

To: Warden and Members of County Council

From: Director of Corporate Services

Municipal Resource Impacts Resulting From Bill 23

RECOMMENDATIONS

1. That Report No. CS 2022-49, titled “Municipal Resource Impacts Resulting From Bill 23” be received;
2. And further, that Council give consideration to three additional FTEs as part of the 2023 Business Plan and Budget to meet Planning and Finance staff resource needs that will be required to operationalize the requirements of Bill 23 – *More Homes Built Faster Act*;
3. And further, that Council request staff to bring a follow up report back for Council’s consideration in early 2023 (once staff have had an opportunity to assess the impacts of the changes in greater detail), to provide further detail on additional resource needs arising from Bill 23 and related provincial changes;
4. And further, that a copy of this report be forwarded to the Premier of Ontario, the Minister of Municipal Affairs and Housing, the Leader of the Official Opposition, all Ontario MPPs, and the Association of Municipalities of Ontario.

REPORT HIGHLIGHTS

- On November 28, 2022 the Province enacted Bill 23, the More Homes Built Faster Act, and has also commenced a related review of the Provincial Policy Statement (PPS), natural heritage planning and natural hazard regulations. These changes and related consultations are being undertaken through a series of postings on the Environmental Registry of Ontario (ERO).
- Bill 23 and a number of the other proposed legislative and regulatory changes will have significant financial and resource implications for the County and/or Area Municipalities, including the need for additional staffing and other resources and consideration of increased and/or new/alternative sources of funding to cover additional costs and off-set expected reductions in some municipal revenue sources.
- This report, prepared in collaboration with Planning and Housing staff, provides a preliminary, high level assessment of these changes and resulting financial and other resource implications for Council’s initial consideration.

Implementation Points

Bill 23 and a number of the other changes currently being considered and/or proposed by the Province, will have significant implications for the local implementation of land use planning, development charges, parks planning, environmental and heritage protections, and various other matters. These changes will require substantial review and/or update of various County and Area Municipal policies, documents, processes and standards, as well as consideration of related staffing and financial resource implications.

Financial Impact

The changes contained in Bill 23 will negatively impact a municipalities' financial sustainability, with the most significant changes occurring to the Development Charges Act (DCA). Development Charges (DC) are a long-standing critical source of funding relied on by municipalities to finance growth related infrastructure and ensures that "growth pays for growth". The changes arising from Bill 23 compromise this objective by shifting the burden for growth related infrastructure investments to existing taxpayers.

The initial estimated impact to the County is a loss of \$5.6 million in development charges over a 10 year period. The estimated DC revenue loss, as illustrated in Table 1, is based on the 2019 DC Study and actual loss realized will vary from these estimates.

As the County's current DC By-law was passed prior to January 1, 2022 the mandatory phase in reductions and elimination of cost recovery for certain studies is not anticipated to impact the County until the next DC By-law update in 2024.

Table 1 – County Estimated Impacts - Development Charges Act Changes (over a 10-year period)

Bill 23 Change	Details	Estimated Financial Impact
Elimination of Housing as an eligible service	Passing of Legislation - cannot charge Housing DC from date of Royal Assent.	N/A – Current DC By-law included an affordable housing needs study only, accounted for in the figures below.
Elimination of cost recovery for certain studies	Studies are to determine the capital costs for land, building, facilities, including DC background study	\$1.1 million – Rates \$1.3 million – Levy
Elimination of cost recovery of land for certain services	Cost to acquire land for specific services can be exempted as an eligible expense if prescribed.	TBD - The County's current background study does include some costs for acquiring land, however further review to determine eligibility is

