

November 3, 2022

## ATTACHMENT 1

TO: Mayor and Members of Council

### FYI – Bill 23, More Homes Built Faster Act, 2022

#### Overview

- On October 25, 2022 the Honourable Steve Clark, Minister of Municipal Affairs and Housing, introduced [Bill 23, More Homes Built Faster Act, 2022](#) in the Ontario Legislature.
  - The bill proposes extensive changes to the policy-led planning and development system under which municipalities in Ontario work.
  - The Province's intended goal is to facilitate the construction of 1.5 million new homes, of which 285,000 homes (or 19%) by 2031 are targeted for Toronto.
- The note below provides an overview of key provisions of the draft legislation and a preliminary description of potential impacts and implications for the City.
- Bill 23 was called for 2nd Reading debate on [October 26, 2022](#) and [October 27, 2022](#), passed 2<sup>nd</sup> Reading on [October 31, 2022](#) and was referred to the [Standing Committee on Heritage, Infrastructure and Cultural Policy](#).
  - The Standing Committee will hold public hearings on November 8, 2022 (Markham), November 9<sup>th</sup> (Brampton), November 16<sup>th</sup> and November 17<sup>th</sup> (Toronto). Written comments regarding Bill 23 are being accepted until November 17<sup>th</sup>.
  - The Standing Committee is scheduled to conduct a clause-by-clause review of Bill 23 on November 21, 2022.

#### Next Steps

- City staff's next steps are to:
  - Continue to monitor the bill as it moves through the legislative process and prepare a submission to the Standing Committee as required.
  - Continue to review and analyze impacts of the proposed bill and develop responses to the Province through their Environmental Registry and Ontario Regulatory Registry commenting portals, where comments are being received on various regulatory amendments and policy proposals related to the legislation.

## **Proposed Amendments in Bill 23, More Homes Built Faster Act, 2022**

- Bill 23 is an omnibus bill that would amend the following pieces of provincial legislation:
  - City of Toronto Act, 2006 (COTA)
  - Planning Act
  - Conservation Authorities Act
  - Development Charges Act, 1997 (DC Act)
  - Municipal Act, 2001
  - New Home Construction Licensing Act, 2017
  - Ontario Heritage Act
  - Ontario Land Tribunal Act
  - Ontario Underground Infrastructure Notification System Act, 2012
- Bill 23 also enacts a new statute, the Supporting Growth and Housing in York and Durham Regions Act, 2022

## **Preliminary Impact Analysis**

- This memo provides City staff's initial analysis of the proposed Bill and organizes the potential impacts under the following nine categories with an emphasis on the City's ability to successfully deliver affected essential services and/or to facilitate developing a range of housing options for Torontonians and those yet to arrive. If passed, the legislation would have the following impacts:
  - 1) Reduces Municipal Revenues Needed to Fund Growth-Related Infrastructure**
  - 2) Diminishes Housing Affordability and Rental Housing Replacement Protection**
  - 3) Erodes Sustainable and Resilient Development Practices**
  - 4) Overrides Council's Decisions on Official Plan Matters**
  - 5) Decreases Parkland Amount and Quality that the City can Secure**
  - 6) Threatens the City's Ability to Protect Built and Natural Heritage**
  - 7) Requires the Upzoning of Neighbourhoods and Lands around Transit Stations**
  - 8) Introduces Further Changes to the Development Review Process**
  - 9) Limits Appeals to the Ontario Land Tribunal and Toronto Local Appeal Body**

### **1. Reduces Municipal Revenues Needed to Fund Growth Related Infrastructure**

- The proposed Bill would discount and in some cases eliminate developer fees for development charges (DCs), the community benefits charge (CBCs) and parkland dedication.
  - While the province has signalled it may offset some of the impact to municipalities, shifting growth costs from developers to taxpayers represents a shift from the principle that growth should pay for growth.

- Without an offsetting funding source, the proposal would impact the City's ability to provide servicing such as new roads, transit, water services, community centres, libraries and parkland to support new population and create complete communities.
- The proposed Bill includes a retroactive phase-in of DC rates over a 5-year period, and a 15-25% discount for rental housing.
  - These discounts would be on top of the Council-adopted 2-year phase-in and rental housing incentive in the 2022 DC bylaw.
- The proposed Bill would remove "housing services" from the list of eligible DC services.
  - DC rates would be reduced to levels that would be lower than the previous (2018) DC bylaw, despite inflationary pressures on the City's capital budget.
  - This change would impact the City's ability to: provide affordable housing; invest in new shelter services; meet the 40,000 affordable rental approval target outlined in the [HousingTO 2020-2030 Plan](#); and continue to deliver the Open Door, Housing Now and Multi-Unit Residential Acquisition programs.
- The proposed Bill includes new caps for parkland dedication rates that place a downward pressure on the provision of parkland.
- The potential financial impact – based on a preliminary analysis – is estimated to be **\$200 million annually** (of which \$130M is related to the removal of the housing DC service) and an additional **\$30 million annually** in anticipated lost DC and parkland revenues, and a yet to be determined impact on CBCs.
  - The proposed Bill could also have the unintended effect of slowing the supply of housing or lowering City service levels, such that the City cannot provide new services to support growth. Alternatively, it could place upward pressure on property taxes.

