

The Regional Municipality of York

Regional Council
Planning and Economic Development
December 15, 2022

Report of the Commissioner of Corporate Services and Chief Planner

Implications of Bill 23, More Homes Built Faster Act, 2022

1. Recommendations

1. Council endorse this report and attachments as comments in response to Environmental Registry of Ontario posting 019-6162: Consultations on More Homes Built Faster: Ontario's Housing Supply Action Plan, associated Environmental Registry of Ontario and Regulatory Registry postings, and related initiatives.
2. The Regional Clerk circulate this report to the local municipalities, local Members of Provincial Parliament, Provincial Ministry of Municipal Affairs and Housing, Federal Ministry of Housing and Diversity and Inclusion, Building Industry and Land Development Association – York Chapter, Municipal Finance Officers' Association and Association of Municipalities of Ontario.

2. Summary

This report provides comments on Bill 23, the More Homes Built Faster Act, 2022, omnibus legislation that was introduced on October 25, 2022 and received Royal Assent on November 28, 2022.

Key Points:

- Bill 23 will have negative implications on funding growth-related infrastructure and fundamentally changes the planning approval process
- While Bill 23 has been enacted, provisions of the Bill which change Council's Regional planning authority are not yet in effect until an unknown future date through proclamation or regulation
- Regional growth management will remain critical for upper-tier municipalities to coordinate growth with infrastructure service delivery and maintain financial sustainability
- Changes to development charges impact the Region's ability to collect sufficient revenue to cover growth related infrastructure costs which will need to be made up from the tax levy and/or user rates, compounding housing affordability challenges

- Municipalities most impacted by Bill 23, were not consulted during drafting nor upon release of the Bill
- Comments were submitted through Environmental Registry of Ontario on most components of Bill 23 to meet the November 2022 deadline for submissions to be considered by Standing Committee

3. Background

Council requested the Province halt Bill 23 at its November 10, 2022 meeting

Bill 23, the *More Homes Built Faster Act* is omnibus legislation that made changes to nine Acts and added a new Act, the *Support Growth and Housing in York and Durham Region's Act, 2022*, all aimed at increasing housing supply in Ontario by 2031.

Bill 23 is the third in a series following Bill 108, *More Homes, More Choice Act* (2019) and Bill 109, *More Homes for Everyone Act* (2022). [Bill 108, More Homes, More Choice Act, 2019](#) introduced extensive legislative changes to Ontario's planning approval process and mechanisms for funding growth-related infrastructure. Bill 108 received Royal Assent 35 days after it was tabled, resulting in little to no time for consultation. [Bill 109, More Homes for Everyone Act, 2022](#), implemented recommendations from the Ontario Housing Affordability Task Force through legislative changes intended to address housing supply and affordability. Notable changes included faster development approval timelines and the requirement to reimburse fees for applications with no decision by the prescribed deadlines. Bill 109 received Royal Assent 18 days after it was tabled, and 15 days before closing of commenting period. Both Bills focus strongly on supply-based solutions targeting municipal processes to address housing challenges.

The Council report of [November 10, 2022](#) outlined the purpose of Bill 23 and a high-level assessment of proposed changes and preliminary comments. Following consideration of that report, Council passed a resolution requesting the Province halt the Bill to engage and work with municipalities. This second report on Bill 23 focuses on anticipated implications, unintended consequences of the changes, and summarizes comments provided to the Province before Bill 23 was passed. The Region, Association of Municipalities of Ontario (AMO) and other major stakeholders were not consulted or briefed on Bill 23.

Comments on multiple postings on the Environmental Registry of Ontario (ERO) and Regulatory Registry outlined in Attachment 1 were due between November 24 and December 30. The Provincial standing committee considering Bill 23 hosted public hearings in mid-November, and due to anticipated early Royal Assent, responses were provided in mid-November as contained in Attachment 2. On November 23, 2022 commenting periods for some ERO postings were extended, however, the Bill received Royal Assent on November 28, 2022.

4. Analysis

Growth management cannot be uncoupled from infrastructure and financial planning

Council has recognized the importance of aligning growth and infrastructure to ensure financial sustainability. Growth forecasts are used to plan communities and determine infrastructure and services required to serve residents and businesses. Coordinated planning and growth management ensures these services are in the right places at the right time. Removing growth management from this relationship could result in slower planning approvals and/or delays to infrastructure delivery which would impact subsequent steps in the approval and construction process. It may also create competing local municipal priorities for the timing of infrastructure and services that are planned, developed and funded by the Region. Bill 23 changes to the *Development Charges Act, 1997* (Act) discussed further in the report, compound funding pressures that will result in infrastructure delivery challenges. To ensure wise use of funds to plan, finance and build infrastructure, the Region will continue to play a key role in growth management to align infrastructure and growth, and fund growth in a financially sustainable manner. Expediting Provincial infrastructure approvals will be critical to unlocking growth and building homes faster.

