

Report

Date August 12, 2025

File:

Subject Bill 44 Compliance: OCP & Zoned Capacity

PURPOSE

To provide Council with an analysis of Official Community Plan (OCP) designations and zoned capacity with respect to the requirements of the *Local Government Act* and to recommend that an associated OCP amendment be initiated.

BACKGROUND

The *Provincial Housing Statutes Amendment Act* (known as “Bill 44”) enacted a variety of new requirements for municipalities; the most notable of which was a mandate to adjust all single-family zoning to allow up to four units per lot as of right (4UAoR) by July 2024. For “Transit Oriented Areas” such as bus interchanges and skytrain stations, zoning must allow six units as-of-right. There are no such areas in North Cowichan. Municipalities were given until June 30, 2024, to amend their zoning bylaws to allow 4-6UAoR. North Cowichan adopted the requisite changes on June 19, 2024.

Bill 44 was intended as a large-scale response to the housing crisis, whereby all municipalities were compelled to remove or relax the use of zoning powers as a restriction on development. By enacting “four-units-as-of-right” (4UAoR) on virtually every single-family lot in BC’s urban areas, zoning can no longer be said to be the principal limiting factor for this form of development. However, other restrictions remain, most notably financial viability and infrastructure upgrades, construction costs, and the allied issue of the availability of sufficient quantities of affordable labour.

Bill 44 carries further requirements beyond the initial rezoning task to permit 4UAoR; it also requires all municipalities to complete an Interim Housing Needs Report (IHNR), using a standardized methodology and data made available by the Province. This had to be completed by January 1, 2025. Council received North Cowichan’s IHNR in September 2024.

The IHNR articulates two important numbers: the five-year and 20-year housing needs. Sections 473.1 and 481.7 of the *Local Government Act* require that, having completed an IHNR, a municipality must do the following by December 31, 2025:

- Amend its Official Community Plan to reflect the new requirements and designate sufficient land for housing to meet the 20-year housing need.
- Ensure that the zoning bylaw “pre-zones” sufficient land to achieve the 20-year housing need.

DISCUSSION

OCP Review & Update

OCP Map Designations

Local Government Act s.473.1(3) requires that "... the statements and map designations in an official community plan ... must provide for at least the 20-year total number of housing units required to meet anticipated housing needs ...".

The analysis in Attachment 1 demonstrates that the OCP's land use designations ultimately provide for a further ~23,000 units of housing development, well in excess of the 20-year figure of 7,023 units. The OCP does not prescribe numerical density targets; therefore, the analysis assigned a maximum average density to each Land Use Designation (LUD) that would be reflective of the maximum amount of development that could be realized within each LUD while still meeting the policy vision. It is notable that this analysis was conducted prior to Bill 44 and concluded that realizing Bill 44 densities throughout the "Neighbourhood" LUD would result in a built form that exceeds the policy vision.

However, Bill 44 is highly unlikely to result in a quadrupling of urban density, since this would be equivalent to assuming that every single-family dwelling will be replaced with a fourplex. Even a doubling of urban density, achieved primarily through suites being added to every house over time, would remain within the policy vision articulated within the "Neighbourhood" LUD. In other words, while the OCP's LUDs in their current form could not accommodate the (phenomenally unlikely) 100% uptake of Bill 44, they can accommodate any practically reasonable degree of uptake.

OCP Policy Statements

Section 473.1(4) also requires that an OCP must "... include housing policies of the local government respecting each class of housing needs required to be addressed in the most recent [IHNR]..."

No fundamental change to the OCP is needed to meet the legislative requirements; however, some relatively superficial text updates are required to reflect the 20-year planning horizon, the housing growth targets identified within the IHNR, and the statutory need to update OCP's on a five-yearly basis. Broadly, the OCP areas in need of revision are identified below. It may transpire that additional amendments are identified by staff to be added to these; therefore, the OCP amendment bylaw brought forward may include specific amendments beyond those listed here.

- OCP Chapter 3 "Thoughtful Growth Management" contains population projections and associated statements and targets on housing needs that pre-date the 2024 IHNR, having been derived from the 2021 Housing Needs Assessment. Sections 3.0 "Introduction and Context" and 3.1 "Assignment of Growth" must be updated to reflect the new figures provided by the 2024 IHNR.
- OCP Chapter 5 "Attainable Housing: Diverse Housing Mix & Affordability" also relies on statements and data from the 2021 Housing Needs Report and must specifically address the classes of housing need identified within the IHNR.
- OCP Chapter 9 "Sustainable Infrastructure" was predicated on the previous 2021 Housing Needs Report and did not anticipate Bill 44. This section must be revised to reflect North Cowichan's water and sanitary servicing constraints in light of the new targets.

Zoned Capacity

In parallel to the new section pertaining to aligning OCPs with housing needs reports, s.481.7 requires that zoning bylaws "... *permit the use and density of use necessary to accommodate at least the 20-year total number of housing units [as identified in the most recent housing needs report].*" Zoning bylaws must be reviewed, and if necessary, amended by December 31, 2025, to "pre-zone" for this quantity of development.