## 2. Diminishes Housing Affordability and Rental Housing Replacement Protection

- The proposed Bill would decrease the percentage (capped at 5%) and affordability period (25 years versus 99 years) the City could secure under Inclusionary Zoning, while also increasing secured prices and rents so that they no longer respond to household income.
  - This would directly impact the City's ability to deliver the HousingTO 2020-2030 Plan targets, including securing affordable homes in perpetuity.
- The proposed Bill includes a definition of affordable residential unit, being either that rent is no greater than 80% of Average Market Rent, (if rental) or that the price of the residential unit is no greater than 80 per cent of the average purchase price (if ownership).
  - On November 10, 2021, City Council adopted a new definition of affordable which is tied to incomes versus the housing market (see [Official](#)

[Plan Amendment 558 – Updating the Definitions of Affordable Rental and Ownership Housing](#)).

- The proposed Bill would require municipalities to provide financial incentives through DC, CBC and parkland exemptions for affordable rental and ownership housing, "attainable housing" (criteria to be defined in regulation), and for Inclusionary Zoning units, in addition to DC discounts for market rental housing.
  - The impact of the proposed affordable ownership housing definition would result in securing higher prices. For example, under the Council adopted definition, the price of an affordable 1-bedroom unit would be set at \$190,000, supporting households making about \$58,000 per year, while the proposed Bill would set prices for the same unit at \$444,000, requiring a household annual income of at least \$130,000.
- The proposed Bill would give the Minister the ability to introduce a Regulation limiting the City's ability to protect the existing rental stock.
  - These protections have been in place since 2006 and have successfully prevented a net loss of thousands of rental units through demolitions and rental conversions. The proposed Bill would likely result in increased rates of eviction, housing instability for renters, and increased demand for homeless services.
  - Over the last 5 years, the City's rental replacement policy framework has secured the replacement and renewal of almost 2,200 private market existing rental units.
- A new category of "attainable housing", which will be defined in a future Regulation, is proposed, with the stated intention to develop a new "attainable" program to leverage provincial authorities, surplus or underutilized provincial lands, and commercial innovation.
  - This program would potentially support the City's affordable homeownership targets.

### **3. Erodes Sustainable Performance Measures for New Development**

- The proposed Bill would remove the City's ability to secure and require exterior design elements, including sustainable design from the Site Plan approval process.
  - The Toronto Green Standard currently requires applicants to incorporate sustainable design elements to address a number of climate change and mitigation efforts. The review of exterior materials factors in both quality and longevity, which contributes to sustainable design.
  - The proposed amendments could result in the City's inability to address climate change, biodiversity loss and the TransformTO Net Zero Strategy targets through the Site Plan approval process.

#### **4. Overrides Council's Decisions on Official Plan Matters**

- The proposed Bill would provide the Minister of Municipal Affairs and Housing the authority to amend the Official Plan on the basis that the City's policies would negatively impact a matter of provincial interest. Previously, the Planning Act provided for an iterative process between the City and Ministry with a possible Tribunal hearing.
  - This change would potentially remove City Council's ability to determine and interpret how the matters of provincial interest apply within the City's boundaries.

#### **5. Decreases Parkland Amount and Quality that the City can Secure**

- The proposed Bill would amend parkland requirements in the Planning Act to establish a maximum amount for development or redevelopment that will include affordable residential units, attainable residential units or residential units required to be affordable pursuant to an inclusionary zoning by-law.
  - Potential impacts of the proposed changes include:
    - less parkland per development (over 33% less parkland on large sites greater than one hectare);
    - poorer quality parkland (100% parkland dedication credit for encumbered parkland and privately-owned publicly-accessible spaces and an applicant's ability to identify park parcels);
    - less revenue for parks and recreational facilities (estimated minimum 15% reduction in revenue);
    - less Council and public discretion regarding the provision of suitable parkland (developers/applicants now have appeal right if Council refuses proposed parkland dedication).
  - Operationally, the proposed site-based caps would result in an inequitable distribution of parks in a high-density context. For example, a 5-storey development and a 50-storey development would typically provide the same amount of new parkland.
  - Taken as a whole, the changes would potentially accelerate the decline in parkland provision and compromise the City's ability to provide sufficient and high-quality parkland and recreation projects that would serve both growing and equity-deserving communities where gaps exist.

