 DC Study, the proposed legislative changes will result in a total decrease in revenue in the range of 12% to 37% (\$79M to \$237M) depending on final details to come.
- A High-level estimate of the impact within the Strategic Growth Areas projects that the town could lose between 60 and 70 percent (\$65-\$75 million) of the total \$109 million required for parkland.

- The province's proposals potentially affecting the conservation of cultural heritage, natural heritage and directing growth to established areas in the town raise questions about the impacts to the town's urban structure.

On November 28, 2022 Bill 23 was given Royal Assent. Staff will continue to analyse and report back to Council as information is provided.

BACKGROUND

On October 25, 2022, the province introduced the latest housing initiative *More Homes Built Faster: Ontario's Housing Supply Action Plan 2022-2023* in support of the province's commitment to build 1.5 million new homes over the next 10 years in order to address the housing crisis in Ontario.

[Bill 23, the *More Homes Built Faster Act, 2022*](#) (Bill 23) is a key component of the province's Action Plan and proposes amending various statutes including the *Planning Act*, *Development Charges Act*, *Conservation Authorities Act*, *Ontario Land Tribunal Act*, and the *Ontario Heritage Act*. Bill 23 also presents various bulletins proposes to revoke various regulations.

Staff have provided comments to the province, within the commenting windows, generally on the following:

- The province address how municipalities will be "made whole" pending the reduction in Development Charge, Parkland dedication CIL and tax levy revenue.
- Remove the land value caps placed on parkland dedication rates.
- Allow municipalities the ability to determine parkland locations to ensure the delivery of complete communities.
- Allow municipalities to determine an appropriate value for crediting POPS towards parkland dedication requirements.
- Restore the provisions to review exterior design, sustainable design and landscape details through site plan control to ensure delivery of safe, healthy and liveable communities.
- Grant municipalities more time to identify properties of cultural heritage significance and subsequent designation under the *Ontario Heritage Act*.
- Restore the ability for conservation authorities to participate in the development review process to ensure development meets PPS requirements (i.e. protection of the natural environment and limit development within provincially-significant wetlands and natural hazards).
- Ensure the existing Ontario Wetland Evaluation System is maintained such that a systems-based approach, as is established in North Oakville, can continue to assist the town in working towards its climate change objectives.

COMMENTS

The Town of Oakville is aligned with the province's goal of building 1.5 million homes. The town also supports the purpose and intent of sustaining the province's land use planning framework exemplified in the *Planning Act* and the 2019 Growth Plan, including the:

- protection of ecological systems, including natural areas, features and functions;
- conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- integrated planning, adequate provision and efficient use of communication, transportation, sewage and water services, waste management systems and public service facilities;
- orderly development, protection and achievement of safe, healthy & complete communities;
- adequate provision of a full range and mix of housing, including affordable housing with the prioritization of intensification in strategic growth areas;
- protection of the financial and economic well-being of the province and its municipalities;
- promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians; and
- integration of climate change considerations into land use planning and growth management.

Land use planning for growth and development that supports economic prosperity, protects the environment and helps communities achieve a high quality of life remains a key goal for the Town of Oakville and the Province of Ontario.

An overview of the proposed legislation is provided in Appendix 'A'.

While the proposed legislation is well-intended to deliver housing quickly in the province, there remain areas of concern relating to:

- downloading of regional planning matters to the town,
- responsibilities being transferred from conservation authorities to the town,

-
- identifying what properties on the town's heritage register need to immediately move towards designation and the potential loss of irreplaceable cultural heritage resources,
 - there will be a funding shortfall with the loss of revenue for matters otherwise covered by development charges,
 - ensuring review of stormwater and canopy coverage matters as part of residential development with less than 10 units,
 - ensuring the adequate provision of land for parks and public recreation purposes,
 - how to ensure quality development and the built environment otherwise addressed through site plan control, and
 - overall staffing implications as a result of additional responsibilities where the town currently does not have expertise (i.e. in ecology, biology, hazard land administration).

Infrastructure Implications

Oakville does not deliver new housing alone. It is a partnership among several public agencies, provincial ministries, the development industry and other stakeholders. This co-ordination ensures there is sufficient direction, oversight and funding to deliver infrastructure.

To meet the province's stated goal of 1.5 million homes across Ontario, all of these parties need to work towards the common goal, and share responsibility. As currently outlined in the proposed legislation, the municipalities will bear the brunt of the burden which will not assist in addressing the housing challenge.

