City of Mississauga
Corporate Report

MISSISSAUGA

Date: November 17, 2022 To: Mayor and Members of Council From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building	Originator's files: LA.07.BIL Meeting date: November 23, 2022

Subject

Bill 23 "More Homes Built Faster Act" and Implications for City of Mississauga

Recommendation

1. That Council endorse positions and recommendations contained and appended to the report titled *"Bill 23 'More Homes Built Faster' and Implications for City of Mississauga,"* and authorize staff to prepare additional detailed comments on Bill 23 and any associated regulations, as needed. In particular, the City be made whole for any revenue losses from changes to the imposition of development changes and parkland dedication.

2. That the Mayor or designate be authorized to make submissions to the Standing Committee with respect to issues raised in this report, or to otherwise provide written or verbal comments as part of the Ministry's public consultation process.

3. That the City Clerk forward this report to the Ministry of Municipal Affairs and Housing; Mississauga's Members' of Provincial Parliament, the Association for Municipalities Ontario, and the Region of Peel.

Executive Summary

- Recent amendments have been proposed to several pieces of legislation that form Bill 23 *"More Homes Built Faster Act, 2022"* (the Bill) that impact the imposition of development charges (DCs), parkland dedication, planning and appeals processes and the environment.

- Staff support the need to improve the diversity and affordability of housing. However, staff's assessment is that Bill 23 is overly focused on blanket fee reductions that would apply for market rate developments with no guarantee that savings will be passed on to renters and homebuyers.

- It is estimated that the Bill could cost the City up to $815 to $885M over the next ten years.[1] Without corresponding provincial grants, Mississauga would need to recover that revenue through the tax base or by reducing service levels.

- A key part of this shortfall is generated by DC reductions, changes to what is DC eligible and DC exemptions. Staff estimate that the shortfall could be up to $325M over a ten-year period[1].
    - The Province has proposed arbitrary retroactive phase-ins to all of the City's DCs (including non-residential DCs). The way the Province has structured these reductions are punitive, apply to each municipality differently and will be challenging to administer.
    - What is eligible for DC collection would also change with the removal of "affordable housing" and "studies," and the potential to limit the service for which land acquisitions can be recovered through development charges.
    - City staff support some of the proposed DC exemptions (e.g. non-profits and second units), but the other contemplated exemptions could incent small, private condominium units, at the expense of more affordable units.

- The financial impacts are even more staggering when examining the proposed changes to parkland dedication. Staff estimate the City could lose $490 to $560M in ten years, making up more than 70% of this revenue stream.
    - For a standard development in the City (e.g. 500 unit tower on an acre), the City could go from collecting $10M to $1.7M in cash-in-lieu. It's noted land prices in Mississauga are close to $20M per acre in many of its growth areas.
    - Moreover, the Bill would allow developers to choose where parkland is located on a site (e.g. they prefer to offer slivers of undevelopable land) and they would receive full parkland credits for Privately Owned Publicly Accessible Space (POPS). It is in condominium developers' financial interest to provide a privately owned park since it can allow for higher densities on the site (e.g. parking under the park). Condominium residents will be forced to maintain the asset indefinitely while the quality, access, and programing is typically inferior to a city-owned park.

- Some of the proposed changes could speed up the approvals process (e.g. gentle intensification and pre-zoning major transit station areas), and staff are supportive of these changes. However, others could undermine important planning considerations (e.g. not allowing architectural and landscape details to be considered at site plan could undermine quality of place. Furthermore, removing the City's ability to implement Green Development Standards could impact the creation of units that are more efficient and affordable to heat and operate).

[1] This assumes that the DC By-law would need to be updated upon its expiry in 2027 and that land is removed as a DC eligible cost for each City service, as part of that exercise.

- Given the provincial importance of creating more affordable housing, it is difficult to understand the policy rationale for reducing municipal tools to create new units.
    - According to the Region of Peel the proposed elimination of Housing from Regional DCs puts at risk over 930 affordable housing units in various stages of planning and development in Mississauga for low and moderate income households e.g. East Avenue, Brightwater – with a possible shortfall of $200M.
    - Proposed revisions to inclusionary zoning (IZ) affordability thresholds will result in virtually no inclusionary zoning ownership units being affordable for low and middle income households.
    - It is estimated that the 5% of development IZ cap will result in a minimum of 40% less affordable units than was anticipated with current IZ provisions.
    - Moreover, the Province is consulting on potentially removing or scaling back rental protection-laws.

- The potential impacts on the environment are also significant, with proposed changes to the Conservation Authorities and the boundaries of the Greenbelt. These natural features are needed to help us adapt to a changing climate. The possibility of building on flood and hazard lands is concerning given increased storm events and potential liabilities.

- Given the broad potential impacts on the natural environment, community infrastructure, parks, transit, affordable housing and the quality of our urban environments; it is suggested the Province take the time to consult with a broader range of stakeholders to help refine this Bill and achieve a more balanced and strategic plan to create more housing.

