



Council Report

Report Number:	ED2024-031
Meeting Date:	July 23, 2024
Title:	Amendments to the Ontario Heritage Act through Bill 200
Description:	An update on recent amendments to the Ontario Heritage Act regarding the review of listed properties on municipal Heritage Registers
Author and Title:	Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report ED2024-031, **Amendments to the Ontario Heritage Act through Bill 200 and Heritage Designation Processes**, be received for information.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

In late 2022, the provincial government passed Bill 23 which made broad and sweeping changes to a variety of pieces of legislation governing land use planning in Ontario, including the Ontario Heritage Act. In particular, Bill 23 made significant changes to listing as a method of heritage protection in Ontario. The amendments required municipalities to designate listed properties or remove them from the Register within two years of the amendments coming into effect. Practically, this means that, in order for municipalities to provide heritage protection to its cultural heritage resources as is required by provincial land use planning policy, they must be designated under Part IV of the Act. The amendments came into effect on January 1, 2023 with a deadline to review and designate listed properties as of January 1, 2025 before they were removed from the Register.

In May 2024, the provincial government announced that it had been monitoring the implementation of Bill 23 amendments to the Ontario Heritage Act and had decided to make additional amendments to address challenges faced by municipalities and property owners and to provide additional clarity to processes regarding removing properties from the Heritage Register. Bill 200, the Homeowner Protection Act, was introduced in May 2024 and proposes several changes to the OHA regarding listed properties. The Bill also addresses other matters related to home buying and some land use planning matters. The Bill received royal assent on June 6, 2024.

This report provides an update to Council on the changes made by the provincial government to the Ontario Heritage Act through Bill 200 and its impact on the municipal heritage designation program. Although Council does not generally receive updates on all legislative changes, staff felt that it was appropriate to bring an update report forward to Council on this topic given the large volume of heritage designations that Council has received throughout 2023 and 2024 due to the changes to the Ontario Heritage Act stemming from Bill 23.

Rationale:

In response to provincial monitoring of the implementation of the Bill 23 changes to the Ontario Heritage Act, Bill 200 implements two changes to the existing regulation which support the updates to the OHA made through Bill 23 in 2022. The goal of these is twofold: first, to provide municipalities with more time to review its Heritage Register and, second, to provide clarification regarding the relisting of properties that have been removed from the Register.

Designation of Listed Properties

Under the changes to the Act made by Bill 23, listed properties that were listed prior to January 1, 2023 will be removed from the Register on January 1, 2025 unless a notice of intention to designate had been issued prior to that date. The amendments through Bill 200 extend that deadline until January 1, 2027 to give municipalities more time to continue to review their registers. This change in date also adjusts the beginning of the five-year prohibition against relisting properties that have been removed from the Register to January 1, 2027. New regulation-making authority has also been added to the Act to allow for these dates to be adjusted in the future.

Voluntary Removal of Listed Properties from the Register and Relisting

One of the major areas of opaqueness related to the Bill 23 amendments was with regard to the voluntary removal of listed properties to the Register and the ability to relist those properties. Through Bill 23, the Act spoke only to a prohibition against relisting properties for five years for properties that are removed from the Register either as a result of the January 1, 2025 deadline or when a notice of intention to designate is withdrawn. It did not speak to properties listed prior to 2023 that have been removed from the Register by a Council resolution.

Under the new amendments, the same rules apply to a property that is voluntarily removed from the Register as those which are automatically removed as a result of the deadline or when a notice of intention to designate is withdrawn as follows:

- Properties that are voluntarily removed from the Register prior to January 1, 2027 may be relisted prior to that date following the processes for listing outlined under the Act.
- Properties that are voluntarily removed from the Register and not relisted prior to January 1, 2027 may not be listed again for five years starting from that date.
- Properties that are voluntarily removed, then relisted, then removed again, either voluntarily or through the withdrawal of a notice of intention to designate, may not be listed again for five years from the date they are removed from the Register for the second time.

This was a significant question amongst heritage planning staff throughout Ontario given the opaqueness of the original legislative changes that has now been resolved.

