



Report to: Markham Council

Report Date: November 22, 2022

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**SUBJECT:** Comments on the *More Homes Built Faster Act*, 2022 (Bill 23) and Associated Registry Postings

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**REVIEWED BY:** Development Services Commission, Corporate Services  
Commission, Community Services Commission, Legal Services

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**RECOMMENDATION:**

- 1) That the report dated November 22, 2022 titled "Comments on the *More Homes Built Faster Act*, 2022 (Bill 23) and Associated Registry Postings" be received;
- 2) That the City not support the proposed changes to the *Planning Act*;
- 3) That the City not support the proposed changes to the *Development Charges Act*, except for the following:
  - a. Provisions for affordable and purpose built rental housing where there is no net impact on municipal finance;
  - b. DC By-law expiry updated from every 5 years to every 10 years; and
  - c. Requiring municipalities to allocate or spend at least 60% of development charges reserve balance of water, wastewater and roads at the start of each year;
- 4) That the City not support the proposed changes to the *Ontario Heritage Act*, except for the following:
  - a. Requiring the clerk of a municipality to ensure that the information included in the register is accessible to the public on the municipality's website;
  - b. Requiring that non-designated property must meet the criteria for determining whether the property is of cultural heritage value or interest if such criteria is prescribed; and
  - c. Enabling the council of a municipality to amend or repeal a heritage conservation district plans;

- 5) That the City not support the proposed changes to the *Conservation Authorities Act*;
- 6) That the City not support the proposed changes to the *Greenbelt Act* and the removal of land from the Greenbelt Plan Boundary;
- 7) That the City request York Region to confirm the following:
  - a. Conveyance of sewage flows to the York Durham Trunk Sanitary Sewer (YDSS) from municipalities located in the upper parts of the Region, as recommended by the Province's York Region Wastewater Advisory Panel, will not impact growth and approvals of developments in Markham that are located in the YDSS service area;
  - b. Improvements needed to the YDSS on 16th Avenue and 9th Line to support growth from municipalities located in the upper parts of the Region and from Markham;
  - c. That York Region will continue to assign sufficient sanitary allocation to Markham to not impede growth in Markham; and
  - d. That infrastructure projects identified to support growth in Markham will not be deferred or removed from the Region's Water and Wastewater Master Plan;
- 8) That the City request that the Province extend the consultation period on the *More Homes Built Faster Act*, 2022 and Associated Registry Posting to provide more opportunities for public engagement and consultation given the magnitude and impact of the proposed changes;
- 9) That the City request that the Province create a special task force, with industry professionals and municipal representatives to review the *More Homes Built Faster Act*, 2022 and Associated Registry Postings;
- 10) That the City direct staff to prepare a Council report outlining an implementation plan, should the Province not extend the commenting period and approve the *More Homes Built Faster Act*, 2022 and Associated Registry Postings;
- 11) That this report be forwarded to the Ministry of Municipal Affairs and Housing and Region of York as the City of Markham comments on the *More Homes Built Faster Act*, 2022 and Associated Registry Postings; and
- 12) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

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## EXECUTIVE SUMMARY

The proposed amendments in the *More Homes Built Faster Act, 2022 (Bill 23)* and Associated Registry Postings will significantly impact the municipal finance, governance, community amenities and the planning and development approval framework. Based on the assessment by City staff, the proposed changes will result in:

- Significant inequities across existing and new communities
- A historic reduction in park space for new communities and inability to meet city-wide standards
- An absence of design excellence and quality within the public realm
- Increased burden on the property tax base
- Unparalleled loss of cultural heritage assets
- A serious loss of natural heritage features and Greenway System lands

Staff are recommending that Council not support the majority of the proposed changes, with some exceptions related to proposed changes to the *Development Charges Act* and *Ontario Heritage Act*. Further, the public has had no opportunity to comment on these historic changes. Staff request the Province provide additional time to allow public consultation to be undertaken and that the Province establish a Task Force with industry professionals and municipal representatives to review the proposed changes. This Task Force should be charged with putting forth alternative solutions that respects the partnership between Ontario and its municipalities in supporting growth through housing development and related amenities while ensuring that the Province can meet its housing targets.

If the Province approves the *More Homes Built Faster Act, 2022 (Bill 23)* and Associated Registry Postings without providing additional time for consultation and engagement, it is recommended that Staff prepare a report for Council outlining next steps and an implementation plan.

### PURPOSE:

This report provides comments on the Province of Ontario's [More Homes Built Faster Act, 2022 \(Bill 23\)](#) and Associated Registry Postings on the Environmental Registry of Ontario (ERO) and Ontario Regulatory Registry (ORR) postings with consultation deadlines of November 24/25 and December 4/9, 2022.

### BACKGROUND:

The Province of Ontario (the "Province") committed to 1.5 million homes being built over the next 10 years. To support this goal the Minister of Municipal Affairs and Housing released the [More Homes, Built Faster: Ontario's Housing Supply Action Plan](#)

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[2022-2023](#) and introduced the [More Homes Built Faster Act, 2022](#) (Bill 23) on October 25, 2022.