- A summary of City staff's top requests to the Province are listed below:
    1. **It is estimated that the Bill could cost the City up to $815 to $885M over the next ten years.[2] It is requested that the Province make the City whole (e.g. provide offsetting grants) to cover any loss in revenue resulting from the legislative changes to DCs and CIL.**
    2. Remove non-residential DC discounts and restore City's ability to set its own DC rates.
    3. Not remove or limit eligibility of "costs to acquire land" for DC collection.
    4. Restore "affordable housing" and ability to fund "studies" as eligible for DC collection.
    5. Remove "attainable" housing from the proposed exemptions to DCs, CBCs and Parkland.

[2] This assumes that the DC By-law would need to be updated upon its expiry in 2027 and that land is removed as a DC eligible cost for each City service, as part of that exercise.

6. Develop mechanisms to ensure any publically funded discounts go directly to homebuyer.
7. Maintain the income-based definition of affordable housing as per the Provincial Policy Statement (PPS). If not, it is requested that the Province adapt the CMHC average existing market rent by bedroom for rental units and a 70% rate of average new unit price with separate values for unit size/bedrooms for ownership units.
8. Restore parkland rates, or at least remove the land value caps placed on rates.
9. Roll back ability for developers to determine park locations, or at least ensure parkland dedications are contiguous, link into the existing parkland network and have public street frontage and visibility.
10. Remove 100% credit for POPS, or at least roll it back to some lesser amount to disincentivize developers providing a POPS over a public park.
11. Increase Inclusionary Zoning set-aside rate cap to 10%.
12. Extend the affordability for “ownership” units to 99 years; this will have no impact on developers but will allow for more sustainable affordable housing supply.
13. Consider some type of incentive program to help capitalize infill projects in established neighbourhoods (e.g. a loan program that could help homeowners fund renovations to their homes to add second or third units).
14. Update Ontario Building Code to ensure singles and towns are built in a way that would support retrofitting for second units.
15. Restore urban design and landscape details at site plan stage.
16. Restore ability to consider sustainable design (e.g. use of Green Development Standards) at the site plan stage.
    Maintain existing Ontario Land Tribunal (OLT) process where costs are rarely awarded.
17. Maintain the City’s ability to protect rental housing stock through its Rental Protection By-law.
18. Province could reconsider the benefits of the proposed heritage review process, as most likely it will slow down development.
19. Reconsider the benefits of limiting Conservation Authorities (CA) powers to comment on natural heritage, as the City will need to establish expertise and development process could be slowed down.
20. Maintain existing wetland protections, the benefits of developing on wetlands do not outweigh the potential environmental outcomes.
21. Not adopt a Provincial ecological off-setting policy. Technical ecological advice on offsetting should be provided in local context by the Conservation Authorities and the City, as appropriate.

Background

Bill 23 works to implement some actions contained in *Ontario's Housing Supply Action Plan,* with the goal of increasing housing supply in Ontario by building 1.5 million new homes by 2032.

On October 25, 2022, the Honourable Steve Clark, Minister of Municipal Affairs and Housing (the Minister) introduced the Bill to the legislature with sweeping changes to 10 Acts (including the *Planning Act, Municipal Act, Development Charges (DCs) Act, Ontario Heritage Act, Conservation Authorities Act, Ontario Land Tribunal (OLT) Act)* and the Ontario Building Code.

The Province has also proposed further consultation on a range of provincial plans, policies and regulations. This includes revoking the Parkway Belt West Plan, merging the Growth Plan for the Greater Golden Horseshoe (the Growth Plan) with the PPS and changing the boundaries of the Greenbelt Plan. The Province has also committed to create working groups with municipalities to limit land speculation and examine rental protection by-laws.

Comment periods on the proposed changes (via 19 Environmental Registry of Ontario postings and 7 Ontario Regulatory Registry postings) close between November 24 and December 30, with the majority closing on November 24, 2022. City staff will continue to update and advise Council on the impacts of Bill 23 as it advances and when implementation details become available.

The purpose of this report is to: highlight to Council the major changes proposed in Bill 23; the potential impacts on the City; identify areas of support and areas that should be reconsidered by the Province and have Council endorse all comments contained and appended to this report. In anticipation of the Bill advancing, staff also seek authority to submit comments to the Province as needed, where timelines do not permit reporting to Council in advance (e.g. over the Christmas/New Year break).

Comments

The Province is setting a goal of Ontario building 1.5 million new homes by 2032. Of this total, Mississauga must *pledge* to build 120,000 homes in the next ten years (in other words 12,000 units a year). Staff question whether the development industry even has the capacity to construct that amount of units given persistent labour and material challenges.

In 2021, Mississauga issued building permits for 5,500 new units. So far, 2022 is a record year, but the City has still only issued building permits for 6,100 new units. In other words, if Mississauga is to meet this Provincial target it must double its current levels of development. Fortunately, the City has been planning for growth well beyond its Regional allocation of 100,000 units so no City planning policy changes are needed to reach the provincial pledge.[3]

[3] *Technical Memo: Mississauga's City Structure and Residential Growth Accommodation.* File: CD.02-MIS can be accessed here (see April 19, 2022, PDC Agenda, Item 5.2)

However, the Bill has the potential to significantly reduce the amount of money available to the City to provide the infrastructure required to create complete communities in these planned growth areas. Many of the measures appear designed to create short-term benefits for developers of market units while saddling municipalities and future unit owners with costs and reduced amenities for decades to come. While the Bill does have some positive provisions that are specifically intended to help build more affordable and purpose built rental housing, other provisions of the Bill would have the opposite effect by reducing the amount of this badly needed housing.

