

REPORT TO COUNTY COUNCIL

Initial Review of Bill 185 (the Cutting Red Tape to Build More Homes Act) and Draft Provincial Planning Statement 2024

To: Warden and Members of County Council

From: Director of Community Planning

RECOMMENDATIONS

1. That the Director of Community Planning, in consultation with other County staff and stakeholders as required, prepare and submit preliminary comments and undertake early advocacy on key areas of concern in response to the Provincial consultations on Bill 185 (the Cutting Red Tape to Build More Homes Act) and proposed Provincial Planning Statement, as generally outlined in Report CP 2024-133;
2. And further, that Report CP 2024-133 be circulated to the Area Municipalities for information.

REPORT HIGHLIGHTS

- On April 10, 2024 the Province released Bill 185 (the Cutting Red Tape to Build More Homes Act) which includes a number of legislative changes to the Planning Act and Development Charges Act, among others, as well as a revised 2024 draft 'Provincial Planning Statement'.
- The proposed changes being introduced through Bill 185 and the revised 'Provincial Planning Statement' are substantive and wide ranging. While many appear to be positive (e.g. Development Charge changes), others are of considerable concern (i.e. settlement expansion appeal rights and justification requirements, and some proposed agricultural policy changes).
- Staff are seeking Council's initial direction to submit preliminary comments and pursue opportunities for coordinated advocacy with various organizations (e.g. WOWC, OFA, AMO) on key areas of initial concern, as generally identified in this report.
- Staff intend to bring a subsequent report to the May 8, 2024 Council meeting to provide further details and comments on other proposed changes, once they have been more fully reviewed.

IMPLEMENTATION POINTS

The recommendations contained in this report will have no immediate impacts with respect to implementation. However, the uncertainty these proposed provincial changes introduce may further delay implementation of certain initiatives to address housing supply and other important planning objectives, in the short term.

Further, if implemented as proposed, a number of the proposed legislative, policy, and other changes could have significant implications for various ongoing County projects (i.e. secondary planning, Phase 1 Comprehensive Review study updates, Official Plan updates, etc.), as well as the existing Official Plan policies and related implementation tools and measures. As such, if approved, various County and Area Municipal land use related policies, processes and standards will likely require comprehensive review and updates to ensure consistency with the new Provincial direction.

Financial Impact

If enacted, a number of the proposed provincial legislative and policy changes identified in this report could have significant financial impacts for the County and Area Municipalities, including the potential need for additional background and technical studies, staffing and other resources to address and/or implement the various changes.

Communications




Communication is proposed through the inclusion of this report on the County Council agenda and related communications and circulation to the Area Municipalities.

2023-2026 STRATEGIC PLAN

Oxford County Council approved the **2023-2026 Strategic Plan** on September 13, 2023. The Plan outlines 39 goals across three strategic pillars that advance Council's vision of "Working together for a healthy, vibrant, and sustainable future." These pillars are: (1) *Promoting community vitality*, (2) *Enhancing environmental sustainability*, and (3) *Fostering progressive government*.

The recommendations in this report supports the following strategic goals.

Strategic Plan Pillars and Goals

PILLAR 1	PILLAR 2	PILLAR 3
		
Promoting community vitality	Enhancing environmental sustainability	Fostering progressive government
<p>Goal 1.2 – Sustainable infrastructure and development</p> <p>Goal 1.3 – Community health, safety and well-being</p> <p>Goal 1.4 – Connected people and places</p>	<p>Goal 2.1 – Climate change mitigation and adaptation</p> <p>Goal 2.2 – Preserve and enhance our natural environment</p>	<p>Goal 3.2 – Collaborate with our partners and communities</p> <p>Goal 3.4 – Financial sustainability</p> <p>Goal 3.5 – Advocate for Oxford County</p>

See: [Oxford County 2023-2026 Strategic Plan](#)

DISCUSSION

Background

In April 2023, the Province released legislative and policy changes, including a proposed new draft 'Provincial Planning Statement' document, as part of an ongoing series of changes initiated to implement their annual Housing Supply Action Plans. Staff submitted comments to the Province on the related ERO posting on behalf of the County, as previously discussed in Reports [CP 2023-126](#), [CP 2023-144](#), [CP 2023-194](#).