More Home, Built Faster: Ontario's Housing Supply Action Plan 2022-2023 and implementing Bill 23 and Registry Postings is the third initiative in recent years to focus on addressing housing, preceded by the [More Homes, More Choice Act, 2019](#) and [More Homes for Everyone Act, 2022 \(Bill 109\)](#). Bill 23 and Associated Registry Postings further advances, and goes beyond, the recommendations from the Provincial [Housing Affordability Task Force Report](#), released earlier this year.

Bill 23 proposes amendments or introduces new statutory planning documents that guide the land use planning and development framework in Ontario, including, but not limited to:

- *Planning Act*, R.S.O 1990;
- *Development Charges Act*, 1997;
- *Municipal Act*, 2001;
- *Ontario Heritage Act*, R.S.O 1990;
- *Ontario Land Tribunal Act*, 2021;
- *Conservation Authorities Act*, R.S.O 1990;
- *Ontario Underground Infrastructure Notification Systems Act*, 2012; and
- *Supporting Growth and Housing in York and Durham Regions Act*, 2022 (new).

The Province is undertaking consultation on Bill 23 and has posted 23 items on the Environmental Registry of Ontario and Ontario Regulatory Registry (ERO/ORR) for comment. The consultation period ranges from 30 to 66 days with comments due on November 24/25<sup>th</sup>, December 4/5<sup>th</sup> and December 30<sup>th</sup>.

Appendix A to this staff report provides a description of each ERO/ORR proposal and the associated consultation deadlines.

This report only addresses consultation on items due November 24/25<sup>th</sup> and December 4/9<sup>th</sup>. A subsequent report will be presented to Council in early December 2022 that addresses items with a December 30<sup>th</sup> deadline.

As of the date of drafting this report, Bill 23 has passed second reading and is being considered by the Standing Committee on Heritage, Infrastructure and Cultural Policy.

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**DISCUSSION:**

The Province has proposed a series of legislative and policy changes under the More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022-2023 seeking to address the housing crisis. This report is divided into two components: 1) *More Homes Built Faster Act, 2022* (Bill 23); and 2) Other Associated Registry Postings. Detailed staff comments on all of the proposed changes is attached as Appendix B:

**1. MORE HOMES BUILT FASTER ACT, 2022 (BILL 23)**

Bill 23 proposes extensive changes to a number of Acts and regulations that, if approved, will have substantial impacts on the municipal planning and development approval system in Ontario.

The proposed changes through Bill 23 are summarized based on four thematic areas in the More Homes, Built Faster: Ontario's Housing Supply Action Plan 2022-2023

- Reducing Construction Costs and Fees;
- Streamlining Development Approvals;
- Building More Homes; and
- Helping Home Buyers.

The following section highlights staff comments on key changes by thematic area.

**Reducing Construction Costs and Fees**

The *More Homes Built Faster Act, 2022* proposes amendments to legislation and regulations that limit or significantly reduce the ability of municipalities to levy charges in three key areas:

- Development charges (DCs)
- Parkland dedication fees; and
- Community benefit charges (CBCs)

The City recognizes the need to respond to the housing crisis and is in support of identifying ways to increase the supply and make housing more affordable, but the long standing principle that growth should pay for growth must be upheld to support planning for complete, accessible and equitable communities. The proposed changes in Bill 23 aimed at reducing infrastructure construction costs and fees for the development

community will have the unintended consequence of shifting the burden of growth to the existing tax base and creating inequities across existing and new communities.

**High-level estimates indicate that proposed changes in Bill 23 would result in an annual shortfall of approximately \$136 million in the City**

An assessment of the fee reductions and exemptions proposed under Bill 23 indicate that a significant portion of the costs of new growth-related infrastructure in the City will shift to property taxes if the City desires to maintain existing service levels. The proposed changes will have a severe impact on the municipal long-term strategic financing plans, which were prepared under current legislative requirements. The implementation of these changes, without appropriate transition, means that debt incurred for growth-related infrastructure will not be recouped from the planned revenue sources. Assuming the City maintains existing service levels, a high-level estimate of the total financial impact suggests an annual shortfall of approximately \$136M, as shown in the table below.

Item	Annual Average
Studies Removed from Development Charges Act (DCA)	\$ 4,600,000
Cash-in-lieu/Parkland	\$ 76,000,000
Impact of DC Rate Phase-In	\$ 8,000,000
Affordable Housing (assumes 5% affordable/rental)	\$ 4,000,000
Land Removed from DCA - Soft Services (Fire, Recreation, Library, etc.)	\$ 17,800,000
Land Removed from DCA - Hard Properties (Roads & Structures)	\$ 25,700,000
<b>Total Annual Shortfall</b>	<b>\$ 136,100,000</b>

Without other funding sources to make up this shortfall, the financial burden will fall on the property tax base. This could result in a 50-80% increase to property taxes to maintain existing services levels, depending on the lands considered to be ineligible (i.e. Fire, Recreation, Library) under the regulations, which are not yet defined. The impact of the property tax increase would be an estimated \$600- \$1,000 property tax increase per year to the average homeowner.

Although new housing could theoretically be more affordable initially, increasing property taxes will have a significant, lasting impact on both owners of new and existing housing, including affordable and attainable units. Neighbourhoods with limited access to community amenities (parks, recreation, library) compared to neighbourhoods that are rich in community amenities will be characterized by economic exclusion, lack of social equity, and low levels of investment by the private sector. This in turn will create another

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affordability issues City-wide, as the long term operating costs of home ownership will significantly increase.

