To: **Warden and Members of County Council**

From: **Director of Community Planning**

Provincial Consultation on Bill 23, More Homes Built Faster Act, 2022

RECOMMENDATION

1. **That the Director of Community Planning, in consultation with other County staff as required, prepare and submit the County of Oxford's formal comments in response to the Provincial consultations on Bill 23, More Homes Built Faster Act, 2022 and other related ERO postings, as generally outlined in Report No. CP 2022-407;**

REPORT HIGHLIGHTS

- The Province is undertaking consultation on Bill 23, the *More Homes Built Faster Act* and a number of other initiatives. This consultation is being undertaken through a series of postings on the Environmental Registry of Ontario (ERO), with aggressive commenting deadlines of November 24, 2022 for most of the proposed legislative and regulatory changes and December 30, 2022 for most of the other proposed changes.

- This report provides an overview of the various legislative amendments currently being proposed through Bill 23, including changes to the Planning Act, Development Charges Act, Conservation Authority Act, Conservation Act and others. Various other changes being proposed as part of this Provincial consultation process (i.e. review of Places to Grow and the Provincial Policy Statement, natural heritage protection, natural hazard regulations, Building Code etc.) will covered in a subsequent staff report.

- Given the extremely tight review and commenting deadline provided by the Province, County staff are seeking County Council direction to prepare and submit comments in response to the proposed Bill 23 changes and related ERO consultations on behalf of the County. These comments are expected to focus primarily on the more significant proposed changes to the legislation and associated regulations, as generally outlined in this report.

Implementation Points

The recommendations contained in this report will have no immediate impacts with respect to implementation. However, if implemented as proposed, a number of the proposed legislative changes and other actions would have significant implications for the local implementation of land use planning, development charges, environmental and heritage protections, and various other matters and, as such, may require potential review and/or update of various County and Area Municipal policies, processes and standards.

Financial Impact

If enacted, a number of the proposed legislative and regulatory changes identified in this report could have significant financial impacts for the County and Area Municipalities, including municipal revenues and the need for additional staffing and other resources.

Communications

Communication is proposed to be through the inclusion of this report on the County Council agenda and related communications. Further, given the extremely short commenting deadlines, the report has also been circulated to the Area Municipalities for their review and consideration.

Strategic Plan (2020-2022)

					
WORKS WELL TOGETHER	***WELL CONNECTED***	***SHAPES THE FUTURE***	***INFORMS & ENGAGES***	***PERFORMS & DELIVERS***	***POSITIVE IMPACT***
		3.ii. 3.iii.	4.i. 4.ii.		

DISCUSSION

Background

On October 25, 2022, the Province initiated consultation with respect to a range of legislative changes, policies and other actions being considered or proposed as part of the second phase of their 2022 housing supply action plan (i.e. More Homes for Everyone Plan) and associated *More Homes Built Faster Act* (Bill 23), which received first and second reading on October 25, 2022. This consultation process was initiated through a series of postings on the Environmental Registry of Ontario (ERO).

According to the Province's consultation materials, the current postings are intended to comprise the third phase of 'Housing Supply Action Plans' that the Province has been utilizing to implement the various recommendations in the Provincial Housing Affordability Task Force's report, which was released earlier this year. A summary of the key legislative and other changes introduced through the previous phases (i.e. More Homes for Everyone Act and related Housing Supply Action Plan) was provided to Council earlier this year through report CP 2022-180.