Bill 23 Change	Details	Estimated Financial Impact
		required before impact can be quantified.
DC for rental housing development	% Reduction based on the number of bedrooms: 3+ bedrooms 25%; 2 bedrooms 20%; 1 bedroom 15%.	TBD – Unable to quantify the impact based on data currently tracked at the County level.
DC exemptions	Exemptions for the creation of affordable residential units and attainable housing units, for non-profit housing developments, and for inclusionary zoning residential units. Includes DC exemptions for one additional residential unit (or 1% of existing units) in an existing residential building; as well as up to three residential units on an existing residential property (may be within the existing home or within an ancillary unit).	TBD - County's current By-law provides a non-statutory exemption for Affordable Housing development. Unable to determine the ongoing annual impact as this is highly dependant on the types of developments undertaken.
Mandatory phase-in Year 1	Phase-in of DC rates in by-laws passed on or after January 1, 2022. Year 1 (80%)	\$0.8 million – Rates \$0.5 million – Levy
Mandatory phase-in Year 2	Phase-in of DC rates in by-laws passed on or after January 1, 2022. Year 2 (85%)	\$0.6 million – Rates \$0.4 million – Levy
Mandatory phase-in Year 3	Phase-in of DC rates in by-laws passed on or after January 1, 2022. Year 3 (90%)	\$0.4 million – Rates \$0.2 million – Levy
Mandatory phase-in Year 4	Phase-in of DC rates in by-laws passed on or after January 1, 2022. Year 4 (95%)	\$0.2 million – Rates \$0.1 million – Levy
DC By-law expiration	By-laws expire 10 years after they come into force (previously 5 years). This length of time could result in growth projections and capital programs becoming stale dated and not being as responsive to the County's changing growth needs.	TBD – Updating the DC By-law prior to the expiry of the 10 year period would trigger the phase in and potential impacts listed above.
Historical service levels	Historical service levels now based on 15 years prior instead of current 10 years prior	TBD – Unable to determine the extent of the impact until the next

Bill 23 Change	Details	Estimated Financial Impact
		DC Background Study is completed.
Imposing a maximum interest rate for DC deferrals and payment plans	Municipalities will be “capped” regarding the maximum interest rates that can be charged. The maximum interest rate would be based on Canadian banks prime rates plus 1%. Interest rate to be set quarterly.	TBD – County is not aware of any development deferrals currently in place, and is unable to determine future development applications that may be subject to deferrals.
Reserve fund balances	Municipalities must spend or allocate 60% of reserve fund balances for water, wastewater, and road DCs (and other DC services as prescribed). This will be an annual requirement.	TBD – Further clarification is required.
TOTAL (2019 dollars)		\$3.1 million – Rates \$2.5 million – Levy
TOTAL (2022 dollars)	Estimated 29% inflationary increase	\$4.0 million – Rates \$3.3 million – Levy

Table 2 summarizes the estimated impacts to the area municipalities as a result of the elimination of certain studies as an eligible cost for recovery, and the mandatory phase-in.

Table 2 – Area Municipality Estimated Impacts - Development Charges Act Changes (over a 10-year period)

Area Municipality	Elimination of recovery for studies	Mandatory phase-in	Total Estimated Financial Impact
Zorra	\$0.10 million	\$0.05 million	\$0.15 million
Blandford-Blenheim	0.09 million	0.14 million	0.23 million
East Zorra-Tavistock	TBD	TBD	TBD
Norwich	0.04 million	0.14 million	0.18 million
South-West Oxford	0.06 million	0.04 million	0.10 million
Tillsonburg	0.11 million	0.41 million	0.52 million

Area Municipality	Elimination of recovery for studies	Mandatory phase-in	Total Estimated Financial Impact
Ingersoll	0.11 million	0.15 million	0.26 million
Woodstock	1.00 million	2.50 million	3.50 million
TOTAL (2019 dollars)			\$4.94 million
TOTAL (2022 dollars)	Estimated 29% inflationary increase		\$6.37 million

Not included in the above table are the proposed changes to the Planning Act as they relate to parkland dedication rates and Community Benefits Charges (CBC). These fees and charges do not impact the County but will impact area municipalities. The parkland dedication changes (e.g. dedication rates, exemptions etc.) will result in less revenue collected by the area municipalities to fund the costs of infrastructure related to parks, and other services.

The initial review of Bill 23 impacts has identified the need for consideration of three additional FTEs as part of the 2023 Business Plan and Budget to meet Planning and Finance staff resource needs, with preliminary estimated costs summarized in Table 3. The need for the FTEs is further identified within the comments section of this report.

