

Report to Council

Report Title: Bill 23 Impact on Ontario Heritage Act

Prepared By: Sarah Johnson, Deputy Clerk

Department: Clerk's

Date: January 31, 2023

Report Number: CLK2023-02

File Number: C11CL

Attachments:

Recommendation:

That the Council of the Municipality of Brockton hereby receives Report Number CLK2023-02 - Bill 23 Impact on Ontario Heritage Act, prepared by Sarah Johnson, Deputy Clerk for information purposes.

Report:

Background:

On October 25, 2022, the Provincial Government introduced Bill 23 known as the *More Homes Built Faster Act, 2022* which received Royal Assent November 28, 2022 and amended a number of Acts, including the *Ontario Heritage Act, R.S.O. 1990, c. O.18*.

The *More Homes Built Faster Act, 2022* proposes significant changes to the existing framework for conserving heritage properties across the province. The changes will limit some of the tools available to municipalities for conserving properties, making it more challenging for communities to conserve important heritage buildings.

Bruce County brought forward a [Report](#) to the Planning and Development Committee on December 15, 2022 discussing the impacts of Bill 23, and suggested that it is unclear how these changes will assist with building homes faster in a Bruce County context. The County noted that the protection of cultural heritage is important to the residents and visitors to Bruce County, and the built heritage in many of our municipalities ensures attraction of businesses and residents to invest in our communities. Bruce County recommended that the Province release further details of the proposed regulatory criteria for designating individual properties and conservation districts and provide additional time to review the regulations prior to changing the *Ontario Heritage Act*. However, the changes have already been made to the *Ontario Heritage Act*.

Analysis:

Changes to the *Ontario Heritage Act* as a result of the *More Homes Built Faster Act, 2022* include:

- Impacts to municipal register of heritage properties (Designated and Non-Designated or “Listed”)
- Timeframe for non-designated properties to be reviewed prior to being removed from the register if not actually designated, and restricted timeframe for allowing properties removed from register to be re-added
- Criteria required for properties to be considered of cultural heritage value or interest
- Ability for Provincial Government to be exempt from complying with heritage standards and guidelines

Municipal Register of Heritage Properties:

Under Section 27 of the *Ontario Heritage Act*, the Municipal Clerk has been required to maintain a register of property situated in the municipality that is of cultural heritage value or interest based on prescribed criteria. The *More Homes Built Faster Act, 2022* specifies that the register must be displayed on the Municipal website. The Municipality of Brockton has displayed a register of heritage properties (including both designated and non-designated/“listed” properties) on the [Municipal website](#) for several years. The register is also maintained on the Heritage Committee’s [Vita Collections website](#).

However, Brockton will need to ensure all required documentation on both designated and non-designated/properties be included on the Municipal website, rather than linking to the Heritage Committee Vita Collections website to ensure full compliance with the *More Homes Built Faster Act, 2022*.

Brockton currently has **11 designated** heritage properties, and **24 non-designated/listed** properties in the register.

As a result of the *More Homes Built Faster Act, 2022*, properties may only be on a Municipality’s Heritage Register for **up to two (2) years**. **If a property has not been designated** under Part IV of the *Ontario Heritage Act*, **the property is removed** from the Heritage Register and **cannot be re-added for five (5) years**. Additional information and implications are listed in detail below.

Designated Properties:

Designated heritage properties are protected under Provincial law, and must follow strict guidelines if they are modified in any way. These properties are selected by the Brockton Heritage Committee, and Council must pass a By-Law designating the property. By designating specific properties, Brockton is able to note and maintain the unique history of this area.

The Act has amended the process by which a property can be designated. The property must first be included on the Heritage Register for a set period of time. Previously, properties could be designated without first being on the Heritage Register, allowing the Municipality to designate properties which had been previously overlooked either due to lack of resources or new information about the property. The goal of adding properties to the Heritage Register was to provide property owners, developers and potential buyers with certainty about the heritage status of their property. Going forward, there will be limited incentive to list buildings proactively unless it is anticipated that they are under threat of demolition or development.

Overall, the goal is always to balance necessary future development with preservation of the community's heritage and character. These amendments may cause challenges for Brockton to maintain that balance. Brockton can no longer keep properties as "listed" permanently to prevent demolition. As a result, Brockton's Heritage Committee, Council and staff will need to strategically consider which properties have been designated, which have been listed, and which properties warrant a change in classification.

Non-Designated/Listed Properties:

Unlike designated heritage properties, non-designated/listed heritage properties are not protected by the province. Non-designated/listed properties remain significant in Brockton's history and contain a plaque attached noting their significance.

However, under Section 27(9) of the *Ontario Heritage Act*, "the owner of the property **shall not demolish or remove a building or structure on the property** or permit the demolition or removal of the building or structure **unless the owner gives the council** of the municipality at least 60 days **notice in writing** of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure."

The register can also include non-designated/listed properties if Council believe the property is of cultural heritage value or interest, and as per the *More Homes Built Faster Act, 2022*, which must now meet certain prescribed criteria.