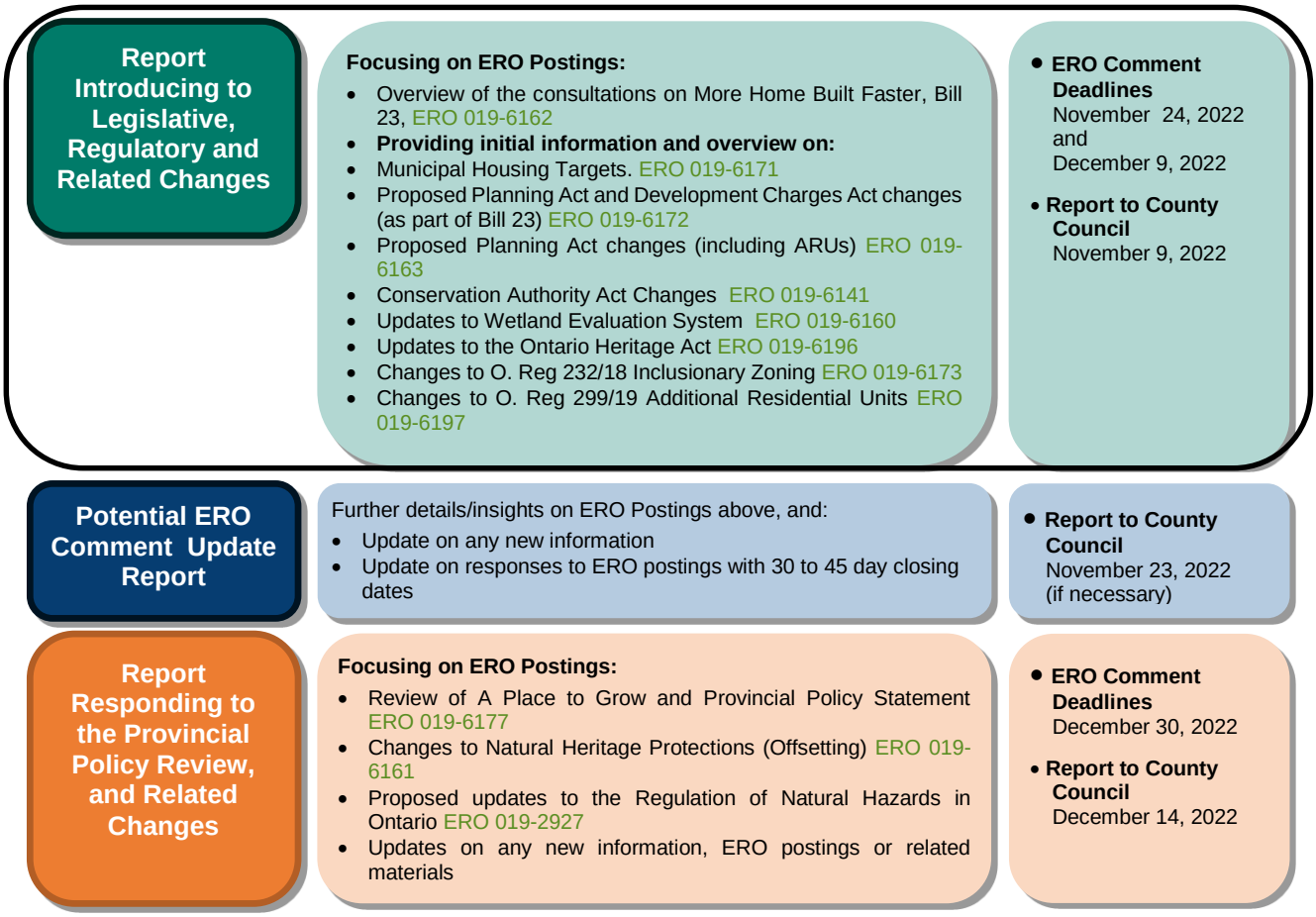
It is noted that the County and various other municipalities, public bodies and organizations submitted comprehensive comments and suggestions in response to the previous phases of the Province's housing supply action plan consultations. However, it does not appear that the Province made any substantial changes or adjustments to the proposed legislation or associated regulations in response to the feedback provided. That said, it is not yet clear to what extent, if any, the previous feedback provided on the various housing related discussion topics (i.e. rural

housing needs, opportunities to increase missing middle housing, and access to financing for not-for-profit housing) has been considered and/or reflected in the current proposals.

The consultation on the current postings represents the first, and likely only, opportunity to review and provide feedback on the specific changes being proposed and/or considered by the Province as part of their Phase 3 Housing Supply Action Plan. That said, the 30 day consultation period provided for most of these postings (i.e. comments due by November 24th) will provide very little time for municipalities to properly assess and comment on the potential impacts of the proposed legislative and other changes or to identify/formulate well reasoned approaches and alternatives.

The focus of this report will be on providing Council with an overview of the proposed legislative and regulatory changes (e.g. Planning Act, Development Charges Act, Heritage Act, Local Planning Appeal Tribunal Act, Conservation Authority Act etc.) and related comments and concerns, as they have the shortest commenting time frame (i.e. 30-45 days). A subsequent staff report (or reports) will be prepared to provide more detail on the proposed changes, particularly those that have been given a somewhat longer review and commenting timeframe (i.e. 60 days).

The following graphic provides a summary of the various ERO postings and how staff are intending to keep Council apprised of the proposed changes and related comments and concerns.



Commentary

Some of the most noteworthy changes and actions currently being proposed by the Province and potential implications and considerations for the County and Area Municipalities are outlined as follows:

1. Proposed Changes to the Planning Act (PA)

An overview of the key changes to the PA being proposed through Bill 23, and associated comments and considerations, is provided as follows:

a) Third Party Appeals

The Planning Act currently allows for third-party appeals (i.e. not the applicant or municipality) of most Planning Act applications. These third party appeal rights with respect to Official Plans, Zoning By-Laws, Minor Variances and Consents are proposed to be eliminated by requiring that an appellant be a public body (i.e. municipality, ministries, agencies etc.), or a 'specified person'. 'Specified persons' are proposed to be limited to public bodies such as OPG, Hydro One, railways, and telecommunication infrastructure providers. This limit on third-party appeal rights also applies to appeals of municipally initiated applications and will apply to existing appeals that have not received confirmation of their scheduled hearing date prior to October 25, 2022.

