

November 24, 2022

**Electronic Submission only**

ATT: Paula Kulpa  
Heritage Branch, Ministry of Citizenship and Multiculturalism  
400 University Avenue, 5th Floor  
Toronto, ON  
M7A 2R9  
Canada

RE: **Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 – [ERO 019-6196](#)**

Please accept this letter and its attachment as the City of Burlington submission on ERO Posting 019-6196. Given the short period for consultation the attached comments have not been approved by City Council. This letter and its attachment will be shared with the City's Committee's and Council at the earliest opportunity. Should Council determine any additional comments or refinements to the attached comments are required the Province will be advised at the earliest opportunity.

Sincerely,



Mark H. Simeoni, MCIP, RPP  
Director of Community Planning  
Community Planning Department  
City of Burlington

Theme: Streamlining Development Approvals Contributor: Community Planning Primary Associated ERO Postings:  <b>Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022 – <a href="#">ERO 019-6196</a></b>			
Summary of Changes	Staff Comments/Questions	<a href="#">Guiding Principle</a> (see the Options considered section of the hyperlinked report) (indicate support or concern)	Approaches or alternatives for consideration
<p>#1 - Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the <i>Ontario Heritage Act</i> unless the property is already on the heritage register at the time the application is deemed complete, which can be as early as 30 days after submission.</p> <p>#2 - Heritage registers to be reviewed and a decision made whether listed properties are to be designated within 2 years, and if not, removed from the register for at least 5 years</p>	<p>#1 - This places strict limits on Burlington’s ability to heritage designate properties that are not on the heritage register and are subject to a development application*. A municipality has only 30 days to deem an application for an OPA, ZBA or SPA “complete”, so for a property not yet on the Heritage Register, Burlington will only have a month to consult its heritage committee and deliver a recommendation to Council. This is not enough time to study a property and will result in some candidates for heritage designation being demolished.</p> <p>*Official Plan policy 8.4.1(b) enables Burlington to ask for a heritage impact study for a property “worthy of designation”, if an HIS were required as condition of submission.</p>	<p><b>Complete Communities</b></p> <p>Cultural resources are central to building a vibrant, livable and unique community. They have the ability to boost economic development and tourism by making destinations for visitors and local residents and are linked to other aspects of the city’s overall health, including the environment.</p> <p>Cultural heritage resources are located throughout the city and many are privately owned. These resources provide physical and cultural links to the identity of the city, create a sense of civic pride, and contribute to the quality of life and enjoyment of the city by residents and visitors alike. The conservation of cultural heritage resources also contributes to the overall sustainability of the city.</p>	<ul style="list-style-type: none"> <li>• Allowing municipalities to require the submission of certain materials (i.e. heritage impact study) as part of a pre-consultation submission, would allow the municipality time to determine whether or not the property is worthy of protection, prior to a development application being submitted.</li> <li>• The proposed legislation requires heritage registers to be reviewed within 2 years, which does not provide sufficient time for municipalities to complete the review of all properties. As an example, the City of Burlington would need to assess over 200 properties within the timeframe which would be very difficult. The provision of additional time beyond 2 years would be very beneficial and would allow municipalities time to complete this work in an orderly and thorough manner.</li> <li>• Under the proposed legislation, once a property has been removed from the heritage register, it cannot</li> </ul>

