



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Robin Prentice, MCIP, RPP

Position: Director of Development Services

Title / Subject: Proposed Bill 185, Cutting Red Tape to Build More Homes Act, 2024 and the new Provincial Planning Statement (2024)

Date of Report: May 3, 2024

Date of Meeting: May 13, 2024

Report No: 2024-DS-006

1.0 Issue / Origin

On April 10, 2024, the Ontario government released a suite of proposed legislative and policy changes. The two main pieces of legislation released for consultation include Bill 185, the Cutting Red Tape to Build More Homes Act, 2024 and the new Provincial Planning Statement (PPS). The purpose of this report is to provide an update to Council as to the proposed changes and how they may impact the Township of Brock and includes comments from Township staff.

2.0 Background

[Bill 185, the Cutting Red Tape to Build More Homes Act, 2024](#) was posted on the Environmental Registry of Ontario's (ERO) website with comments requested by May 10, 2024. Bill 185 aims to amend several statutes to increase housing supply in the province and reintroduces and/or repeals prior changes to the planning and development regime in Ontario. The proposed legislation includes various amendments to 15 Acts, including the Planning Act, the Development Charges Act, 1997, and the Municipal Act, 2001, among others.

A new [Provincial Planning Statement, 2024](#) (PPS) was posted on the ERO's website with comments requested by May 12, 2024. In 2022, the Provincial government undertook a review on approaches for leveraging the housing supportive policies of both the Provincial Policy Statement, 2020 and A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (the Growth Plan) through a streamlined province-wide framework.

On April 6, 2023, the Provincial government released a proposed Provincial Planning Statement, 2023 which combined the elements of the Growth Plan and the existing Provincial Policy Statement, 2020 into a single new land use policy document.

The Province has now introduced an updated PPS in response to feedback received through the 2023 consultation.

3.0 Analysis

The Province introduced new legislation under Bill 185, with the intent of increasing house construction. A summary of the proposed amendments to the Planning Act and Development Charges Act under Bill 185 and Township staff's associated comments are outlined below.

General Comments

Staff recognize the need to address the housing crisis in Ontario and generally support the Province's efforts to improve housing supply and affordability. However, staff are concerned about the extent to which planning matters currently under the jurisdiction of municipalities and subject to public participation are proposed to be exempt from the Planning Act and/or subject to future provincial regulations and out of the hands of local government.

Limits on Third Party Appeals and Dismissal of Existing Appeals

The Planning Act currently permits a person / resident to appeal the adoption of official plans, official plan amendments, zoning by-laws, or zoning by-law amendments if the person made oral submissions at a public meeting or written submissions to the municipality prior to adoption.

Under the proposed amendments, only a "specified person" or a public body will be able to appeal official plan, official plan amendments, zoning by-laws or zoning by-law amendments. The Planning Act currently limits a "specified person" to a specific list of public and private bodies that operate electric and natural gas utilities, railways, and telecommunication infrastructure.

Limiting third party appeals was originally introduced in Bill 23 but removed prior to adoption following significant opposition and concern that removal of appeal rights will ultimately increase red tape, increase costs and delay the delivery of housing. Under this proposed change, residents and public interest groups will no longer be able to appeal any planning act applications.

Also, if enacted as proposed, third party appeals filed prior to Bill 185 coming into force by anyone not considered a key participant, and where the hearing has not started, will be dismissed.

- **Staff Comment:** The removal of third-party appeals on Planning Act matters means that residents and community groups will lose the right to appeal decisions about land use changes in their neighbourhoods. This could lead to greater public pressure on elected officials to make decisions that do not necessarily reflect good planning principles, and such decisions would more likely be appealed by an Applicant. Staff recommend that third party appeal rights be maintained for official plans, official plan amendment, zoning by-laws and zoning by-law amendments.

Fee Refund Provisions

The fee refund provisions put in place for zoning by-law amendment and site plan applications by Bill 109, More Homes for Everyone Act, 2022 are proposed to be revoked. If approved, the Township will no longer be required to refund planning application fees to an applicant if a decision is not made within the specific timeline.