Related Comments and Considerations

Unlike the current restrictions on third party appeals in the Planning Act (e.g. for municipal comprehensive review amendments and additional residential unit polices/zoning), which are primarily limited to planning applications initiated by municipalities, the proposed changes to third party appeal rights would apply to all planning applications, even those that are privately initiated. Although this could potentially assist in reducing uncertainty for developers and potential delays in getting new housing developments approved (i.e. by eliminating frivolous and/or vexatious appeals and those simply based on NIMBYISM), it could also increase pressure on Councils to approve developments that are not consistent with local policies and requirements, as such decision could no longer be appealed by a third party. Finally, it is noted that third party appeals would be eliminated for all types of planning applications (i.e. commercial and industrial uses, aggregates etc.), not just those for new housing.

b) Site Plan Control

Following are some of the key changes to municipal site plan control authority that are currently being proposed:

- Exempting any residential development that contains no more than 10 residential units from site plan control (note: this exemption would also appear to apply to applications submitted prior to the date Bill 23 comes into effect).

- The following would apply to site plan applications submitted after Bill 23 comes into effect:

    - Eliminating the ability of a municipality to require drawings showing matters of exterior design and expressly excluding 'exterior design' from site plan control. However, matters relating to exterior access to a building that contains affordable housing units can still be reviewed. The current site plan provisions in the PA allow a municipality to require the submission of drawings showing the exterior design of a new building, include its character, scale, appearance, and design features to be required.
    - Adding a further limitation that the appearance of the elements, facilities, and works on municipality owned lands or highways adjacent to the development site are not subject to site plan control, unless their appearance impacts matters of health, safety, accessibility, or the protection of adjoining lands.

Related Comments and Considerations

The Provincial consultation material suggests that the rational for these proposed changes is to reduce delays in the development approval process and associated costs. In Oxford, site plan applications are generally processed in a very short time frame and the application fees are minimal. Further, the site plan approval process currently provides the primary mechanism for reviewing and regulating a broad range of important site design related matters including, but not limited to, access, parking and loading, servicing, drainage, landscaping/buffering, lighting and building location, orientation and design. In Oxford, the approval of site plans is delegated to staff and cannot be appealed (except by the applicant), so presents very limited uncertainty for housing development.

Therefore, it is not clear how eliminating the use of site plan control for smaller residential developments and the regulation of exterior design and landscaping would significantly reduce development approval time frames and/or costs, particularly where the process is similar to those in Oxford. Further, these proposed limitations will likely result in municipalities developing and/or utilizing other, potentially less flexible and/or effective tools and approaches (i.e. detailed zoning requirements and/or development standards), to properly regulate such developments and matters. As such, staff would suggest that the Province be advised not to proceed with these proposed changes and continue to leave the use of the site plan control for such purposes to the discretion of municipalities. Instead, the focus should be on ensuring municipal site plan application fees are reasonable and that municipalities are providing clear and reasonable expectations for exterior design at the pre-consultation stage and not unduly delaying approvals simply due to minor exterior design concerns.

c) Public Meetings for Plans of Subdivision

The current requirement that a public meeting be held by an approval authority for the purposes of giving the public an opportunity to make representations in respect of a proposed plan of subdivision is to be eliminated.

Comments/Considerations

The Province has indicated that the intent of these proposed changes is to streamline subdivision approval process. In that regard, staff note that the approval timeframe for a typical subdivision in Oxford is already substantially less than in most GTA municipalities. Further, the public meeting (PM) process can sometimes provide useful feedback that can be used to improve or modify the subdivision design, and/or include conditions of approval, that can assist in addressing or eliminating many concerns.

The removal of the PM requirement would appear to eliminate the need to provide notice 20 days in advance of the County Council meeting at which the application is being considered (typically the same meeting as the PM in Oxford) and the opportunity for the public to speak to the application, without the need to register as a delegation. In Oxford, the statutory PM is held by County Council and typically adds very little time to the overall process, as the majority of the feedback is obtained through the non-statutory PM held by the Area Municipality as part of their consideration of the application. So, it is not clear how much this change would speed up the overall consideration and approval of such applications. If the non-statutory PM at the area municipal level were also to be eliminated, it may simply increase the number of delegation requests for that meeting. If enacted as proposed, this change will require discussion with the Area Municipalities to determine the desired process moving forward.

d) Additional Residential Units (ARUs)

The Province has indicated that changes to the Planning Act provisions and associated regulations (O. Reg. 299-19) for Additional Residential Units (ARUs) are being proposed to create more ‘gentle density’, by increasing the number of residential units in urban areas.

These proposed changes would repeal the existing requirements for municipal official plans and zoning by-laws to contain policies and provisions that authorize the use of ARUs in a single detached, semi-detached or townhouse dwelling and/or in a structure ancillary to such dwelling. This requirement would be replaced by new provisions that would not allow any official plan or zoning by-law to prohibit the use of up to three residential units on a ‘parcel of urban residential land’. A ‘parcel of urban residential land’ being generally defined as a parcel of land that is within an area of settlement on which a residential use, other than an ancillary residential use, is permitted and that is served by municipal water and sewage services. Further, municipalities would not be able to require more than one parking space per unit or set a minimum floor area for such units.

If enacted, this change would appear to allow for up to three residential units on most residentially zoned lots in a fully serviced settlement area (i.e. up to three units in the principal dwelling, or one unit in an ancillary structure and up to two units in the principal dwelling), subject to whatever additional limitations and/or criteria for such units might be set out in the updated ARU regulations.