<p>#3 - A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed</p> <p>#4 - Criteria for Heritage Conservation District Plans can be established for regulation</p> <p><b>#5 Non-designated properties to be automatically removed from the Heritage Register if a municipality withdraws a notice of intention to designate, does not pass a designation bylaw in time or repeals a designation bylaw.</b></p>	<p># 2 - Requiring municipalities to review and designate all non-designated properties on the Heritage Register within 2 years or else remove them from the Heritage Register on a long term basis presents a difficult binary choice to municipalities:</p> <ul style="list-style-type: none"> <li>• City Council must choose to remove most or all non-designated heritage properties from their Heritage Registers and leave them unprotected for a significant period of time contrary to the Provincial Policy Statement, 2020 and Official Plan requiring that significant built heritage resources be protected</li> <li>• Incur major financial and staff resource costs to study all non-designated properties on their Heritage Register for possible designation, culminating in a large decision-making burden for Council. Further, if a City Council initiates a campaign of continuous heritage designations over two years or an omnibus heritage designation bylaw of multiple properties at the end of a two-year study, it will face numerous Ontario Land Tribunal appeals that could monopolize heritage staff time for months or years.</li> </ul> <p>Although Burlington has a relatively small heritage register, it has 207 “grade A” non-designated heritage properties including</p>	<p>Planning staff are concerned that this legislation, specifically the requirement to force designate or remove properties from the heritage register, will erode the cultural heritage resources within the City and negatively impact the vibrancy, livability and uniqueness of the City.</p> <p><b>Matters of Provincial Interest</b></p> <p>The Planning Act sets out that the conservation of features of significant architectural, cultural, historical, archaeological, or scientific interest is a provincial interest.</p> <p>This is reinforced through the Provincial Policy Statement which sets out that “Long-term economic prosperity should be supported by:</p> <p>e) encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources and cultural heritage landscapes.”</p> <p>Further, the PPS sets out that “Significant built heritage resources and significant cultural heritage landscapes shall be conserved.”</p>	<p>be added back for a period of 5 years. Shortening this time frame to 2 years would maintain the intent of the legislation but provide for an increased level of protection, should circumstances evolve or change.</p> <ul style="list-style-type: none"> <li>• Requiring municipalities to make a decision on whether listed properties are to be designated or removed from the register will have unintended consequences and potentially put cultural heritage resources at risk. An alternative approach could be to require municipalities to review their heritage register at defined intervals and assess each property using specific criteria to determine whether the property should remain on the register, be removed from the register or be designated. This process would also allow for public engagement to ensure that community voices have the opportunity to participate in this process.</li> </ul>
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	<p>eleven significant churches, seven pioneer or historic cemeteries, five schools and Burlington's oldest home the Stewart-Spence house built in 1832. Studying all properties, or a subset, forces a potentially ugly confrontation between City Council and numerous property owners over the issue of "imposed" heritage designation. The City of Burlington has historically incentivized designation through negotiation and generous financial supports. This is the approach promoted in the new Official Plan, 2020, in which the City is supposed to encourage and support private stewardship of the City's cultural heritage resources. Burlington has implemented this incentives-first approach with its heritage grant program and the popular heritage tax rebate program. The ability to list properties on the Heritage Register enables Burlington to negotiate with owners for voluntary conservation at an appropriate time- when the property is being redeveloped or a demolition is proposed. The brief timeline proposed under this legislation does not create any time for these negotiations, which will likely take place under high pressure at Council meetings. Multiple high-profile, landmark heritage sites are threatened by this legislative change.</p> <p>#3 – This change will have minimal impact and is a positive change that will clarify the criteria</p>	<p>Planning staff are concerned that this legislation, specifically the requirement to force designate or remove properties from the heritage register, will not advance the provincial interest of conserving significant architectural, cultural, historical features and will likely have the opposite effect. This legislation could result in historic properties, that are valued by their local communities, being threatened or lost.</p>	
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	<p>an area must meet to qualify as a Heritage Conservation District.</p> <p>#4 - This has minimal impact and is a positive change that will creates a pathway for a municipality to revise its heritage conservation district bylaws.</p> <p>#5 This change introduces too much finality to Council's decision not to pursue heritage designation, since a property will have to be automatically removed from the register and cannot be added back for 5 years. This impacts the municipality's ability to monitor the property and pursue conservation if there is a new owner or council. For example, in 2012, a previous Council chose to repeal the heritage designation of a property in the City, because the owner argued it created financial hardship for them. The property was then removed from the register, but not demolished. It was sold to new owners who wish to redevelop. The development site may have enough land that the house could be integrated into a larger development and converted to a multi-unit building, however because the property is not on the heritage register, staff would have very limited negotiating power. The owner could demolish the property with no notice to the City.</p>		
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