- **Staff Comment:** Staff support revoking the application fee refund provisions that are currently in place. The application approval timelines are not realistic and the refund policies that have been implemented have not resulted in applications being processed faster. There are many factors outside of a municipality's control that delay the processing of applications. Removing the refund policies will enable municipalities and applicants to work together to find mutually agreeable solutions and allow the Township to process certain applications concurrently, which will help to speed up the application review process.
- It should be noted that to date, the Township has not had to issue any refunds under the fee refund provisions.

Additional Residential Units

The Province is proposing an enhanced regulation-making authority that would enable the establishment of requirements and standards to facilitate planning approvals for additional residential units (ARUs), by eliminating zoning barriers such as maximum lot coverage and limits on bedrooms allowed per lot.

Changes were previously made to the Planning Act through the Bill 23 which allowed up to three units per lot in existing residential areas and removed specific ARU barriers, such as parking requirements, parkland requirements, minimum unit sizes, and development charges. These changes stand, and the new proposed changes aim to further facilitate the creation of more ARUs.

- **Staff Comments:** Staff have concerns with this proposed amendment. The proposed widening of the scope of the Minister's regulation-making authority to remove zoning barriers to build ARUs and potentially exempt such units from all of Part V (Land Use Controls) of the Planning Act would remove the Township's ability to regulate lot and building standards relating to lot coverage, setbacks and the proportion of landscaped open space, among others. In many cases, such regulations were developed to mitigate land use conflicts, nuisance factors, and provide for the enjoyment and protection of personal property, as well as manage drainage.
- Should Bill 185 be passed as proposed, staff will need to consider how potential impacts that would have been regulated and mitigated through zoning requirements may continue to be addressed using other available tools and processes to ensure development functions safely and efficiently both at the property and neighbourhood scale. An example of this would be to make sure there continues to be sufficient landscaped open space to provide for proper drainage.
- Township staff request the Province reconsider this amendment or provide additional information about the proposed scope of the exemptions for ARUs in order to understand the total impact of the proposed changes prior to enactment.
- A one-size-fits-all approach for ARUs across all municipalities is not appropriate and site context needs to be taken into consideration. There is a difference between more urban communities with transit, as opposed to more rural communities, such as Brock, where there is no transit available.

Repeal of Mandatory Pre-Consultation

Under Bill 185, pre-consultation with municipalities will be voluntary at the discretion of the applicant and not mandatory. Applicants will also be able to challenge complete application requirements to the Ontario Land Tribunal (OLT) at any time.

The proposed changes remove a municipality's authority to require pre-consultation for planning applications; however, municipalities retain the authority to deem an application "complete" or "incomplete".

- **Staff Comments:** Pre-consultation is a key part of the application process and valuable to both the applicant and the municipality as it helps to identify any challenges, issues and opportunities prior to an applicant submitting an application. It provides the opportunity to clarify the development review process and the supporting materials and information that will be required to support the proposed application(s). Without pre-consultation, certain requirements and matters will be addressed during the application review process, which may prolong the application process and create additional work and costs for applicants that might otherwise have been avoided. This goes against trying to streamline and speed up the application process and reduce the costs of development. Township staff urge the Province to reconsider the proposed changes and not make pre-consultation voluntary. Municipalities should maintain the ability to adopt a by-law requiring pre-consultation. Repealing the refund provisions will allow municipalities to streamline the pre-consultation process and make it a more efficient application process overall.
- Should these provisions be approved, staff will need to consider alternatives to identify and outline the studies and plans that are required as part of the application process.

Upper-tier Municipalities Without Planning Responsibilities

Under Bill 185, the upper tier Regional municipalities of Halton, Peel and York will no longer have planning responsibilities as of July 1, 2024.

The dates for the Regional municipalities of Durham, Simcoe, Niagara and Waterloo have not yet been set, and will be released at a later date.

- **Staff Comment:** The removal of Durham Region from Planning Act processes means that the Township will assume responsibility for all planning matters. While the Region downloaded consent applications to the area municipalities effective January 1, 2024, this would see additional applications, such as subdivision, condominium and regional official plan amendment applications, also downloaded to the Township. This will place increased pressure on existing municipal staff to carry out these functions. These changes will require additional staff resources and time to adjust to absorbing the Region's Official Plan and components of the planning processes currently handled by Regional planning staff.

Settlement Area Boundary Expansions

Under Bill 185, an applicant will be able to appeal a municipality's decision on a privately requested official plan amendment that would change the settlement area boundary, provided the lands are outside of the Greenbelt Area.