The proposed changes would also remove the ability to appeal any proposed official plan policies or zoning provisions to authorize the use of up to three units on a lot permitting a residential use, other than an ancillary residential use, that is located outside of a fully serviced settlement area (i.e. up to three units in the principle dwelling, or one unit in an ancillary structure and up to two units in the principle dwelling).

It appears that the intent of the amendments to the ARU regulation is primarily to remove provisions that are no longer needed and make housekeeping edits to align with the proposed legislative changes. However, the details of the proposed amendments to the regulation are not available and are not expected to be during the commenting period. Finally, as discussed elsewhere in this report, such units are also proposed to be exempt from development charges, parkland dedication/cash-in-lieu and site plan control.

Related Comments and Considerations

The proposed legislative changes would maintain the current maximum of three units per lot, but now allow for all 3 of those units to be located within the principal dwelling (i.e. would no longer be limited to one in the principal dwelling and one in an ancillary structure). The new wording of the provisions would also seem to indicate that it would no longer be mandatory for municipalities to enact policies and zoning to authorize the use of ARUs on lots that do not meet the definition of a 'parcel of urban residential land' (i.e. lots outside of a fully serviced settlement area). Further, the added qualifier 'other than an ancillary residential use' suggests that such units may no longer be permitted on lots where residential is not the primary use (i.e. ICI and agriculturally zoned lots).

Beyond the proposed limitations on the number of parking spaces and minimum unit area that can be required for units located on a 'parcel of urban residential land' there do not appear to be any other limitations on such units, beyond what might be set out in the updated ARU regulations. As such, it will be important to clarify whether municipalities will still be able to specify other development criteria, such as ensuring adequate servicing capacity and specifying maximum floor areas for such units, provided such criteria do not have the effect of prohibiting such units on a general basis.

Therefore, if these proposed changes are enacted, it would appear that the existing and proposed Official Plan policies for ARUs would likely need to be reviewed and revised to, among other matters, address the ability to have up to 3 units in a principal dwelling, remove any limitations on ARUs in fully serviced settlement areas that would 'prohibit' such units, recognize that site plan control is no longer an available tool, and clarify whether/how such units would continue to be permitted on agricultural lots. Further, if ARUs are to be permitted 'as of right' in all fully serviced settlements, it could have significant impacts on servicing capacity, particularly for smaller rural systems, so will need to be given close consideration.

e) Ministerial Amendments to Official Plans

The Planning Act currently contains provisions that allow for the Minister, where they are of the opinion that a matter of provincial interest as set out in a policy statement issued under section 3 of the Planning Act (e.g. PPS 2020), is, or is likely to be affected by an official plan (OP) of a municipality, to request that the council adopt certain amendments to their OP or directly make the specified amendment to the OP.

These existing provisions are proposed to be replaced with a much more streamlined process, which would allow the Minister to simply order an amendment to an OP if the Minister is of the opinion that the plan is likely to adversely affect a matter of provincial interest.

Related Comments and Considerations

The intent and/or impact of this proposed change is not entirely clear. If it is to make it easier for the Province to simply amend or modify local OP policies anytime they do not like a particular policy (i.e. not just as part of their normal review/approval of new OPs and comprehensive amendments), that would be of considerable concern. However, if it is simply to allow the Province to ensure that specific matters of Provincial interest (e.g. ARUs, major transit station areas etc.) are being addressed by municipalities in their OPs in a timely and appropriate manner, that may be reasonable. As such, this is a change that will need to be closely monitored.

f) Capping Community Benefit Charges (CBCs)

The Planning Act (PA) currently allows for a municipality to pass a by-law to allow the collection of CBCs from residential development that is 5 or more storeys in height and contains more than 10 dwelling units, to cover the costs of various community benefits (e.g. public art, day care, public spaces etc.) that are not covered by development charges. The PA states that the amount of a CBC payable in any particular case shall not exceed an amount equal to four per cent of the value of the land as of the valuation date.

Bill 23 proposes to introduce a "cap" on the total amount of a CBC that may be payable in any given case through the introduction of a new calculation based on the ratio of the floor area of new buildings to the total floor area of all buildings on the site (i.e. would only apply to new buildings on a site).

Related Comments and Considerations

As there are currently no CBC by-laws in place in Oxford, this proposed change would have no immediate implications. However, some municipalities in Oxford have been considering the potential merits of implementing a CBC by-law, so this proposed change is something that should be taken into consideration as part of that process.

g) Parkland Dedication Requirements

Following is a summary of some of the key changes being proposed to current parkland dedication requirements:

Maximum Parkland Rates

The maximum amount of parkland that can be conveyed is now proposed to be as follows:

- for developments or redevelopments that include certain defined classes of affordable units, shall not exceed five per cent of the land multiplied by the ratio of the number of affordable units to the total number of units in the development (i.e. only applies to the units that are not affordable or attainable units).
- the maximum alternative rate is to be reduced from one hectare for each 300 dwelling units to one hectare for each 600 net residential units for conveyance of land, and from one hectare for each 500 dwelling units to one hectare for each 1,000 net residential units for cash in lieu. Net residential units exclude any existing residential units and/or affordable residential units.