The initial review of the proposed legislation undertaken by town staff has led to the consideration that there may be unintended consequences that will actually slow or restrict the delivery of a co-ordinated housing program for Oakville and Halton Region. There are a number of questions raised about the continued role of the regions and conservation authorities in land use planning and the delegation of planning responsibilities and decision making to local municipalities. The province's proposed changes may have the potential to undermine its own stated interest in "the orderly development of safe and healthy communities".

What were once Halton Region and Conservation Halton responsibilities are expected to be downloaded to Oakville in an effort to streamline planning approvals. This will prove challenging since additional technical expertise will likely be required for development review and additional town staff resources will be required to assume what were Halton Region planning and Official Plan responsibilities. The role and ability of municipalities to recover the costs of growth-related infrastructure and services will also be significantly affected, as detailed earlier in this report.

The added challenge will be co-ordination of the town's longer term land use planning, with the delivery of infrastructure by Halton Region. Without Halton Region Planning to assist in this co-ordination, the orderly planning infrastructure for growth areas identified by the local municipality will prove difficult. This will undoubtedly result in delays to deliver housing supply.

Meeting the 2031 Housing Targets

Oakville's town-wide urban structure sets out the framework for where and how the town will grow; it provides for the long-term protection of natural heritage, public open space and cultural heritage resources, maintains the character of residential areas and is the foundation to direct growth to identified centres and corridors.

The town's urban structure is comprehensive and provides certainty to guide major infrastructure investment and to maximize cost effectiveness. It is the basis for the policies in the town's Official Plan and for making planning decisions.

Given the potential increase in new housing allocated to the town – up to potentially 52,000 units – it is expected that the majority of this can be directed to the Strategic Growth Areas (i.e. Midtown, Bronte GO, Uptown, Hospital District) and corridors. The town's Official Plan already accommodates this potential. It also recognises that some "gentle intensification" will occur in established neighbourhoods.

The town's Official Plan allows opportunities to add secondary residential units throughout the town, subject to enabling regulations in the Zoning By-law. This is to ensure that additional units support the fabric of a neighbourhood and can be added without undue pressure on existing infrastructure.

While there is merit with permitting opportunities for gentle intensification; total as-of-right permissions throughout the town is likely to create unforeseen complications. Staff has raised several questions and issues: if these "as-of-right" permissions supersede local zoning regulations; will the province provide any direction for the construction of such ancillary buildings? If not, then conceivably, an ancillary building could be constructed anywhere on a residential property with no limitation on size, scale, height, proximity to side and rear lot lines, and no regard to the impacts on the increase of impermeable surface and associated stormwater runoff.

Similarly, if an extra dwelling unit is constructed within an existing dwelling, is the zoning of that existing dwelling also suspended in favour of the "as-of-right" permissions? There is also a question as to whether property owners may seek to vary, or amend the "as-of-right" permissions (i.e. minor variance, or otherwise) to allow other forms of housing (i.e. duplex, triplex, condominium townhouses) to allow up to three units per lot.

Unplanned growth and development in areas which cannot accommodate it, can lead to having insufficient infrastructure, services and facilities within neighbourhoods. This can undermine the province's stated policy to plan for complete communities – especially when new development is not required to deliver the necessary parks and open space system to support the new population.

As noted above, another significant change to the *Planning Act* is the exemption of residential development with less than 10 units from site plan control. The implications from this proposed change are difficult to quantify at this time since the key areas of concern – including stormwater management and canopy coverage – arguably still need to be addressed with new development. This will be a key implementation task as part of further development application process reviews.

Financial Implications

A central tenet for Oakville Council considering growth and development is that “growth should pay for growth”. This is premised on the belief that growth should not be subsidised by the tax levy.

Bill 23 proposes changes intended to lower the overall cost of delivering housing thereby making it more affordable for purchasers and increasing housing supply. Municipalities have long stated that the costs relating to new development – such as the extension of infrastructure – should be borne by the development itself. Given the proposed changes, the scope of new growth-related infrastructure will result in more pressure on tax payers to cover the cost of growth.

An initial review of the potential implications to municipal finance and revenue relating to classes of development being exempt from development charges, community benefit charges and parkland dedication raises questions about the longer term impacts on the town's capital forecast and the ability to deliver infrastructure to meet the growth expectations.