Objections:

Property owners can also object to their non-designated/listed property being included on the register. The owner or predecessor must serve a Notice of Objection to the Clerk including reasons and facts for the objection. If a Notice of Objection is received, it must be considered by Council for decision, which must be made within 90 days. However, the Act has now also specified **that all of Brockton's non-designated/listed properties have the right to object being included on the register.**

Council **must remove** non-designated/listed properties from the register if a Notice of Intention to Designate the property is not provided by either the 2nd anniversary of the day the property was included on the register, or the 2nd anniversary of when the Act was sworn into force for existing listed properties. As a result, **all of Brockton's non-designated/listed properties must either be given a Notice of Intention to Designate within 2 years or else risk being removed from the register, such that there would be no protection against demolition.** Further, the requirement to consult with the Brockton Heritage Committee prior to removing a property in these situations has also been removed from the legislation.

To further complicate matters, the *More Homes Built Faster Act, 2022* specifies under Section 27(18) of the *Ontario Heritage Act* that properties removed from the register **cannot be re-added to the register for 5 years.**

Brockton has only added one (1) property to the Heritage Register in recent years –the Armoury Building in 2019 as a designated heritage property, and the Heritage Register By-Law was last updated in 2020 (previously not updated since 2013). The non-designated/listed properties have not been updated in several years. Ultimately, some property owners may not even know or fully understand their designated or non-

designated/property distinction and any associated implications under the *Ontario Heritage Act*. It is wise that all property owners be contacted to notify them of these changes to the Act, and what that potentially means for them.

This will lead to the need for other decisions regarding how to address the identification and conservation of heritage properties going forward. It may be possible that new properties may not be added to the register going forward since they would be ultimately required to be designated. Even then, **these registers must still be reviewed every 2 years, so there is no guarantee that these properties will continue to remain historically significant.** Both the Brockton Heritage Committee and Council may need to review the register on an annual basis to decide whether properties should be permitted to lapse or should be fully designated.

Exemptions for the Province:

Under Section 25.2 (7) of the *Ontario Heritage Act*: “The Lieutenant Governor in Council may, by order, provide that the Crown in right of Ontario or a ministry or prescribed public body is not required to comply with some or all of the heritage standards and guidelines approved under this section in respect of a particular property, if the Lieutenant Governor in Council is of the opinion that such exemption could potentially advance one or more of the following provincial priorities:

1. Transit.
2. Housing.
3. Health and Long-Term Care.
4. Other infrastructure.
5. Such other priorities as may be prescribed.”

Previously, the Provincial Government, Ministries and public bodies were expected to comply with standards and guidelines without exceptions. The changes allow for the Provincial Government, Ministries and public bodies to override heritage standards and guidelines for specific projects.

This may mean that the Province could impose changes to properties in Brockton under this exemption if they advance their priorities, which could impact their local historical significance. Should any matters arise, staff would work with the parties involved to find ways to accommodate the Province’s priorities while respecting Brockton’s local heritage.

More Homes Built Faster Act, 2022 Change to Ontario Heritage Act	Consideration/Impacts for Brockton
Municipal Register of Heritage Properties	<ul style="list-style-type: none">• Staff to compile all required information on designated and non-designated/listed heritage properties on Municipal website.• Brockton Heritage Committee and staff to review all properties on Heritage Register and determine if they meet new criteria.• Brockton Heritage Committee and/or staff to contact all owners of heritage properties to inform them of changes to the <i>Ontario Heritage Act</i>, and inquire if non-designated/listed properties wish to provide a Notice of Intention to Designate, and the implications if their property is removed.

More Homes Built Faster Act, 2022 Change to Ontario Heritage Act	Consideration/Impacts for Brockton
	<ul style="list-style-type: none"> • Brockton Heritage Committee to discuss implications of possible loss of local historical significance as properties may be changed/removed on Heritage Register. • Brockton Heritage Committee and staff to discuss how to manage the plaque system (current plaques and any new plaques for designated/non-designated properties). • Brockton Heritage Committee and staff to discuss adjustments to the Walking and Driving Tours, and/or Doors Open as a result of changes to the register.
Provincial Exemptions from Heritage Standards	<ul style="list-style-type: none"> • Staff to work with the parties involved to find ways to accommodate the Province's priorities while respecting Brockton's local heritage.

The Brockton Heritage Committee is holding a meeting on February 6, 2023 and will discuss this Council Report and the implications of the changes to the *Ontario Heritage Act* imposed by the *More Homes Built Faster Act, 2022*. Additional information will be brought forward to Council's attention after the Committee discusses how best to address these required changes.

Strategic Action Plan Checklist:

What aspect of the Brockton Strategic Action Plan does the content/recommendations in this report help advance?

- | | |
|---|-----|
| • Recommendations help move the Municipality closer to its Vision | Yes |
| • Recommendations contribute to achieving Heritage, Culture, and Community | Yes |
| • Recommendations contribute to achieving Quality of Life | N/A |
| • Recommendations contribute to achieving Land Use Planning and the Natural Environment | N/A |
| • Recommendations contribute to achieving Economic Development | N/A |
| • Recommendations contribute to achieving Municipal Governance | Yes |

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective? Yes

At this time, the full impact is unknown, though it would be wise to plan ahead that additional staff time and/or resources may be required to assist the Brockton Heritage Committee with implementing these changes to the *Ontario Heritage Act*.

Reviewed By:



Trish Serratore, Chief Financial Officer

Respectfully Submitted by:

A handwritten signature in blue ink that reads "Sarah Johnson". The script is cursive and fluid.

Sarah Johnson, Deputy Clerk

Reviewed By:

A handwritten signature in black ink that reads "Sonya Watson". The script is cursive and fluid.

Sonya Watson, Chief Administrative Officer