The maximum amount of land, or value of the land, that can be required using the alternative rate remains limited to 10 per cent for developments that are less than five hectares and 15 per cent for developments over five hectares.

Exemptions for Non-Profit Housing and Additional Residential Units

The proposed legislation also exempts non-profit housing developments, as defined in the DCA, 1997 and up to two additional residential units within a detached, semi, or row house, or ancillary building on the same lot from parkland dedication.

Timing for Calculation of Parkland Contribution

Parkland contributions would now be calculated on the day the site plan application was submitted or the zoning by-law amendment passed, whichever is later. In cases where neither application is required, the parkland contribution would be calculated on the day the first building permit is issued. Parkland contribution amounts calculated at the rezoning/site plan stage only remain valid if a building permit is issued within two years. If not, the contribution value is calculated based on the applicable rate on the day of the first building permit.

Park Plan Requirements

Municipalities will now be required to prepare a parks plan prior to the passing of a new parkland dedication by-law. Previously, a parks plan was only required to be completed prior to adopting official plan policies regarding parkland dedication and use of the alternative rate.

Identification of Parkland by Owner

At any time before obtaining a building permit, an owner can now identify which portions of their development lands that they propose to be conveyed to the municipality in full or partial satisfaction of their parkland dedication requirement. The identification of suitable parklands will be subject to prescribed requirements in a future regulation, so the criteria are not yet known. The Act also states that these lands can include stratified parcels, lands encumbered with easements or below-grade infrastructure, and non-fee simple interests such as privately owned publicly accessible spaces. In the case of non-fee simple interests and publically accessible spaces, the proposed legislation gives municipalities the ability to require that owners enter into agreements registered on title to secure the public use of those spaces. The owner may also appeal a municipality's refusal to accept their proposed conveyance of parkland to the OLT, who will then determine whether the proposed parkland meets the prescribed criteria to be set out in the proposed regulation noted above.

Requirement to Spend Parkland Monies

All monies received by a municipality as payment in lieu of parkland, along with all proceeds from the sale of lands received as a parkland dedication, must be held by the municipality in a special account. Starting in 2023, a municipality must spend or allocate at least 60 per cent of the money in the special account at the beginning of each year.

Related Comments and Considerations

If passed, it appears the above noted changes to the parkland dedication provisions could have a significant impact the amount, location and nature of the parkland that can potentially be secured through the parkland dedication requirements for new development. Therefore, the area municipalities may wish to begin considering what impact these changes may have on their current parkland planning and dedication processes and requirements, including the need to develop or update their parks plans.

As planning for and dedication of parkland is primarily an area municipal responsibility, this is one of the proposed Planning Act changes that municipal staff may wish to prepare and submit more detailed comments to the Province on and/or share with County staff so that they can be incorporated into the County's submission.

h) Upper Tier Planning Responsibilities

It is proposed that the Planning Act would now categorize upper-tier municipalities as either an "upper-tier municipality with planning responsibilities" or an "upper-tier municipality without planning responsibilities", with the later list currently proposed to include the Regions of Durham, Halton, Niagara, Peel, Waterloo, and York and the County of Simcoe. All other upper tier municipalities (i.e. all Counties except for Simcoe) would continue to retain their planning responsibilities (i.e. remain status quo), although there is provision for additional upper-tier municipalities to be identified through regulation.

Related Comments and Considerations

This proposed legislative change does not apply to Oxford and other counties (except Simcoe). This is understandable, given that the Province's stated rationale for this change is to reduce duplication and that does not tend to be a particular issue in such jurisdictions. Even in the jurisdictions that are identified, it is not apparent what duplication the Province believes these changes would eliminate, other than potentially the need for both an upper tier and lower tier Official Plan amendment to facilitate certain developments.

i) Inclusionary Zoning

Proposed changes to the Inclusionary Zoning provisions would establish an upper limit on the number of units that would be required to be set aside as affordable, set at 5% of the total number of units (or 5% of the total gross floor area of the total residential units, not including common areas).

Related Comments and Considerations

To evaluate the potential implications of this change for Oxford, further information is required to determine if there are intended to be any changes to the scope or applicability of inclusionary zoning, as it currently only applies to Protected Major Transit Station Areas (which do not apply to Oxford) or where a Community Planning Permit System is in effect.

2. Proposed Changes to the Conservation Authority Act (CAA) and Wetland Regulations

a) Conservation Authority Act – General

As part of Bill 23 the Province is proposing further amendments to the CAA. These changes build from the previous changes to the CCA (as previously outlined in reports CP 2021-234 and CP 2022-48.

Going forward, all programs and services delivered by Conservation Authorities (CAs) must fall within one of three categories: mandatory programs and services (prescribed by the Province); non-mandatory programs and services requested by a municipality; and, non-mandatory programs and services an authority determines are advisable. CAs and Municipalities were given until January of 2024 to develop related agreements and update funding structures for all non-mandatory programs and services requested by a municipality.

