

The Regional Municipality of York

Regional Council
November 10, 2022

Report of the Chief Administrative Officer

Bill 23, More Homes Built Faster Act 2022

1. Recommendation

1. The Regional Clerk forward this report to the Minister of Municipal Affairs and Housing seeking an extension of the comment period to at least December 31, 2022, to allow for a more informed consultation period and constructive feedback.
2. The Regional Clerk circulate this report to the Clerks of the local municipalities.

2. Summary

This report is to inform Council of Bill 23, the *More Homes Built Faster Act*, omnibus legislation that received first reading in the provincial legislature on October 25, 2022.

Key Points:

- Bill 23 proposes to amend nine Acts with varying levels of impact on the Region and introduces a new Act addressing “Upper York” servicing in York Region
- Amendments most impactful to the Region are to the *Development Charges Act* and the *Planning Act*. The new *Supporting Growth and Housing in York and Durham Regions Act, 2022*, deals with Upper York servicing and is also the subject of a separate report. These most impactful elements of Bill 23 are summarized in Attachment 2 to this report
- Attachment 3 summarizes the details of other amendments proposed through Bill 23
- Preliminary review suggests that, at minimum, Bill 23 will significantly impact how the Region and our local municipalities coordinate growth management with infrastructure planning and while challenging the ability to pay for infrastructure. The deadline for comments through an Environmental Registry posting is November 24, 2022 for most of the proposed changes.

3. Background

On October 25, 2022 the Province tabled Bill 23, *More Homes Built Faster Act, 2022*

Bill 23, the *More Homes Built Faster Act* is omnibus legislation that proposes changes to nine Acts and proposes a new Act, the *Support Growth and Housing in York and Durham Region's Act, 2022* as outlined in Minister Clark's letter dated October 25, 2022 (Attachment 1). This Bill is the most substantial proposal to date under the Provincial initiative to increase housing supply in Ontario to build 1.5 million homes in the next 10 years. This target significantly exceeds the Growth Plan forecasts (as communicated to Council's Housing Affordability Task Force on [September 22, 2022](#)) and will most certainly require more predictability in Provincial approvals and funding than what has been in place for the last two decades.

A number of proposed changes are posted on the Environmental Registry of Ontario and impact the Region and Regional areas of interest. Attachments 2 and 3 outline the changes proposed through amendments to the nine existing Acts; the *Support Growth and Housing in York and Durham Region's Act* is addressed through a separate report on this Council agenda.

The deadlines for comments range from November 24, 2022 to December 31, 2022.

4. Analysis

Proposed changes to the *Development Charges Act, 1997* reduce the share of infrastructure funded through development charges and place pressure on the Region's debt capacity, tax levy and/or water rates

Bill 23 proposes several changes to the *Development Charges Act, 1997* beginning with permitting a bylaw to have a maximum term of 10 years, up from the current 5. It also proposes to require phasing in a new bylaw's development charge rates over the first five years – with a suggestion that it will apply retroactively to bylaws passed after June 1, 2022.

The Bill also proposes to exempt or discount development charges on affordable housing, "attainable" housing, not-for-profit housing, inclusionary zoning units and rental units (details are summarized in Attachment 2). Affordable ownership has been defined as 80% of the average purchase price for ownership, while affordable rental has been defined as 80% of average market rent for rental units. A definition of "attainable" will be prescribed through regulation, though it would not include rental. Rental development, which is eligible for development charge discounts, is defined as a building or structure with four or more residential units all of which are intended for use as rented residential premises.

Other proposed changes to the *Development Charges Act* include:

- No longer being able to collect development charges for housing services, growth studies and land costs

- Capping of the interest rate on frozen and installment development charges payments at bank prime rate plus 1%
- Requirement that municipalities spend or allocate at least 60% of the monies in the water, wastewater and roads development charge reserves at the beginning of each year

Any development charge reduction, exemption, discount, or removal of services/costs that limits cost recovery may impact the ability of the Region to deliver vital, growth-related infrastructure or the gap may need to be funded from tax levy or user rates.

The Bill proposes changes to the *Planning Act* which remove planning responsibilities from York Region

The *More Homes Built Faster Act* proposes changes to the *Planning Act* which remove planning responsibilities from York Region as well as Durham, Peel, Halton, Niagara and Waterloo Regions, and Simcoe County. These changes eliminate Council's approval authority for local planning matters, require local municipalities to implement the Regional Official Plan, and remove the Region's right to appeal land use planning decisions.