This proposed amendment is paired with a new proposed policy approach in the new PPS where new criteria are being introduced for the assessment of proposals for a settlement area boundary expansion. The tests to be applied during an expansion request are not as stringent as they currently are, and require consideration of adequacy of servicing, phasing and agricultural issues, such as the minimum distance separation formula.

- **Staff Comments:** As a community within the Greenbelt Plan, Township staff would request confirmation that this proposed change would not apply to the communities within the Township and that the Township would still be subject to the current settlement area boundary expansion policies that limit expansions into the Greenbelt Plan Area.
- While it may not impact the Township to the same degree given we are a Greenbelt community, opening up appeal rights for settlement area boundary expansion applications will result in piecemeal planning throughout southern Durham Region and across the Province. Township staff would recommend the Province maintain the existing provisions in the Planning Act that exclude an applicant from appealing a private application that would expand or alter an in-force settlement area boundary.
- Opening up the criteria and potential for appeals, could hinder efforts to promote intensification and optimize the use of existing infrastructure, and would encourage more greenfield development where services may potentially need to be extended.

Minister's Zoning Orders / Community Infrastructure Housing Accelerators:

The community infrastructure housing accelerator process introduced under Bill 23, More Homes Built Faster Act, 2022 is proposed to be repealed. The Province would rely on the Minister's Zoning Order process.

The Province is proposing a new framework for requesting a Minister's Zoning Order, that would detail the types of requests that will be considered, submission expectations and the assessment process. The requirements also include demonstrating why the normal municipal process cannot be used, as well as information on Indigenous engagement and public consultation.

- **Staff Comment:** Staff support removing the community infrastructure housing accelerator process from the Planning Act as it is redundant in light of the minister's zoning order process that is in place.

Use It or Lose It Framework

Under Bill 185, a new municipal servicing management tool would be created to authorize municipalities to adopt policies by by-law to formalize how water and sewage servicing of an approved development is managed to enable servicing capacity to be allocated/reallocated to other projects if the approved development has not proceeded after a given timeline and the servicing is needed elsewhere.

This is in response to the large number of developments across the province that are currently approved but not moving forward with construction. This amendment provides the municipality with the authority to attach lapsing provisions to approved site plans and draft plans of subdivision. The prescribed time period shall not "be less than" or "exceed such" a time period as "may be applicable to the development" or be less than three years.

- **Staff Comment:** The Township currently imposes expiration dates on site plan approvals (typically two years) and the Region applies a three-year lapsing date on subdivision applications. Applicants are currently able to request an extension of draft plan approvals through the Region.

Public Notices

Under Bill 185, regulatory changes are proposed that would modernize public notice requirements under the Planning Act and Development Charges Act, regarding newspaper notices. Municipalities would be able to give notice on a municipal website, if a local newspaper is not available.

- **Staff Comment:** Township staff support these changes as there is no local newspaper that is widely available to the majority of the Township anymore. Township staff already provide notices on the Township's website and other electronic platforms.

Development Charges Act

Here is a summary of the proposed changes to the Development Charges (DC) Act:

- The five-year phase in of DC rates introduced under Bill 23, More Homes Built Faster Act, 2022 is proposed to be repealed. This would apply to DC by-laws passed on and after January 1, 2022.
- Background studies can again be included as eligible capital cost when calculating DCs.
- The current two-year time limit on DCs being frozen is proposed to be reduced to 18 months after approval of the relevant application, to give homebuilders an incentive to obtain a building permit earlier and get shovels in the ground faster.
- Proposes to implement the DC exemptions for affordable residential units on June 1, 2024. This will result in qualifying properties being exempt from DCs subject to maintaining their qualifying status.

Staff note that the Township's DC by-law expires in June 2024 and a review is underway, along with the drafting of a new DC by-law.

- **Staff Comments:** Staff support repealing the mandatory five-year phase-in of new DC rates, as this will require development pay its share of the costs associated with development and will help to reduce the impact on existing taxpayers.
- Staff support the proposed change to include studies as part of the DC rate as this will help to cover the costs of such studies, which would have otherwise had to have been paid through the tax levy.
- Staff support the reduced timeline on DC rate freezes from two years to eighteen months, as this will incent developers to move forward with construction.
- The proposed affordable residential unit bulletin has recently been published by the Province. Township staff are still reviewing the bulletin and potential impacts to the Township with respect to DC exemptions for affordable residential units.

