

Report To:	Regional Chair and Members of Regional Council
From:	Bob Gray, Commissioner, Legislative and Planning Services and Corporate Counsel
Date:	May 24, 2023
Report No:	LPS34-23
Re:	Regional Planning in a Post-Bill 23 Environment

RECOMMENDATION

1. THAT Regional Council authorize staff to work collaboratively with the Halton Municipalities, Conservation Authorities and Province to ensure responsibilities for planning services in Halton are transitioned in the manner described in Report No. LPS34-23.
2. THAT the Chief Administrative Officer be authorized to execute any agreements, memorandums of understanding and ancillary documents that may be necessary to transition planning services in the manner described in Report No. LPS34-23.
3. THAT a copy of Report No. LPS34-23 be forwarded to the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville, Conservation Halton, Credit Valley Conservation, the Grand River Conservation Authority, and the Ministry of Municipal Affairs and Housing for information.

REPORT

Executive Summary

- Bill 23, *More Homes Built Faster Act, 2022*, (“Bill 23”) when fully implemented, will result in considerable changes to the Ontario Planning system. It will have the effect of significantly altering roles and responsibilities of upper-tier municipalities and Conservation Authorities and will place additional responsibilities with local municipalities.
- In keeping with our long standing partnership, the Halton Municipalities and Conservation Authorities have an interest in ensuring that changes are implemented in a seamless and integrated fashion.

- A transition plan is necessary and desirable to address with clarity the changing roles and responsibilities of Halton Region and the Conservation Authorities.
- This Report profiles some of the key changes associated with Bill 23 and how these will be implemented through a Transition Plan. A Transition Plan has been jointly developed by staff from the Local Municipalities and Conservation Authorities and endorsed by the Halton Area CAOs. The key aspects of the Transition Plan are highlighted in Attachment #1.
- This report recommends that staff be authorized to work collaboratively with the Halton Municipalities, Conservation Authorities and Province to ensure responsibilities for planning services in Halton are transitioned in a manner described in this Report.

Background

Bill 23 when fully implemented, will result in significant changes to the Ontario Planning system.

Upon final proclamation of Bill 23, Halton Region will no longer have certain responsibilities for planning under the *Planning Act*. For example, the Regional Official Plan (ROP) will be deemed to constitute an official plan of the local municipality and the local municipality will be responsible for all aspects of implementation of the ROP until such a time that it is revoked and/or amended.

This is illustrated in Section 70.13(2) of the *Planning Act* that states, “*The portions of an official plan of an upper-tier municipality without planning responsibilities that are in effect immediately before the effective date and that apply in respect of any area in a lower-tier municipality are deemed to constitute an official plan of the lower-tier municipality, and this official plan remains in effect until the lower-tier municipality revokes it or amends it to provide otherwise.*”

Without the Regional Official Plan, and in accordance with other aspects of Bill 23, Regional Council will no longer be:

- an approval authority for local Official Plans and Amendments; nor
- able to appeal a matter under the Planning Act or act as a party to a matter before the Ontario Land Tribunal.

In addition, on January 1, 2023 *Ontario Regulation 596/22: Prescribed Acts – Subsections 21.1.1 (1.1) and 21.1.2 (1.1) of the Conservation Authorities Act (O. Reg. 596/22)* came into effect. This change prohibits Conservation Authorities from providing review and comments on *Planning Act* matters that are outside of the mandatory services defined by *Ontario Regulation 686/21: Mandatory Programs and Services*. As a result, technical review services for planning and development applications previously provided

by Conservation Authorities under Memorandums of Understanding with municipalities (e.g. technical reviews related to natural heritage and certain aspects of stormwater management) may no longer be provided.

Discussion

Consistent with our long standing partnership, the Halton Municipalities and Conservation Authorities have an interest in ensuring that any changes to roles and responsibilities associated with Bill 23 be examined and implemented in a coordinated and collaborative fashion. In this regard, a Transition Plan has been developed. The key aspects of the Transition Plan that impact the Region are described below and summarized in Attachment #1.