In order to help mitigate some of the financial burden on the property tax base, an alternative option would be for the City to reduce its service levels. However, this will impact how new communities in Markham are planned and would create inequities across the City, with 'have and have not' neighbourhoods. This is inconsistent with Markham's Strategic Plan, "Building Markham's Future Together, 2020-2023" and will impact the implementation of Council approved plans such as the 2019 Integrated Leisure Master Plan.

**80-90 % reduction in parkland for high-rise developments and 50% reduction for greenfield communities compared to the recently approved parks strategy**

Markham's Council recently endorsed a Parkland Dedication By-Law 2022-102, developed from a comprehensive Parks Plan and Parkland Acquisition Strategy approved in 2022. The Parks Plan and Parkland Acquisition Strategy were undertaken to determine an appropriate alternative parkland rate to satisfy the needs of Markham residents. The studies recommend maintaining a city-wide parkland provision rate of 1.2 hectares of parkland per 1000 people. It was determined that the parkland provision rate of 1.2 hectares of parkland per 1000 people could be achieved by requiring as a condition of development that the land owner convey 0.55 hectares of parkland per 500 dwelling units for Residential Medium and High Density Apartments and that the greater of 5% of land proposed for development or redevelopment or 1 hectare for each 300 dwelling units for all other residential development be conveyed.

Under the proposed legislation, a parkland dedication cap of 10% for sites less than 5 hectares and 15% for larger areas would be established. This will result in a reduction of parkland of 80- 90% for high density developments when compared against the recently approved by-law. The proposed amendment to the *Planning Act* also changes the maximum alternative parkland dedication rate from 1 hectare of parkland per 300 dwelling units to 1 hectare of parkland per 600 dwelling units resulting in a 50% reduction of parkland for low-rise developments, when compared against the recently approved by-law. These reductions will result in deficiencies to the citywide provision target leading to significant inequities in park and amenity space across existing and new communities.

By establishing caps of 10% and 15% for parkland dedication, Bill 23 decouples the relationship between the number of people in a development and the requirements for more parkland. The decoupling will result in new residents being significantly

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underserved for park space and will put a significant strain on the City's existing park system, especially sports fields and other programmed space, leading to a less desirable and less healthy community with reduced walkability and access to local services.

The reduced parkland rates, loss of discretion to plan appropriate parkland sites, sizes and locations in combination with a requirement for municipalities to consider encumbered lands (i.e., strata parks, privately owned publicly accessible space, other undersized/non-programmable parcels) will have a significant impact on the City's ability to assemble parks of a sufficient size. The City's ability to deliver recreational facilities for future population identified in Markham's 2019 Integrated Leisure Master Plan update will be significantly curtailed. Appendix C illustrates the implications of Parkland on the proposed *Planning Act* amendments on planning for parks in the City.

Further, reductions in the amount of cash-in-lieu collected will mean a reduction in park service levels if no alternative funding sources are identified. This is contrary to the City's Parkland Acquisition Strategy and Parks Plan principle to have a comprehensive park system including a variety of park types, including larger parks.

Staff do not support the proposed changes that would limit the ability of the City to provide sufficient park space to meet the needs of residents living in the City of Markham.

**Targeted exemptions and fee reductions for Affordable Housing, Non-Profit, and Rental Construction may be beneficial to support the housing crisis**

The Affordable and Rental Housing Strategy approved by Markham Council encourages the City to address affordability. More targeted measures in the *Development Charges Act* (DCA) such as Development Charge discounts on purpose-built rentals and exemptions for Development Charges, Community Benefit Charges, and Parkland for affordable housing, attainable housing and inclusionary zoning are encouraged to address affordability, but offsetting measures must be provided.

**New definitions for Affordable Housing and Attainable Housing in the *Development Charges Act* for the purposes of fee exemptions need to be tied to income thresholds**

Bill 23 proposes definition for 'Affordable Housing' and "Attainable Housing" in the DCA. The definition is different in existing municipal and provincial land use planning documents that tie Affordable Housing to low or moderate income households. The proposed definition for Affordable Housing in the DCA refers to 80% of the average



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purchase price or Average Market Rent, which would be posted by the Ministry of Municipal Affairs and Housing in a bulletin.

Staff are recommending that the definition of Affordable Housing maintain the link with income threshold to ensure low to moderate income individuals are targeted.

The DCA also introduces the term ‘Attainable Housing’ which applies to units that are not an ‘affordable unit’ or a rental unit. The term is defined by a series of criteria in the DCA that denotes the following:

1. The residential unit is not an affordable residential unit
2. The residential unit is not intended for use as rented residential premises
3. The residential unit was developed as part of a prescribed development or class of development
4. The residential unit is sold to a person who is dealing at arms length with the seller
5. Such other criteria as may be defined.

The implication of the definition is that theoretically ‘Attainable Housing’ could include market-based, non-affordable housing, which would be eligible for fee exemptions under the proposed changes to the DCA. Staff recommend that the term, ‘Attainable Housing’ in the DCA should not apply to market based housing for the purpose of fee exemptions. Further information is needed from the Province to clarify what an attainable unit is and how it will compare to the provincial and municipal definitions of affordable housing.

