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The Regional Municipality of Durham Report

To: Planning and Economic Development Committee
From: Commissioner of Planning and Economic Development
Report: #2024-P-16
Date: November 5, 2024

Subject:

Bill 23 Proclamation Update: Upper-Tier Planning Responsibilities

Recommendation:

That the Planning and Economic Development Committee recommends:

That this report be received for information.

Report:

1. Purpose

1.1 At the October 1, 2024, Planning and Economic Development Committee meeting, questions were asked of staff about the anticipated timing and impact of Bill 23's proclamation relative to the future of Durham Region's upper tier land use planning function. Staff stated it is not known at present when proclamation for Durham will occur; a date has not been announced by the province. This report provides additional information on the status of Bill 23 proclamation to what was provided at the Committee meeting.

2. Background

2.1 Over two years ago, on October 25, 2022, the province tabled Bill 23 which introduced fundamental changes to the land use planning system in Ontario through legislative amendments to the Planning Act, the Conservation Authorities Act, the Development Charges Act and other pieces of legislation. The Bill introduced the "More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022-2023",

which was intended to advance the government's goal of getting 1.5 million new homes built in Ontario by 2031.

- 2.2 The majority of Bill 23 received Royal Assent on November 28, 2022. However, the parts of Bill 23 that proposed to make changes to the upper tier planning responsibilities do not come into effect until a specified future date, generally known as the "proclamation date", or "date of proclamation". Another bill, Bill 185 was subsequently released in early 2024 and included a proclamation date of July 1, 2024 for the Regions of Halton, Peel and York. A proclamation date for the remaining three regions, namely Durham, Niagara and Waterloo, has not yet been announced by the province.
- 2.3 The absence of a proclamation date for the past two years has been disruptive to the operation of the Region's Planning Division. A number of planners have left the Region and it has been a challenge to recruit new staff due to the uncertain planning environment. Given the current shortage of qualified land use planners within the Region's Planning Division, an outside firm has recently been engaged to provide professional support to the Department on an as-need basis to ensure the needs of our area municipal partners and private sector clients will continue to be met.

3. Current Planning Responsibilities

- 3.1 Bill 23 proposes to remove the existing planning approval responsibilities from all the upper-tier regions. However, it may be noted that Durham delegated its statutory approval authority for subdivisions, condominiums, and part-lot control exemption by-laws to Pickering, Ajax, Whitby, Oshawa and Clarington almost 25 years ago. At present, the Region is the approval authority for subdivisions, condominiums and part-lot control exemption by-law for the Townships of Brock, Scugog and Uxbridge. Following proclamation of Bill 23, the Townships of Brock, Scugog and Uxbridge would have to assume this approval authority.
- 3.2 As of the end of 2023, the Region delegated its approval responsibilities for Land Division/Consents to enable further streamlining. There are no other approval responsibilities to be delegated to the five lakeshore municipalities. The main impact of proclamation in terms of additional work will be to the three northern townships.
- 3.3 The Region undertakes plan review responsibilities on behalf of the province for matters such as noise impacts, site contamination, archaeology, for all eight area municipalities. These provincial plan review responsibilities were assigned to the Region through a Memorandum of Understanding with the province in 1996. It remains unclear if the Region will be requested by the province to continue these review responsibilities.

4. Following Proclamation

4.1 Upon proclamation, the following will occur:

- a. The Regional Official Plan would become the official plan for the lower-tier municipalities who could repeal or amend it. The new Regional Official Plan (“Envision Durham”) was approved by the province on September 3, 2024. The Final Decision is not subject to appeal. Area municipalities are currently working on updating their official plans to conform to Envision Durham, while considering how the new Provincial Planning Statement (2024) that came into effect on October 20, 2024, can be implemented;
- b. Area municipalities will assume approval authority for all Planning Act decisions, except official plans and official plan amendments (including secondary plans), which will need to be approved by the Ministry of Municipal Affairs and Housing; and
- c. All eight area municipalities will have approval authority over subdivisions, condominiums, land division, and part lot control exemption by-laws. Commenting responsibilities on all land use planning applications and related matters will continue to be performed by the Region to protect Regional interests related to infrastructure, services and Regionally-owned land.

4.2 A draft Planning Services Agreement was prepared last year that could allow an area municipality to request development related planning advice, assistance, services or expertise from the Region. Regional planning staff could then be contracted to provide support similar to the way other Regional supports are provided in areas of human resources, IT and legal. It is expected that the northern townships may require Regional planning support, more so than the southern municipalities, depending on the future volumes of planning and development activity.

5. **The term “Upper tier municipality without planning responsibilities” does not mean the elimination of the upper tier planning function**

5.1 Bill 23 introduced a new definition into the Planning Act called “Upper tier municipalities without planning responsibilities”. This new term is unfortunate because it has created confusion among some of our stakeholders regarding the future of the upper tier planning function. While Bill 23 has proposed to remove certain planning approval responsibilities from the upper tiers, there are still a host of important regional planning functions that need to continue post-proclamation. The Region’s role in infrastructure and service planning is to ensure that growth-related infrastructure is planned, prioritized, funded and in place to support new

development. Decisions to invest in infrastructure and services are based on the coordination of planning permissions, an integrated approach to long range infrastructure planning, and capital financing so that required water, sewer, roads and other infrastructure and services will be available to enable new housing construction.