Bill 23 introduced phasing-in of development charge rates, exemptions for specific types of housing, and proposes some growth-related costs as ineligible for development charges

Bill 23 includes the phase-in of development charges rates for municipalities whose Development Charges (DC) Bylaws were passed on or after January 1, 2022. The phase-ins are not limited to when there is an increase in rates as they also apply when there is any change to a bylaw (including a policy change which has no impact on rates). These phase-ins will limit the ability of a municipality to collect 100% of a new rate until the fifth year of a DC Bylaw. If the objective is to mitigate cost increases, the phase-in provisions should only apply where there is an increase in the development charges rates.

Bill 23 also introduced several new exemptions for housing. Of significance is the full exemption for affordable ownership which is defined as 80% of the average purchase price of a home (it must be maintained as affordable for 25 years). Prior to Bill 23, using the Province's definition of affordable home ownership, a York Region household that earns approximately \$120,000 annually can only afford a home priced at \$536,000. In 2021, 80% of the average purchase price for homes sold in York Region ranged from \$520,000 for a condominium to \$1,282,000 for a single detached dwelling (or an average of \$1,034,000 for all unit types). Having a threshold at 80% of the average purchase price for a home is too high to be considered an affordable ownership option for many residents in the Region and will now be subject to a full DC waiver.

Changes to the Act through Bill 23 also included removing Housing Services, studies and land costs (for prescribed services) as DC-eligible. For studies and land, this applies to all DC Bylaws that come into force and effect following Royal Assent. To address some of the

DC shortfall, the Province suggested the Federal Housing Accelerator Fund could be considered but no details have been provided.

Comprehensive planning across municipal borders has benefitted communities through efficiencies, cost savings and infrastructure investments

Growth management, affordable housing, protection of natural systems, economic development, climate change mitigation and adaptation, transit systems and water and wastewater systems all cross local municipal boundaries and require coordination to ensure consistency and sustain efficient planning approvals. The regional context achieves economies of scale, particularly in York Region due to partnerships with Toronto, Durham and Peel to deliver water and wastewater services. Without cross border coordination, implementation will be impacted by inefficiencies, financial sustainability, and service level inequalities between local municipalities. Development of the regional structure and centres and corridors framework set the foundation for coordinated intensification and rapid transit in York Region. The Region has made investments in rapid transit and subway expansions to support public transit service coordinated with future growth. Continued coordinated growth management will ensure that services, infrastructure and amenities support delivering transit supportive complete communities for current and future residents.

Long-standing municipal and Conservation Authority partnerships help deliver communities supported by regional services, infrastructure and systems. Losing the Conservation Authority's comprehensive watershed perspective may put additional strain on natural systems resulting from changing land uses and climate change mitigation that encompass sustainable development. In addition, allowing the Conservation Authority modernization project to be completed would give Conservation Authorities flexibility to provide services to municipalities.

A focus on market housing combined with reduced Development Charges and other Bill 23 changes will compromise establishment of complete communities

Bill 23 focuses on increasing market housing supply and reduces opportunities to provide broader complementary amenities required for communities to be complete. This includes reducing parkland dedication requirements, community benefit charges, DC collections and DC eligible services (e.g. housing services), and by potentially disposing of Conservation Authority lands for housing development. Governments and agencies that provide services such as schools, recreational services, police, fire, EMS, public health and long-term care will see increased, and potentially unsustainable demand on existing facilities and service levels if not addressed and accounted for with new growth. These facilities and services will require more funding and resources to keep up with population anticipated from increased housing and without a comprehensive, coordinated approach, could result in unsustainable and inequitable communities.

Research following the pandemic shows adequate outdoor greenspaces and amenities are important to human health and well being. With the increase of higher density communities in York Region, parks may be the only source of outdoor space for activity and socialization for some of these communities. Bill 23 may inadvertently lead to an imbalance in the successful

mixed-use nature of complete communities by impacting the ability of municipalities to provide supporting land uses and services.

York Region continues to support streamlining approvals and will support partners with monitoring and research

York Region has been at the forefront of streamlining the development approval process through automation and transparency. Collection and management of real-time growth data across the Region through the Yorktrax standardization project for common planning data and improved customer experience is essential to effectively prioritize and allocate services, critical to meet the Province's objective to build more homes faster. There will continue to be a need to monitor and forecast growth and development to plan for infrastructure efficiently and sustainably.