### **Streamlining Development Approvals**

The current land use planning and development approval framework in Ontario involves a series of provincial, regional, and local planning documents that guide development. Bill 23 proposes a series of legislative amendments to the *Planning Act*, *Ontario Heritage Act*, and *Conservation Authorities Act* aimed at accelerating the municipal approval process.

### **Removal of *Planning Act* Approval responsibilities for York Region**

Bill 23 proposes amendments to the *Planning Act* that would remove planning approval responsibilities from all upper-tier municipalities in the Greater Toronto Area (GTA), Waterloo Region and Simcoe County. While the legislative changes are proposed through Bill 23, proclamation would occur at a future date to be determined.

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As proposed, the legislation would remove York Region as the planning approval authority for lower tier official plans, amendments, secondary plans, and plans of subdivision, with the Minister becoming the approval authority. The Minister's decisions are not subject to appeal and the Minister has the ability to delegate *Planning Act* approvals to local municipalities.

Further, proposed changes in Bill 23 would deem the York Region Official Plan (YROP) to be a part of the City of Markham Official Plan, until Markham revokes or amends it to provide otherwise. This would mean the City would have a 1987 Official Plan, Markham Official Plan, 2014 (portions under appeal), and the YROP. The City is planning to launch an Official Plan Review in 2023 to conform to the YROP but will now have to consider the consolidation of various plans as part of that review should this proposal be approved.

Streamlining and providing efficiencies in the planning process is welcomed if it achieves the intended outcome, however staff are unclear about how the role and function of York Region in coordinating overall region-wide growth management, infrastructure planning and servicing will be maintained or distributed. It is anticipated that York Region will still retain control over the approved requirements related to their transportation corridors and servicing allocation framework related to their Transportation Master Plan and Water Wastewater Master Plan. Further work is required to fully understand the implications associated with the proposed changes to remove *Planning Act* approval authority from York Region.

Staff note that there are various initiatives underway in the Development Services Commission that are aimed at streamlining development approvals including, but not limited to, the following:

- A new planning approvals process, developed in consultation with the development industry, to respond to the requirements in Bill 109;
- Establishing standardized Terms of Reference for commonly requested studies for Planning Act applications including those required by York Region;
- Improvement to the City's ePLAN system, web portal, and the introduction of a GIS-based interface for public use;
- The development of a city-wide 3D model with an initial focus on Markham Centre and Markham Road Mount Joy to assist with the review and visualization of development applications;
- A LEAN review that addresses feedback from industry partners and staff in order to streamline and implement efficiencies in the Markham development process;

- Undertaking an infill strategy to address development impacts; and
- Assessing the benefits of implementing a Community Planning Permit System.

These initiatives are aimed at improving planning and development approvals in Markham. A status report on these initiatives will be provided at the Development Services Committee on November 29<sup>th</sup>.

**Removal of site plan control for development of up to 10 residential units will limit the ability of the City to deal with on-site issues and off-site impacts**

The City uses site plan control to achieve conformity with the policies of the Markham Official Plan 2014, in secondary plans, in the Oak Ridges Moraine Conservation Plan, the Greenbelt Plan and in heritage conservation district plans to establish guidelines for a specific parcel or parcels of land. This approach allows tree protection, landscaping, servicing and drainage/grading to be addressed with financial security and agreements to ensure compliance. The removal of site plan control for developments of up to 10 residential units will also fundamentally affect the review of low-rise residential development in heritage conservation districts and in the City's unique Markham Heritage Estates subdivision.

The proposed change would require a new administrative process and the passing of municipal by-laws to address matters related to drainage, grading and servicing including mechanisms to consider the impact of infill development of 10 units within established neighbourhoods, and to secure developers' obligations to construct certain municipal works within the rights-of-way to support those types of developments.

Infill development within heritage conservation districts (Buttonville, Thornhill, Unionville and Markham Village) require the careful consideration of a multitude of planning issues including the management of neighbourhood and site-specific impacts, grading and site servicing, noise, dust, storage of construction materials, road occupancy, and site access. The site plan process allows staff to address and mitigate many of the impacts related to the above. Without the process, staff anticipate that land use compatibility will erode and negative construction impacts will increase in these districts.

Staff do not support the proposed changes in the *Planning Act* to limit the ability of the City to implement site plan control for developments up to 10 residential units.

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**Removing the City's ability to regulate exterior architectural details and landscape design will compromise the ability to create livable, attractive and resilient buildings and spaces**

Markham's focus on design excellence for buildings and the public realm has been critical in the creation of its attractive neighbourhoods, and has been an essential component of its success. Our City's successful reputation has been achieved through the consistent use of Section 41 in the municipal approvals process and the Design Review Panel to enhance the exterior design of buildings, resulting in many buildings receiving design awards. As a result, the City has developed a high level of design sensibility and a strong design culture.

The *Planning Act* recognizes this critical role of the municipality in the review of development applications through site plan control, which empowers municipalities to influence the exterior design of proposed new development to ensure their contribution to the existing urban neighbourhood and public realm.

Bill 23 will eliminate this ability to enhance the exterior design of new developments to regulate exterior features, sustainable design, character, scale, and design features through site plan control.