- 5.2 The new Regional Official Plan provides the policies and designations to guide the near doubling of Regional growth to a population of 1.3 million residents and 460,000 jobs by 2051. Accelerated levels of growth will occur through intensification and infill, transit-oriented development, on vacant urban area lands, redevelopment and within new communities within the Region's eight area municipalities. Also through Bill 23, the Region's five lakeshore municipalities were identified as "Large and Fast Growing Municipalities" and have adopted housing pledges that support accelerated growth in keeping with provincial housing objectives.
- 5.3 The new ROP will remain a guiding document for Regional Council to make infrastructure and service decisions, despite proclamation, as directed by Regional Council upon adoption of the new ROP in the spring of 2023.
- 5.4 Listed below is an overview of activities currently being undertaken by the Regional Planning Division that could be expected to continue following proclamation:

Broader Regional Initiatives

- a. Coordination and provision of subject matter expertise for Regional Advisory Committees, including Durham Environment and Climate Change Advisory Committee, Durham Active Transportation Committee and the Durham Agricultural Advisory Committee.
- b. Planning-related expertise for portfolios such as sustainability, energy, Community Safety and Well-Being, Indigenous Engagement and other projects.
- c. Involvement with each of the region's conservation authorities MOUs, annual budgets and workplans.
- d. Support of the work of the Economic Development and Tourism Division through data collection, policy development, reporting, mapping and measures that continue to preserve and support the agricultural land base.
- e. Responding to internal processes, including comments on the sale of surplus lands from the Region or municipalities, processing of MFIPPA requests, and requests under the Retail Holiday Business Act for changes to hours of operation.

- f. Providing evidence/materials for OLT Hearings or other Tribunals for planning related hearings, presentations at Committees and Council for development related planning matters that involve a Regional interest.

Development Advisory Services

- g. Coordination of street naming, in consultation with Durham Regional Police Services in order to avoid the use of similar sounding street names to reduce confusion for emergency services.
- h. Updating and administering of the Region's Woodland By-law enforcement consultant, including reviewing and approval of Good Forestry Practices and Clear-Cutting Permit requests under the Regional Woodland By-law.
- i. One window review/commenting on development applications, area municipal plans and studies, area municipal official plans, official plan amendments and secondary plans, proposals from external agencies and initiatives from other levels of government that affect the Region's interest in land, development, services or infrastructure.
- j. Commenting on various plans/initiatives/studies or applications for neighbouring municipalities, land use compatibility with Regional facilities/infrastructure, third party infrastructure proposals, provincial Environmental Certificate of Approval applications, and aggregates licensing.

Growth Management/Data Analytics

- k. Ongoing monitoring, analysis, forecasting and reporting on region-wide development, land use, transportation and demographic trends to inform decisions on infrastructure needs to expand growth management and data analytic capabilities.
- l. Planning related GIS capabilities and geographic data to enable reporting on development and land related geographic information to enable informed decision making by internal departments, area municipalities, businesses, stakeholders and the public in a variety of land use related fields.
- m. Support, develop and advance reporting on planning related data, including key performance indicators within the Strategic Plan, and public facing interactive GIS mapping tools, dashboards, viewers and data aggregation.
- n. Conducting and ensuring accuracy of the Region's Annual Business Count.
- o. Producing mapping, graphics, and data products used by the Department, other Regional Departments, external stakeholders, agencies, area municipalities and the public.

Transportation Planning

- p. Work to support long-term transportation planning to ready the Region for forecasted levels of growth through transportation modelling, impact analysis and through an update to the Transportation Master Plan. Key transportation initiatives are currently underway in support of the GO East extension, active and sustainable mobility initiatives, high frequency rail, freight and goods movement and transit-oriented development initiatives.
- q. Elevating the importance of active transportation, promote reducing car dependency and advance active and sustainable modes of travel advancing initiatives under Smart Mobility Durham (Smart Commute Durham, Cycle Durham, Active and Sustainable School Travel Plans, and Carpool Lots/Small Urban and Rural Carpool Lots).

Housing Planning Policy and Implementation

- r. Assistance for Social Services Affordable Housing Development and Renewal to expedite new development on Regionally owned sites and the provision of planning expertise, as required.
- s. Support Regional redevelopment/regeneration initiatives for new affordable and supportive housing.

6. Next Steps

- 6.1 Regional staff will continue to monitor how Halton, Peel and York are dealing with their transition processes so we can have the benefit of lessons learned should a proclamation date be announced for Durham Region.
- 6.2 Through the development of a Memorandum of Understanding with the province, and our area municipalities, the division of responsibilities will continue to be further refined.

7. Previous Reports and Decisions

- 7.1 The implications of Bill 23 on the Region of Durham was first presented through Report [#2022-COW-33](#) in December of 2022.
- 7.2 The delegation of Durham Region's Land Division responsibilities and an update on Bill 23 was provided through Report [#2023-P-22](#) in September of 2023.

8. Relationship to Strategic Plan

8.1 This report aligns with the Strategic Goal of Service Excellence in the Durham Region Strategic Plan and the following priorities:

- a. 5.1: Optimizing resources and partnerships to deliver exceptional quality services and value: by ensuring capacity and training are provided and available for consent applications; and
- b. 5.2 Collaborating for a seamless service experience: by ensuring that training, materials, time and communication are provided so that existing and future land division applicants are aware of process changes.

9. Conclusion

9.1 Staff will report on any Bill 23 related matters and any progress related to the creation of Memoranda of Understanding with the province or our area municipalities as information becomes available or progress is made.

9.2 A copy of this report will be shared with Durham's area municipalities and conservation authorities.

Respectfully submitted,

Original signed by

Brian Bridgeman, MCIP, RPP, PLE
Commissioner of Planning and
Economic Development

Recommended for Presentation to Committee

Original signed by

Elaine C. Baxter-Trahair
Chief Administrative Officer