AIRD BERLIS

Publication

May 16, 2025

Bill 17 and the Push to Build: How Ontario Plans to Speed Up Development

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The Ontario legislature has a penchant for buzzwords in its legislative titles. Since the 1st Session of the 44th Parliament of Ontario began just a month ago, "Protect" has emerged as one of this legislature's favourites. Ontario lawmakers have used or proposed to use "Protect" in at least five legislative titles. True to form, one of its newest bills (Bill 17), which reached first reading on May 12, 2025, is titled the *Protect Ontario by Building Faster and Smarter Act, 2025*. The bill is in its second reading at the time of publication of this article.

Beyond "Protect," the legislature has also revived two of its previous go-to terms in municipal and land use planning legislation – "Faster" and "Smarter." While the effectiveness of Bill 17 in delivering "Smarter" planning remains to be seen, one thing is certain: speeding up development approvals is at the heart of this latest legislative push.

Speed, in its simplest definition, measures how quickly something moves over time. In this case, the provincial government is aiming to expedite infrastructure preparation and land use approvals to facilitate new housing developments of varying sizes and densities.

But speed is also influenced by resistance, and the province has made it clear that reducing obstacles to development has been a top priority in recent legislative rounds. Much like the *Get It Done Act, 2024* and the *More Homes Built Faster Act, 2022*, Bill 17

seeks to strip away regulatory hurdles that slow down projects on their way to approval and implementation.

This article offers a high-level narrative review of Bill 17, with a focus on how its proposed amendments seek to make Ontario's land use planning and development regime both "Faster" and "Smarter." While changes after first reading are always possible, we anticipate that key measures within the bill will remain and will effectively streamline approval timelines as well as reduce financial barriers, thereby speeding up Ontario's ability to implement new development.

Development Charges Act, 1997

New Exemption for Long-Term Care Homes

The *More Homes Built Faster Act, 2022* created certain development charge ("**DC**") exemptions for the creation of "affordable" and "attainable" residential units, non-profit housing developments and units created pursuant to inclusionary zoning requirements.

Bill 17 proposes to introduce a new section 4.4 to the *Development Charges Act, 1997* (the "**DCA**"), which will provide that the development of any part of a building or structure intended for use as a long-term care home will be exempt from development charges. This proposed exemption would not apply to a DC that was payable prior to Bill 17 coming into effect but would apply to any future DC payment or DC instalment(s) that is payable in accordance with section 26.1 of the DCA.

New Rules for Administrative Amendments to DC By-laws

Typically, any amendment to a DC by-law requires the passing of an amending by-law. Sections 9-18 of the current DCA impose a rigorous process for the passing of any DC by-law, including the requirement for a background study, statutory public meeting requirements, appeal rights, etc. These requirements have historically applied equally to amending by-laws.

In 2024, with the passing of the *Cutting Red Tape to Build More Homes Act, 2024*, the DCA was amended to make clear that sections 9-18 do not apply to an amendment to a DC by-law if the only effect of the amendment is to extend the expiry date of the DC by-

law. Bill 17 proposes to amend subsection 19(1.1) to similarly specify that sections 9-18 of the DCA will also not apply to an amendment to a DC by-law that:

- repeals a provision providing for the indexing of a DC or amends such a provision to provide for a DC not to be indexed; or
- decreases the amount of a DC that is payable for one or more types of development in the circumstances specified in the amendment.

These new rules will make it easier for municipalities to amend DC by-laws which have the effect of reversing planned DC increases or which decrease DCs for certain development.

DC Instalment Payments and Interest

Currently, section 26.1 of the DCA requires DCs for institutional and rental housing developments to be paid in six equal instalments, with municipalities empowered to charge interest on the instalments from the date the DC would otherwise have been payable.

Under Bill 17, DCs for institutional and rental housing development will continue to be paid in six annual instalments but may be pre-paid at any time without requiring an early payment agreement. Bill 17 proposes to further amend the rules for interest payments on DC instalments by potentially prohibiting a municipality from charging interest on instalments that come due after a yet-to-be-determined date.

Notwithstanding the foregoing, the DCA would continue to allow a municipality to charge interest on all DCs that are paid pursuant to rates that are frozen under section 26.2 of the DCA. This leaves a gap in the proposed legislation that may be amended as Bill 17 moves through subsequent readings in the legislature.