Servicing Allocation

The proposed legislation would authorize a municipality, under the Municipal Act, to adopt a municipal allocation bylaw, which may include a system for tracking the water supply and sewage capacity available to support approved developments, and criteria to determine the circumstances for when allocation of water supply and sewage capacity is assigned, withdrawn or reallocated.

Expedited Approval Process for Community Service Facilities

The proposed legislation would enable a streamlined approvals pathway for prescribed class(es) of community service facility projects, such as public schools, hospitals and long-term care facilities.

The non-application of the Planning Act for certain undertakings of school boards, long-term care homes, and hospitals appears to rely on the development of forthcoming regulations.

- **Staff Comment:** Staff request additional information be provided by the Province to understand what the expedited approval process for community service facility projects would look like and what details may be included in such a regulation prior to enactment. The Province should also include requirements for consultation with the affected municipality as part of any proposed regulation.

Proposed Planning Statement, 2024

The purpose of the proposed new PPS is to combine the elements of the Growth Plan and the Provincial Policy Statement, 2020 into a new land use policy document.

The PPS aims to create an integrated land use planning policy framework that would apply Province-wide. The policies in the proposed PPS are grouped under five pillars:

- generating an appropriate housing supply;
- making land available for development;
- providing infrastructure to support development;
- balancing housing with resources; and
- implementation.

In the event the proposed PPS is adopted, the Provincial government would consequentially revoke the existing Provincial Policy Statement, 2020 and the Growth Plan as well as amend regulations under the Places to Grow Act, 2005. In addition, the Provincial government is proposing an administrative amendment to the Greenbelt Plan in order that the policies in the Greenbelt Plan are maintained should the existing Provincial Policy Statement, 2020 and the Growth Plan be revoked.

General Comments

Township staff support the integration of the Provincial Policy Statement, 2020 and the Growth Plan into one new Province-wide planning policy document. However, the goal of increasing housing supply and supporting a range and mix of housing options needs to be balanced with efforts to mitigate the effects of climate change and protecting and managing resources, the natural environment and public health and safety. Increasing the supply of housing and supporting a diversity of housing types is important but should not come at the expense of the environment, or other important planning considerations.

The approach to maintaining the existing Greenbelt Plan policies is not clear. As a Greenbelt Plan community, Township staff request clarification as to whether any of the new PPS policies would apply within the Township (such as within designated settlement areas). If not, how does the Province intend to maintain the existing Provincial Policy Statement, 2020 and Growth Plan moving forward? It may be slightly complicated to have two different sets of rules that apply to different areas throughout the province.

The repeal of the Growth Plan and the ability to expand settlement areas at any time will shift how, where and when municipalities grow. The proposed policy approach, while more flexible to local circumstances, could have unintended consequences of uncontrolled, sprawling growth and development.

Agricultural and Rural Area

Municipalities will be required to designate and protect prime agricultural areas for long-term use for agriculture.

Similar to the additional residential unit policies that were introduced for serviced urban areas through Bill 23, the proposed PPS would permit additional residential units on farm properties (up to 2 additional units per lot), provided they comply with the minimum distance separation formulae, are compatible with surrounding operations, have appropriate sewage and water services, and are able to address public health and safety concerns. Furthermore, the size of the additional dwellings are limited and are to be located within, attached or in close proximity to the principal dwelling or farm building cluster, and minimize the amount of agricultural land being taken out of agricultural production. This is intended to support farmers, farm families and farm workers without creating new lots, through enhanced policy and criteria supporting additional residential units.

The policies continue to discourage lot creation in prime agricultural lands but provides criteria for three specific circumstances including for agricultural uses; agriculture-related uses; and up to one residence surplus to an agricultural operation for farm consolidation.

- **Staff Comments:** It is important to note that the Township of Brock is a Greenbelt community and therefore, it is staff's understanding that Brock will continue to be regulated by the policies of the Greenbelt Plan, which only permit an additional residential unit within an existing house or an existing accessory structure. Staff request confirmation that the Greenbelt Plan policies would continue to take precedence over the new PPS policies.

Planning for Growth

When updating official plans (OPs), municipalities will be required to have enough land designated for a minimum of 20 years to a maximum of 30 years, with planning allowed to extend beyond this horizon.