Bill 23 is now proposing specific changes to limit CAs ability to participate in any development related proposal to only those mandates prescribed by the Province (e.g. natural hazards). More specifically it would prohibit municipalities and CAs from entering into agreements to provide review or support functions for various projects or applications including, but not limited to, the Planning Act, Aggregate Resources Act and Environmental Assessment Act.

The proposed changes are also proposing to freeze the fees CAs charge for all programs and services at current levels – including for review of development applications and permits issued by the CAs.

Related Comments and Considerations

In Oxford, the review of Planning Act applications for environmental planning matters, such as Environmental Impact Studies (EISs), is currently coordinated with and undertaken by the applicable CA (where they have the necessary capacity and technical knowledge), or through peer review services.

The proposed changes would appear to prevent the County and area municipalities from continuing to rely on the CAs for any development related services (other than for areas associated with natural hazard as discussed below). In turn, this would mean the review of EISs for Planning Act applications, as well as for other types of projects (e.g. aggregate operations, wind farms, environmental assessments, etc.) would have to be completed through other means. This could result in new/additional costs (i.e. staff and/or peer review services) that could impact current and/or future budgets, so will need to be considered in greater depth.

In addition, the freezing of CA fees has the potential to increase costs which are directed to the municipal levy. These costs may not be significant initially, but may increase more substantially over time, as there is no indication in the legislation how long the freeze is intended.

Some initial responses being suggested by staff in this regard are as follows:

- Municipalities should retain the option to enter into agreements with CAs, with clearly defined terms, fee structures, timelines, etc. as currently allowed under the CA Act. If municipalities wish to use CA's to assist in delivering development review functions they should be able to do so.
- CAs should retain the ability to increase fees in order to ensure costs for providing development related services are covered and not unintentionally shifted to municipal levies. Other options to freezing fees should be considered, such as limiting or capping the fees ability to exceed the cost of providing the program or service they are supporting.

b) CA Permits for Natural Hazards

Bill 23 is proposing a series of changes regarding the restrictions and requirements CAs will be responsible for as it relates to natural hazards. These changes include:

- Creating an exemption from CA permits for Planning Act applications where specific requirements are met. The specific municipalities where this would be applicable and the requirements/conditions that would have to be met for the exemption would be prescribed through a future regulation;
- Scoping the matters CAs can consider when issuing a permit by removing "conservation of land" and "pollution" and adding "unstable soils and bedrock". "Flooding", "erosion" and "dynamic beaches" would be maintained. Updates to the definition of 'watercourse' are also proposed;

- Updating the timelines for appealing an authorities failure to issue a CA permit from 120 to 90 days;
- That CAs identify lands they own that could support housing and development; and
- Requiring CAs to issue permits where a project is subject to the Community Infrastructure and Housing Accelerator order and allowing the Minister to review and amend permit conditions, among other powers.

Related Comments and Considerations

Exemptions to CA permits for Planning Act applications will put additional planning review responsibilities on the County and Area Municipalities. Given the lack of information regarding the scope of exemptions (other than it being exclusive to Planning Act applications), it is unclear whether municipalities will be expected to have staff with the technical expertise on flooding impacts, hydrological and hydraulic modeling, as well as related flood protection measures and details in order to determine and impose requirements on development. In addition, the intent of the proposed change is less than clear, as Planning Act applications themselves are not subject to a CA permit, just the activity that requires the building permit. It is also unclear which Planning Act applications would be exempted and when.

Further, these additional responsibilities would likely create additional costs, risk and liability for municipalities, particularly as they relate to the potential impacts of development in areas of natural hazards.

Some initial responses being suggested by staff in this regard are as follows:

- Keep all existing natural hazard-related responsibilities with CAs, as they already have the technical knowledge, capacity and resources to implement necessary restrictions and requirements where development is proposed in areas of natural hazards. Existing processes are already established to integrate these requirements and information, changes to processes could create further delays in development timelines.
- Look for ways to streamline or establish greater consistencies on permit requirements and conditions that are imposed on CA permits, without downloading responsibilities to municipalities, for development applications.
- Consider improving language (through the PPS update) on how natural hazards should be considered through Planning Act requirements and how CAs and municipalities should integrate information into municipal planning documents.
- Update the 2001 Provincial natural hazards manual and address how municipalities and CAs are to plan for the impacts of a changing climate with respect to natural hazards.

c) Ontario Wetland Evaluation Systems (OWES) updates

The Ontario Wetland Evaluation System (OWES) provides the current science based approach for evaluating wetlands in Ontario. OWES is the process which establishes ‘evaluated’ wetlands, including those that are provincially significant wetlands (PSWs). OWES evaluations, including for complexing, are approved by the Province. Currently under

the PPS no development is permitted in PSWs due to their importance for the protection of water quality, biodiversity, flood control, ground water recharge, etc.

Related Comments and Considerations

Municipalities are proposed to be delegated the responsibility to review and approve OWES evaluations, maintain wetland information including the confirmation of wetland boundaries. This would duplicate existing processes and agreements between the Province and CAs where CA wetland boundary confirmations for CA regulation purposes are accepted by the Province as OWES wetland limits. This could require the need for additional staff and/or resources (e.g. ecologist, GIS) to establish a process to maintain, review and update wetlands information.