Section 26.1 is also proposed to be amended to provide that DCs for all residential development that is not rental housing shall be payable on occupancy of the building (or, where applicable, the issuance of an occupancy permit). These DCs may also be pre-paid at any time without requiring an early payment agreement. It is not immediately clear if changing the DC payment date from building permit to building occupancy will entice new projects to proceed where they might otherwise have not.

Cap for Frozen DCs

Currently under the DCA, section 26.1 creates a DC freeze, by providing that the total amount of a DC is the amount of the DC that would be determined under the DC by-law on the date that a complete zoning by-law amendment or site plan application is filed (whichever comes later). The municipality may charge interest on the frozen DC at a maximum rate that can currently be described as a "floating" prime plus one per cent.

In some situations, the amount of the frozen DC plus interest can exceed the amount that would otherwise be payable if the DCs were never frozen (e.g., where the DC rate decreases after a site plan application has been filed). Bill 17 proposes to amend section 26.2 to provide that the DC freeze does not apply to a DC if the total amount of all charges, including any interest, exceeds the total amount of all charges that would be payable if the freeze had not applied.

DC Credits

Ordinarily under section 41 of the DCA, a credit that relates to a service may be used only with respect to that part of a DC that relates to the service. This siloing of charges and credits can be limiting when a developer undertakes a larger infrastructure project. Section 41 is proposed to be amended to provide that, if two or more services are deemed to be one service (with the "merging" of service categories being determined through a forthcoming regulation), a credit that relates to any one of those services may be used against DCs charged under the larger service category. The result would be greater flexibility in the availability and use of DC credits.

Defining Local Service

Currently, section 59 of the DCA establishes that a municipality shall not impose a charge, as a condition of subdivision or consent approval, that pays for DC eligible work without giving the applicant a DC credit. An exception to this is where the work is considered "local service," where no credit is provided. However, what is or is not a "local service" has not been statutorily defined, leaving the definition to be addressed through local service guidelines included in local DC background studies.

While the definition of a "local service" is often tied to whether the work benefits more than one development, this has not been applied consistently across municipalities and can often lead to challenges or appeals. Bill 17 proposes to add a new regulation-making authority to empower the province to create regulations specifying what constitutes a local service. Given the history of headaches in this area, a uniform definition is likely to be welcomed by both municipal staff and development applicants.

Planning Act and *City of Toronto Act, 2006*

Limiting Requirements for Complete Applications

In practice, complete application requirements have often led to disagreements between municipalities and applicants regarding what is properly required before an application will be deemed "complete." This stage is important as it starts the clock on when a municipal decision must be made before a right to appeal for non-decision arises. Bill 17 introduces a series of proposed amendments that aim to limit the extent of the municipality's powers in deeming an application complete.

The *Planning Act* currently requires that certain "prescribed information and material" be provided as part of planning approval applications, including applications for official plan amendment, zoning by-law amendment, site plan approval, draft plan of subdivision and consent. The *Planning Act* further empowers municipal councils to require additional information or materials it may need, over and above the prescribed requirements, so long as the relevant official plan contains provisions relating to those extra requirements. The *City of Toronto Act, 2006* contains the same provisions as it relates to site plan approval applications.

Disagreements often stem from municipalities asserting that the reports and drawings provided with a development application are deficient and therefore the application cannot be deemed complete. For their part, applicants often claim that such criticisms are unrelated to whether an application should be deemed complete for the purpose of circulation to municipal departments for comment. These disagreements can range from whether a study or report should be provided up front to whether a drawing has been stamped by a relevant professional – and everything in-between.

Deeming Materials Prepared by Prescribed Professionals Complete

Proposed subsections 22(6.0.1), 34(10.3.1), 41(3.5.1), 51(19.0.1) and 53(4.0.1) of the *Planning Act* and subsection 114(23) of the *City of Toronto Act, 2006* would definitively state that certain requisite information and materials provided as part of a development application are deemed to meet the applicable requirements if the information or material is prepared by a person authorized to practise a prescribed profession.

As an example, a transportation impact study prepared by a qualified engineer would be deemed to meet the requirement to submit such a study, notwithstanding any municipal concerns with the study's contents. Issues with the study's contents would go to the merits of the application, not the "completeness" of the application.