Staff have summarized key changes proposed into 7 themes:

- Mandatory and retroactive phase-in of DCs would lead to significant funding shortfalls;
- Delivery of the City's infrastructure program could be jeopardized by what is classified as "DC eligible" and fee exemptions;
- City's parkland revenue could be reduced by 70% and the quality of parkland could be diminished;
- Support proposals to streamline neighbourhood infill and intensification around transit station areas;
- Range of impacts stemming from major changes to planning and appeals processes, including planning powers removed from Region of Peel and uploaded to the Province;
- Elimination and reduction of municipal tools could further threaten affordable housing;
- Significant impacts on Ontario's heritage and natural environment and its ability to mitigate and adapt to a climate changing.

Please note that not all changes proposed are captured in the body of this Corporate Report. **Please see Appendix 1 for a detailed list of changes**, potential implications for the City and comments to be shared with the Province.

1) MANDATORY AND RETROACTIVE PHASE-IN OF DCs WOULD LEAD TO SIGNIFICANT FUNDING SHORTFALLS

City Council passed its current DC By-law on June 22, 2022. The proposed changes to the *DC Act* direct that for any DC By-law passed after June 1, 2022, a 20% reduction must be applied to the DC rates in Year 1 of the By-law, with the reduction decreasing by 5% in subsequent years.

General estimates of the potential DC revenue lost, focusing solely on this proposal alone, are included below:

- Year 1: By applying a 20% discount, City will collect $22.2 M less in DC revenues
- Total 4-Year DC revenue loss, estimated at $56.1 M.

As part of the 2022 DC By-law review, the City's DC rates increased by 12%. Therefore if this proposal is implemented and a 20% discount is applied, the City would be collecting less revenue than prior to its 2022 DC by-law passage.
The mandatory discounts are punitive, arbitrary and the logic is unclear, given they affect each municipality so differently. For example, there are several municipalities that updated their DC rates prior to June 1, 2022 that are not having to apply the discounts, and those municipalities that didn't update their by-law recently are also not having to apply the discounts. The mandatory discounts undermine Council's discretion to impose a discount or phase-in of the DC rates; many of such policies are developed with consultation with the development industry.

City staff request that the Province continue to allow municipal Council the sole discretion to set their own policies and DC rates and remove the mandatory retroactive phase-in. If not, staff recommend that the phase-in only apply to by-laws passed after Royal Assent of the Bill and/or only apply where the proposed DC rate increase is greater than 20%.

These discounts also apply to non-residential development. City staff question how housing affordability and stock is improved by collecting less DC revenue from commercial and industrial developers. It is suggested to the Province that discounts be limited to the residential sector.

- ***Request that Province remove non-residential DC discounts and restore City's ability to set its own DC rates. Otherwise, a municipality should be made whole for these DC discounts***

2) DELIVERY OF THE CITY'S INFRASTRUCTURE PROGRAM COULD BE JEOPARDIZED BY DC ELIGIBILITY AND FEE EXEMPTIONS

DC Eligibility

The proposed changes impact what is eligible for DC collection. It is proposed that studies and affordable housing can no longer be funded by DCs, and the ability to fund land acquisition for prescribed services will be limited by a future Regulation.

City staff's biggest concern is that a future regulation could limit land acquisition being an eligible cost recoverable through DCs for prescribed services. Land plays an integral part in the delivery of City services to its residents – whether it be the land for a library, community centre or arena, fire station, transit facility or land for the road network. Without land, or the funding to purchase land, the project itself would become unviable or unfunded. Without information about the scope of a future regulation, the financial impact is difficult to assess. However, if land were removed as an eligible cost for all services, the potential revenue loss would be approximately $34 Million on an annual basis, upon the passage of the next DC by-law. City staff would ask the Province not to remove or limit land as an eligible DC cost.

Another concerning change is the removal of a municipality's' ability to fund affordable housing through DCs. In the past this funding has supported Regional capital projects as well as partnerships with the private sector to increase affordable housing supply.

Likewise, staff have concerns about not allowing for DC funded studies. These studies include, but are not limited to, the City's Future Directions Plans, Transit Infrastructure Plans and Growth Management Plans. It is suggested that the services be reinstated as collectively these measures help to build affordable and complete communities.

- ***As a priority, request that Province not remove or limit eligibility of "costs to acquire land" for DC collection. Also request that Province restore "affordable housing" and ability to fund "studies" as eligible for DC collection***

DC, Parkland and CBC Exemptions

Affordable and Attainable Housing

The proposed changes exempt DCs, parkland dedication and Community Benefit Charge (CBCs) for "affordable" and "attainable" housing, Inclusionary Zoning (IZ) units, non-profit housing and second and third units.

The City already uses DCs as a tool to incentivize "missing middle" housing and exempts charges for second units, Accessory Dwelling Units and has approved DC grant based exemptions for non-profit affordable rental housing.

