



REPORT

TO: Mayor Lawlor and Members of Council

FROM: Bronwyn Parker, Director of Planning Policy

DATE: December 7, 2022

REPORT NO.: PD-2022-0050

SUBJECT: Bill 23 – More Homes Built Faster Act

RECOMMENDATION:

THAT Report No. PD-2022-0050 dated December 7, 2022 regarding Bill 23 – the More Homes Built Faster Act, be received;

AND FURTHER THAT staff continue to assess the implications of Bill 23, the More Homes Built Faster Act and provide further update reports to Council as may be appropriate;

AND FURTHER THAT the Province be requested to provide supplemental funding to offset the reductions in Development Charges and cash-in-lieu of parkland accruing to the Town as a result of Bill 23, the More Homes Built Faster Act;

AND FURTHER THAT the Town Clerk forward a copy of Report PD-2022-0050 to the Minister of Municipal Affairs and Housing, the Minister of Tourism, Culture and Sport, the Minister of the Environment, Conservation and Parks, and the Minister of Finance; Halton Area MPPs; the Region of Halton; the City of Burlington; the Town of Milton and the Town of Oakville for their information.

KEY POINTS:

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

- Bill 23, the *More Homes Built Faster Act, 2022* was introduced into the legislature on October 25, 2022.
- The goal of Bill 23 is the creation of an additional 1.5 million new homes in Ontario over the next ten years.

- There are 10 Schedules to Bill 23, (9 of which are applicable in Halton) proposing sweeping changes to various pieces of legislation including but not limited to, the *Planning Act*, *Development Charges Act*, *Conservation Authorities Act* and *Ontario Heritage Act*.
- The opportunity to provide public feedback was offered via postings on the Environmental Registry of Ontario (ERO), with comment deadlines ranging from 30 – 66 days. Comments were provided on a number of the postings in accordance with the established deadlines. Key concerns raised are highlighted in the report, with more detailed comments included as Appendix 2.
- Bill 23 received Royal Assent on November 28, 2022. Most of the Bill is in force as of that date. This report provides an overview of Bill 23 in its final form.

BACKGROUND AND DISCUSSION:

The Ministry of Municipal Affairs and Housing (the Ministry) has committed to a goal of 1.5 million new homes being constructed over the next 10 years, with the *More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022-2023* as the key driver behind the delivery of these housing units. The Housing Supply Action Plan (HSAP) suggests that the housing supply shortage can be addressed by "...reducing government fees and fixing development approval delays that slow housing construction and increase costs".

In order to achieve the Province's overarching objectives, Bill 23, the *More Homes Built Faster Act, 2022* was introduced into the Ontario Legislature on October 25, 2022. Bill 23 consists of ten schedules that entail sweeping changes to the various pieces of legislation including but not limited to the *Planning Act*, *Development Charges Act*, *Ontario Land Tribunal Act*, *Conservation Authorities Act* and the *Ontario Heritage Act*. A series of postings on the Environmental Registry with varying commenting deadlines were also introduced at the same time.

Bill 23 is the third piece of legislation prepared by the Province over the last four years that entails significant changes to the land use planning system in Ontario. In 2019, Royal Assent was given to the *More Homes, More Choice Act* (Bill 108). In 2022, the *More Homes for Everyone Act* (Bill 109) received Royal Assent. Bill 109 was discussed in report PD-2022-0031 and is further considered via report PD-2022-0049, which is included on this Council agenda.

At the November 7, 2022, meeting, Council passed a resolution expressing a number of initial concerns with Bill 23. Among other matters, the resolution requested that the Province extend the commenting deadlines from 30 and 31-day postings to 66-day postings, which would mirror some of the ERO postings released on October 25, 2022. While the Province did extend some of the postings to 45-day postings, they did not provide the full 66-day review period Council had requested. A copy of the Council resolution is attached to this report as Appendix 3 for reference purposes.

Bill 23 received Royal Assent on November 28, 2022. Most of the Bill is in force as of that date. The purpose of this report is to summarize Bill 23 in its final form. The report will also touch on some of the key concerns with Bill 23 that were identified by staff.