The zoning bylaw, primarily as a result of the changes made in response to Bill 44's 4UAoR on all single-family residential lots inside the UCB, already "pre-zones" for more than 7,023 units. A significant contribution also lies in the Comprehensive Development Zones (CDZ), which together have an estimated residual zoned capacity for a further **3,267 units**, assuming in most cases a 50% uptake of Bill 44 rights. Approximately half of these CDZ units are in the form of apartments within multi-family CDZs, relatively unaffected by Bill 44. Attachment 2 provides a summary of CDZ capacity.

Establishing the residual zoned capacity arising from Bill 44 requires an understanding of both the number of lots affected by this zoning and the average number of units already existing on those lots. As per the analysis in Attachment 2, the estimated total residual zoned capacity arising from Bill 44 is approximately **20,500 units**, or, assuming a significantly discounted scenario for uptake of Bill 44 development rights, **4,239 units**. In terms of development applications on zoned land, approximately ~3,900 units are represented within the various subdivision, development permit and building permit files.

With a maximum zoned capacity of **~24,000 units**, no further changes to the zoning bylaw are required to meet this particular legislative requirement; however, additional minor changes will be made as part of the zoning. It is also notable that zoned capacity will tend to decrease over time as units are physically realized, but also that all residential zoning amendment decisions made by Council (whether municipally initiated or in response to applications) will also affect zoned capacity, usually serving to increase it.

Servicing Capacity

Despite what zoning may allow, there exists a finite servicing capacity for new development in the absence of significant upgrades being completed. Many of these upgrades are currently unfunded, although the draft Community Amenity Contribution policy and Development Cost Charges bylaw work will start to generate funds in the near term.

The Provincial requirement to pre-zone for the number of units specified within the IHNR is problematic with respect to servicing capacity. Zoning land represents a certain level of commitment in terms of providing servicing connections to the full density allowances within the zone. Prior to Bill 44, local governments were able to control zoning such that zoned capacity never exceeded available servicing capacity.

The introduction of 4UAoR immediately generated an enormous – but diffuse – amount of additional zoned capacity, and did so with little regard to the maximum capacity of infrastructure systems and the ability to provide servicing. Uptake of Bill 44 provisions is difficult to predict. Clearly, anything approaching 100% uptake is highly unrealistic except over the very longest (100+ year) timeframe, but

even a relatively modest uptake of 10-20% (beyond existing) implies a significant number of new units. Moreover, these new units might materialize in areas where little-to-no growth had been previously assumed for the purposes of infrastructure upgrades. The net effect is to make infrastructure planning significantly more complex and challenging, whereby decisions about the necessity, scale and timing of upgrades must now hinge on speculation and assumptions about how much future development might occur and where.

OPTIONS

1. (Recommended Option)

WHEREAS *Local Government Act* section 473.1(5) requires Council to review and, if necessary, adopt an official community plan that includes statements, maps and housing policies in accordance with subsections (3) and (4);

AND WHEREAS *Local Government Act* section 481.7(2) requires Council to review and, if necessary, adopt a zoning bylaw to permit the use and density of use required to be permitted under that section;

AND WHEREAS Council has reviewed the Official Community Plan and Zoning Bylaw 2950 (as amended);

THAT Council:

1. Confirms that the map designations included in the Official Community Plan provide for a quantity of housing units in excess of the 20-year total number of housing units identified within North Cowichan's 2024 Interim Housing Needs Report;
2. Directs staff to initiate an Official Community Plan update as described in the Planning Manager's August 12, 2025, report to ensure that the statements included in the Official Community Plan also provide for the 20-year total number of housing units identified within North Cowichan's 2024 Interim Housing Needs Report; and,
3. Confirms that Zoning Bylaw 2950 (as amended) permits the use and density necessary to accommodate at least the 20-year total number of housing units identified within North Cowichan's 2024 Interim Housing Needs Report.

- This option directs staff to carry out the relatively minor OCP text amendments necessary to achieve compliance with provincial statute.

2. THAT Council directs staff to provide further information with respect to:

- a. ... *[issues to be identified by Council]*

IMPLICATIONS

There are no significant implications associated with proceeding with updating the OCP in the manner described in order to achieve legislative compliance, other than staff time and expenses associated with holding a statutory public hearing.

RECOMMENDATION

WHEREAS *Local Government Act* section 473.1(5) requires Council to review and, if necessary, adopt an official community plan that includes statements, maps and housing policies in accordance with subsections (3) and (4);

AND WHEREAS *Local Government Act* section 481.7(2) requires Council to review and, if necessary, adopt a zoning bylaw to permit the use and density of use required to be permitted under that section;

AND WHEREAS Council has reviewed the Official Community Plan and Zoning Bylaw 2700 (as amended);

THAT Council:

1. Confirms that the map designations included in the Official Community Plan provide for a quantity of housing units in excess of the 20-year total number of housing units identified within the Municipality’s 2024 Interim Housing Needs Report;
2. Directs staff to initiate an Official Community Plan amendment as described in the Planning Manager’s August 12, 2025 report to ensure that the statements included in the Official Community Plan also provide for the 20-year total number of housing units identified within the Municipality’s 2024 Interim Housing Needs Report; and,
3. Confirms that Zoning Bylaw 2950 (as amended) permits the use and density necessary to accommodate at least the 20-year total number of housing units identified within the Municipality’s 2024 Interim Housing Needs Report.

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Attachments:

- (1) Memo re OCP Build-out Projections, 9 November 2023
- (2) Memo re Zoned Capacity, 5 August 2025