#### **6. Threatens the City's Ability to Protect the Built and Natural Heritage**

- The proposed Bill introduces a number of changes to the Ontario Heritage Act that would limit the City's ability to honour and protect existing and future properties on the Heritage Register.
- The proposed Bill limits new listings to a 2-year period, within which time the City must designate the property or have the listing expire. Properties currently on the Register, including early heritage inventories for the former cities of Toronto, Etobicoke, North York and Scarborough, would also be de-listed if not

designated within 2 years of the new Act coming into force. Properties removed from the Register cannot be added again for 5 years.

- The proposed Bill would compel unnecessary designations, reduce the heritage register to a finite, time-limited, and largely development driven pre-designation tool and will leave thousands of heritage properties vulnerable to demolition whether the lands are currently being developed or not.
- The proposed Bill limits the City's ability to state its intention to designate a property within 90-days of a development application unless it is already listed on the heritage register.
  - The impact of this and other OHA changes will be outlined in the City's comments to the Province's commenting portal.
- The proposed Bill would severely weaken the Toronto and Region Conservation Authority's (TRCA) regulatory authority and land use planning decisions by eliminating their ability to review, comment on, and impose conditions on the conservation of land within their jurisdiction. The proposed Bill would also limit the type of municipal programs or services the TRCA can provide.
  - The potential impact would be a downloading of some TRCA responsibilities to the City to cover the land conservation services. Currently, the TRCA provides review and comment on Natural Heritage Impact Studies to the City through an MOU.

## **7. Requires the Upzoning of Neighbourhoods and Lands around Transit Stations**

- The proposed Bill would put in place Province-wide as-of-right permissions for up to three residential units per lot in Neighbourhoods; these units would be exempt from DCs, CBCs, and parkland requirements, and have minimal parking requirements.
  - This provision would result in no new impact for the City, given that Council has already adopted these permissions for secondary suites (in 2000), laneway suites (in 2018), and garden suites (in 2022).
  - The City is also advancing its work to go beyond these minimum permissions, including multi-plex buildings and others through the [Expanding Housing Options in Neighbourhoods](#) initiative, to be considered by Council in 2023.
- The proposed Bill would require municipalities to update Zoning By-laws for Major Transit Station Areas within one year of receiving Ministerial approval. Should the Zoning By-law not be updated within this time, the amendments would not be sheltered from appeals to the Ontario Land Tribunal.
  - The impact of this new requirement would be to divert existing staff resources to accomplish the necessary planning work under the specified time in order to leverage the ability to shelter the MTSA Zoning By-laws from appeal.

## **8. Introduces Further Changes to the Development Review Process**

- The proposed Bill would exempt developments with ten or fewer units from the Site Plan control, which amounts to approximately 2% of development applications and would also remove the City's consideration of character, scale, appearance and design features of buildings from the review process.
  - The proposed change to Site Plan approval threshold would result in negligible impact. As part of operationalizing legislative changes to the development review process through Bill 109 (More Homes for Everyone Act, 2022), the City is currently transforming and streamlining the development review process to ensure that the scope of Site Plan review adheres to the scope outlined in the Planning Act, including the reduced review timelines.
- The proposed Bill would remove the City's ability to regulate – through Site Plan – the appearance of elements, facilities, and works within the street right-of-way, unless the appearance impacts matters of health, safety, accessibility.
  - The potential impact of removing the right-of-way considerations would limit the City's ability to ensure a cohesive and well-designed public realm, including street trees.
- The proposed Bill would remove the City's ability to regulate minimum size of dwelling units within the as-of-right three residential units per lot in Neighbourhoods discussed above. (updated)
  - The potential impact may decrease the diversity of housing and unit types as set out in the City's Growing Up Guidelines for minimum unit sizes for two and three-bedroom units.

## **9. Limits Appeals to the Ontario Land Tribunal and Toronto Local Appeal Body**

- The proposed Bill would retroactively limit third-party appeals, so that only the applicant, the City, and certain public bodies would have the ability to appeal land use decisions to the OLT and TLAB. Existing third party appeals where no hearing date has been scheduled (by October 25, 2022) are proposed to be dismissed.
- The proposed Bill would increase the Tribunal's powers to award costs against a party who loses a hearing and dismiss appeals based on undue delay. Regulations – yet to be introduced – would set service standards and priority criteria for Tribunal scheduling, as well as for decision timelines.
  - For minor variance appeals to the TLAB, third party appeals and third-party participation in appeal hearings are important for abutting residents who may argue that they have very real and tangible impacts from the Committee of Adjustment decision.