Bill 23

As identified earlier in this report, Bill 23 was introduced and received First Reading on October 25, 2022. It moved to Second Reading on October 31, 2022 and was ordered referred to the Standing Committee on Heritage, Infrastructure and Cultural Policy at that time. After presentations to the Standing Committee, much discussion and debate, a slightly amended version of Bill 23 passed Third Reading and received Royal Assent on November 28, 2022.

There are ten key elements of the approved Bill 23 that this report will focus on. These include:

1. The role of Halton Region in the local planning approval process
2. The role of the Conservation Authorities
3. Three residential unit permissions
4. Required zoning by-law amendments regarding MTSA's
5. Public meetings for draft plan of subdivision applications
6. Changes to site plan control for up to ten units
7. Removal of 2-year prohibitions on amendments for specified applications
8. Restrictions on third-party appeals for minor variance and consent
9. Changes to the *Ontario Heritage Act*
10. Parkland dedication calculation rate changes
11. Development Charge exemptions

1. The role of Halton Region in the local planning approval process

One of the most significant changes as a result of Bill 23 is the pending removal of approval authority from the Region of Halton as it relates to local planning matters. Halton, along with a handful of other GGH upper-tier municipalities including Peel, Durham, York, Niagara, Waterloo and the County of Simcoe, will become “an upper-tier municipality without planning responsibilities”. At a date yet to be determined, the Minister of Municipal Affairs and Housing will take over the approval role for local Official Plans and amendments thereto including Secondary Plans.

Based on the foregoing, it is staff's understanding that local municipalities such as Halton Hills would inherit the applicable components of the Regional Official Plan within our jurisdiction. These components would be used as a basis to complete further updates to the Town's Official Plan. Municipalities await the release of regulations and applicable transition policies clarifying these various pieces, which are yet to be announced by the province.

2. The role of the Conservation Authorities

As of January 1, 2023, Conservation Authorities will no longer be permitted to comment on any aspects of the planning approval process including development applications and supporting studies, other than those matters dealing with natural hazards and

flooding. They will also no longer be able to require certain components of the planning process (such as watershed planning; wetland evaluations; or elements related to ecology and biodiversity during Scoped Subwatershed Studies, SISs, EAs, etc.) to be completed to their satisfaction/approval.

In addition, a single regulation has been proposed for all 36 Conservation Authorities in Ontario, rather than having separate regulations pertain to each Authority. This regulation has not yet been prepared or released for comment and the date upon which it would come into effect remains to be determined.

Another significant change as a result of Bill 23 is that any development that has been approved through an application under the *Planning Act* will no longer require a permit from the applicable Conservation Authority. These exemptions will be based on specific conditions or requirements, yet to be determined through regulation. The timeframe for when these exemptions will come into effect are also unknown. Staff would expect to see these draft regulations released for comment early in 2023.

3. Three residential unit permissions

As of November 28, 2022, all Ontario municipalities are required to permit up to three residential units per lot within settlement areas, so long as that lot is serviced by municipal water and wastewater systems. The Province views this as a form of gentle intensification that will deliver a modest amount of supply relative to the overall 1.5 million new homes Provincial target. This permission allows for all three units to be contained within the main building (the principal home on the lot), or two units within the main building and one unit in an accessory building. Municipalities are not permitted to require a minimum size/area for these additional residential units, however, building permits are still required for each residential unit constructed. In addition, municipalities cannot require more than one parking space per residential unit.

In the Halton Hills context, through the Town's Comprehensive Zoning By-law Review, the Town will be required to update its existing zoning requirements (which currently require a minimum of 2 parking spaces for the principle dwelling and 1 parking space per additional residential unit), reducing the minimum number of parking spaces required to only 1 space per residential unit. The Official Plan and Zoning By-law will also require updating to ensure that up to three residential units are permitted on each serviced urban residential lot.

There are no appeal rights afforded as it relates to any required amendments to a municipal Official Plan or Zoning By-law as a result of these changes. In addition, any existing local requirements regarding the number of units permitted, the minimum size of units, or the minimum number of parking spaces per unit, are superseded by Bill 23.