However, staff are concerned that broadly exempting all units that are 80% of market value could incentivize the creation of very small units (e.g. most bachelors and many one bedroom units in the city would likely meet this proposed definition) and not help achieve the types of "missing middle" housing that Ontarian households so desperately need.

At minimum, the "average" market price should be delineated for each unit size or bedroom count. Additionally, the Province should consider lowering the threshold to 70% to ensure exemptions are targeted to units affordable to low- and moderate- income households. For rental units, City staff suggest that a CMHC definition 100% AMR for rental units be adopted which is a common definition used for new rental unit incentives.

It is noted that City staff will be challenged to administer exemptions based on an 80% of the resale purchase price for ownership and 80% average market for rental for affordable units. DCs are often levied ahead of all units being sold and the price of units is in constant flux. It will be hard to determine which units may be eligible. It is also unclear how the 80% of average market rate will be determined and there could be opportunities for abuse.

The impact of exempting “attainable housing” from these growth charges is unknown. However, if the Province’s definition is so broad that it applies to any unit that is not owned by an investor it could be financially catastrophic for the City. It is suggested the Province remove “attainable” housing from exemptions as the Bill already has polices exempting non-profit and gentle infill units from DCs and other charges.

As mentioned above, it is considered that the Province should make municipalities whole for any discounts offered. It is suggested that the Province could use Federal Housing Accelerator funding to address some of this municipal shortfall and staff would welcome that approach.

Rental Housing

The proposed changes also result in the DC payable for a purpose built rental housing development being discounted based on the number of bedrooms in each units, the proposal as follows:

- Bachelor and 1 bedroom units – 15% reduction in DCs
- Two bedroom units – 20% reduction in DCs
- Three+ bedroom units – 25% reduction in DCs

The potential revenue loss stemming from this change alone would be roughly $8.5 Million over a ten-year period. Despite this shortfall staff are supportive of these changes as it could provide an incentive to build purpose built rental units, particularly larger units. Albeit the effectiveness of this measure is muted by DC discounts and exemptions being so widely applied across the board. Staff suggest senior grants such as the Federal Housing Accelerator be used to offset the lost revenue.

Passing on Discounts to Buyers

It is suggested that the Province carefully examine safeguards to ensure any publically funded discounts are passed onto new homeowners. As noted in the recent report[4] prepared by N. Barry Lyon Consultants, developers will price housing at the maximum level the market will support and increases/decreases in fees do not affect the sale price of units. Lost revenue leads to increased property taxes that reduce affordability overall.

City staff support requirement to enter into an agreement registered on title, to secure the exemptions, but would prefer to see an arrangement where the DCs are paid in full by the developer, then refunded to the purchaser, much like existing programs for first-time homebuyer tax rebates. This approach would help ensure that the cost savings are passed on to the homebuyer and would also expedite DC administration.

[4] *2019 Development Costs Review – The Effect of Development-Related Costs on Housing Affordability* can be accessed here (see May 1, 2019, General Committee Agenda, Item 8.2,)

- ***Request that Province:***
  - ***Remove "attainable" housing from the proposed exemptions***
  - ***Develop mechanisms to ensure that those people looking to buy a home to live in benefit from these municipally funded discounts. DCs could be paid in full by the developer and then refunded to eligible purchasers***
  - **Maintain the income-based definition of affordable housing as per the PPS. If not, it is requested that the Province adopt the 100% CMHC average market rent by bedroom type for rental units and a 70% rate of average resale price with separate values for unit size/bedrooms for ownership units**

3) CITY'S PARKLAND REVENUE COULD BE REDUCED BY 70% AND THE QUALITY OF PARKLAND COULD BE DIMINISHED

Reduced Parkland Rates

The proposed changes include significant reduction to the current parkland dedication and Cash-in-Lieu (CIL) rates.

Specifically, maximum alternative dedication rates are lowered to 1 hectare per 600 units, from 1 hectare per 300 units for land. And 1 hectare for 1000 units for CIL, down from 1 hectare per 500 units. For high-density development, it is proposed that parkland is capped at 10% of land for smaller sites (up to 5 hectares) and 15% of land for large sites (over 5 hectares). These rates will be kept lower by being frozen at the date a zoning by-law or site plan is filed.

Mississauga has built out almost all of its greenfields and its development is changing to be more intensive. As a result, the City collects much of its CIL from medium and high density developments and uses these funds to acquire parkland (e.g. rather than through conveyance, which is more common in a greenfield context). The City is at a point in its development where significant future parkland will need to be acquired. However, the CIL rates proposed by the Bill are so low they will not allow the City to remain competitive buyers of land.

The full costs associated with this change are difficult to quantify. However on a site by site basis it is significant. For a routine application in Mississauga e.g. a tower of approximately 500 units on a site that is 1 acre, it is expected that subject to Bill 23 the City would collect $1.74M in CIL. This compares to $10.7M in CIL under the City's existing By-law (adopted June 2022).

This proposed Bill 23 rate is also well below the City's former by-law, that is 15 years old and was already unable to keep pace with rising land costs in Mississauga. Under the City's former By-law, it could have collected $5.0M in CIL payments.

