

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



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| Report to: | Mayor and Council Members | Priority: | <input type="checkbox"/> High <input checked="" type="checkbox"/> Low |
| Submitted by: | Anne Taylor Scott, MCIP, RPP Director of Planning and Development ataylorsscott@cobourg.ca | Meeting Type: | Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/> |
| Meeting Date: | November 28, 2022 | | |
| Report No.: | Planning and Development-080-22 | | |
| Submit comments to Council | | | |

Subject/Title: *An overview of Bill 23, More Homes Built Faster Act, 2022*

RECOMMENDATION:

THAT Council receive this Staff report for information purposes;

FURTHER THAT a draft resolution included as Appendix B be endorsed by Mayor and Members of Council with a copy sent to David Piccini, MPP and to the appropriate commenting windows currently posted on the Environmental Registry of Ontario.

1. STRATEGIC PLAN

Not applicable at this time.

2. PUBLIC ENGAGEMENT

The Province released Bill 23 on October 25, 2022. The Bill is currently being debated in the Provincial legislature.

Those who wish to make individual comments on the proposed changes to Provincial legislation may participate directly via:

<https://www.ola.org/en/apply-committees?prvcachecommwf=1668651966437>

3. PURPOSE

The purpose of this report is to:

- Provide an overview of pending changes to provincial legislation by the introduction of Bill 23, More Homes Built Faster Act, 2022;
- Summarize relevant and key impacts to the Town of Cobourg; and,
- Provide Council with resolution for consideration, a copy of which could be forwarded to the province and as part of commenting windows that are closing in November and December 2022.

4. ORIGIN AND LEGISLATION

See below.

5. BACKGROUND

On Tuesday, October 25, 2022, the government of Ontario introduced Bill 23, the More Homes Built Faster Act, 2022 which proposes sweeping changes to the land use approvals system in the province, with the goal of facilitating the construction of 1.5 million new homes by 2031. The omnibus bill proposes amendments to nine (9) different Acts, noted below, and proposes one new Act.

1. Conservation Authorities Act
2. Ontario Heritage Act
3. Development Charges Act
4. Planning Act
5. City of Toronto Act
6. Municipal Act
7. New Home Construction Licensing Act
8. Ontario Land Tribunal Act
9. Ontario Underground Infrastructure Notification System Act
10. New – Supporting Growth and Housing in York and Durham Regions Act

The legislation is the third step in the government's changes to the *Planning Act* and other related legislation, following on the *More Homes, More Choice Act, 2019*, and the *More Homes for Everyone Act, 2020*. The *Strong Mayors, Building Homes Act* was also passed earlier this year, and those powers may well be rolled out to other municipalities beyond Toronto and Ottawa, when the final regulations are released.

The general sense and opinion among Planning professionals is that the changes are developer-centric and remove some of the perceived hurdles and/or delays that the development industry face. The proposed changes appear to have the effect of:

- Alleviating the financial burden to the developer
- Removing layers of environmental review, environmental protection, and measures to require sustainable development
- Introducing a “use it or lose it” approach for heritage listings
- Reducing opportunities for public participation and eliminating opportunities for residents to appeal decisions

There are limited positive elements that can be gleaned from the changes:

- Standardizing definitions including “affordable housing”
- Incentivizing affordable housing
- Addressing frivolous appeals
- Ensuring transparency by requiring Municipalities to publish a copy of their Heritage register on their website

Planning Staff have provided a summary table of the changes stemming from Bill 23 and will provide a High, Medium and Low Impact ranking to quickly enable Members of Council to focus on those key changes and impacts.

Given the magnitude of Bill 23, this report focuses on those revisions that will have the highest impact on the Town of Cobourg.

6. ANALYSIS

While there are several amendments to various pieces of legislation, this analysis selects the key provisions that would impact the Town of Cobourg. Staff have further refined the provisions into categories to assist in illustrating where there may be general alignment and then highlighting those that can be considered more of a concern and where Council may wish to provide comments.

Staff’s analysis will focus on **seven priority areas** that have the potential to pose the most impact to the financial status and operational function of the Town of Cobourg. These are identified as the items having high levels of concern in **Appendix A**.