Ministerial Approval Required Before Changes to Municipality's Complete Application Requirements

Bill 17 would further restrict a municipality's powers in determining what is required for a "complete" development application. New subsection 17(21.1) (with an equivalent provision under the *City of Toronto Act, 2006*) would add an additional layer of ministerial approval by requiring written approval from the Minister of Municipal Affairs and Housing (the "**Minister**") before an official plan amendment could be undertaken to add to the local municipality's complete application requirements. To avoid a last-minute rush to add new local requirements, Bill 17 indicates that any official plan amendment adopted on or after May 12, 2025 (i.e., the date of Bill 17's first reading), that does not have ministerial written approval will be deemed not to have been adopted.

Limiting Certain Reports From Complete Application Requirements

The province is consulting on proposed regulations that would prescribe a list of subject matters and identify which reports and studies will be required as part of a complete planning application. As drafted, the changes would apply to official plan amendments, zoning by-law amendments, site plan applications and subdivision or consent applications. The proposed regulation would also identify specific types of certified professionals whose studies municipalities must accept. According to the relevant ministry posting, the following topics are currently being contemplated for exclusion from complete application requirements:

- **Sun/Shadow:** Information on the impact of shadows cast by a proposed development on the subject property and surrounding lands, including public streets.
- **Wind:** Information related to the potential effects of a proposed development on wind conditions in the surrounding area.
- **Urban Design:** Information concerning how a proposed development aligns with applicable urban design guidelines or policies.
- **Lighting:** Information about lighting levels on the site, including the location and type of exterior fixtures proposed for the building and surrounding property.

As-of-Right Setback Variations

Setback requirements are typically stipulated in municipal zoning by-laws, rather than the *Planning Act*. Bill 17 proposes to add new rules with respect to minimum "setback distance" to section 34 of the *Planning Act*. The proposed definition of "setback distance" would be "the distance that a building or structure must be setback from a boundary of the parcel on which the building or structure is located in accordance with a by-law passed under this section."

New subsection 34(1.4) would provide that "a minimum setback distance is deemed to be the prescribed percentage of the setback distance." If passed, this provision would deem a setback that deviates from the requirement of a zoning by-law up to a prescribed percentage to be permitted as-of-right without the need to formally vary the setback required by the relevant zoning by-law.

To implement the proposed addition of subsection 34(1.4), the province is consulting on a new regulation that contemplates a prescribed percentage (i.e., an as-of-right deviation) of up to 10 per cent. As an example, if a zoning by-law requires a five-metre setback from a property line, a setback of 4.5 metres would be permitted as-of-right without the need to seek a minor variance. This proposed change should have the effect of reducing the number of minor variance applications, thereby saving time and costs for applicants and municipalities.

Subsection 34(1.5) proposes to limit the application of this as-of-right variance to urban residential lands. Subsection (1.5) further provides that the new rule would not apply to

a building or structure located: (a) in the Greenbelt Area, (b) on land that is not a "parcel of urban residential land" (which is a defined term in the *Planning Act*), and (c) on land that is prescribed under subsection 41(1.2) of the *Planning Act*, which includes land that is within 300 metres of a railroad (with some exceptions) and land that is within 120 metres of conservation authority regulated lands.

Subsection 34(1.6) is a proposed transition and deeming provision in the circumstance where the prescribed percentage changes (either higher or lower) over time. It provides that the minimum setback is deemed to be the minimum setback (a) on the day a building permit is issued and where that permit has not been revoked, or (b) on the day the lawful use of the building or structure was established where no building permit was required.

The province is also seeking input on whether other zoning standards – such as building height or lot coverage – should be eligible for similar as-of-right performance standards variations.

Minister's Power to Impose Conditions on MZOs

Section 47 of the *Planning Act* sets out, among other things, the Minister's power to impose a ministerial zoning order ("**MZO**"). Bill 17 proposes to add new provisions that would grant the Minister additional power to impose conditions on MZOs – an authority that the Minister currently does not have. New subsection 47(1.0.1), if passed, would allow the Minister to impose conditions relating to the use of land or the erection, location or use of buildings or structures, if in the Minister's opinion the conditions are reasonable. The proposed language "The Minister may … impose such conditions … as in the opinion of the Minister are reasonable" can be broadly interpreted. Curiously, similar language is found in subsection 51(25) of the *Planning Act* as it relates to conditions imposed on a plan of subdivision.

