



## Staff Report for Special Council Meeting

Date of Meeting: January 30, 2023

Report Number: SRPI.23.018

Department: Planning and Infrastructure

Division: Development Planning

**Subject: SRPI.23.018 - Request for Comments - Bill 23, The More Homes Built Faster Act, 2022**

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### Purpose:

A request for comments concerning the Province of Ontario's Bill 23, the *More Homes Built Faster Act, 2022* and related initiatives.

### Recommendation:

- a) That Staff Report SRPI.23.018 be received for information purposes.
- b) That all comments be referred back to staff.
- c) That staff report to Council as necessary regarding further Provincial announcements and regulations once published with respect to further potential impacts to the City.

### Contact Person:

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### Report Approval:

**Submitted by:** Kelvin Kwan, Commissioner of Planning and Infrastructure

**Approved by:** Darlene Joslin, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner, and City Manager. Details of the reports approval are attached.

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### Background:

The Government of Ontario introduced *Bill 23, the More Homes Built Faster Act, 2022* (Bill 23) on October 25, 2022 and it received Royal Assent on November 28, 2022. The purpose of Bill 23 is to introduce significant changes to the existing development approval process in Ontario with the goal of facilitating the construction of 1.5 million new homes Province-wide over the next 10 years. Bill 23 is an omnibus legislation that implements fundamental changes to nine (9) statutes related to development throughout the Province, including the *Planning Act*, the *Development Charges Act*, the *Municipal Act*, the *Conservation Authorities Act*, the *Heritage Act* and the *Ontario Land Tribunal Act*. Although the majority of the changes introduced by the Act came into effect on November 28, 2022, other changes are to come into effect by proclamation on a future date which is to be determined.

This staff report outlines the legislative changes that impact land use planning considerations in Richmond Hill followed by the estimated financial impacts to the City. Accordingly, the purpose of this report is to inform Council of key legislative changes introduced by Bill 23 and to seek comments with respect to same.

### Land Use Planning Considerations:

Bill 23 enacts substantial changes to Ontario's land use planning system to incentivize and stimulate the construction of housing in order to meet growing demand and address the issue of housing affordability. While there are a number of external factors contributing to the uptake and timing of housing development (i.e. market conditions, interest rates, supply chain issues, labour, etc.), municipalities play a significant role in guiding growth and development in our communities through the land use planning process.

Under this planning framework, Richmond Hill is responsible for accommodating growth as directed by the Province, yet the City's municipal obligation extends beyond facilitating the number of people and jobs forecasted. The City is also responsible for the provision of community services such as pipe services (water, sanity and storm), roads, recreational facilities, libraries and parks, amenities, programs and other services that make our communities healthy and sustainable and improve our citizen's quality of life. This section outlines how legislative changes under Bill 23 will impact the City's planning processes and ability to implement major policy drivers valued by the community.

### Planning Act

**Upper Tier and Lower Tier Municipal Planning Responsibilities** (In force date: TBD, on a date to be proclaimed by the Lieutenant Governor)

Bill 23 changes remove planning responsibilities in a number of upper-tier municipalities, including the Region of York. This removal of authority will have far reaching impacts on Ontario's land use planning regime.

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- upper-tier municipalities without planning responsibilities will no longer have the authority or statutory requirement to adopt Official Plans or Official Plan Amendments, approve lower-tier Official Plans or Official Plan Amendments, approve plans of Subdivision, or appeal planning decisions.
- York Region would no longer be the approval authority over local Official Plans and Official Plan Amendments since the approval authority would revert back to the Minister of Municipal Affairs and Housing.
- once this matter is proclaimed, the recent Minister approved 2022 York Region Official Plan will be deemed to be a local Official Plan.
- additionally, the approval authority for draft Plans of Subdivision and Consents would be assigned to lower-tier municipalities, unless the Minister directs otherwise through regulation.

Questions surrounding the direct impacts to lower-tier municipalities range from broader coordination issues to consolidation and approval of Official Plans.

- at this time, it is unclear how cross-jurisdictional issues will be addressed including, amongst others, environmental protection, coordination of inter-jurisdictional infrastructure, excess soil management, conversion of employment lands, allocation of growth and Settlement Area expansions.
- it is also unclear how the removal of upper-tier planning responsibilities will impact local municipal collaboration and implementation of larger sustainability goals.
- once removal of York Region's planning responsibilities is proclaimed, the Regional Official Plan (ROP) will be deemed to be the Official Plan (OP) of the lower-tier municipalities until a lower-tier revokes or amends it. Concurrent to Richmond Hill's OP Update process underway, a process for consolidating the two OPs will need to be determined as well as the process for approval by the Minister.