1. **Scaling back the role of Conservation Authorities across the Province**

Staff comments:

The Ganaraska Region Conservation Authority (GRCA) takes a systems approach to watershed-based policies to protect people and property from flooding and other natural hazards, while conserving natural resources, such as water quality. Bill 23 has the effect of removing the ability of GRCA to perform certain roles that they have been assisting the Town with for years.

GRCA currently comments on behalf of/to the Town of Cobourg with respect to:

- Stormwater Management (review of stormwater plans, functional servicing reports)
- Natural Heritage (review of Environmental Impact Studies)
- Hydrogeology
- Other areas such as steep slopes, upon request

With Bill 23 changes, the GRCA will no longer be able to provide these services. Unfortunately, the Town of Cobourg does not have the capacity to perform these reviews in-house and to the level of the GRCA, therefore it begs the question as to how this review will be performed, at what cost, and how will costs be recovered.

The GRCA will have less of a role as it relates to conservation of land, protection of significant environmental features and matters of pollution. Development may be allowed in areas that would typically be protected. The role of the GRCA will be limited to hazard areas only being the control of flooding, erosion, and dynamic beaches.

The amendments propose exempting development approved via a planning application from obtaining a permit under the *Conservation Authorities Act* and an ecological offsetting policy that would allow developers to offset the loss of natural heritage by restoring or creating new natural heritage features, where avoiding and mitigating the impact is not possible.

The proposed amendments would result in a significant change to the role of Conservation Authorities in reviewing *Planning Act* applications, issuing permits, and the scope of their regulations. The Town of Cobourg, along with many other municipalities in Ontario, has declared a climate emergency. The role of the Ganaraska Region Conservation Authority within our community is critical to the protection of life and property from natural hazards and features. The reduction of Conservation Authority involvement in reviewing development applications and elimination of responsibility for pollution and the conservation of land could be detrimental to the health and wellbeing of our community and is a step backwards in the Town's efforts to address the effects of climate change.

The proposed changes open the door for development to sprawl into currently identified natural areas that serve functions for flood attenuation, biodiversity, water quality, and may have financial implications for liability, insurance, and long-term maintenance.

2. An overhaul of the Development Charge framework

Staff comments:

Development charges (D.C) are a funding tool designed to recover the costs associated with providing the infrastructure required to service growth based on the principle that "growth should pay for growth".

The alternative is that these costs will be paid for by existing taxpayers through property taxes and user fees for services such as water, wastewater and stormwater.

The result may be a delay in housing starts if municipalities decide not to fund these infrastructure costs.

The Bill proposes residential unit exemptions, new statutory exemptions, mandatory phase-in DC charges, rental housing discounts and interest rates on eligible installment plans, background study preparation, eligible capital costs to be funded by DCs, and the allocation of funds received. These changes will reduce funding to build the infrastructure that housing growth needs, and the Town will have to make the decision to adjust service levels or raise property taxes to fund growth related costs.

It is questionable as to whether changes to D.C will achieve the stated goals of increasing housing supply as well as the provision of more “affordable housing”. The Bill contains a definition of Affordable as “80% of market value” as being eligible for exemption from the payment of D.C. This definition will result in more housing units being eligible for the D.C exemption.

Quoting from a letter dated November 16, 2022 to Laurie Scott, MPP, Chair of the Standing Committee on Heritage, Infrastructure, and Culture as submitted by Watson & Associates Economists Ltd, “based on past changes to the D.C.A., historical reductions have not resulted in a decrease in the price of housing, hence it is difficult to relate the loss of needed infrastructure funding to affordable housing”.

3. A use it or lose it approach to Heritage Conservation

Staff comments:

Bill 23 proposes significant changes to the existing framework for conserving heritage properties across the province. The changes will limit some of the tools available to municipalities for conserving properties, making it more challenging for communities to conserve important heritage buildings.