Bill 23 proposes a five-year phase in of new Development Charge rates as a measure to lower rates and provide cost certainty for developers. The DC phase-in would apply to rates set out in by-laws passed since January 1, 2022 (including Oakville's) where a percentage reduction from the full rate is provided that gradually decreases each year. This proposed rate reduction will significantly reduce DC collections by approximately 12.5% (\$34M) of the anticipated DC revenue over the four-year phase in period. Based on the 2022-2031 DC Study, the proposed legislative changes will result in a total decrease in revenue in the range of 12% to 37% (\$79M to \$237M) depending on final details to come, depending on the extent land acquisition can be included in the DC.

The proposed changes to the parkland dedication legislation cap the amount of land that can be conveyed or paid in lieu. This is contrary to that which was recently passed by Council as part of the new *Parks Plan 2031*. The proposed changes will make it extraordinarily challenging for the town to realise the goals of the strategy.

With the approval of the Strategy was a companion Parkland Dedication By-law which set a per unit rate for new residential units in Strategic Growth Areas. By establishing a maximum land or cash-in-lieu dedication, the amount that the town will be able to collect for new parkland to support complete communities will be significantly reduced.

The full impact of these changes is difficult to quantify due to the variety of locations within the town experiencing growth. A high-level estimate of the impact within Strategic Growth Areas projects that the town could lose between 60% and 70% (\$65-\$75 million) of the total \$109 million required for parkland in the 2022-2031 timeframe. On a site by site basis, reductions for a high density development could be up to 85% of current requirements under the by-law.

The town also recently endorsed a new Community Benefits Charge (CBC) Strategy and by-law. The proposed changes to the structure of the CBC includes exemptions for affordable units and credits for existing buildings on a redevelopment site. Credits for existing buildings are not expected to have a significant impact based on the recently completed CBC Strategy and developments that are in the pipeline over the next ten years.

Regarding the property tax levy, the province plans to explore ways of reducing property taxes for certain residential types. This includes possible reductions to property tax assessments for affordable rental units and rental housing development, and potential approaches to reduce the current tax burden on multi-residential apartment buildings. Any reduction to property taxes on one class will shift the burden to the other property classes, including our employment uses, potentially impacting our economic competitiveness.

It has not yet been identified if there are opportunities for the province to provide offsetting dollars to the loss of revenue Oakville is expected to see with these legislative changes.

Natural Heritage Implications

The town declared a Climate Emergency on June 24, 2019, and Council has reiterated its desire to enhance the town's natural heritage system (NHS), limit unnecessary sprawl and guide growth in a resilient and sustainable manner. Key to delivering on this mandate is the town's partnership with both Conservation Halton and Credit Valley Conservation. The skills, expertise and professional disciplines

within these organisations assist the town in ensuring it is working towards its climate change mitigation objectives.

Currently, the town relies on the conservation authorities' participation in the development process through a Memorandum of Understanding (MOU) for environmental review of development that includes risks to the public and impacts to the health of natural heritage systems, ecology, habitat, endangered species, stormwater management, floodplains and natural hazards.

Bill 23 would result in the elimination of the current MOU and will present a major gap in the development review process since these responsibilities will likely fall to the town to administer. The benefit of the existing MOU is CA staff have the expertise to review, consider and monitor development in proximity to natural hazards. The delegation to the town for environmental review of development proposals would create a new responsibility, and the town does not have the resources or expertise to carry out detailed environmental reviews at this time.

The town will also be obligated to take on the evaluation and monitoring of natural hazard areas which otherwise would be under the purview of the CA. This can potentially lead to broader issues, risk to public safety and future management challenges. Essentially, Oakville will have to take on the oversight of development within hazard areas, including wetlands.

One of the foundational elements of the North Oakville Secondary Plans is a systems-based approach to creating the NHS – one of the largest in the GTA. Key features within North Oakville's NHS are wetlands and as development has proceeded, great care has been taken to preserve wetland and hydrologic functionality throughout.

The proposed changes to the Ontario Wetland Evaluation System (OWES) through Bill 23 will mean that the province will absolve itself of reviewing or approving wetland evaluations, instead being undertaken by an unknown "decision maker". Further, there will be no more wetland complexing, and existing provincially significant wetland complexes can be broken apart, with each small wetland re-evaluated separately. This could prove detrimental to the provincially significant wetland complexes in North Oakville.