Case Study: Typical Development in Mississauga and CIL Rates

Development	Under Past by-law	Under New By-law	Under Proposed Bill 23
18 storey mixed use building containing 427 residential units (no parkland dedication)	427*$11,710/unit = **$5,000,200**	@ 25,112 Full August 2023 CIL Capped Rate 427*$25,112 = **$10,722,800**	**$1,734,300** CIL capped at 10% of land value.

A high-level estimate citywide suggested that under the recently approved by-law CIL revenues were anticipated to be in the order of $1.398B between 2022 and 2041, which was the amount of revenue needed to address parkland needs. With Bill 23, that is expected to be reduced to an approximate range of $284M - $419M falling significantly short of projected needs.

Overall, these impacts are substantial and it is requested that the Province restore former parkland rates. However, if the Province wishes to maintain these lower rates it is requested that the 10% cap on parkland be removed as an urgent priority.

- ***Request that Province restore parkland rates, or at least remove the land value caps placed on rates***

Land Owners to Determine Park Locations

A major concern for City staff is that the proposed changes allow developers to choose where to locate parkland. This will likely result in small sections of undevelopable land being dedicated. City staff strongly urge the Province to roll back this change, but at the very least add requirements that ensure parkland dedications are contiguous, link into the existing parkland network (where applicable) and have public street frontage and visibility.

The proposed change does allow the City to appeal a developer's parkland proposal to the OLT. However, if a developer is already going to the OLT over other issues related to their application, then any leverage the City may have had is lost. Under the proposed Bill, a municipality can also be required to take on parkland it does not want. Currently, the OLT rarely order a municipality take on parkland. It is suggested that this practice be maintained and a municipality should not be forced to manage undesirable lands.

- ***Request that Province roll back ability for land owners to determine park locations, or at least ensure dedications are contiguous, link into the existing parkland network and have public street frontage and visibility***

Privately Owned Publicly Accessible Spaces (POPS)

The proposed changes would allow POPS and encumbered parkland to receive the same credits as a publicly owned unencumbered park. This will make it difficult for the City to secure unencumbered parkland, particularly in its growth areas.

A POPS does not provide the same level of service as a public park. Hours of operation and maintenance of POPS are subject to an easement agreement with the owner, which may be limiting. POPS have limited programming ability and would rarely, if ever, include playground equipment and other needed park amenities. Also, because POPS are encumbered (e.g. have infrastructure underground) they will not support mature trees and are more routinely closed for maintenance.

Moreover, the creation of a POPS places a significant burden on new unit owners/condominium boards. Many new unit owners may not realize the full extent of the financial commitment they are making to manage a POPS. For large developments often more than one condominium board is responsible for managing a POPS, creating frictions and administrative challenges.

Overall, POPS arrangements generate one off value for developers. Both the City and the future residents will be forced to deal with challenges stemming from this arrangement indefinitely. City staff strongly urge the Province to remove this clause, or at least roll it back to some lesser amount to disincentivize a POPS arrangement over a public park.

- ***Request that Province remove 100% credit for POPS, or at least roll it back to a lesser amount to disincentivize developers providing a POPS over a public park***

4) SUPPORT PROPOSALS TO STREAMLINE NEIGHBOURHOOD INFILL AND INTENSIFICATION AROUND STATION AREAS

Neighbourhood Infill

The Province has proposed that three units be allowed on a lot as-of-right and parking rates are set at a maximum of one per dwellings. City staff are already working on permitting increased infill opportunities (e.g. up to 3 units) through the City's *"Increasing Housing Choices in Neighbourhoods"* study and parking rates for infill developments were reduced in line with these recommendations earlier this year. Moreover, Mississauga had already waived development charges for up to three units in its latest DC By-law.

City staff would suggest that the Province carefully consider the many barriers to residential infill in existing neighbourhoods. Specifically, construction costs for even modest residential infill units are expensive and mortgages are difficult to secure. From the City's work, it is estimated that a one bedroom/ one storey garden suite is $250K, a two storey / two bedroom suite is $425K and a garage conversion to a one bedroom unit is in the order of $92K. A loan program, or way of making capital available to homeowners, could go a long way to more of these opportunities being realized.

The Province could also consider updating the Ontario Building Code (OBC) to require that all single and semi-detached units be constructed in a way that would allow for easy conversion into second suites.

- ***Province could consider some type of incentive program to help capitalize infill projects (e.g. grants or loans) in established neighbourhoods***
- ***Province could update OBC to ensure singles and towns are built in a way that would support retrofitting for second units***

Intensification around Stations

The Province has proposed "as-of-right" zoning in all MTSAs and is requiring zoning by-laws be updated within a year (reduced from three years). City staff will work to ensure these provincial deadlines are met, although would suggest to the Province that 18 months is a more realistic timeline. While updated zoning is important, staff do not expect that updating our zoning by-law will lead to a major increase in development. For twenty years, the City has pre-zoned its Downtown Core for unlimited heights and densities and while development remains steady, it is moderated by constraints around labour, materials, development phasing and other financial considerations.

Site Plan Exemptions and No Architectural and Landscape Details

The Province has proposed that residential development of up to 10 units be exempt from site plan control, except for land lease communities. Staff can work with the exemption however, this change could shift more of the review effort to the building permit stage. Staff are seeking clarification from the Province on whether or not city standards (e.g. storm water management, road requirements and design etc.) can be applied where a new development may be exempt.