Heritage Conservation is a key objective in the Town of Cobourg Official Plan and has been part of Council’s Strategic Plans. The Town of Cobourg has four (4) Heritage Conservation Districts, 50 individually designated buildings under Part IV of the *Heritage Act* and 216 properties listed on the heritage registry.

Section 27 of the *Ontario Heritage Act* gives municipalities the authority to maintain and add to a publicly accessible heritage register. The register includes a list of all designated properties, including conservation districts within the municipality. In addition, the register may also contain ‘Listed’ properties – those that are not designated but are believed to be of cultural heritage value or interest. Being listed on the Heritage Register is not the same thing as being a designated heritage

property. Being listed means further evaluation of the property will take place if there is an intent to have it demolished.

The proposed legislation requires all municipally listed heritage properties to meet more stringent provincial standards of designation under the *Ontario Heritage Act* otherwise they must be removed from the list within two (2) years. Once off the list, they cannot return for five (5) years. The proposed legislation will reverse some of those efforts and make it more challenging for the Town to conserve its heritage for future generations.

The resources required to designate each property individually under Part IV of the *Ontario Heritage Act* would be immense and is likely to result in the loss of heritage protection for properties in the Town of Cobourg and across the province. The prescribed criteria for whether a property can be listed and designated is becoming more rigorous having the effect of making it more difficult for buildings to be protected.

The scope of work to research and analyze 216 properties and designate those that meet the criteria within the restrictive timeframes would put a significant strain on Town Heritage staff and resources and may require the retention of heritage consultants.

4. 3rd unit as-of-right on residential properties

Staff comments:

This amendment requires municipalities to allow a 3rd dwelling unit as-of-right on residential properties that permit single detached, semi-detached, and townhouse units. The legislation also limits the amount of parking that can be required to one (1) space per dwelling unit.

The current Zoning By-law regulations require two (2) parking spaces for a single-detached dwelling and one (1) additional space for an accessory dwelling unit. Based on Bill 23 changes, the parking requirements will be reduced, and this is likely to have a significant impact to on-street parking demands, complaints, and enforcement.

Also, the 3rd unit as-of-right may impact the ability to provide adequate water and sanitary sewer services, including impacts to other hard and soft services.

These changes will require further staff analysis and an overhaul of how neighbourhoods are planned and designed to avoid any unintended consequences relating to parking, servicing, and other municipal services.

5. Stripping the items to be reviewed as part of Site Plan Approval

Staff comments:

Site Plan approval is the approval of plans and drawings in accordance with municipal by-laws and guidelines.

Bill 23 proposes to remove Staff's ability to comment on matters such as: urban design and architectural elements; landscaping; and the implementation sustainable and green development standards which the Town is currently working towards drafting and implementing.

This is a significant step away from the current depth of review practiced by municipal planners across the province. Staff's role will be limited to a review of zoning compliance, grading, and servicing plans. While some developments come in at the start of the process with good designs and landscaping, this is not always the case. Staff review all plans under the Town's Urban and Landscape Design Guidelines and some developments require several modifications to satisfy the Town's visions and objectives. Unfortunately, with Bill 23, it appears that this Council approved document will no longer guide developments in the Town of Cobourg as it relates to site planning.

https://www.cobourg.ca/en/resources/Planning-Attachments/Urban_Design_Guidelines_FINAL_Sept_2010.pdf

6. Changes to planning, acquiring, and providing for Parkland

Staff comments:

The *Planning Act* allows municipalities to pass parkland by-laws and enable the acquisition of land or money for parkland purposes as a condition of approval of a development application.

As an example, if an application comes forward for a plan of subdivision, the Municipality can require either the dedication of land or a cash-in-lieu payment. *The Planning Act* and the Town's Parkland By-law set out the rules on how much land or money can be required.

Bill 23 makes several revisions that have the effect of reducing the amount of parkland that could be acquired and exempt affordable, attainable, non-profit, and additional residential dwelling units. Private condominium parkettes can now count toward the developer's parkland contribution.

The Bill also impacts "how" cash-in-lieu is calculated. Typically, a cash payment is based on a recent appraisal, however the proposed changes to the *Planning Act* would allow the developer to use the land value based on when the associated development application was filed, resulting in a lesser amount of contribution.