The City's ability to create desirable streetscapes, attractive built environments and promote sustainable development would be severely limited, compromising the ability to deliver livable, resilient and attractive spaces that also support economic development, tourism, and social vitality.

Staff do not support the proposed amendments that would remove the ability of staff to regulate exterior features through the site plan control process. The unintended consequence will be lower quality development not only in the housing realm, but across the board in all areas of our urban environment.

**Reducing Ontario Land Tribunal (OLT) Hearings**

The *Planning Act* currently provides broad third-party appeal rights regarding local municipal planning decisions concerning the adoption of official plans and amendments, approval of zoning by-laws and amendments, and granting of variances and consents.

The amendments proposed by Bill 23 will eliminate third party appeal rights. The amendment also introduces a new definition for 'specified persons' in the *Planning Act* which are limited to:

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- A corporation operating an electric utility in the local municipality or planning area;
  - Ontario Power Generation Inc;
  - Hydro One Inc;
  - A company operating a natural gas utility in the local municipality of planning area;
  - A company operating an oil or natural gas pipeline in the local municipality or planning area;
  - A person required to prepare a risk and safety management plan under Ontario Regulation 211/01 (Propane Storage and Handling);
  - A company operating a railway line any part of which is located within 300 metres of the area; and
  - A company operating a telecommunication infrastructure provided in the area.

‘Specified persons’ who made oral/written submissions before the decision will be able to file an appeal. Other public bodies such as Conservation Authorities will have limited appeal rights and upper-tier municipalities without planning responsibilities will not have the ability to appeal planning decisions.

Further, proposed transition provisions outline that appeals by a specified person or public body made before Bill 23 comes into force may be dismissed, unless a hearing on the merits of the appeal was scheduled before October 25, 2022, with some exceptions.

The impact of the proposed amendments is that appeal rights would be restricted to specified persons or public bodies that meet the criteria. In addition, per the proposed transition policies, any appeals filed prior to the date Bill 23 is passed by a specified person or public body that did not have a hearing scheduled before October 25, 2022 to discuss the merits of the application will be dismissed.

The City currently has third party appeals associated with the Markham Official Plan, 2014 that would be dismissed based on the proposed changes to the *Ontario Land Tribunal Act*. Any revisions to this interpretation, and the status of outstanding appeals to the Markham Official Plan, 2014 will be confirmed when Bill 23 is enacted.

Staff are generally supportive of changes to the appeal process to make the OLT more efficient, but have concerns about the impact on the appeal rights of residents who may be impacted by proposed developments and agencies and stakeholders whose interests may not be addressed as a part of the development approvals process.

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**Additional measures to streamline Ontario Land Tribunal Hearings**

The proposed changes in Bill 23 would increase the ability of the OLT to dismiss appeals due to unreasonable delays, the awarding of costs, and establish legislation to prioritize OLT cases that will deliver the most housing.

Staff generally support the measures to curtail and streamline appeals regarding land use issues. Staff further note that the measures related to undue delay and awarding of costs would also be applicable to appeals against the City.

**Significant reduction of planning roles for Conservation Authorities**

The City of Markham is entirely located within the jurisdiction of the Toronto and Region Conservation Authority (TRCA) with the mandate to plan for and protect natural resources on a watershed scale.

The proposed regulatory changes to the Conservation Authorities Act would substantially reduce their role in planning and development approvals. It would further prohibit municipalities from seeking advice from conservation authorities on natural heritage matters while requiring conservation authorities to review their land holdings that are suitable for housing development. Staff are of the opinion that none of the TRCA land holdings in Markham, including Milne Dam Conservation Park, are appropriate for housing development.

The proposed changes would have the following implications for the City:

- The City would have to acquire additional resources and expertise related to natural heritage review, protection and management to replace the substantial technical and science expertise provided by the conservation authority. This will increase cost and time.
- A focus on flooding and erosion hazards rather than a watershed-scale, cumulative effects approach, that also considers natural hazards in context of the natural heritage system, could increase risk to life and property from extreme weather events at a time when the City is addressing climate change impacts. This could lead to loss of life and property damage.
- Removing the ability of the TRCA to issue permits in certain circumstances raises questions regarding assumption of liability related to natural hazard impacts, including to upstream and downstream properties.

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Staff are not supportive of the proposed changes to the Conservation Authorities Act proposed in Bill 23.

**The ability of the City to plan for and conserve its rich history of Cultural Heritage will be significantly and negatively impacted.**

Bill 23 proposes amendments to both the *Planning Act* and *Ontario Heritage Act* with the intended goal to “renew and update heritage policies, to reduce red tape and remove barriers that are slowing down housing construction and other priority projects while continuing to conserve and commemorate key heritage properties that matter most to local municipalities”.