Coordinating growth will continue to be important, especially given the high growth forecast for York Region. There is opportunity to share and leverage knowledge and skills with local municipalities and other partners, including research and support through the Affordable Housing Implementation Plan; policy development, implementation and interpretation for local Official Plans; facilitating inter-regional connections with projects such as the employment survey; and continuing to advance real-time integrated growth management.

While Bill 23 is aimed at speeding up housing development, additional measures are needed to address affordability

There are many factors on both the supply (land availability, approvals, skilled labour, material shortages) and demand (income levels, interest rates, suitable units for household formation, immigration) sides influencing the availability of housing. Discussion on both supply and demand factors between the Province, municipalities and the development industry are needed and essential to understanding bottlenecks in the approval process in order to mitigate them. The housing market is complex, and as observed with increasing interest rates, is impacted by a variety of factors. The intent of Bill 23 is to speed up housing, however, additional unintended consequences of transition between upper and lower tier municipalities, external financial and market factors, and ability to physically construct homes in a timely manner may have the opposite effect. More discussion on all the factors influencing affordability is required to address core housing affordability issues.

Measures are required to address lower income households who lack housing options including targets for different types and tenures, and supportive housing units to ensure building the right type of housing matching income levels for future populations. Government investments in community housing, rent controls, rental housing protections, utilization of community benefit charges and increases to social assistance to cover the cost of housing should all be reviewed to address deeper depths of affordability. With housing services no longer eligible for DC's through Bill 23, a share of the Non-resident Speculation Tax could make up this shortfall for municipalities and be used to fund building affordable units and housing services.

Supporting local municipalities with research and programs through the Affordable Housing Implementation Plan (AHIP) and collaboration with the private industry are examples where

actions can increase the availability of market housing that is affordable. Encouraging modest smaller buildings for gentle intensification to address the missing middle and finding the right areas for this type of housing are policy considerations that local municipalities may need to establish in a shortened timeframe.

5. Financial

Changes to the *Development Charges Act, 1997* will put downward pressure on development charges collections for the Region and local municipalities. The 2022 DC Bylaw rates will now have to be phased in at 80% for the first year and to 100% by Year 5. Over the next five years DC collections would be about \$178 million lower than forecasted. Other changes including the exemptions and discounts for housing will also result in reduced revenues. Staff require additional regulatory guidance to fully quantify those impacts.

Using the costs included in the Region’s 2022 Development Charges Background Study, it is estimated that approximately \$645 million of previously eligible costs may no longer be eligible for development charges. Table 1 provides further details.

Table 1
Bill 23 – Preliminary DC Ineligible costs

Bill 23 Changes to the <i>Development Charges Act</i>	Estimated DC-Ineligible costs 2023 - 2032 (\$ Millions)
Removal of:	
Housing Services	108.8
Growth-related studies	320.3
Land	215.5*
Total	644.6

*Estimate provided is for all services and may be understated. Bill 23’s associated regulatory framework is still needed to provide clarity on which prescribed services would no longer be able to collect for land acquisition costs

The Region currently uses development charges reserves each year to pay for the debt costs associated with pre-existing growth infrastructure, or for new projects within the ten-year capital plan. Under the Act, all monies in the DC reserve may only be used to fund the infrastructure identified in a municipalities’ Background Study and should not be used to fund the shortfalls in development charges collections resulting from Bill 23. Therefore, to maintain the Region’s current capital program, any growth-related capital costs not recovered through development charges collections may need to be made up through a higher tax levy and/or user rates. This could have the unintended consequence of worsening housing affordability challenges for existing and future homeowners and renters.

6. Local Impact

Bill 23 increases planning responsibilities for local municipalities through such matters as development approvals and implementation of Official Plans representing a significant amount of additional work for local municipal staff. Local municipalities are under-resourced to address increased responsibilities imposed by the Bill. Time may be required to put these resources in place resulting in unintended consequences of increased approval timelines and fewer homes being built than anticipated, at least in the short term.

7. Conclusion

Efforts within Bill 23 to streamline approval and build more housing is consistent with Regional objectives as it supports economic prosperity, housing options and affordability, articulated in the [Corporate Strategic Plan](#).

While streamlining and more affordable housing are supported, there will likely be unintended consequences to achieve faster housing development. The affordable housing crisis is multi-faceted, and will involve many partners to mitigate, including all levels of government and the development industry. The Province is requested to consult with municipalities to ensure the fast-growing GGH can effectively plan for livable and sustainable communities and help reach the Province's goal of building 1.5 million homes.

For more information on this report, please contact Sandra Malcic, Director, Long Range Planning at 1-877-464-9675 ext. 75274. Accessible formats or communication supports are available upon request.

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Attachment 1 - Summary of Recommendations for Consultations

Attachment 2 - York Region's Preliminary Comments