1. Upon proclamation of Bill 23, the Region will no longer be responsible for the Regional Official Plan.

Since the approval of the initial Regional Official Plan in 1980, Regional Council has closely integrated its priorities with the strong policy framework contained in the Regional Official Plan in advancing community interests. The ROP has been used to define the 'Regional interest' in many aspects of planning and service delivery and upon proclamation of Bill 23, the ROP will no longer be the responsibility of the Region.

In this regard, there are a range of long-standing interests where Council will no longer have a statutory mandate. These include, the protection of the natural heritage system, the protection of agricultural land and resources, the protection of employment lands, and planning for aggregate resources, to name a few. This represents a fundamental shift.

In response, the Transition Plan provides for the following:

- The Region will provide the necessary support to the local municipalities in assuming the responsibility for implementing the Regional Official Plan.
- The Region will not proceed with completing the balance of the Regional Official Plan Review (ROPA 50) dealing with matters relating to natural heritage, agriculture, climate change and indigenous relations on the basis that the local municipalities have agreed this work will be fulfilled once they have assumed the Regional Official Plan following proclamation.

2. The Region will no longer be the approval authority for Local Official Plans and Amendments.

Since the approval of the Regional Official Plan in 1980, Halton Region has been the approval authority for local Official Plans and Amendments. Historically this authority has been delegated to the Chief Planning Official by Regional By-Law and has been

guided by a series of Regional By-Laws to exempt Amendments where there is no Regional interest. Upon Proclamation, the Region will no longer be the approval authority.

In response, the Transition Plan provides for the following:

- The Region will interpret the exemption criteria to ensure the greatest flexibility in support for exempting local Official Plans and Amendments.
- If an amendment is adopted but not yet approved upon Proclamation, the Region will approve the amendment as adopted unless otherwise instructed by the local municipality.

3. The Region will no longer have the right to appeal a decision on planning matters nor appear as a party to an Ontario Land Tribunal Hearing.

Although extremely rare, the Region has the ability to appeal decisions to the Ontario Land Tribunal. Further, the Region has the ability to ensure its interests are protected by participating as a party to an Ontario Land Tribunal Hearing. Over the past four decades, there have been hundreds of examples where the Region, acting as a party at a Hearing, has been able to ensure the due protection of Regional interests. Upon proclamation of Bill 23, the Region will no longer have the ability to act as a party.

In response, the Transition Plan provides for the following:

- The Region will continue its practice in not exercising its right to appeal, except for extraordinary circumstances, in recognition of its changing role.
- In the period leading up to Proclamation, the Region may limit its involvement as a party at new Ontario Land Tribunal Hearings. The Region will discuss how to scope its role in files currently before the OLT with local municipalities.

4. The Region will have a more focused role in land use planning matters

In implementing the Regional Official Plan, staff currently review and provide comment on the full range of land use planning matters, including those related to policy (Local Official Plans, Amendments, Secondary Plans and related background studies) and development (Plans of Subdivision, Zoning Amendments, Site Plans, etc.). Given that the Region will no longer be responsible for the Regional Official Plan, the Proclamation of Bill 23 will focus the Region's role related to land use matters.

In response, the Transition Plan provides for the following:

- The Region will work with the local municipalities to define the Region's role in land use planning matters specific to Regional functions that are not impacted by Bill 23.
- The Region will only participate in land use planning matters (policy and development) where there is a potential impact related to:
 - o Municipal water and wastewater servicing;

- Regional Transportation Systems;
- Waste Collection;
- Affordable and Assisted Housing;
- Responsibilities associated with a specific mandate prescribed by legislation (e.g. sourcewater protection, public health), and
- Other Regional services or functions that have a land component

5. Activities planned or underway to prepare for Proclamation of Bill 23 and Implementing the Future State

In order to ensure that the changes to roles and responsibilities associated with Bill 23 can be implemented in a coordinated and collaborative fashion there are some additional activities the parties will be undertaking. Many of these are listed in Attachment #1 to this report.