Key concerns related to the proposed changes to the *Ontario Heritage Act*, include:

- The ability to allow property owners of all existing listed properties on the Markham Register of Property of Cultural Heritage Value or Interest to object to listing (previously it was only for new listing after July 1, 2021). This creates an unnecessary redundancy in appeal rights. The City has no mechanism to prevent alterations or demolition of a listed property once notice or a permit has been submitted except through designation under Part IV of the Act. The property owner has the right to object as part of the designation process.
- The proposal that if a listed property is not designated within two years, these properties will be automatically removed from the Register and cannot be added back for five years. The City has approximate 320 properties currently listed on the Heritage Register. This change does not take into account the number of listed properties in the municipality, or the resource implications (financial, workload, volunteer commitment) that would be required to research/review and prepare designation reports. In Markham, we primarily designated properties if there is a threat of loss through demolition or the property is part of a development application.
- The proposal to make it more difficult to designate properties by increasing the number of criteria a property would have to meet. Raising the bar to require two or more criteria to be met could exclude a number of simple/local heritage resources that help tell the story of a community and should be protected for future generations.

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City staff support the notion that future listed properties should meet a basic threshold of heritage value and that information included in a heritage registry should be publicly accessible. However, staff do not support the majority of the proposed changes to the *Ontario Heritage Act*.

### **Building More Homes**

**Provincial target of 44,000 units in Markham over 10 years (4,400 units annually) is aggressive, inconsistent with historical averages and, if attained, would require significant acceleration of transportation, servicing, and community infrastructure and additional staffing resources**

The Province has assigned housing targets for 29 of the largest municipalities in Ontario to be achieved over the next 10 years. Markham has been assigned a target of 44,000 new residential units over the next 10 years.

The recently adopted York Region Official Plan (YROP) and supporting infrastructure studies (Transportation) forecasted 2,200 new units between 2021 and 2031 in Markham. The highest 10-year projection for Markham in the YROP is approximately 38,000 units, which would be achieved between 2041-2051. This figure is still below the provincial target of 44,000 and does not take into consideration the investment in transit, transportation, servicing infrastructure, and community amenities that would be required to achieve this rate of growth while developing complete and sustainable communities.

To support these increased housing targets, the Region's Water & Wastewater and Transportation Master Plans will need to be updated to support the accelerated and increased growth anticipated from this legislation. As previously mentioned, there may need to advance investment and implementation with respect to the Region's transportation and servicing infrastructure:

- North Markham Water Servicing – 2022-2031
- McCowan Trunk Sanitary – 2032-2041
- York Durham Sanitary Sewer Improvements – 2042-2051

The City's historical average of total new residential building permits issued over the past five years (2016-2020) has been 2,587 annual units per year. However, the City did reach record volumes of 3,461 new units in 2021.



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There is no indication of how the growth target for Markham was calculated or the type of new dwelling units required to accommodate the target. Assuming the proposed projections align with the current breakdown of unit types, the proposal of 44,000 new units over 10 years would represent double the current workload for City departments with a role in the processing of development applications. The City may need to increase development staffing resources by 50% to advance delivery of required servicing infrastructure ensuring hard and soft services are available to support new residents.

The City will also need to review external factors including external agency review and approvals, and the ability of the construction industry to build units that could affect achievement of the targets.

**Update Municipal Zoning to provide minimum heights and densities in all 22 Protected Major Transit Station Areas (MTSA) within 1 year is too aggressive**

Under the *Planning Act*, municipalities with Protected Major Transit Station Areas (MTSA) were required to update their Official Plans within 1 year of approval. The *Planning Act* prescribes specific regulations that are sheltered from appeal once implemented.

Bill 23 proposes amendments to the *Planning Act* that requires municipal zoning by-laws also be updated with minimum heights and densities for MTSA's within one year of approval. If zoning by-laws are not updated within 1 year, the municipality would lose the ability to shelter the zoning by-law amendment from appeals.

City staff support measures to direct growth to areas with transit to leverage transit infrastructure investments. However, the amendment as proposed is unnecessarily aggressive and punitive to municipalities. The York Region Official Plan received provincial approval on November 4, 2022 and identified 22 MTSA's in the City (see Appendix D for map of MTSA's in Markham). The legislation as proposed would require the City to update the zoning for all 22 MTSA in 12 months to establish minimum heights and densities.

Staff are not supportive of this recommendation as there are existing provisions in the *Planning Act* that allow municipalities to establish minimum heights and densities for MTSA's in zoning by-laws that are sheltered from appeal.

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**As-of-Right Zoning to permit up to three residential units per lot with no collection of Development Charges, Community Benefit Contributions, or parkland dedication fees and no consideration of impacts on established communities**

Bill 23 proposed amendments to support gentle density by allowing up to 3 principal units on any urban-serviced residential parcel including in a detached, semi-detached, or townhouse and prohibiting regulations that would restrict minimum unit sizes, and additional parking spaces. Additional residential units would also be exempt from Development Charges (DC), Parkland Dedication, and Community Benefit Contributions (CBC).

The Affordable and Rental Housing Strategy, endorsed by Council identifies the review of permissions for additional residential units as a priority action item. Staff support additional residential units where appropriate. The proposed changes are to existing low density residential areas where transportation and servicing impacts have not been considered, and three residential units may not be appropriate in all established areas within the City. Further with the exemption of DCs, the cost for the appropriate servicing as well as studies to assess impacts and infrastructure upgrades would be transferred to the property tax base.

Staff are supportive of new opportunities to provide gentle density where appropriate, but further consideration is required about the availability and funding of infrastructure and soft services including schools and park spaces to support new residents.