Table 3 – Estimated Staffing Costs







	One-time	Base	Total Budget
Salaries and benefits			
Finance FTE	\$-	\$79,200	\$79,200
Planning administration / support FTE	-	80,700	80,700
Development Planner FTE	-	128,600	128,600
Total Salaries and Benefits	-	288,500	288,500
Capital			
Computer Equipment: Laptop	6,000	-	6,000
Total capital	6,000	-	6,000
County Levy	\$5,200	\$256,100	\$261,300
Water and Wastewater Rates	\$800	\$32,400	\$33,200
<i>Initiative Gapping – positions start April 2023</i> 2024 Budget Impact	-	71,600	71,600
2023 Estimated Budget Impact - Levy	\$5,200	\$192,600	\$197,800

	One-time	Base	Total Budget
2023 Estimated Budget Impact - Rates	\$800	\$24,300	\$25,100

Communications

Initial communication is proposed to be through the inclusion of this report on the County Council agenda and related communications. Any changes to the budget or business plan processes that may arise from consideration of this report will be further communicated as part of those processes.

Strategic Plan (2020-2022)

					
WORKS WELL TOGETHER	WELL CONNECTED	SHAPES THE FUTURE	INFORMS & ENGAGES	PERFORMS & DELIVERS	POSITIVE IMPACT
1.ii.		3.ii. 3.iii.	4.i. 4.ii.	5.ii.	

DISCUSSION

Background

On October 25, 2022, the Provincial government initiated consultations with respect to a range of legislative changes, policies and other actions being considered as part of the second phase of their 2022 housing supply action plan (i.e. More Homes for Everyone Plan), including the introduction of Bill 23, known as the More Homes Built Faster Act, 2022. An overview of these proposed changes is provided in Reports No. [CP 2022-407](#) and CP 2022-413 (included on Council's December 14 agenda).

The overall stated purpose of Bill 23 is to introduce several legislative changes to increase housing supply throughout Ontario and to achieve the Province's goal of 1.5 million homes in the next 10 years. Bill 23 received first and second reading on October 25, 2022, was ordered for third reading on November 22, 2022 and received Royal Assent on November 28, 2022.

The Development Charges Act, 1997 (DCA), governs the collection of DCs. The intent of DCs is to ensure that infrastructure costs arising from increasing population and employment are funded by new development that benefits from the introduction of the new services (user-pays approach). DCs have been established to ensure that these costs are not borne by existing residents and businesses through property taxes or water/sewer rates.

At the regular meeting of November 23, 2022, County Council passed a resolution requesting that County staff bring forward a report that describes the potential impacts for both financial and staffing requirements that could arise from the introduction of Bills 39 and 23 for the 2023 and future budgets and work plans including, but not limited to, the changes to the Development Charges Act, Planning Act, Conservation Act and the Heritage Act. In response to that request, staff have prepared the following initial summary of financial, staffing and other municipal resource implications for Council's consideration.

Comments

Like all municipalities, given the very short consultation period provided by the Province, County and area municipal staff are still very much in the process of understanding the full extent and impacts of the sweeping changes that have been introduced through Bill 23, not to mention the various other related legislative, policy and regulatory changes that are still under consideration by the Province (e.g. PPS, natural heritage planning, natural hazard regulations etc.).

That said, as a starting point, County staff have prepared the following preliminary assessment of resource implications of the enacted and proposed changes for Council's consideration.

a) Financial Implications of Changes to the Development Charges Act (DCA)

Virtually all of the changes to the DCA result in less DC revenue collected by municipalities to fund the costs of growth-related infrastructure that supports new housing and commercial and industrial development. Several of the proposed changes would have notable impacts to both Oxford County and our area municipalities.

The most financially impactful change resulting from the revisions to the DCA is the DC rate phase-in. With this change, full recovery of DCs for a new approved by-law is not achieved until year five. This would impact the County's ability to fund the necessary growth-related infrastructure to support new development and maintain the timing of projects as identified in the long-term capital plan. During high growth periods, like the County is seeing now, supportive infrastructure needs (such as water and sanitary services) can change significantly in a short period of time. Although the DC Act allows for a By-Law to be in place for 10 years, this may put further strain on the ability to fund growth related project needs as they arise. Updating the DC By-Laws prior to the end of the 10-year period would result in the phase-in reductions being re-applicable, increasing the amount of lost DC revenue over a 10-year period.