One effective means of implementing roles and responsibilities is through a defined Memorandum of Understanding. Traditionally this has been an effective tool in Halton, having had at least two MOUs defining the Halton Planning System since 1999. Staff will be exploring this further with our local municipal partners as a means to define and implement the planned changes and to ensure the best possible outcomes for the Halton community. This report recommends that staff be authorized to execute any agreements, memorandums of understanding and ancillary documents necessary to transition planning services in the manner described above.

Conclusion

In conclusion, the Transition approach described in this report is the embodiment of a long-standing and effective two-tier relationship to deliver planning services in Halton. It positions the Halton team well to bring forward solutions to the Provincial facilitator once appointed. In addition, the Transition approach described in this Report could serve as a useful model for other upper-tier municipalities impacted by Bill 23.

Upon receiving Council direction, staff will implement the Transition Plan described in this report. An update on transition activities will be provided in the Fall of 2023.

FINANCIAL/PROGRAM IMPLICATIONS

Activities associated with defining the transition of Regional Planning Services are funded through the approved 2023 operating budget. Overall, the implementation of the Transition Plan is expected to have budget implications. These will be assessed and brought forward to Regional Council in future reports and will be reflected in the 2024 budget.

Respectfully submitted,



Curt Benson
Director, Planning Services and Chief
Planning Official



Bob Gray
Commissioner, Legislative and Planning
Services and Corporate Counsel

Approved by



Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

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Attachments: Attachment #1 Summary of Approach to Transition Regional Planning Services May 2023

Attachment #1: Summary of Approach to Transition Regional Planning Services, May 2023

	Description of Halton Regional Planning Role/Responsibility	Status as of Today (May 2023)	Transition Approach and Timing	Description of End State (Proclamation TBD – possibly Q1 2024)
1	Approval Authority for Local Official Plans and Amendments	Region is approval authority for Local Official Plans and Amendments – amendments meeting criteria defined in Regional By-Laws are exempt from Regional approval.	Region will interpret the exemption criteria to ensure the greatest flexibility in support for exempting local Official Plans and Amendments until Proclamation. Some amendments may still be subject to Regional approval. If an amendment is adopted but not yet approved upon Proclamation, the Region will approve the amendment as adopted unless otherwise instructed by the local municipality.	Upon Proclamation, Region is no longer approval authority for local Official Plans and Amendments.
2	Right to Appeal to the Ontario Land Tribunal (OLT)	Although rare, the Region has the ability to appeal decisions to the Ontario Land Tribunal.	Region will not exercise its right to appeal, except for extraordinary circumstances, in recognition of its changing role.	Upon proclamation, Region is no longer able to appeal decisions to the OLT
3	Party to an OLT Hearing	Region is currently a party to many active files under litigation at the Ontario Land Tribunal.	Region will actively seek opportunities to limit its involvement as a party at new Ontario Land Tribunal Hearings. Region will discuss how to scope its role in files currently before the OLT with local municipalities.	Upon proclamation, Region no longer able to be a party to a Hearing. While this will apply to new proceedings, it is uncertain whether the Province will apply additional provisions to limit the Region's role in active hearings.