It is noted that the last few years have been a period of unprecedented change in Provincial direction on matters of land use planning, development, and municipal regulatory powers, with the Province bringing forward at least 10 related bills since 2021, in addition to proposed land use policy and other changes. Given the pace of change and in some instances, unanticipated consequences, the Province has been compelled to reverse many of these decisions, which has created a period of significant uncertainty for municipalities, which has made planning at any level very difficult.

Most recently, on April 10, 2024, the Province released Bill 185, the 'Cutting Red Tape to Build More Homes Act' ([ERO 019-8365](#)), which proposes a number of additional changes to the Planning Act, Municipal Act and Development Charges Act, among others. The Province also released a revised 2024 draft of the 'Provincial Planning Statement' ([ERO 019-8462](#)), which was originally introduced in 2023. The revised draft includes a broad range of proposed changes to current provincial land use policy direction, including changes made in response to the feedback received from consultation on the previous draft document. This document is intended to replace the current Provincial Policy Statement (PPS, 2020) and 'A Place to Grow'– Growth Plan for the Greater Golden horseshoe (APTG).

The legislative and regulatory changes currently being proposed include, but are not limited to:

- Elimination of most third party appeal rights on Official Plan and Zoning amendments;
- New appeal rights for settlement expansion applications;
- New lapsing provisions for plans of subdivision and allocation of servicing capacity;
- Potential to limit local parking requirements through regulation;
- Broader regulations for additional residential units;
- Proposal to exempt community service facilities and post-secondary institutions from planning requirements; and
- Changes to Development Charges and Municipal anti-bonusing rules.

The various land use policy changes currently being proposed through the revised draft Provincial Planning Statement apply to a broad range of policy areas including, but not limited to, housing, settlement expansions, employment, land use compatibility, infrastructure, water, agriculture, and natural and man-made hazards.

Given that these legislative and policy changes were only released for consultation a few days prior to the preparation of this report, County staff have had very limited time to review and consider these changes to date. As such, this initial report is focused on a few proposed changes that staff have had an opportunity to review and certain key matters of initial concern. These are further detailed in the comments section of this report.

The remainder of the proposed legislative and regulatory changes in the various ERO postings in relation to Bill 185 and fulsome review and comment of the various land use policy changes proposed in the revised draft Provincial Planning Statement 2024 will be addressed in a subsequent report.

Comments

Based on preliminary review, staff have identified the extremely short consultation period and a number of other key matters as being of particular concern. These matters have been highlighted in this initial report for Council's information and as focus areas for early and co-ordinated feedback and advocacy. Further, Corporate Services staff have completed an initial assessment of the proposed municipal finance related changes (i.e. various changes to the Development Charges Act and incentive provisions in the Municipal Act), and a summary of those changes and associated comments has also been included in this initial report. These matters are discussed in more detail in the following sections.

a) Consultation Timeframe

Given the number and extent of the legislative and policy changes being proposed, staff are of the opinion that the 30 day consultation period the Province has currently provided is wholly insufficient for fulsome consideration of all of the proposed changes and related impacts.

In comparison, the Province provided 60 days (later expanded to 90 days) to submit comments on the first draft of the proposed Provincial Planning Statement, when it was released for consultation early last year. In response to that consultation, the County requested that a minimum of 60 days be provided for municipal review and comment on any revised draft of that document, at such time as it was released. Instead, just 30 days are being provided to review and comment on the revised draft document and all of the proposed legislative and regulatory changes that were released with it.

As such, staff are planning to work closely with various municipal groups and organizations to advocate for an immediate extension to the commenting deadline (i.e. request at least 60 days), so that municipalities have sufficient time to meaningfully consider the proposed changes and provide meaningful feedback.

b) Development Charges (DCs)

As part of Bill 185, the province is proposing a number of changes to the Development Charges Act ([ERO 019-8371](#)) and related notice requirements ([ERO 019-8370](#)). These changes were reviewed by County Corporate Services staff, who provided the following comments:

i) Repeal the mandatory five-year phase-in of DC rates

The Bill proposes to repeal the requirement for the mandatory phase-in of Development Charges (DCs) over a 5-year period. As outlined in [Report CS 2024-09](#) the mandatory phase-in was estimated to result in a DC funding loss of \$22.4 million over 10 years, which would need to be made up through the levy and water and wastewater rates. County staff support the removal of the phase-in requirement as a means to ensuring that growth pays for growth.