4. Required zoning by-law amendments regarding MTSA

Under a new subsection (16(20)) of the *Planning Act*, Bill 23 requires that within one-year of approval of an Official Plan Amendment delineating a Major Transit Station Area (MTSA) and identifying the minimum number of residents and jobs per hectare that are planned to be accommodated within that area, municipalities must update their zoning

by-laws. These zoning by-law updates must include minimum heights and densities within the MTSAs in keeping with the policies approved through the Official Plan Amendment.

With the recent approval of ROPA 49¹ by the Minister of Municipal Affairs and Housing and given both the Georgetown and Acton MTSAs were not assigned minimum density targets through that approval, appropriate population and employment density targets for these MTSAs must be established. The Town commenced the Georgetown GO Station Secondary Plan review in 2022. At this juncture, staff believe that is the appropriate process for assessing and assigning those prescribed minimum densities. It is our understanding that once the Secondary Plan with the minimum density targets is approved, the Town will have one year to update the zoning by-law mirroring those minimum density targets.

The Acton GO Station Secondary Plan is targeted for a comprehensive review in the coming years (currently scheduled for 2025), at which time those minimum density targets will also be considered and updated as appropriate.

5. Public meetings for draft plan of subdivision applications

One of the changes from Bill 23 is that Statutory Public Meetings for draft plans of subdivision are no longer required under the *Planning Act*. This change came into effect upon Royal Assent on November 28, 2022.

The change does not preclude a municipality from continuing to hold a public meeting for subdivision applications. In our experience, subdivision applications are submitted in conjunction with zoning by-law amendments and in some cases official plan amendments both of which require public meetings. There is little if any efficiency to be gained by not including the plan of subdivision in the statutory public meeting. The public typically will be interested in the road layout, the lotting patterns and the location of blocks for schools, parks, recreational amenities and natural heritage all of which will be shown on the draft plan of subdivision. Given the importance of public consultation to the planning process, the Town will continue to hold public meetings for subdivision proposals that result in the creation of new lots.

6. Changes to site plan control for up to ten units

Site plan control is a land use planning tool that municipalities utilize to evaluate site specific elements when development is proposed. As is described in the provincial site plan control guide, this control over detailed site-specific matters ensures that a development proposal is well designed, fits in with the surrounding uses and minimizes any negative impacts. Items typically considered through site plan control include

¹ ROPA 49 was approved by the Minister of Municipal Affairs and Housing on November 4, 2022. That approval requires that Halton Region update their Table 2 and 2a density targets to establish minimum population and employment targets within MTSAs. However, Bill 23 identifies Halton Region as “an upper-tier without planning responsibilities”. As such, it is unclear as to whether the Georgetown and Acton MTSAs densities will be established by the Town or Region. It is expected that the Bill 23 regulations and transition policies yet to be released will provide that clarification.

lighting, drainage, access to and from the site (pedestrian and vehicular), waste and snow storage, landscaping, and architectural and urban design among others.

Where a municipality could apply site plan control for any type or scale of development as defined in a municipal site plan control by-law, Bill 23 has now created an exemption for residential developments for 10 units or less. As a result, the Town will be required to update its current site plan control by-law to clarify the application of the tool, removing the requirements where 10 or less residential units are proposed.

In addition, Bill 23 has also removed architectural details (i.e., matters of urban design) and landscape design aesthetics from the scope of site plan control. As per Section 41, subsection 4.1.1 of the *Planning Act*, site plan control can still apply to "...elements, facilities and works on the land if the appearance impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands". This subsection provides the Town with the permissions necessary in order to continue to apply Green Development Standards (GDS) at the appropriate time during the development approval process.

7. Removal of 2-year prohibitions on amendments for specified applications

Previous amendments to the *Planning Act* prohibited applications for amendments to a new official plan and secondary plans for a two-year period following initial approval unless Council permission to file such applications was granted. Similarly, applications to further amend a new zoning by-law and a new site-specific zoning by-law amendment or to seek a minor variance to the same were also prohibited for a two-year period without Council permission. Bill 23 has revoked those changes completely, meaning applications to amend any of these approved planning documents are now permitted without any time restrictions.