The Regional Official Plan, once approved by the Minister of Municipal Affairs and Housing, would become the responsibility of local municipalities in conjunction with their own Official Plans. The intent is that local municipal Official Plans incorporate Regional Official Plan policies within their jurisdiction. In the interim, *Planning Act* decisions would be made by local municipalities having regard for both documents with the Regional Official Plan prevailing in the event of conflict.

Other proposed changes to the *Planning Act* include:

- Up to three residential units per urban residential lot as-of-right
- Limiting the role of Conservation Authorities
- Removing all aspects of site plan control for residential development proposals up to 10 units
- Setting maximums for parkland dedication

Coordination to address cross-boundary, public and Regional interests need to be considered

As noted by the Association of Municipalities of Ontario and others (see Attachment 4), many of the proposed changes need to be better understood as they seem to transfer risk from private developers to the public. Regional and Provincial planning has been strengthened over the last 20 years, with changes to the Growth Plan as recently as 2019, recognizing the need for comprehensive planning of matters including but not limited to transportation, transit, water and wastewater services and a financially sustainable means to provide them. The current process of planning and prioritizing Regional infrastructure and service delivery will need to continue.

A move towards local-level decision-making needs to ensure that progress in coordinated, comprehensive planning is not lost and that the public and municipalities are protected from unintended consequences.

York Region and local municipalities already collaborate extensively to coordinate planning matters. Most routine planning matters have already been delegated to local municipalities. Other Regions still have subdivision approval, so in those jurisdictions, the changes are more impactful.

Responses to Environmental Registry of Ontario postings will be provided to Council for consideration and additional comments

Environmental Registry postings regarding changes proposed through Bill 23 are being reviewed and assessed. Comments will be provided to the Province in response to these postings and their comment deadlines. In light of the incoming Council's first business meeting scheduled for December 8, 2022 the Province will be advised that any comments provided by staff to meet the imposed deadlines are preliminary with Council consideration and additional comments to follow.

5. Financial

Changes proposed through Bill 23 could have implications on how the Region funds growth-related infrastructure, potentially conflicting with the principle that growth pays for growth. Bill 23 proposes several exemptions and discounts to support affordable, non-profit, and rental housing. These incentives, which limit cost recovery, may need to be funded from the tax levy or user rates. The Region currently has in place a number of development charges deferral programs supporting the same desired outcomes, but do not need to be funded from the tax levy or user rates.

If passed, Bill 23 would also amend the Development Charges Act to prohibit municipalities from collecting development charges for housing services, growth studies and land costs. To maintain the current capital program, any growth-related capital costs not recovered through development charges may also need to be made up from tax levy and/or user rates.

6. Local Impact

The planning responsibilities of local municipalities will increase if the proposed changes pass. In addition to an increased approval authority role for applications previously approved by Council or delegated to Regional staff, local municipalities will also be taking on a greater role with respect to the Conservation Authority regulation for planning matters. This may, at least in the short term, have the unintended consequence of slowing planning approvals and increasing appeals to the Ontario Land Tribunal. This risk is further compounded by deadlines and the potential application fee refund regime of Bill 109.

Water and wastewater servicing planned, financed, built and operated by the Region is required for homes to be built. Ongoing collaboration and coordination between local

municipalities and the Region to ensure alignment between growth management planning, infrastructure planning and financial planning will be required.

Finally, many of the changes not highlighted in this report have consequences on local municipalities including those related to parkland dedication, urban design, heritage conservation, and more.

7. Conclusion

Bill 23 is sweeping omnibus legislation proposing numerous changes as outlined in Attachments 2 and 3. If approved as currently written, the Bill appears to overlook unintended consequences counter to the objective of increasing the housing supply. Specifically, changes proposed to the *Development Charges Act* complicate how growth-related infrastructure will be paid for. *Planning Act* changes risk uncoupling growth management planning from comprehensive and financially sustainable infrastructure and service planning.

Ongoing consultations, along with indications of the Provincial government's intentions for regulations that are expected to follow, will help form a better understanding. Staff will be responding as required to avoid missing the imposed deadlines but will also report back to Council relaying any resulting updates to the Ministry of Municipal Affairs. Responses will continue to be coordinated with our local and peer municipalities through AMO, AMCTO, MFOA and other municipal associations.

For more information on this report, please contact Paul Freeman, at 1-877-464-9675 ext. 71534 or Laura Mirabella at ext. 71600. Accessible formats or communication supports are available upon request.



Approved for Submission:

Bruce Macgregor
Chief Administrative Officer

November 1, 2022

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Attachments (4)