Bill 185 also includes transition provisions for DC By-Laws implemented with the mandatory phase-in requirements after November 28, 2022, and before this subsection of Bill 185 comes into force. The transition provision would allow for the County to pass an amending by-law to remove the phase-in requirements within six months of Bill 185 coming into force without the need for an updated DC Background Study, provided the amendment is limited to this change.

County staff do not foresee any challenges with meeting the requirements of this proposed change, either through amending the by-law proposed to be passed on June 12, 2024 with removal of the phase-in provisions, should the Bill come into force prior to that date, or with the passing of an amending by-law within six months of the Bill coming into force. County staff would aim to bring forward the amending by-law as soon as possible to mitigate the amount of non-DC funding required for phase-in discounts granted while the by-law including those provisions is in force.

ii) Reinstate studies as an eligible capital cost for DCs

Bill 185 proposes to restore the following to capital costs that are eligible for inclusion in DC calculations, which had previously been removed through Bill 23 - The More Homes Built Faster Act, 2022:

- Costs to undertake studies in connection with any of the matters referred to in paragraphs 1 to 4 of section 5(3) of the DC Act (i.e. growth related studies)

- Costs of the development charge background study required under section 10 of the DC Act.

County staff are in support of such growth related studies being reinstated as an eligible cost. Report [CS 2022-49](#) estimated the costs associated with studies to be \$1.1 million for rates based services and \$1.3 million for levy based services.

Similar transition provisions would be followed, requiring an amending by-law within six months of Bill 185 coming into force, limiting the amendment to imposing development charges to pay for the costs of studies. Staff have already begun preparing a list of studies, including associated costs, and will continue to gather this information so that the transition provision timelines are achieved.

iii) Streamlined Process for Extending DC By-Laws

Bill 185 proposes an amendment to allow for a municipality to extend the effective date of a DC by-law without undertaking the Background Study process, provided the only change is in relation to the by-law expiry date. Municipalities seeking to update DC rates would be subject to following the regular DC by-law process. As the County is currently looking to update DC rates, this change has no impact on the process the County is currently undertaking, however, may be of value in the future.

iv) Reduce the time limit on the DC freeze

Through the More Homes, More Choice Act, 2019, DCs were set (i.e., frozen/locked) when a site plan application (or zoning application if no site plan application was made) is submitted to the municipality. Once the application is approved, a time limit of two years applies to the frozen DCs.

Bill 185 proposes to reduce the time limit that DCs are frozen to 18 months (currently two years) following approval. This change would be applied to application approvals completed after Bill 185 comes into effect, with the two-year rate freeze period continuing to apply to approved developments prior to Bill 185 enactment.

Staff are in support of this change as it is anticipated to encourage developers to more quickly obtain building permits and helps to ensure that DC's collected are reflective of inflationary increases.

Notice provisions are also required with respect to the related amendments. Staff have no concerns regarding the ability to complete the new notice requirements.

In responding to the [ERO 019-8371](#) posting, County staff are proposing to indicate support for the changes being proposed, while also requesting that the province make provisions, in some manner, to ensure that the County is made whole, for any lost DC revenue. Staff suggest options to be made whole may include:

- Allowing the cost of studies that were required to be excluded as a result of Bill 23 to be wholly eligible for inclusion in the DC rate calculation;

- Allowing the municipality to retroactively collect from developers any of the DC discounts that had been applied between the period of Bill 23 enactment and the passing of an amending by-law removing the phase-in requirement; or
- Providing a grant to municipalities in the amount of the phase-in discounts that were provided to developers, given that the municipality passed an amending by-law removing the phase-in discounts within the transition period.

c) Municipal Incentives

Currently, the Municipal Act, 2001 and City of Toronto Act, 2006 prohibit municipalities from providing direct or indirect assistance to any manufacturing, industrial or commercial businesses. The Ministry of Municipal Affairs and Housing is proposing legislative amendments to the Municipal Act, 2001 and City of Toronto Act, 2006 to streamline the province's process for granting exemptions to municipalities from this prohibition to support provincial investment attraction. These changes were also reviewed by County Corporate Services staff, who provided the following comments.