It appears that the science-based approach that provides support for the long term protection and conservation of wetlands is largely being removed from the OWES manual. This includes the removal of considerations for endangered and threatened species from wetland evaluations and removing ecosystem level concepts including complexing. This will weaken wetland protections from development long term.

Some initial responses being suggested by staff in this regard are as follows:

- The consideration of endangered and threatened species and their habitat needs should remain a part of the OWES methodology, as should requirements for the complexing of wetlands.
- If OWES responsibilities are to be downloaded from the Province it should be to CAs, as they already maintain wetland information for the purposes of implementing their regulation. This would maintain existing efficiencies and use existing capacity and expertise. It would also support other mandatory CA programs including the regulation of hazard lands, and the preparation of watershed management plans and related programs.

3. Proposed Changes to the Development Charges Act, 1997 (DCA)

Following is a brief summary of the various amendments to the DCA that are currently being proposed and have been prepared in consultation with County Corporate Services staff:

<u>New Development Charge (DC) Exemptions</u>

The following types of development are proposed to be exempt from DCs:

- the creation of additional residential units, subject to the limitations set out in the Act;
- affordable residential units and attainable residential units;
- non-profit housing developments; and
- inclusionary zoning residential units.

A new definition for 'non-profit housing development' is proposed along with criteria for what constitutes an "affordable residential unit," an "attainable residential unit". Future regulations will prescribe developments or classes of developments that will be considered "attainable housing units."

Phasing in of DC Rates

The proposed changes would limit the percentage of the maximum DCs that could have otherwise been charged during the first four years a new DC by-law is in force, to not more than 80, 85, 90 and 95 per cent, in each of the respective four years. These same reductions would also be applicable to DC by-laws passed on or after June 1, 2022, and before the day the applicable subsection of Bill 23 comes into effect.

Cap on Interest Charged

New provisions are proposed to cap the "maximum interest rate" municipalities can charge in certain circumstances (i.e. where the DCA allows installment payments for DCs for institutional and rental housing development and for the DC rate to be set at the site plan or zoning application stage) to prime rate plus one percent.

Reduced DCs for Rental Housing

The total development charge determined under the development charge by-law for a residential unit intended for use as a rented residential premises with three or more bedrooms is proposed to be reduced by 25 per cent, reduced by 20 per cent for two bedroom units and reduced by 15 per cent for all other residential units intended for use as a rented residential premises. A definition of "rental housing development" is also proposed to be added to the DCA (i.e. development of a building or structure with four or more residential units all of which are intended for use as rented residential premises).

Requirement to Spend Accounts

Beginning in 2023, and at the beginning of each calendar year thereafter, municipalities would be required to spend or allocate at least 60 per cent of the monies that are in a reserve fund for water and wastewater services and services related to a highway, as defined in the Municipal Act, 2001.

Expiration of Development Charge By-laws

Currently, the DCA provides that, unless it expires or is repealed earlier, a DC by-law expires five years after it comes into force. This period is proposed to be extended to 10 years.

Changes to Eligible Costs

Changes to the method for determining development charges in section 5 of the DCA are being proposed, including to remove the costs of certain studies from the list of capital costs that are considered in determining a development charge that may be imposed (i.e. housing services and costs of studies).

Related Comments and Considerations

Further clarification is required with respect to:

- the phasing in of the DC rates, as the current wording in Bill 23 does not clearly outline if the phasing is only applicable to new DCs or also to changes in the amount of existing development charges;
- the requirement to spend or allocate 60% of monies in a DC reserve annually, as some projects being accounted for are longer-term projects. Also, whether this requirement needs to consider projects in the current year only, or also those within the 10-year capital planning horizon; and
- how reporting of compliance with the above metric is to be accomplished.

The proposed DCA changes will shift costs associated with growth to existing residents, from both a water and wastewater rates perspective and a tax levy perspective. The County anticipates completing a water and wastewater rates review in 2023 and will incorporate any known impacts resulting from the Bill 23 changes, if enacted. In the event that Bill 23 is not enacted prior to the completion of the study, additional review of the rates may be required.

In terms of the proposed change to the review period from 5 to 10 years, County staff are of the opinion that the extended period may inhibit municipality's ability to collect development charges during periods of significant growth and/or inflation, like what has occurred within the current 5-year planning period. Clarification to ensure municipalities retain discretionary right to update their development charge by-laws at any time during the review period should be sought. Finally, given that the proposed changes to the DCA will result in an increased administrative burden at the both the County and Area Municipal levels, resource requirements will need to be monitored.

The County's Manager of Housing Services has identified a number of questions and concerns with respect to these proposed changes including, but not limited to, the removal of housing services from the list of eligible DC services, the proposed definitions of affordable housing and attainable housing, DC discounts for rental housing development.