Additionally, costs of certain growth related studies, and land or an interest in land that will be prescribed for certain services, will no longer be deemed eligible capital costs. In Oxford, the growth related studies that are currently recovered for through DCs include: secondary plans and servicing strategies (i.e. required to consider settlement expansions) and development charges study updates.

These changes place municipalities in a position where other funding sources would need to be identified in order to cover the shortfall (i.e. property tax, water / sewer rates). The shift of costs to existing residents would increase pressures on the affordability of existing homes.

Further, Housing Services has been removed from the list of DC eligible services, which is used to recover for and construct affordable housing. This change prevents the County from adding housing related projects as an eligible service in future.

A letter dated November 30, 2022 from Minister Steve Clark (Attachment 1) stated that the province is committed to ensuring municipalities are kept whole for any impact to their ability to fund housing enabling infrastructure due to Bill 23. While no specifics were provided as to what this means, or when grant funding may be available, County staff will continue to monitor ongoing discussions around the impacts of Bill 23 and the specific financial impacts to the County, and report to Council accordingly.

The proposed changes included in Bill 23 that impact the DCA will require difficult choices between funding necessary growth-related infrastructure to support new development, replacing growth infrastructure funds with alternative funding sources such as property taxes, and/or delaying the construction of critical growth-related infrastructure. This would create affordability concerns and may result in the loss of progress made to resolve lifecycle funding gaps as identified in the 2022 Asset Management Plan, in the event that funding was required to be diverted from renewing assets to pay for growth needs. The 2024 Asset Management Plan Update will account for the additional growth asset needs, as identified in the upcoming DC Background Study, along with the funding impacts as a result of Bill 23 in order to determine if the County has made progress on closing the funding gaps, or lost progress due to the changes.

A significant challenge in completing the construction of new homes in a shorter time than planned for is the demand new construction puts on essential services like water and sanitary and the infrastructure required to provide those services. The planning and approval processes for supportive services (such as a new well water source) has not changed. Accelerated growth plans will exacerbate issues for communities with current capacity limitations.

The changes to the DCA as a result of Bill 23 increase the administrative burden of ensuring all development files are charged the appropriate rate in accordance with the Act and applicable By-Law(s), and that exemptions are calculated and funded appropriately. The current process has the area municipalities calculate and collect on DC applicable files, while County staff calculate and fund exemptions based on information received from the area municipalities.

Given the increased administrative burden, and that the County is ultimately responsible for ensuring its DC rates are applied appropriately, County staff will engage with area municipal staff to determine if it is appropriate to have County staff calculate all DC charges anticipated. While we recognize there will be an increase in the time undertaken to process applications, we anticipate the impact to be minimal. This change would result in an additional FTE requirement at the County level, and would be an anticipated 2023 need required for updating the DC By-Laws. County staff will then undertake discussions with municipal staff throughout 2023 and support Engineering Services as applicable with development review.

b) Public Works Resource Implications

With the recently passed More Homes for Everyone Act (Bill 109), there is now additional pressure put on municipalities to quickly review applications or risk having to refund fees to developers. FTE 2023-01, included in the draft 2023 Business Plan and Budget documents, is a

report in support of a Supervisor of Development position (in Public Works) to assist in managing the increased volume and pressures to meet the new legislative deadlines for review of development files. Further staffing requirements, as a direct result of Bill 23, will be assessed after the Supervisor of Development is in place.

c) Planning Related Resource Implications

Community Planning Office (CPO) staff have undertaken an initial, high level, assessment of potential staffing and other municipal resource impacts that are expected to arise from the Bill 23 changes to the Planning Act, Conservation Authorities Act and Heritage Act and various other changes being proposed by the Province (e.g. updates to the Provincial Policy Statement, natural heritage planning, natural hazard regulations, etc.). This assessment is provided in Table 1 contained in Attachment 2 to this report.