The proposal is to establish a targeted, streamlined exemption process that enables the Lieutenant Governor in Council to make regulations to support provincial investment attraction to compete for investment, while still helping to ensure the province safeguards the fiscal health of municipalities. More specifically, if a municipality provides this assistance to a business, it could have any or all of the following potential impacts:

- The municipality may forego some revenue that may otherwise have been collected from the business; and, depending on the assistance provided, the municipality may be required to raise the foregone revenue from other sources.
- There could be benefits to the local community and the province including direct and indirect job creation.
- Businesses that receive assistance would benefit as it would help to lower their costs of establishing their business in the municipality, which could translate into more investments and job creation for the local community and province.
- There may be some increased administrative costs for municipalities to track the assistance that is provided.

Considering the foregoing summary provided through the Ontario Regulatory Registry for comment, County staff are of the opinion that Community Improvement Plans already provide a broad scope of incentive options for municipalities to employ with respect to attracting businesses to their communities. In the event that the province has an interest in a business locating in a particular municipality, the cost of incentivizing the business to choose a location in the province should be borne by the province so that the financial burden does not fall solely on tax bills of property owners within the hosting municipality, and should be subject to transparent, broader provincial scrutiny. Municipal budgets and administrative resources are already challenged with maintaining large property assessments assigned to many of these businesses. Therefore, the province should invest in revisions to establishing a fair and predictable property assessment valuation and tax system that municipalities and the province can rely on, and these provincially significant businesses can have confidence in using for financial planning.

In summary, the financial commitment for attracting and retaining provincially significant economic prospects should be collaborated and assessed on an individual basis, considering the ability of

the proposed host municipality to financially sustain the infrastructure development requirements in the short and long term, based on sound economic data.

d) Settlement Area Expansions

One of the many proposed changes to the Planning Act, is to allow for a private applicant to appeal the approval authority's refusal of a proposed settlement area expansion on any lands outside of the Provincial Greenbelt. This appeal right was removed from the Planning Act in 2004 and has since proven to be one of the most important and effective tools for ensuring municipalities are able to focus their efforts and resources on planning for community growth in a comprehensive and coordinated manner (logical extension of servicing, efficient use of land, encouraging increased densities, intensification, etc).

This proposed change in appeal rights is of particular concern, particularly in the context of considering the proposed lessening of the justification and review requirements for settlement area expansions that is being proposed in the current draft of the Provincial Planning Statement. These proposed policy changes were already a major area of concern identified in the County's previous comments on the proposed 2023 draft of Provincial Planning Statement and this concern is further compounded by these proposed new appeal rights.

It is noted that Oxford and number of other municipalities have previously requested that the Province provide some additional flexibility to facilitate settlement expansions in certain circumstances, where it is reasonably required to properly plan for and accommodate forecasted growth and increase housing supply. This included suggesting that the maximum planning horizon be increased from 25 to 30 years, which Planning staff are pleased to see the Province has now included in the revised draft. So, it is possible that some of the other proposed changes to these policies were also an attempt by the Province to address Oxford's previous comments. However, it is the opinion of Planning staff that the current proposed changes now go too far and do not provide sufficient direction and certainty for municipalities to be able to effectively plan for, coordinate, and direct growth, which may also serve to undermine other key provincial and local planning objectives, including but not limited to:

- ensuring the efficient use of land and infrastructure and avoiding the need for costly or unnecessary provision or expansions of infrastructure and public services;
- Protecting agricultural land for long term agriculture and limiting impacts on other natural resources; and
- encouraging increased density, intensification, range and mix of housing and other uses necessary to support complete, sustainable communities etc.

Comprehensive and coordinated municipal planning for settlement expansions is essential for ensuring certainty and consistency in planning for growth and infrastructure and other public services (i.e. schools and other public facilities) and for building complete communities (i.e. to achieve the necessary densities and mix of housing and other uses).