8. Restrictions on third-party appeals for minor variance and consent

Bill 23 has restricted the appeal rights for minor variance and consent applications, only allowing the applicant, the municipality, certain prescribed public bodies and the Minister the opportunity to appeal decisions for these types of applications.

In addition, this new rule applies retroactively to October 25, 2022 (the date that Bill 23 was first introduced into the Legislature). This means that any existing third-party appeals to the Ontario Land Tribunal on a minor variance or consent decision, where a hearing date has not yet been established, will be dismissed.

Third party appeal rights of Council decisions on official plan and zoning by-law amendments remain in place under *The Planning Act*.

9. Changes to the *Ontario Heritage Act*

Sweeping amendments to the *Ontario Heritage Act* (OHA) have been approved through Bill 23, however, as of the date of writing of this report, none of these changes are in force. At a date to be proclaimed by the Minister, these amendments will come into effect.

Bill 23 requires that all information currently included in a municipal Heritage Register must be made available online, and that all future properties must meet criteria established by regulation to be listed on the Heritage Register. It is worth noting that the Town already provides the majority of this information on our website and offers this information freely to the public.

Amendments to the OHA will allow owners to serve a notice of objection to a municipality for properties added to the Heritage Register at any time. The Town undertook a multi-phase approach with significant public consultation to build our Heritage Register. As the Town's process to build the Heritage Register was ahead of legislative requirements at the time, these amendments seem to negate the comprehensive and public approach undertaken by the Town.

Removals of listed properties from the Heritage Register are one of the key amendments resulting from Bill 23. Conditions have been specified that would necessitate the removal of a listed property from the Heritage Register, including a Notice of Intention to Designate being withdrawn, and a by-law being repealed or not being passed. These removals would not require consultation with the Town's municipal heritage committee. In addition, properties listed on the Heritage Register would be removed after two years if they have not been designated, and are not eligible for re-listing on the Register for five years after their removal.

Another change through Bill 23 is that municipalities are prohibited from designating a property unless it was already/previously listed on the Heritage Register, and any properties will be required to meet two or more criteria for designation, whereas properties are currently required to meet only one of the three criteria identified in Ontario Regulation 9/06 in order to be designated.

Additional amendments to the OHA will require future Heritage Conservation Districts (HCDs) to meet criteria for determining whether they are of heritage value or interest and will allow for amendments or repeals to Heritage Conservation District by-laws. HCDs are a planning tool that guide the conservation of an historic area or neighbourhood's cultural heritage value. The Town of Halton Hills has designated one Heritage Conservation District under Part V of the OHA. The Syndicate Housing Heritage Conservation District was designated by Council in 2005 and is located along Bower Street in Acton.

Finally, amendments to the OHA through Bill 23 will allow the Minister of Citizenship and Multiculturalism to review, confirm, or revise determinations of cultural heritage value for provincially owned heritage properties, and would allow exemptions for those properties from Heritage Standards and Guidelines for proposals where other major priorities will be advanced.

10. Parkland dedication calculation rate changes

Amendments to the *Planning Act* alter previous legislation regarding alternative parkland dedication calculations. Under Bill 23, the rate has been reduced to 1 hectare/600 units if land is conveyed and 1 hectare/1,000 units for cash in lieu of parkland. The alternative rate is subject to a cap of 10% of the land for lands that are

five hectares (+/- 12 acres) or less and 15% of the land for lands greater than 5 hectares. Both changes came into effect on November 28, 2022, upon Bill 23 receiving Royal Assent.

Parkland dedication rates are also now calculated on the day that a zoning by-law amendment for a development proposal is passed, or the day that a related site plan application is filed, whichever is later. If neither a zoning by-law amendment nor site plan approval is/are required, parkland dedication is calculated on the day that the first building permit related to the development is issued.

In addition, beginning in 2023, municipalities will be required to spend or allocate at least 60% of their parkland reserve funds at the start of each calendar year.