Staff are extremely concerned by the removal of architectural and landscape details at site plan. Elimination of this takes away the City's ability to shape the public realm and would undermine the quality of places in our city. It is also proposed to remove consideration of sustainable designs. This will limit the ability for the City to implement the Green Development Standards that contribute to more efficient homes being built in Mississauga that will reduce utility bills and GHG emissions.

- ***Request that Province restore urban design, sustainable design and landscape details at site plan stage***

5) RANGE OF IMPACTS STEMMING FROM MAJOR CHANGES TO PLANNING AND APPEALS PROCESSES, INCLUDING MANY PLANNING POWERS BEING UPLOADED TO PROVINCE

Regional Planning Powers

The Province has proposed to take on many new planning powers, with regional municipalities proposed to be completely removed from the planning process. A key outcome of these changes and this centralization of powers is that the Province could soon be the City's approval authority. Meaning it would be the Province that would sign off on the City's Official Plan and associated amendments rather than the Region of Peel and that the Province could redline and change the plans as they saw fit without consultation.

It is hard to gauge the impact this will have on the process. However, if it does aim to speed things up, the Province will need to build up significant expertise in municipal land use planning otherwise it is likely a bottleneck will occur.

Given the Bill downloads many responsibilities onto the City of Mississauga from the Region of Peel (and later in the report the Conservation Authorities), there could be significant staffing impacts and the need for the City to establish new areas of expertise.

Limiting Third Party Appeals

The Province has proposed to limit third party appeals. City staff consider that limiting third party appeals for developers will significantly speed up the planning processes. Currently, the City's entire Official Plan (OP) can be appealed. In the past these broad OP appeals have taken near a decade to resolve. A similar appeals process can then unfold around site specific appeals. The collective outcome of this is a lack of certainty around the City's planning framework and increased speculation on land. However, this limit on appeals also extends to the community, who may wish to have the opportunity to participate more fully in the planning process.

Awarding Costs

Staff are however, concerned about the proposal for the OLT to more routinely award costs against a loosing party. When coupled Bill 109 that requires a municipality to provide a decision in a very short space of time (or otherwise have to refund fees), a municipality could get caught in a position where it has to refuse an application because some major issue has not been resolved on the site and could later be punished by having costs awarded against them. City staff consider that the OLT's current process where costs are only awarded where there is a genuine attempt to obstruct a matter should continue, and costs should be rarely awarded.

- ***Request that Province maintain existing OLT process where costs are rarely awarded***

Changes to Provincial Plans

The merging of the PPS and Growth Plan has also been proposed, yet limited details have been provided. The Growth Plan sets out the Greater Golden Horseshoe's urban structure (e.g. Urban Growth Centres served by transit etc.), and its growth forecasts are fundamental to good infrastructure planning. While no details are released, it is suggested that at the very least these aspects be maintained. Any changes to this document should occur in consultation with municipalities.

City staff are supportive of adding urban river valleys to the Greenbelt and already protect these lands. It is submitted that only lands be added to the Greenbelt and not subtracted.

- ***Request that Province:***
  - ***Consult municipalities as provincial plans are updated***
  - ***GGH urban structure of Urban Growth Centres and Major Transit Station Areas is maintained***
  - ***Growth forecasts are maintained for infrastructure planning***
  - ***Not change Greenbelt boundaries, aside from adding lands***

6) ELIMINATION AND REDUCTION OF MUNICIPAL TOOLS THAT FURTHER THREATEN AFFORDABLE HOUSING

Inclusionary Zoning (IZ)

Definition, Set-aside Rate Cap, and Affordability Term Cap

Currently housing affordability is defined in terms of annual income spent on housing costs e.g. no more than 30%. The Province is proposing a shift to a market-based definition of affordability that can be set at no lower than 80% of resale prices for IZ ownership units and no more than 80% of average market rent for IZ rental units. While it is unclear which data sources the Province will use to set these "average" rates, it appears that the only segment of the population that could afford an IZ ownership unit are those at the top end of the moderate-income band – that is, households earning $95,000 per year or more[5] - pricing out the vast majority of Mississauga's essential workforce.

The Province has also proposed an IZ set-aside rate cap of 5% of units / residential gross floor area. Mississauga's adopted IZ provisions require a rate ranging from 5% to 10% after an initial phase-in period. The rates are consistent with the results of the provincially mandated market

[5] Based on Toronto Region Real Estate Board (TRREB) data from Q3, 2022.

feasibility analysis. City staff do not support the 5% maximum as it will result in a minimum of 40% less affordable units than anticipated by the City's current IZ provisions. City staff request that the 5% cap be revised to 10% to help increase the supply of affordable units. In addition, with the DC, parkland, and CBC exemptions proposed for all IZ units, the feasibility of development is increased and therefore developments can absorb higher set-aside rates.