Impact on Kawartha Lakes

Prior to the passage of Bill 23 and the removal of listing as a viable, long-term method of heritage protection, the City regularly listed properties on its Heritage Register and, at the end of 2022, there were 287 listed properties throughout Kawartha Lakes. Given the limitations regarding staff and financial resources, it was recognized that the City did not have the capacity to designate all of its listed properties. As a result, staff brought forward a strategy to prioritize properties for designation in March 2023. The intention was to prioritize properties with the highest chance of redevelopment and those which were highly visible and important heritage resources in communities across Kawartha Lakes. The types of properties that have been prioritized for designation are:

- Properties where there is a known or anticipated risk of demolition and redevelopment
- Commercial and industrial properties
- Institutional properties
- Landmark and unique properties with extremely high and demonstrable cultural heritage value
- Properties owned by the City of Kawartha Lakes

Since early 2023, the City has fully designated 36 properties, of which the majority are commercial properties. An additional two properties were brought forward to Council for designation but were withdrawn due to owner objections and nine more properties are in various stages of the approval and notice periods.

The extension of the review period prior to the removal of listed properties from the municipal Heritage Register allows staff more time to prepare heritage evaluation reports for these properties where designation is warranted. Staff have undertaken a preliminary review of the properties on the Heritage Register that still have not been designated and found that, while the majority of these properties are residential properties and are not priorities for designation, there are still a substantial number of commercial properties, particularly in Bobcaygeon and the City's rural hamlets and villages, that have not yet been evaluated and addressed, as well as a large number of churches which require evaluation and will likely be brought forward for designation.

Staff are of the opinion that the priority categories for designation are still relevant and will continue to form the basis for what properties are brought forward to Council for designation. Staff will continue to bring properties forward for designation from the Heritage Register for the balance of 2024 and throughout 2025 and 2026.

One of the challenges of the tight timeline originally proposed by the province was that it made providing property owners with information regarding designation at the early

stages of the process extremely difficult. Although all property owners are consulted in the designation process with the issuance of a notice of intention to designate that is triggered by a Council motion, it has traditionally been the City's practice to informally provide information to property owners before the formal consultation period begins and to provide as much information as possible to the public and property owners up front. With additional time to review and designate properties, staff will be working on a strategy to better disseminate information to property owners and the public to support better engagement and reduce the number of objections received. The Ministry of Citizenship and Multiculturalism, which oversees the implementation of the Ontario Heritage Act, has explicitly identified the original timeline imposed by Bill 23 as a challenge with regard to property owner engagement and communicated to municipal heritage staff that this issue was one of the reasons for extending the deadline for the review of municipal registers.

The amendments and extended timeline also allow staff to respond to requests for designation for properties that may not align with the priority categories in a timely manner. Since the Bill 23 amendments came into effect, staff have received a number of requests for designation from listed residential property owners who wish to see their property continue to be protected but where otherwise heritage protection would likely have to be allowed to lapse. Staff are of the opinion that these designation requests should be honoured in order to support property owners who want to see their property protected. Although these properties have not been a priority for designation, the extension of the timeline for review and designation allows them to be brought forward as other priority properties are reviewed and evaluated, instead of deferring for review at a later date. Properties for which a request for designation has been received will now also be prioritized and will be brought forward to Council as they are received.

The changes regarding the voluntary removal of listed properties from the Register has limited impact on the heritage planning program in Kawartha Lakes. Since the introduction of the Bill 23 amendments to the Ontario Heritage Act, Council has only removed two properties from the Register and it is unlikely that these properties will be relisted. At this time, these amendments primarily provide clarity to staff regarding this process should Council wish to remove a property voluntarily from the Register at a later date.

Other Alternatives Considered:

There are no recommended alternatives. This report is being brought forward to Council for information only.

Alignment to Strategic Priorities

The designation of property under Part IV of the Ontario Heritage Act supports the following goals from the Council-adopted Strategic Plan:

- A Vibrant and Growing Economy

The designation of property under the Ontario Heritage Act is a core function of the heritage planning program offered as part of the City's economic development and business development programming which has been identified as one of the priority area's action items.

Financial/Operation Impacts:

There are no financial or operational impacts as a result of the recommendations of this report.

Consultations:

Municipal Heritage Committee
Ministry of Citizenship and Multiculturalism

Attachments:

N/A

Department Head email: lbarrie@kawarthalakes.ca

Department Head: Leah Barrie, Director of Development Services