There will be an increased administrative burden on municipalities by requiring the preparation of and consultation on parks plan with the passage of a parkland dedication by-law, whether utilizing the standard or alternative requirements, and by requiring the allocation and reporting on funds annually.

To summarize, Staff are of the opinion the Town will be acquiring parkland at a reduced rate, and discounted values that favour the development industry. Intensification of developed land will lead to increased demand for public greenspace and recreational activities. The Town will have limited resources to maintain parkland service levels for intensified areas. The new ratios reduce Cobourg's ability to ensure growth pays for growth, and will force the Corporation to do more, with less.

7. The ability to implement parts of the Integrated Community Sustainability Plan project including the Green Development Standard and a Green Energy Retrofit Program

Staff comments:

Bill 23 has the ability to impact the implementation of the Integrated Community Sustainability Plan (ICSP) project including the Green Development Standards (GDS) and a Green Energy Retrofit (GER) Program.

Clauses in the proposed legislation narrow site planning authorities to an extent that they will prevent municipalities from addressing energy efficiency and climate change in new buildings. The proposed Bill would remove the Town's ability to review and comment on exterior design elements, including sustainable design from the Site Plan approval process. It is anticipated the Town of Cobourg's new Green Development Standards would require applicants to incorporate sustainable design elements to address several climate change and mitigation efforts. The review of exterior materials factors in both quality and longevity, which contributes to sustainable design. The proposed amendments could result in negatively impacting the Town's ability to address climate change through the Site Plan approval process.

For background information, the funding breakdown of the ICSP, GDS and GER Feasibility Study is as follows:

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| Original Approved Budget (funded by Northam and Federal Gas Tax Reserves) | \$257,000 |
| Plus FCM Funding for GER Feasibility Study | \$71,500 |
| Total (approx.) | \$328,500 (total includes cost of project management in the amount of \$87,500+HST) |

A significant amount of financial, staff, and community resources are being put toward the ICSP, GDS and GER. It is discouraging to see changes at the Provincial level that will impede the Town's ability to implement strategic measures to address climate change.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

Not applicable at this time, however, should Bill 23 be passed, and together with recently approved Bill 109, these proposed changes to a myriad of provincial legislation have the potential to significantly impact the finances of the Town of Cobourg.

8. CONCLUSION

Once again, there is much to consider with these proposed changes. The key objective of Bill 23 is to address the province's housing shortage, improve affordability, reduce red tape, and make it easier to build more housing, more quickly.

While Planning Staff agree with this objective in theory, proposed changes because of Bill 23 will have significant and potentially detrimental impacts to our community, including to the Town's:

1. Environment;
2. Heritage resources;
3. Financial position; and,
4. Overall land use planning processes that have resulted in building liveable and complete neighbourhoods in the Town of Cobourg.

There are many changes from Bill 23 that are not applicable to the Town of Cobourg, and some amendments are of low concern to staff. This staff report focuses on those amendments that have the highest impact to the Town of Cobourg and are highlighted in red in **Appendix A**. These issues have the potential to have the greatest impact to the Town of Cobourg and form the basis of a draft resolution included as **Appendix B** for Council's consideration. A summary of commenting opportunities on the Environmental Registry of Ontario and due dates for comments is included as **Appendix C**.

Appendix A: Overview of Proposed Changes by Bill 23

Appendix B: Draft Resolution

Appendix C: Commenting Opportunities and Deadlines under the Environmental Registry of Ontario (ERO)

Report Approval Details

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| Document Title: | An Overview of Bill 23, More Homes Built Faster Act, 2022.docx |
| Attachments: | <ul style="list-style-type: none">- Appendix A = Bill 23 Summary Table Cobourg.docx- Appendix B - Draft Resolution Bill 23.docx- Appendix C - Commenting Periods on Environmental Registry 2022.docx |
| Final Approval Date: | Nov 21, 2022 |

This report and all of its attachments were approved and signed as outlined below:

Tracey Vaughan, Chief Administrative Officer - Nov 21, 2022 - 4:52 PM