The Province is proposing a maximum affordability period of 25 years for IZ units. The City's current IZ provisions require that in condominium projects and IZ rental units are to remain affordable for a minimum of 25 years (plus a 5-year phase out) and IZ ownership units are to remain affordable for a minimum of 99 years. The City is exempting purpose-built rental projects from IZ. The rental affordability term was intentionally set shorter than the ownership affordability term to encourage / incentivize delivery of IZ rental units in condominium projects. Since the developer does not retain ownership of affordable ownership units, development feasibility is not impacted by the affordability term for IZ ownership units. Staff do not support the proposed maximum affordability period because it will cause ownership units to be lost from the IZ inventory sooner than necessary, and the proposed maximum term will have no impact on development feasibility / housing supply.

Overall, the collective impact of these proposed changes undermine the ability of this policy tool to work as intended and deliver affordable housing. The changes also reduce the efficiency of administering the IZ program. Staff urge the Province to reconsider the proposed changes to the IZ regulations, to ensure that IZ can have a meaningful impact in communities.

- ***Request that Province increase IZ set-aside rate cap to 10%***
- ***Request that Province extend the affordability for "ownership" units to 99 years; this will have no impact on developers but will allow for more sustainable affordable housing supply***
- ***Request Province maintain the income-based definition of affordable housing as per the Provincial Policy Statement***

Rental Protection By-law

Rental protection by-laws help to ensure that affordable rental supply continues to remain in areas designated for intensification and to mitigate unintended consequences of growth. Retaining affordable rental housing is critical to supporting our workforce needs and businesses. It is suggested to the Province that the power for municipalities to develop rental protection by-laws be maintained. Additional considerations could be made to tailor rental protection to local markets.

The City of Mississauga has taken a flexible approach to implementing this tool recognizing the need to enable property owners to upgrade and make more efficient use of existing rental properties. For example, the by-law requires that affordable rental units be replaced by same unit types by bedroom, rather than floor areas, at similar, not the same rents. A recent proposal

was approved in Mississauga wherein the property owner was able to increase the number of rental units from 8 to 15 units. The approval process is short and typically delegated to staff.

- ***Request that Province maintain the City's ability to protect rental housing stock***

7) SIGNIFICANT IMPACTS ON ONTARIO'S HERITAGE, NATURAL ENVIRONMENT AND ABILITY TO MITIGATE AND ADAPT TO A CHANGING CLIMATE

Heritage

The proposed changes to the *Heritage Act* create a two-year limit to review all properties on the heritage register and designate properties. Only properties currently on heritage registers can be designated. All designated properties and heritage conservation districts are to meet two out of three criteria for designation and there is a new process for repealing designations. Some of these proposed processes are to be established in forthcoming regulations.

These proposed changes to the *Heritage Act* will create a large amount of work for the City's heritage community, including the Heritage Advisory Committee and Heritage Planning staff, with potentially little reward. Rather than the City carefully considering heritage attributes through a development application processes as they arise, the City will be required to go through a process of reviewing and potentially designating 1,000 listed properties (not designated properties) on the City's register.

These efforts will take time, have staffing implications, and potentially create a substantial number of appeals at the OLT. Staff are concerned they could hold up development rather than allow it to move forward more quickly.

- ***Province could reconsider the benefits of heritage review process, as most likely it will slow down development***

Conservation Authorities

Proposed changes to the *Conservation Authority Act* aim to streamline approvals by only permitting the Conservation Authorities (CAs) to focus on natural hazards impacts on people and their property, as opposed to protecting the Natural Heritage System as a whole.
This could allow new developments to be built on lands that should be or were once protected.

Additionally, it is proposed that municipalities would exercise sole approval when a development application is filed, which may include decision making over hazard lands. The City relies heavily on the CAs for their technical review and analysis for both natural hazards as well as natural heritage. The City has excellent working relationships with Credit Valley Conservation (CVC), Toronto Region Conservation Authority and Conservation Halton. All have an excellent track record of delivering their expert technical advice in a timely manner.

Presently, the City does not have the expertise to take on these expanded responsibilities. The City will need to hire new staff in order to fill the current role of CAs and build up this knowledge base. Again, this will take time and will more likely slow down the process than speed it up.

Request that Province reconsider the benefits of limiting CA's powers to comment on natural heritage, as the City will be solely responsible to review such matters, and in the short term processes will be slowed down as new staff are hired and expertise is established

Natural Heritage System

The proposed changes to the *Conservation Authority Act* move Ontario from a holistic approach to protection of the environmental and social ecological values of a watershed to one focused on the protection of people and property against natural hazards. By framing the issue this way, Ontario could stand to loose the natural functions provided by its natural heritage system (e.g.: filtering air and water, mitigating flooding and erosion, storing carbon, providing habitat for fish and wildlife, and providing a wide range of recreation and tourism opportunities) in exchange for conventional infrastructure.

This change in approach creates a one-off financial benefit for developers. All of whom would have probably purchased newly approved land cheaply, because it would have likely been considered a flood plain with high erosion potential. Yet if this land is developed, these natural hazard burdens will be transferred to unit owners and municipalities.

Negative outcomes could be more pronounced if other measures proposed in this Bill result in the City's natural heritage system being reduced in size and as society at large works to adapt to a changing climate.