Additional parkland dedication provisions not yet in force under Bill 23 include: the exemption of affordable and attainable units from parkland dedication and cash-in-lieu requirements; encumbered parkland; strata parks (parks built on top of structures, such as rooftops or parking garages); and privately owned publicly accessible open spaces (“POPS”) such as small parkettes often found within condominium developments, will be eligible for parkland credits. Landowners will also be permitted to propose which areas of their land they wish to provide towards their parkland contributions. While municipalities will be able to refuse any such offer they deem to be unacceptable, landowners will have the right to appeal those refusals to the Ontario Land Tribunal. These amendments will come into force upon proclamation by the Lieutenant Governor.

As it relates to Town staff observations on the parkland dedication rate changes, broadly speaking, it is estimated that an overall 60-75% decrease in parkland dedication fees could be expected over the next 14 years. This is based on a very preliminary review and is dependent on the number of medium or high-density residential development applications received over that time period. Based on current estimates, this could represent a reduction of \$24 million to \$30 million dollars. It is important to note that a detailed financial analysis would be required in order to fully assess the potential financial ramifications of the reduced parkland contribution impacts from Bill 23. This review would be required in coordination with Finance staff and a review of the Long-Range Financial Plan and 10 Year Capital Forecast.

11. Development Charge (DC) exemptions

Significant amendments were made to the *Development Charges Act* (DC Act) through Bill 23. Some of these changes have come into effect as of November 28, 2022, while other changes await release of updated regulations and/or proclamation by the Lieutenant Governor.

One of the amendments now in effect includes a five-year phasing in of DC rate increases for any DC By-laws passed on or after January 1, 2022. These reductions begin with a 20% reduced fee for year one, with the reduction decreasing by 5% for each year thereafter until the fifth year when the full new rate would apply. This means that the fee at year one would be 80% of the approved DC rate; 85% in year two, 90% for year three and 95% for year four, before the full 100% DC rate could be charged at year five. In addition, DCs are exempt for non-profit housing development and

inclusionary zoning residential units. Bill 23 also provides DC discount of 25% for purpose-built rental housing with 3 or more bedrooms; 20% for 2 bedrooms; and 15% for less than 2 bedrooms.

Additional changes in force as of Royal Assent which may have significant ramifications for the Town include the extension of DC by-law expiry dates from every five years to every ten years; growth related studies (including Secondary Plan Studies, Scoped Subwatershed Studies, Environmental Assessments etc.) and land cost (for services yet to be prescribed) are now excluded from recovery through DCs; interest rates on phased DCs must be capped at prime plus 1% for rental, and institutional developments; and municipalities are now required to spend or allocate at least 60% of their DC reserve funds at the beginning of each calendar year (beginning in 2023) on priority services, such as water, wastewater and roads.

Future regulations regarding “attainable housing units” and the DC exemptions tied to such developments have not yet been released. Additional DC exemptions are also being implemented at a future date for affordable residential units. The impacts of these changes are not yet fully understood given the associated regulations have not yet been released.

Similar to the financial ramifications identified above with respect to the parkland dedication rate changes, the DC Act changes could significantly impact the Town from a financial perspective. Depending on the scenarios related to the attainable, affordable, and non-profit housing forms, the projected DC loss is estimated in the range of \$34 million to \$57 million dollars over the next 10 years (or \$20 million to \$31 million dollars over 5 years). This represents a 12% to 20% reduction in DC revenue over 10 years, as compared to DC revenues projected under the Town’s DC by-law prior to Bill 23. Again, it is important to note that a detailed financial analysis would be required in order to fully assess the potential financial ramifications from Bill 23.

Based on the estimated impacts above, staff recommend requesting that the Province provide supplemental funding to offset the reductions in Development Charges and cash-in-lieu of parkland accruing to the Town as a result of Bill 23.

Environmental Registry of Ontario Postings

On October 25, 2022, a series of postings were made on the Environmental Registry of Ontario website (the ERO). Some of these postings were directly tied to changes proposed through Bill 23 (such as amendments to the *Planning Act* and *Development Charges Act*), whereas other postings not discussed within this report or its appendices were not directly tied to Bill 23 (such as the proposed changes to the Greenbelt Plan).