	Description of Halton Regional Planning Role/Responsibility	Status as of Today (May 2023)	Transition Approach and Timing	Description of End State (Proclamation TBD – possibly Q1 2024)
4	Responsibility for Regional Official Plan	Region currently has the responsibility to continue to make decisions and offer advice regarding conformity to the Regional Official Plan.	Region will work with each local municipality to determine its needs in preparing the local municipality to assume the responsibility for the Regional Official Plan.	The Region will provide the necessary support in administering or interpreting the Regional Official Plan 6 months following proclamation or a date that is agreed to by the Region and the municipality.
5	The Region’s current Municipal Comprehensive Review (Regional Official Plan Review)	Region has not completed its current Official Plan Review. Prior to the introduction of Bill 23, the Region was going to proceed with ROPA 50 to address the remaining matters associated with this MCR. These include matters identified in the Policy Directions Report that have not already been addressed through ROPAs 48 & 49. In consultation with Halton’s local municipalities, given the changes associated with Bill 23, ROPA 50 is not proceeding.	Region will not advance ROPA 50 on the basis that the local municipalities have agreed this work can be fulfilled once they have assumed the Regional Official Plan following proclamation.	N/A
6	Region’s participation in Local Official Plans, Amendments, Secondary Plans and related background studies	Region participates in reviewing and providing comments on Official Plans, Amendments and Secondary Plans and related	Region continues to participate in reviewing and providing comments on Official Plans, Amendments and Secondary Plans and	The Region will only participate in reviewing and providing comments on Official Plans, Amendments and Secondary Plans

	Description of Halton Regional Planning Role/Responsibility	Status as of Today (May 2023)	Transition Approach and Timing	Description of End State (Proclamation TBD – possibly Q1 2024)
		background studies. The amendments are circulated to the Region for review and comment following adoption. In general, the Region is the approval authority for Official Plans, Amendments and Secondary Plans.	related background studies. Region’s review however will be scoped in consultation with the local municipality in recognition of the future changes. The Region and Local Municipalities will work to further define the Region’s role in initiatives prior to proclamation.	and related background studies as defined in the Transition Plan, with focus on only the following matters: <ul style="list-style-type: none"> - Municipal water and wastewater servicing - Regional Transportation Systems - Waste Collection - Affordable and Assisted Housing - Responsibilities associated with a specific mandate prescribed by legislation (e.g. sourcewater protection, public health), - Other Regional Services that have a land component
7	Region’s participation in reviewing and commenting on development applications	Region is circulated, reviews and provides comments on development applications in accordance with its interests as defined in the Regional Official Plan.	Region continues to be circulated, review and provide comments on development applications in accordance with its interests as defined in the Regional Official Plan until proclamation. Circulation criteria will be defined by the Parties to be implemented by	The Region will only participate in reviewing and providing comments on development applications related to the following matters: <ul style="list-style-type: none"> - Municipal water and wastewater servicing - Regional Transportation Systems - Waste Collection

	Description of Halton Regional Planning Role/Responsibility	Status as of Today (May 2023)	Transition Approach and Timing	Description of End State (Proclamation TBD – possibly Q1 2024)
			proclamation or an earlier date.	<ul style="list-style-type: none"> - Affordable and Assisted Housing - Responsibilities associated with a specific mandate prescribed by legislation (e.g. sourcewater protection, public health), - Other Regional Services that have a land component
8	<p>List of Activities planned or underway to prepare for Proclamation and implementing the Future State</p>			<ul style="list-style-type: none"> • Support for transferring Regional Official Plan: <ul style="list-style-type: none"> ○ Region to package and deliver background info by June 1, 2023 ○ Region to offer support up to 6 months following Proclamation • Parties to define criteria for circulating the Region on Planning Act matters by July 30, 2023 • Parties to define templates or standards for Regional comments and conditions related to development applications by July 30, 2023 • Implement the Transition Plan through agreements or MOUs as necessary (Date TBD) • Develop terms for openly sharing data and information by July 30, 2023 • Region to review/update Guidelines, etc. associated with: <ul style="list-style-type: none"> ○ Water and wastewater planning ○ Regional transportation systems planning • Parties to explore options for environmental plan review (natural heritage and water resources) that range from leveraging existing skills and expertise of parties to the use of consulting firms. Options to be defined and assessed no later than July 30, 2023 • Parties to determine the need to update the Archaeological Master Plan by June 30, 2023 • Region to work with Conservation Authorities to explore arrangements to deliver non-planning act services by Q3 2023.