4. Proposed Changes to the Ontario Heritage Act (OHA)

Amendments to the OHA are being proposed, primarily to the sections of the Act regarding Provincial heritage properties (i.e., properties owned by the Province and prescribed public bodies), the municipal register and Heritage Conservation Districts (HCDs).

Under the OHA, municipalities must maintain a register that lists all properties in the municipality that have been designated by the municipality, or by the Minister under the Act. This register may also include non-designated properties that 'the council of the municipality believes to be of cultural heritage value or interest' (i.e. 'listed' properties). The proposed changes would require that all non-designated properties proposed to be added to the register meet at least one of the prescribed criteria for determining cultural heritage value or interest (O. Reg. 09/06), which currently serve as criteria for municipal designation, and that the municipality move to designate the property within 2 years of adding them to the register or remove the property from the register. All municipalities would also be required to make an up-to-date version of the register (i.e., designated and non-designated 'listed' properties) publicly available on their website.

Under the current OHA provisions, an application under the Planning Act is considered a 'prescribed event' and triggers a 90-day timeline for the municipality to issue a notice of intention to designate. With the proposed changes, municipalities would no longer be permitted to issue a notice of intention to designate an individual property under the Ontario Heritage Act, unless the property is already on the municipal heritage register (i.e. as a non-designated property) at the time a Planning Act application is made. Further, properties being considered for municipal designation would be required to meet at least two of the prescribed criteria in O. Reg. 9/06, instead of the current one criterion.

Proposed amendments to Part V of the OHA will establish a new process to allow for HCD designations and plans to be amended or repealed and for criteria for designation of HCDs to be established by the Province through regulation. There are currently no Heritage Conservation Districts (HCDs) in Oxford County.

Related Comments and Considerations

The proposed changes are not anticipated to have immediate impact for the area municipalities in Oxford, other than the requirement that all municipalities make an up-to-date version of the municipal register publicly available on their website within 6 months of the Bill being proclaimed.

Overall these amendments will serve to tighten the timelines and add complexity to the process and evaluation methods required for any contemplated municipal designation and/or maintenance of the municipal register, particularly for smaller municipalities without staff with specialized knowledge and an ongoing heritage program. Municipalities often don't become aware of potential heritage resources until they are identified during the review process undertaken in support of a Planning Act application and currently have 90 days following submission of the application to pursue designation. The proposed new amendments would further limit the municipality's ability to designate properties that were already included on the municipal heritage register at the time a Planning Act application is made.

5. Proposed Changes to the Ontario Land Tribunal Act, 2021

Following is a summary of the key proposed changes to the Ontario Land Tribunal Act, 2021:

Dismissal of Appeals

Bill 23 proposes to further expand the Ontario Land Tribunals (OLT) current authority to dismiss a Planning Act appeal without a hearing, by adding the following as grounds for dismissal:

- the party who brought the proceeding has contributed to undue delay; or
- a party has failed to comply with a Tribunal order.

Cost Awards

The OLT currently possesses the authority to award costs against a party where "the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or if the party has acted in bad faith." The proposed amendments would specify that the OLT may "order an unsuccessful party to pay a successful party's costs." It is unclear whether the OLT would still need to make a finding that the parties' conduct meets the threshold of "unreasonable, frivolous or vexatious or bad faith" in order to be subject to a cost award.

Prioritizing Certain Proceedings

Bill 23 is proposing to give the Lieutenant Governor new authority to make regulations requiring the OLT to prioritize the resolution of 'specified classes of proceedings', the criteria for which have not yet been provided.

Related Comments and Considerations

County staff will continue to monitor these changes and potential implications. However, given the limited number of LPAT proceedings in the County and the newly proposed restrictions on third party appeals, the potential impacts are expected to be limited. However, given the increased potential for costs to be awarded, municipalities should be careful to ensure that any decision on a planning application is based on clear planning rationale.

Conclusions

The various legislative and policy changes and other actions being proposed by the Province through the current phase of their Housing Supply Action Plan implementation could potentially have a significant impact on land use planning, finance, infrastructure, parks, and other municipal functions and services. Therefore, if the proposed changes are enacted by the Province, the County and Area Municipalities will likely need to consider updates to various policies, processes and standards, staffing and other resource needs in order to ensure the changes can be effectively addressed and implemented in the Oxford context.

Given the extent of the changes being considered and the extremely short commenting deadline provided by the Province, County staff are seeking County Council's direction to prepare and submit formal comments to the Province on behalf of the County. It is intended that these comments will be focused primarily on the more substantial legislative and regulatory changes, as generally outlined in this report.

County staff will ensure that County Council is kept apprised of any comments submitted to the Province and will continue to monitor the progress of the legislative, policy and other changes being proposed, and advise County Council of any relevant changes and/or opportunities for comment on matters that may be of particular interest or concern to the County or Area Municipalities.

As noted in the background section of this report, staff currently intend to bring a subsequent report (or reports) to Council. The intent would be to provide further insight on some of the proposed legislative and other changes discussed in this report based on further review and to discuss the proposed policy and other changes (e.g. review of the PPS and natural heritage and natural hazard requirements) with a longer commenting time frame that were not yet covered in this report.

SIGNATURES

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