These postings were made available for comment, with deadlines ranging between 30 to 66 days. Appendix 1 to this report provides a table outlining the various Bill 23 related postings and their respective comment timeframes. It also identifies the status of Town staff review. Any staff level comments that have been submitted on the Bill 23 ERO postings as of finalization of this report are attached as Appendix 2.

Key comments submitted through the ERO postings highlight the Town's concerns regarding the sweeping amendments made by Bill 23. These concerns include the following:

- Bill 23 has significant financial implications for the Town. The loss in development charge and cash-in-lieu of parkland revenue is anticipated to be significant and will impact the Town's ability to fund necessary infrastructure improvements and public service facilities such as libraries, community centres and arenas that are an essential component of a complete community.
- Secondary Plans and related supporting studies are required to facilitate new development in greenfield and key intensification areas. The inability to fund such studies creates significant challenges for municipalities and may slow down the delivery of new housing supply.
- Limitations on undertaking urban design as part of the site plan process. Good urban design contributes to a sense of place and is an important consideration in developing complete communities and ensuring compatibility.
- The potential elimination of Green Development Standards plays a vital role in improving energy efficiency and reducing greenhouse gas emissions².
- Significant changes to the *Ontario Heritage Act* that on balance were not considered necessary considering the Town's measured approach to managing cultural heritage resources.
- The scoping of the role of Conservation Authorities to natural hazards only thereby precluding a broader role in providing advice on natural heritage matters. Staff recommended that the Conservation Authorities continue to play a role in environmental plan review subject to appropriate Memorandums of Understanding (MOU) with municipalities.

STRATEGIC PLAN ALIGNMENT:

This report has ramifications for many aspects of the Town's Strategic Plan such as:

- preserve, protect and enhance the Town's natural environment;
- to preserve, protect and promote our distinctive historical urban and rural character through the conservation and promotion of our built heritage and cultural heritage landscapes;
- to achieve sustainable growth to ensure that growth is managed so as to ensure a balanced, sustainable, well planned community infrastructure and services to meet the needs of residents and businesses; and,
- to provide responsive, effective municipal government and strong leadership in the effective and efficient delivery of municipal services.

² The final version of Bill 23 incorporates permissive language with respect to sustainable design which is considered to resolve this concern.

RELATIONSHIP TO CLIMATE CHANGE:

At this time, the impacts to the Town's Climate Change portfolio and initiatives are not fully understood given the magnitude of the legislative changes approved through Bill 23. It is worth noting that from the time of 1st Reading to Royal Assent, amendments were made to Bill 23 which reinstated the ability for municipalities to proceed with the application of Green Development Standards.

PUBLIC ENGAGEMENT:

Public Engagement for Bill 23 is coordinated by the province through the various ERO postings and to a certain extent, through submissions received by the Standing Committee on Heritage, Infrastructure and Cultural Policy. Where possible, at the implementation stages, the Town will ensure the public is provided an opportunity to be engaged and consulted on the required changes to local policies and procedures resulting from Bill 23.

INTERNAL CONSULTATION:

The Recreation and Parks, Finance, Development Review and Planning Policy teams coordinated a review of the Bill 23 changes. Comments from this internal review are included within this report.

FINANCIAL IMPLICATIONS:

Estimated financial impacts associated with implementation of the DC and parkland contribution legislative changes have been identified in this report. It is estimated that an overall 60-75% decrease in parkland dedication fees could be expected over the next 14 years, which based on current estimates, could represent a reduction of \$24 million to \$30 million dollars over that timeframe. With respect to the DC reductions, depending on the scenarios related to the attainable, affordable, and non-profit housing forms, the projected DC loss is estimated in the range of \$34 million to \$57 million dollars over the next 10 years (or \$20 million to \$31 million dollars over 5 years). This represents a 12% to 20% reduction in DC revenue over a 10-year timeframe. A detailed financial analysis would be required in order to fully assess the potential financial ramifications from Bill 23. Based on the estimated financial impacts identified within this report, staff recommend that the Province provide supplemental funding to offset these anticipated funding losses as a result of Bill 23.

Reviewed and approved by,

John Linhardt, Commissioner of Planning & Development

Chris Mills, Chief Administrative Officer