Town staff is seeking clarification from the province about the continued role of CAs in the process of wetland evaluation and to determine the degree to which the town would become responsible for providing such services.

Cultural Heritage Implications

In a general sense, some of the proposed changes to the *Ontario Heritage Act* represent a fundamental shift in the provincial direction for conserving cultural heritage resources. The changes appear to create high-risk conditions for the loss of cultural heritage resources.

In a more specific sense, responding in a timely manner to the provincial changes if they come into law as proposed, have the potential to create significant resourcing concerns.

Using the municipal Register as an example, there are approximately 300 properties listed in Oakville. When sorted and prioritized, that number may be condensed to a list of 100 properties. This represents Oakville's most important cultural heritage that should be designated under Part IV of the *Ontario Heritage Act* within the proposed two-year period.

At present, the town has a contract heritage planner on staff solely dedicated to historical research in support of designating properties. That position addresses approximately 20 properties per year.

There are also additional cultural heritage resources which may be identified going forward, further burdening the cultural heritage work program. It should also be noted that not all designations will be undertaken with the support of willing property owners. This increases the risk of appeals of designating by-laws to the Ontario Land Tribunal, further exacerbating heritage resourcing concerns.

NEXT STEPS

Staff continue to review the broader implications resulting from the proposed legislation, as well as what changes and updates will be needed to town responsibilities, processes and procedures.

Bill 23 has a significant and direct impact on the Town's ability to create and fund complete communities. The changes to the Growth Plan, potentially adding significant population and employment, will require Council's attention on how to create complete communities in the face of these challenges. The province has not addressed how the Town can meet its current and new obligations related to the delivery of critical road and transit infrastructure, infrastructure that is required for healthy communities (i.e. recreation and parks) and infrastructure that is needed to mitigate the impact of additional growth on climate change in the face of funding gaps created through Bill 23.

Staff will also need to examine the approach to such things as the master plans for transportation and recreation, parkland strategy, development charges and community benefits and other process changes that result.

CONCLUSION

The thrust of the changes can be summarised as the province requiring municipalities to do more, do it faster, but with less revenue.

Staff continues to review the proposed changes as this process unfolds. This process can be characterised as dynamic as the province continues to release new information while at the same time making changes to information already released. Staff will undertake further analysis of the potential implications for Oakville as additional information and regulations are available, and the details around implementation are further understood.

Staff will report back with additional information, analysis on workforce and budget implications, as well as potential solutions.

CONSIDERATIONS

(A) PUBLIC

Members of the public may provide comments on Bill 23 including matters discussed in this report through the related postings on the Environmental Registry of Ontario (ERO) website (<https://ero.ontario.ca/>) and Ontario's Regulatory Registry (ORR) website: <https://www.ontariocanada.com/registry>

(B) FINANCIAL

There are no financial implication arising from the recommendation in this report. However, Bill 23 as proposed, would result in a significant reduction in the amount the town can collect from development to pay for growth-related land and infrastructure to maintain service levels, thereby increasing the cost of growth to the town substantially. In the absence of alternative funding from the provincial and federal government, the delivery of growth-related infrastructure may be slowed or there will be an impact on property taxes.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report was prepared by Planning Services, Finance, Transportation & Engineering and Legal staff, in collaboration with the senior leadership team. Follow-up reports on the implications and implementation for Oakville will be provided to Council a more information becomes available.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goals to:

- be accountable in everything we do,
- always act as a team, and
- be the most liveable town in Canada.

(E) CLIMATE CHANGE/ACTION

Staff continues to be concerned about the adverse effects that Bill 23 may have on environmental sustainability (e.g., compromising our natural heritage features and a reduced role for conservation authorities and economic sustainability (e.g., undermining municipalities' ability to ensure that growth pays for growth to the maximum extent possible).

APPENDICES

Appendix A – Overview of Bill 23

Prepared & Recommended by:

Kirk Biggar, MCIP, RPP, RFP
Manager, Policy Planning & Heritage

Nadia Chandra
Assistant Solicitor

Matt Day, CPA, CGA, MBA
Manager, Development Financing & Investments

Kristina Parker, M.ASc, P.Eng
Manager, Development Services

Submitted by:

Jonathan van der Heiden, CPA, CA
Deputy Treasurer and Director of Finance

Douglas Carr
Town Solicitor

Jill Stephen, P.Eng.
Director, Transportation & Engineering

Gabriel A.R. Charles, MCIP, RPP
Director, Planning Services