Proposed subsection 47(1.0.2) further provides that the Minister may require such conditions to be secured through an agreement that may be registered on title and that such agreement may be enforceable against the owner and subsequent owners of the land. Subsection (1.0.3) provides that if a condition has been imposed under subsection (1.0.1), the MZO is suspended until the Minister is satisfied that the condition has been or

will be fulfilled. Subsection (1.0.4) requires the Minister to notify the municipal clerk if the Minister is satisfied that the conditions have been or will be fulfilled. Finally, subsection (1.0.5) requires the municipal clerk to notify the public within 15 days after receiving notice from the Minister.

Elementary and Secondary Schools and Associated/Ancillary Facilities

Sections 16 and 35.1 of the *Planning Act* contain restrictions on what official plan policies and zoning by-laws can cover, including the use of certain residential units in houses and associated parking ratios and minimum unit sizes.

New subsections 16(3.2.1) and 35.1.1(1) propose additional restrictions that would prevent official plan policies and zoning by-laws from prohibiting the use of a parcel of urban residential land for an elementary school or secondary school of a school board or any ancillary uses to such schools, including the use of a child care centre located in the school.

Amendments to the site plan approval authorities under the *Planning Act* and the *City of Toronto Act, 2006* are also proposed to remove the existing specification that portables on school sites can only be exempt from site plan approval where such sites were in existence on January 1, 2007. The effect would be to encourage the placement of more portable classrooms on existing school sites throughout the province.

Building Code Act, 1992

Streamlining Innovative Building Techniques and Construction Materials

Bill 17 also proposes a series of changes to the *Building Code Act, 1992* (the "**BCA**"), aimed at simplifying approvals for innovative construction products.

First, the bill proposes to limit the authority of the Building Materials Evaluation Commission (the "**Commission**"), which plays a role in authorizing new and innovative building materials, systems and designs. At present, manufacturers of innovative construction products must apply to the Commission for an authorization before they can be used in Ontario. In addition, the Commission may, of its own initiative, research and examine construction materials, system and building designs. Bill 17 proposes to

remove the Commission's ability to exercise these powers where the Canadian Construction Materials Centre ("**CCMC**") of the National Research Council of Canada has examined or has expressed its intention to examine an innovative material, system or building design.

Second, and in a similar vein, the bill proposes to remove the Minister's authority to, by Minister's ruling, approve the use of innovative materials, systems or building designs that have been evaluated by an entity designated in the Ontario Building Code (the "**Building Code**"). At present, the only evaluation body designated in the Building Code is the CCMC. While the CCMC's approvals are valid for many other provinces, in Ontario at present, an approved product may not be used in construction without a Minister's ruling.

These changes would remove the need for manufacturers to obtain a secondary approval of new and innovative building materials, thereby saving time and money and enhancing the private sector's ability to introduce new and innovative construction techniques in Ontario. Regulatory changes to the Building Code itself are anticipated to follow to speed up this approval process, including removing application fees for Canadian manufacturers.

Clarifying Municipal Jurisdiction Over Construction and Demolition

At present, section 35 of the BCA sets out a "paramountcy" provision. It provides that the statute and the Building Code supersede all municipal by-laws respecting the construction or demolition of buildings, consistent with the intention that the BCA and Building Code establish a uniform provincial regime for the regulation of construction.

Bill 17 seeks to take this proposition a step further by clarifying that the broad authority and spheres of jurisdiction of municipalities under the *Municipal Act, 2001* and the *City of Toronto Act, 2006* do not authorize municipalities to pass by-laws respecting the construction or demolition of buildings. The effect of this amendment, if adopted, is that municipalities will no longer be able to rely on their general powers to regulate in respect of construction or demolition to create local requirements that differ from the BCA or the Building Code. This measure is aimed at enhancing consistency across the

province, reducing costs for builders and standardizing construction practices across municipalities.

How these changes will impact existing by-laws and municipal powers remains to be seen. For instance, section 97.1 of the *Municipal Act, 2001* authorizes a municipality to pass by-laws respecting environmental protection and conservation by requiring buildings be constructed in accordance with certain provisions of the Building Code, including the power to require green roofs. However, that power is described as an articulation of the broad authority and spheres of jurisdiction under sections 9, 10 and 11 of the *Municipal Act, 2001*, which, if Bill 17 is passed in its current form, will no longer authorize municipalities to pass by-laws in respect of construction and demolition.

Building Transit Faster Act, 2020

As readers may recall, the *Building Transit Faster Act, 2020* eliminates certain expropriation-related procedural steps relating to the construction of the Ontario Line, the Scarborough Subway Extension, the Yonge Subway Extension and the Eglinton Crosstown West Extension.