Based on this preliminary review, CPO staff have identified a number of financial, staffing and/or other resource implications, as follows:

Financial Implications

Growth Related Studies

As noted in the DCA change discussion above, the loss of DCs as a source of funding for growth related studies will directly impact how the County and the area municipalities fund the costs of various growth related planning projects (e.g. secondary plans and servicing strategies, growth forecast updates, new Official Plan and related studies etc.) going forward. DCs are currently the primary source of funding for such studies and, with the recent higher levels of growth the County has been experiencing, the need for and total cost of such studies is only expected to increase.

The County's DC background study currently identifies approximately \$1.6 million for growth related planning projects, with a similar amount identified for such projects in the area municipal DC background studies (i.e. collectively). With these projects no longer being DC eligible, this represents a substantial amount of funding that would need to be obtained from other sources to allow such projects to continue. These projects are all fundamental to ensuring growth in our communities (in particular housing) can continue to be accommodated in a coordinated, efficient and timely manner. So, it is unclear why the province would choose to introduce potential delay and uncertainty for the funding and/or completion of such projects, without any obvious benefits.

Parkland

Parkland is primarily an area municipal responsibility. The changes to the parkland dedication rates, exemptions for affordable and attainable housing, additional residential units and freezing of parkland rates etc. will have an impact on municipal parkland contributions and/or cash-in-lieu revenue.

In Oxford, the area municipalities generally still apply the standard parkland dedication rate of 5% to most residential developments. As such, the financial impact is not likely to be as pronounced as for larger urban municipalities that have a greater proportion of higher density residential development, where the application of the alternative parkland dedication rates

(which have been substantially reduced) is more critical. That said, the area municipalities will still need to assess the financial and other impacts of these changes.

Application Fees

The refund of application fees for Site Plan and Zone Change applications (and combined Zone Change and Official Plan Amendment applications) that are not processed within the newly prescribed time lines is likely to have a financial impact on the area municipalities and, to a lesser extent, the County without the additional FTEs. Planning staff are currently working to identify various measures that the area municipalities could consider to avoid, or substantially mitigate, this impact (i.e. complete application requirements, process change, increased application fees etc.) and will be meeting with area municipal staff shortly to discuss preferred approaches.

Sources of Funding

The above noted direct financial impacts together with increased municipal costs resulting from the need for increased staffing and other resources, as noted below, will likely require the consideration of alternative funding sources (e.g. application fees) to off-set some or all of those costs.

Staffing Impacts

Given the high level of development activity that the County and area municipalities have recently experienced and continue to experience, it has been challenging at times for the CPO to maintain timely and high quality development review services with existing staffing levels, particularly while also trying to move forward other important planning related projects and initiatives (i.e. zoning by-law updates, local planning studies, process updates and improvements, etc.).

This challenge has only been compounded by the seemingly continuous and wide ranging legislative, regulatory, and policy changes the Province has been bringing forward over the last few years, which have often pulled one or more senior and/or experienced staff away from work on other important planning projects and initiatives (i.e. Official Plan updates, secondary planning, etc.) to assess and respond to the changes. In the last several years, this additional demand on staffing has been virtually continuous.

Even without the impacts from Bill 23 and other proposed provincial changes, there would be benefit to reviewing the need for additional CPO staffing required to maintain and/or improve current levels of service. It is noted that current CPO staffing levels are relatively modest in comparison to those in other jurisdictions that provide similar planning services. So, with Bill 23 and the other proposed provincial changes placing even further demands on staffing, it is expected that CPO will require additional staffing to address both short term and longer term/ongoing resource demands. Following are some initial thoughts and considerations in that regard:

Administration/Support Staff

Additional staffing (i.e. minimum one FTE) will be required to continue to meet application processing timelines and requirements, maintain tracking systems and related reporting, update and maintain various planning related forms, documents (i.e. Zoning By-law consolidations) and processes, etc.

Planning Staff

Additional planning staff capacity (i.e. minimum of one FTE) would help to ensure application processing timelines and requirements can continue to be met, while also being able to continue to move forward other important planning projects and initiatives (i.e. OP review, growth forecast updates, secondary planning, zoning by-law updates, additional residential unit implementation, etc.) and respond to ongoing provincial legislative, policy and other changes.