***Proposed Supporting Growth and Housing in York Region and Durham Regions Act, 2022 requires York Region to update its 2022 Water and Wastewater Master Plan***

York Region updated its Water and Wastewater Master Plan in 2022. The Master Plan identified the Upper York Sewage Solution (UYSS) project as a key project that would provide sanitary servicing and support growth in the upper parts of the Region. The UYSS was developed through an individual Environmental Assessment (EA) that York initiated in 2009 and completed in 2014. Appendix E shows the preferred servicing strategy for the upper part of York Region.

The Province enacted legislation in October 2021 to put a hold on any decision with respect to the UYSS and to put a hold on any actions to advance the application for the UYSS undertaking by York Region. This legislation is known as the *York Region Wastewater Act, 2021*.

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The Province established a York Region Wastewater Advisory Panel to provide confidential advice on options to address wastewater servicing capacity needs in the upper parts of York Region before a decision is made on whether to approve the Individual EA conducted for York Region's UYSS project.

The Panel evaluated four options and recommended the option which connects the UYSS to the York Durham Sewage System (YDSS) via the Yonge Street Sewer. Appendix F shows the routing of sewage flows by way of the YDSS as recommended by the Province's Advisory Panel.

The proposed legislation, if passed, would terminate York's Region's existing EA process and repeal the *York Region Wastewater Act, 2021*. It would require York and Durham Regions to initiate the planning and implementation of improvements to the existing YDSS to convey sewage flows from municipalities from the upper parts of the Region to the Duffins Creek Treatment Plant in the Region of Durham. This project would be exempt from the Environmental Assessment, and only require environmental impact reports. In addition, it would provide the Minister with the power to issue Environmental Compliance Approvals for the projects upon receipt of an application from the Region and completion of satisfactory environmental impact reports.

### **Proposed Legislation has Potential Impact on Servicing to Accommodate Growth in Markham**

Since 2005, York Region has been applying a phased water and wastewater capacity assignment protocol to the lower-tier municipalities to accommodate growth. As a result of the proposed legislation, the YDSS will need to be assessed and improved to accommodate additional flows from the upper parts of the region. This will have potential impacts on the existing YDSS capacity and current allocation parameters for Markham.

Markham currently has a remaining capacity allocation of 46,381 persons (not units) as of September 9, 2021. An assessment of how many applications have been approved since that time will need to be undertaken to better understand the current capacity remaining for Markham. The Region's next capacity allocation assignment is scheduled for 2023 and will need to consider the municipalities in the Upper York Region area. Markham will need to engage the Region and continue to advocate for the appropriate capacity allocation to ensure that it can accommodate future growth in Markham.

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The Markham MiX lands in the City's Future Urban Area and York Downs all require the capacity allocation within YDSS along 16th Avenue to convey its wastewater flows to the Duffin Creek Water Pollution Treatment Plant. The Region's 2022 Water and Wastewater Plan did not identify any upgrades for the portion of the YDSS located along 16th Avenue that will most likely be required to the additional accommodate flows from the upper parts of the Region. Markham will require the Region to confirm that the proposed legislation would not impact the rate of growth in Markham.

### **Municipal Rental Replacement By-laws**

Legislative changes associated with Bill 23 proposed amendments to the *Municipal Act* that would provide the Minister with the ability to make regulations clarifying municipal powers to control the demolition and conversion of rental properties.

The Markham Official Plan, 2014 includes policies that support the protection of rental units from conversions. However, the City does not have a by-law in place. Action 12 in the City's Affordable and Rental Housing Strategy states that the City should explore the implementation of a rental housing protection by-law.

Staff request additional information be provided to clarify the type of regulations that would be proposed to limit the ability of municipalities to regulate the demolition and conversion of rental properties.

### **2. OTHER ASSOCIATED REGISTRY POSTINGS**

In addition to the *More Homes Built Faster Act*, the Province is proposing a series of amendments to legislation, regulations and policy that are associated with Bill 23, but not formally included in the Act. These include but are not limited to:

- The Greenbelt Act and Greenbelt Boundary;
- Building Code Changes;
- Inclusionary Zoning, Regulations; and
- Rent to own arrangements

The following provides a summary of staff comments on key changes.

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**49 hectares proposed for removal from the Greenbelt Plan in Markham**

The Province is proposing to remove or re-designate 15 areas of land totaling approximately 2,995 hectares (7,400 acres) from the Greenbelt Area with the stated objective to accommodate growth and support the building of more homes. The Province estimates that this area would accommodate over 50,000 new homes. In exchange, the Province is proposing to add 3,800 hectares (9,400 acres) of land outside of the GTA in the Paris Galt Moraine and Urban River Valleys (URVs). Replacing lands in the Greenbelt intended to ensure the persistence of natural features in a connected natural heritage system with other lands that already have protection from development, such as river valleys, is a clear reduction in the protection offered by the Greenbelt Plan.

Three of the 15 areas are located in Markham. All three sites are designated 'Greenway' in the Markham Official Plan and, if approved, would result in the permanent loss of approximately 49 hectares of natural heritage land essential for ecological restoration in the Greenway System. One area proposed for removal is adjacent on three sides to the Robinson Swamp Provincially Significant Wetland Complex. The area was the subject of a 2013 Council direction to remove the lands from the Natural Heritage System overlay of the Greenbelt Plan. Two of the three areas proposed for removal from the Greenbelt Plan are located in the Little Rouge Creek corridor, which has been identified as a critical ecological corridor to connect the Rouge National Urban Park to the Oak Ridges Moraine.