Wetlands

Proposed changes to the Ontario Wetland Evaluation System (OWES) alter the way that wetlands are identified and evaluated. The proposed changes would remove the concept of wetland complexes, which will make it more difficult for small wetlands (<2ha in size) to be included and evaluated under the system. Given that wetlands comprise only about 0.9% of the city's land base and many are small and exist in a mosaic of smaller habitats, the identification

and protection of small wetlands is essential to maintaining biodiversity and ecosystem function at a local and landscape scale.

The proposed changes to the OWES will also allow for wetland boundaries to be re-defined *after* they have been evaluated and accepted; which could lead to a situation where unauthorized/unpermitted changes to wetlands have led to a reduction in their size or loss over time to facilitate more growth in areas that would have been otherwise protected.

Ecological Offsetting Policy

Furthermore, the Province is consulting on a newly proposed "Ecological Offsetting" policy. Staff are concerned such a policy could result in Mississauga's natural heritage features and functions, that would otherwise be protected in-situ, being proposed for removal and replaced elsewhere, including outside of the city, region and/or watershed.

Staff are concerned that this proposal could lead to a steady reduction in the amount of natural space covered by the City's Natural Heritage System, weakening the entire system, with no mechanism to require that suitable compensation be provided within the city and/or assurances that an equal asset is provided elsewhere.

- ***Request that Province maintain existing wetland protections, the benefits of developing on wetlands do not outweigh the potential environmental outcomes.***
- ***Not adopt a Provincial ecological off-setting policy. Technical ecological advice on offsetting should be provided in local context by the Conservation Authorities and the City, as appropriate.***

Financial Impact

The changes identified in the proposed Bill 23 will have significant financial impact for the City. The full cost and administrative burden cannot be determined without additional details that will be found in the regulations, when these are released. The following analysis is based on currently available details.

Impact on Development Charges

It is estimated that the Bill could cost the City up to $325M over a ten-year period. The potential ten-year DC revenue loss is shown as follows.

	2023 - 2032
Forecasted DC Revenue[1]	$1,135,000,000
Less: Lost DC Revenue[2]	**($325,000,000)**
Net Forecasted DC Revenue	$810,000,000

1. *Forecasted DC Revenue is based on the development forecast contained in the 2022 Development Charges Background Study.*
2. *Lost DC Revenue based on: Mandatory retroactive phase-in, removing land and studies as DC eligible cost, 15-year service level calculation, estimated DC discount on for-profit rental units, and the requirement to update the DC by-law upon its expiry in 2027.*

It should be noted that there will be future financial losses stemming from Bill 23 that cannot be quantified at the time of writing of this report. The City requires full details, including Regulations and Bulletins, to be released by the Province to completely understand the financial impact. Of particular concern is the DC exemption for "Attainable Housing" which is currently only defined as not affordable nor rental units.

Impact on Cash-in-Lieu of Parkland

Based on the proposals that are currently defined by the Province through Bill 23, the potential CIL Parkland revenue loss is shown as follows.

	2023 - 2032
Forecasted CIL Parkland Revenue[1]	$700,000,000
Less: Lost CIL Parkland Revenue[2]	**$490,000,000 to $560,000,000**
Net Forecasted CIL Parkland Revenue	$140,000,000 to $210,000,000

1. *Forecasted CIL Parkland Revenue is based on the 2022 Parkland Conveyance By-law Update Report.*
2. *Lost CIL Parkland Revenue is based on preliminary estimates prepared by Hemson Consulting Ltd. based on available data.*

Some changes to parkland dedication cannot be quantified in dollar values. For example, developers would be able to choose the location of their parkland dedication. This is of particular concern as the City may end up with remnant parcels of land or "slivers" of land that would be unsuitable for park amenities. As well, the City must accept encumbered and privately owned public space (POPS) as parkland dedication.

All of these proposed changes will create significant budget pressures. These discounts will either need to be made up by reducing service levels or increasing property taxes and charges. Transferring the burden from developers to new unit owners and taxpayers, all of which will undermine affordability in Mississauga on the whole.

Conclusion

Mississauga has demonstrated a strong commitment to support provincial aims to create more housing, a greater mix of housing and efforts to make home ownership and renting more affordable. The City further supports the government's commitment to reduce red tape and make it easier to live and do business in Ontario. However, staff's assessment is that Bill 23 is overly focused on blanket fee reductions that would apply for market rate developments with no guarantee that savings will be passed on to renters and homebuyers.

A fundamental concern that staff have with the proposed Bill is that it fails to recognize the complexity of getting a development off the ground. Staff are supportive of provincial efforts to streamline processes and ensure zoning is up to date etc., but these measures address one part of the process. Developers are dealing with all manner of costs and constraints – including labour, construction costs, rising interest rates, financing, development phasing and so on. Without addressing these matters, it is unlikely that the Bill will result in the increased level of development that is being anticipated.

With so much on the line – the potential impacts on the natural environment, community infrastructure, parks, transit, affordable housing and the quality of our urban environments – the Province should slow down and reflect on the collective impact of these changes. Taking the time to consult with a broader range of stakeholders in meaningful ways could help achieve a more balanced and strategic plan for housing that meets the needs of Ontarians.

Attachments

Appendix 1: Detailed Comments to Province
Appendix 2: List of All ERO and Related Postings

Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: Katherine Morton, Manager, City Planning Strategies, Planning Strategies and Data