Further, as it appears that Bill 23 may eliminate the ability for municipalities to rely on the Conservation Authorities for natural heritage review and expertise, additional in-house staffing and/or consulting services are expected to be required for municipalities to be able to provide that function. If this were to be provided primarily as an in-house service (i.e. by CPO staff), it is expected that a minimum of two additional staff FTEs (i.e. an environmental planner and ecologist) would be required. That said, some additional consulting support (i.e. for field work, peer reviews, etc.) would likely still be required, particularly during the initial transition period. It is noted that the use of consulting services for natural heritage review has raised some concern in terms of availability and costs, as well as the time it takes to obtain review comments from said consultants on some projects. With municipalities across the Province now potentially in need of such services, and bound by prescribed timelines, it is expected that these challenges could become even more pronounced moving forward.

Finally, if the role of municipalities with respect to planning for natural hazards (flooding, erosion, etc. as opposed to review of natural heritage resources) and identifying and protecting wetlands (i.e. proposed changes to the Ontario Wetland Evaluation System) were also to increase, as has been proposed, that would have even further increase the need for municipal staff resources and expertise.

Area Municipal Staff

A number of the changes identified in Attachment 2 (e.g. changes to planning application timelines and processes; parkland dedication, planning and administration; DC administration, etc.) could also place additional demands on area municipal staff resources. To date, CPO staff have not had an opportunity to discuss potential staffing impacts with the area municipalities in any detail. However, it is hoped that the summary contained in Attachment 2 will serve as an initial starting point for discussions in this regard.

Summary

To date, CPO staff have had very limited time to fully assess the impacts of Bill 23 and the other proposed changes and there is still continued uncertainty with respect to the timing and extent of many of the changes (i.e. many are still being consulted on, or are subject to regulations that have yet to be released). Therefore, at this point, CPO have identified an immediate need for

two additional FTEs. However, once CPO staff have had an opportunity to fully assess the timing and impact of the various changes, the need for additional staffing or other resources may be identified (i.e. through a subsequent report).

d) Housing Services Related Resource Implications

County Housing Services staff have undertaken an initial, high level, assessment of potential staffing and other municipal resource impacts that are expected to arise from Bill 23 and the various other changes being proposed by the Province. This assessment is provided in Table 2 of Attachment 2 to this report.

The changes will reduce funding options for affordable housing and are expect to increase demands on housing staff to update processes and by-laws and administer and monitor agreements for affordable and attainable housing. Further consideration will be given to the impacts on Housing staff resources as the regulations become available.

Conclusions

The County acknowledges and supports the Province's stated objective of increasing housing supply. However, County staff are deeply concerned that the passing of Bill 23 will have a variety of significant unintended consequences which may actually have the opposite effect and delay or obstruct the construction of additional housing supply at the scale that is desired.

While the intent of the Bill, to create more housing, is laudable, there is nothing in the Bill that guarantees that additional housing will be built. The Bill is in large part premised on the fact that if costs are reduced and timelines to decision advanced, that this will result in more construction, but it does not address other realities in the complex world of development. There is nothing in the Bill compelling a developer to advance an approval to construction or to pass forward any cost savings to consumers; developers sell housing at the price that the market will bear.

Bill 23 threatens the ability for municipalities to provide services in a timely and sustainable manner. Existing residents will pay more for growth, as existing taxpayers and ratepayers take on an even greater share of the cost of growth-related infrastructure, the total cost of housing will increase due to higher property taxes and user rates. This comes at a time when municipalities are experiencing capital cost escalation in the range of 15% or more and the highest cost of borrowing in over 10 years.

It is imperative that solutions be found through collaboration, cooperation and innovation of all parties. County staff will continue to support municipal organizations, such as the Association of Municipalities of Ontario, to lobby the province to work together with the municipalities in developing solutions that continue to ensure that 'growth pays for growth', while further supporting the need to increase the housing supply.

SIGNATURES

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ATTACHMENTS

Attachment 1 - Minister of Housing, Steve Clark correspondence dated November 30, 2022, to Colin Best, President, Association of Municipalities of Ontario

Attachment 2 – Planning and Housing Related Resource Impacts from Bill 23 and Other Provincial Changes