It is a critical conservation planning principle that a protected areas network offers long term protection to support biodiversity and ecosystem functions, and result in the maintenance and improvement of ecological conditions. Changing boundaries of a protected areas network in the absence of scientific evidence of ecological rationale undermines management and restoration efforts not only by altering the land area in the natural heritage system, but also by creating uncertainty in investment decisions relating to ecological restoration efforts.

City staff do not support the removal of any lands in Markham from the Greenbelt Plan. Further, the Minister recently initiated a decision on the York Region Official Plan which identifies lands that are needed in Markham to accommodate growth to 2051.

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**Changes to the Ontario Wetland Evaluation System will weaken wetland protection and create uncertainty in approving wetland evaluations**

The Province proposes updates to the Ontario Wetland Evaluation System (OWES), a technical points-based guideline that allows wetland ecologists to evaluate the ecological and hydrological value of wetlands and determine whether they are considered Provincially Significant Wetlands. The proposed changes to the OWES guideline would:

- Remove the Ontario Ministry of Natural Resources and Forestry (MNR) from approving wetland evaluations and allow evaluations to be finalized without a public review process by the municipality or the conservation authority
- Remove the complexing of wetlands and removing points for wetlands that provide habitat for endangered or threatened species

Proposed changes would mean that the City would now be responsible for reviewing and approving wetland evaluations. The City does not employ wetland ecologists and additional resources would be required to provide this technical review function. The changes would also mean fewer wetlands would be evaluated as provincially significant wetlands which may result in a reduction of Markham's Greenway System.

Staff recommend that the Ministry of Natural Resources and Forestry maintain its responsibility of evaluating wetlands and improve the technical scoring system to support greater, not lesser protection of wetlands.

**Establishing consistent parameters for Inclusionary Zoning for all municipalities**

The province is proposing to establish standard parameters for municipalities implementing Inclusionary Zoning (IZ) through Protected Major Transit Station Areas or the Community Planning Permit System. The following parameters are proposed:

Maximum Affordable Units – 5%

Maximum Affordability Period – 25 years

Price Threshold – 80% Average Market Rent/Average Resale Purchase Price

The City's Affordable and Rental Housing Strategy identifies the development of IZ as a priority action. Staff last reported on IZ progress in [June 2022](#) and to date have tested a range of parameters. The proposed parameters would have the impact of limiting the amount of affordable units a municipality can collect and fixing the period of time units are required to remain affordable.

Staff do not support the proposed recommendations to establish parameters for IZ, as the caps will limit the amount of affordable housing a municipality can collect using IZ and the duration the units would be required to remain affordable. To accelerate the supply of affordable housing, staff recommend that the IZ regulation be amended to reduce implementation burden such as the requirement to undertake third party reviews, in particular should the parameters proposed in Bill 23 come into effect.

**NEXT STEPS:**

City staff recommend that this staff report be forwarded to the Ministry of Municipal Affairs and Housing and to York Region as City of Markham's comments on the More Homes Built Faster Act, 2022 (Bill 23) for postings with November 24/25 and December 4/9 commenting deadlines. A staff report will be brought forward to Council in early December with City staff comments on the remainder of changes as proposed in Bill 23.

**FINANCIAL CONSIDERATIONS:**

There are no direct financial implications related to this report. However, should Bill 23 and the associated legislation be approved as proposed, there would be significant financial impacts for the City.

**HUMAN RESOURCES CONSIDERATIONS:**

There are no direct human resources implications related to this report. However, should Bill 23 and the associated registry postings be approved as proposed, there would be significant human resource impacts for the City.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Bill 23 and the associated registry postings does not align with Goal 3.2 of Building Markham's Future Together, 2020-2023 (BMFT): "Build complete communities that offer a range of housing and employment opportunities, transportation options and outstanding community amenities". While the Bill will support a desire to increase housing supply, it does not outline how the necessary hard and community infrastructure to support this growth will be delivered. Further, the Bill will limit the ability of the municipality to enact the principle of growth pays for growth.

Should the proposed changes by the Province come into effect, it is perceived that they will have a significant negative impact on the ability to achieve the other goals and objectives of the BMFT.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

All impacted city departments have been consulted on this staff report.

**RECOMMENDED BY:**

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Darryl Lyons, R.P.P., M.C.I.P.  
Acting Director, Planning and  
Urban Design

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Arvin Prasad, R.P.P., M.C.I.P.  
Commissioner of Development Services

**ATTACHMENTS:**

Appendix A - ERO and ORR Postings Associated with the More Homes Built Faster Act, 2022

Appendix B - City of Markham Comments on More Homes Built Faster Act, 2022 (Bill 23) and Associated Registry Postings

Appendix C – Bill 23 Parkland Implications

Appendix D – Major Transit Station Areas in the City of Markham (York Region Official Plan 2022)

Appendix E – York Region Preferred Wastewater Servicing Strategy

Appendix F - York Region Wastewater Advisory Panel Recommended Routing of Sewage Flows by way of York Durham Sewage System