As such, it is critical that settlement expansions be either initiated or approved by a municipality, and that a municipal decision to not support privately initiated applications for settlement expansion continue to be protected from appeal (to the OLT). The alternative would lead to increased speculation on agricultural land and uncoordinated/inefficient settlement expansions, due to continuous pressure from development proponents to expand settlement boundaries and

infrastructure in multiple directions. This continuous pressure would distract municipalities from focusing their resources on completing the necessary growth and infrastructure planning that is essential to sustainably accommodate growth and build great communities.

The Province's stated outcome of this PPS review is to determine the best approach to enable municipalities to accelerate the development of housing and increase housing supply, including rural housing, through a more streamlined, province-wide land use planning policy framework. To achieve this objective, the Province would be better served by maintaining the current growth management policies from the existing PPS, 2020, that have worked well, while integrating the more detailed growth related policies and terminology from A Place to Grow (i.e. provincial growth plan for the greater golden horseshoe), where necessary and/or beneficial.

In summary, Planning staff are proposing that the Province again be requested to revise the proposed settlement expansion policies to address the above noted concerns, while continuing to ensure a level of flexibility for settlement expansions, as previously requested by Oxford. Staff also propose that the changes to the Planning Act proposed to allow for appeal of a municipal refusal of a privately initiated application for settlement expansion be rescinded.

c) Agricultural Policies

The Province appears to have left the policies in the revised draft of the Provincial Planning Statement for permitted uses in Prime Agricultural Areas largely unchanged from the current PPS, 2020. The one notable exception appears to be a minor policy change to clarify that additional residential units are permitted in agricultural areas in accordance with certain development criteria, as the current PPS, 2020 is silent in that regard. Planning staff are generally supportive of this clarification, as the County and Area Municipalities have proactively amended the Official Plan policies to permit such units on farms to support farm families and increase rural housing options.

However, the concern is that, as part of this change, the Province is also proposing to clarify the wording of the current residential lot creation policies which it appears could, inadvertently or otherwise, significantly increase the potential for rural residential lot creation and the associated loss of agricultural land and negative impacts on agricultural operations.

It is not yet entirely clear what the Province intended with the proposed changes to the lot creation policy wording. However, this proposed change is of significant concern, particularly given the clear and consistent feedback that was provided by a broad range of municipal and agricultural organizations warning of the enormous and irreversible negative impacts on agricultural land and operations from the proposed rural residential lot creation policies that had been proposed in the 2023 draft of the Provincial Planning Statement. Further, it would appear to contradict the Province's written commitment to many of the agricultural and commodity groups in Ontario on May 29, 2023 in response to those concerns, which indicated the Province would "continue working with the agricultural sector to look at alternatives that would assist farm families in succession planning, but do not involve additional severances". As such, this is a change that Planning staff will be further reviewing and seeking additional clarity from the Province on, while also engaging with various municipal and agricultural organizations to identify mutual concerns and the need for early and collective advocacy.

CONCLUSIONS

The proposed legislative and regulatory changes being proposed through Bill 185, together with proposed policy changes being introduced through the revised Provincial Planning Statement, are substantial and wide ranging. While many of the proposed changes appear to be positive (i.e. development charges), others (i.e. the proposed changes to the wording of some of the agricultural policies and the requirements and rights of appeal for settlement area expansions) could potentially have a significant impact on the ability of municipalities to comprehensively and effectively plan for growth, infrastructure, and the protection of agricultural land and operations.

Given the extent of the various changes being proposed, together with the short review and commenting period provided by the Province, Planning staff are seeking County Council's initial direction to proceed with preparing and submitting preliminary comments to the Province and undertake early advocacy with respect to the key matters of concerns, as generally outlined in this report.

The intent is that a more fulsome overview the proposed Provincial legislative and policy changes, and associated staff comments, will be provided in a subsequent report to Council on May 8, 2024. In the interim, staff will continue to undertake a detailed analysis of the proposed legislative, regulatory and policy changes, including further consultation with provincial staff, municipal organizations and other key stakeholders, and participation in any upcoming information sessions, to identify potential matters of particular interest or concern to the County and/or Area Municipalities.

SIGNATURES

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