The concept of municipal comprehensive reviews of OPs has not been carried forward into the new PPS. It is the Province's expectation that a municipality will update its OP as often as is required to ensure compliance with all applicable provincial plans and policies.

- **Staff Comment:** The removal of specific growth and intensification targets may result in more sprawl, which may result in inefficient land use patterns and may also result in increased infrastructure costs to support new homes.

Settlement Area Boundary and Built Boundary

Under the proposed PPS, municipalities will be able to consider settlement area expansions at any time, including in response to a boundary expansion application submitted by a third party, rather than only through a municipal comprehensive review undertaken by a municipality. The tests to be applied are not as stringent as they were, and require consideration of adequacy of servicing, phasing and agricultural issues, such as the minimum distance separation formula.

- **Staff Comment:** The proposed policies concerning settlement area boundary expansions appear to conflict with the intent of other policies in the proposed PPS with respect to the protection of prime agricultural lands. This may result in premature expansion of settlement

area boundaries into prime agricultural areas where opportunities for growth may already exist in already built-up areas. This may also have negative impacts on infrastructure costs to support new homes with uncontrolled expansions taking place at any time.

- **Staff Comment:** As a Greenbelt community, Township staff would request clarification that the Township would still be subject to the current settlement area boundary expansion policies that limit expansions into the Greenbelt Plan Area.

Employment Areas

The definition of 'employment areas' is proposed to be changed in the new PPS to reflect the definition in the Planning Act that was introduced through Bill 97 and this will result in changes to the Township's Official Plan. The focus is on uses that cannot locate in mixed use areas, such as heavy industry, manufacturing and large scale warehousing. Any areas which are not explicitly designated as "areas of employment" under the new definition as contained in the Planning Act will no longer be subject to any requirement to demonstrate there is a need for conversion to non-employment uses, such as residential or commercial uses.

Under the proposed PPS, municipalities will have the ability to remove lands from employment areas at any time rather than through a municipal comprehensive review process, provided it can be demonstrated that the removal meets a set of criteria. Staff note that this may be problematic owing to the fact that an employment area can be converted at any time versus through a municipal comprehensive review which provides a holistic approach to assessing employment conversions.

The draft PPS encourages mixed-use development, and the intensification of employment uses provided they are compatible and do not present potential adverse effects. Planning authorities are to encourage economic development and competitiveness through creating an appropriate transition between sensitive land uses and employment areas.

- **Staff Comment:** Staff request the Province provide a sufficient transition period to allow municipalities to complete a fulsome review of their OPS and make any required amendments to appropriately identify and protect areas of employment.

4.0 Related Policies / Procedures

Should the new PPS and Bill 185 be brought into effect, the Township of Brock will need to update and bring the Township's OP into conformity with the provincial planning documents.

5.0 Financial / Budget Assessment

If the proposed policies are approved, Township staff will have to update the Township's policy planning documents and processes accordingly.

The proposed changes to the Development Charges Act will reduce the negative impacts of Bill 23, which removed studies as eligible expenses and introduced a phase-in of development charges over five years. The proposed changes will ensure that growth pays for growth to a greater extent.

Proposed changes to the Planning Act remove the requirement for refunding planning application fees.

5.1 Asset Management

N/A

6.0 Climate Change Impacts

Long-term, comprehensive planning helps to address climate change impacts. Planning compact urban areas and protecting agricultural lands and environmental features supports the development of healthy and complete, sustainable communities, while efficiently using land and resources.

Some of the proposed policies in the PPS could encourage sprawl, piecemeal planning and fragmentation within the agricultural area, reducing the amount of agricultural land and negatively impacting environmental features.

7.0 Communications

The PPS and Bill 97 were both posted on the ERO's website for public review and comment. No further public engagement is required on the Township's behalf at this time.

8.0 Conclusion

This report provides an overview of the proposed PPS (2024) and Bill 185 which have been released by the Province. Staff are seeking Council's authorization to submit this report as the Township's comments.

9.0 Recommendation

Be it resolved that Report 2024-DS-006 regarding the Proposed Provincial Planning Statement (2024) and Bill 185, be received; and

That staff be authorized to submit this report to the Province as the Township of Brock's comments on the proposed Provincial Planning Statement (2024) and Bill 185.