Bill 17 proposes to amend the *Building Transit Faster Act, 2020* to generally replace the concept of "priority transit project" with "provincial transit project." The bill currently defines "provincial transit project" as "a transit project that Metrolinx has authority to carry out and includes a project that, immediately before the day subsection 1 (2) of Schedule 2 to the *Protect Ontario by Building Faster and Smarter Act, 2025* came into force, was a priority transit project)."

This change would have the practical effect of expanding the types of projects that may benefit from the procedural relief introduced by the *Building Transit Faster Act, 2020* to potentially include all projects that Metrolinx has authority to carry out.

Metrolinx Act, 2006

Bill 17's proposed change to the *Metrolinx Act, 2006* stipulates that the Minister of Transportation may direct a municipality, including certain municipal agencies, to provide information that may be required to support the development of a provincial

transit project or transit-oriented community project. This could include data, contracts, reports, surveys, plans and other documents that the Minister of Transportation believes are necessary to support a provincial transit project or transit-oriented community project.

Transit-Oriented Communities Act, 2020

Through Bill 17, the Minister of Infrastructure replaces the Minister of Transportation in matters relating to the administration of the *Transit-Oriented Communities Act, 2020*. As well, the definition of "priority transit project" would be expanded to include provincial transit projects pursuant to the above-noted *Building Transit Faster Act, 2020* revisions.

Certain procedures would also be streamlined, as Bill 17 proposes to eliminate the necessity of approval from the Lieutenant Governor in Council for any dealings between the Minister of Infrastructure, or their delegate, and a municipality or First Nation.

Critically, the *Transit-Oriented Communities Act, 2020* would be revised to expand the list of entities that the Minister of Infrastructure may delegate certain powers to, including Metrolinx and the Ontario Infrastructure and Lands Corporation. These delegates would be permitted to enter into agreements with landowners that are required to support a transit-oriented community project. Bill 17 also proposes that such agreements may be registered on title and enforced by the Minister of Infrastructure or the municipality against the landowner and all subsequent owners.

The changes would also require the Minister of Infrastructure, or their delegate, to ensure that any funds invested in transit-oriented community projects are also invested in accordance with an approved investment policy.

Ministry of Infrastructure Act, 2011

Currently, the Minister of Infrastructure (pursuant to the *Ministry of Infrastructure Act, 2011*) and the Minister of Transportation (pursuant to the *Transit-Oriented Communities Act, 2020*) may, subject to approval of the Lieutenant Governor in Council, support or develop transit-oriented community projects related to priority transit projects.

As noted above, Bill 17's proposed amendments to the *Transit-Oriented Communities Act, 2020* would remove the Minister of Transportation's authority related to "provincial transit projects" and would place this authority with the Minister of Infrastructure and their delegates. Amendments to the *Ministry of Infrastructure Act, 2011* are proposed to reflect this change.

Bill 17 also proposes to add a new section to the *Ministry of Infrastructure Act, 2011* that would require municipalities and municipal agencies to comply with the Minister of Infrastructure's directives for the provision of information, similar to what is proposed for the *Metrolinx Act, 2006*, as summarized above.

Regulatory Proposals

Comments may be submitted through the Environmental Registry of Ontario posting, with respect to the proposals below:

- Proposed *Planning Act* and *City of Toronto Act, 2006* Changes (Schedules 3 and 7 of Bill 17 – *Protect Ontario by Building Faster and Smarter Act, 2025*) | ERO Number 025-0461 (comment period closes June 11, 2025);
- Bill 17: *Protect Ontario by Building Faster and Smarter Act, 2025* – Amendment to the *Building Transit Faster Act, 2020* | ERO Number 025-0450 (comment period closes June 11, 2025);
- Bill 17 – *Protect Ontario by Building Faster and Smarter Act, 2025* – Accelerating Delivery of Transit-Oriented Communities | ERO Number 025-0504 (comment period closes June 12, 2025);
- Proposed Regulation – As-of-right Variations from Setback Requirements | ERO Number 025-0463 (comment period closes June 26, 2025); and
- Proposed Regulations – Complete Application | ERO Number 025-0462 (comment period closes June 26, 2025).

The Municipal & Land Use Planning Group at Aird & Berlis LLP is well-acquainted with the ever-evolving legislative regime governing and affecting development in Ontario. If you have questions or require assistance, please contact the authors or a member of the group.

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