Complementary to Bill 23, the Province is also proposing to create a new policy document that would replace the *Provincial Policy Statement* and *A Place to Grow: the Growth Plan for the Greater Golden Horseshoe*. It is anticipated that in so doing, some greater clarity could be provided in terms of addressing questions regarding growth management and inter-municipal coordination. Nevertheless, these proposed changes are likely to impact the timing of the City's Official Plan Update given these major changes within the planning regime.

### **Plans of Subdivision** (In-force date: November 28, 2022)

Bill 23 removes the requirement for a municipality to hold a statutory public meeting in consideration of draft Plan of Subdivision applications; however, the existing public notice requirements for such applications are being maintained.

- in addition to previous changes made by the Province to limit third party appeals of draft Plan of Subdivision applications, there is similar concern that this aspect of the legislation may limit public input and consultation which may result in the reduction of transparency and oversight in the land use planning process.

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**Site Plan Control** (In force date: November 28, 2022, except for certain changes which will come into effect on a date to be proclaimed by the Lieutenant Governor)

Bill 23 exempts Site Plan control for residential development proposals that contain ten (10) residential units or less and removes the municipality's ability to require plans and drawings related to exterior design and landscaping. In this regard, several facets of the City's existing Site Plan approval process will be directly impacted.

- matters pertaining to the review of architectural and landscape details are no longer within the scope of Site Plan control, impacting the City's ability to ensure a quality public realm (including compatibility, good fit, and transit/pedestrian supportive environments) and removing the City's ability to regulate small scale residential development within areas such as the Oak Ridges Moraine, Lake Wilcox and the Village Core;
- the exterior design appearance of elements, facilities and works is not subject to site plan control, except to the extent where the appearance impacts matters of health, safety, accessibility, sustainable design, or the protection of adjoining lands. Further clarification is needed to determine how these changes directly impact the City's Sustainability Metrics program and if other processes/mechanisms are required to help achieve the City's climate targets (e.g. municipal by-law).
- current engineering approval processes will be directly impacted since small scale residential proposals will likely have to be approved through an alternative or revised process (i.e. the Site Alteration process) that ensures that key infrastructure and both on-site and off-site obligations are secured. The revised process will likely result in the need for increased staffing resources and for proponents to enter into some form of Development/Servicing Agreement which will not necessarily speed up approvals, while possibly exposing the municipality to more risk.
- developments containing up to 10 residential units will now be able to directly apply for Building Permits where applicable zoning permits such development. The Building Code sets the minimum standard for design and construction of buildings and is not a land use regulation in itself. Since the Building Code relies on other applicable laws (e.g. the *Planning Act*, Zoning By-laws, etc.) to confirm compliance with land use regulations, policies and protocols, in the absence of Site Plan approvals which must have regard for various matters, including compatibility requirements, land use considerations will rely solely on the applicable zoning provisions. As such, the City may have to amend its Zoning By-laws to address these changes.
- architectural controls, engineering standards, construction management plans, etc., that are typically addressed through the Site Plan approval process cannot be implemented through the Building Permit process. Without these controls available in developments of 10 units or less, increased complaints from the public related to matters such as architectural control, tree preservation, compatibility with existing uses, construction traffic, dirt, debris, noise, etc., may result as these matters are not mandated by the Building Code. Other regulations such as tree protection in accordance with the City's Tree Preservation By-law (41-07) and Trees on Town Streets By-law (40-07), etc., that are not applicable law under the Building Code will have to be regulated through other means.

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### **Planning Application Appeals** (In-force date: November 28, 2022)

Bill 23 prohibits third party appeals of Consent and Minor Variance applications. These changes are intended to expedite approvals by ensuring that once a decision is made by a Committee of Adjustment, Consent and Minor Variance applications can no longer be appealed by a third party (someone other than the assessed property owner).

- there is concern that the legislative changes may limit public input and consultation with respect to the merits of a development proposal which may result in the loss of transparency and oversight in the land use planning process.
- in addition to the preceding, appeals of Consents and Minor Variance applications for which an Ontario Land Tribunal (OLT) hearing had not been scheduled as of October 25, 2022 have been dismissed retroactively.

### **Community Benefits Charge** (In force date: TBD, on a date to be proclaimed by the Lieutenant Governor)

Bill 23 reduces the potential amount of Community Benefits Charges (CBC) to be collected from development. The CBC was a measure recently imposed by the Provincial Government to replace the previous density bonusing regime of the *Planning Act* (i.e. Section 37) which was often used by municipalities as a viable funding source to secure important municipal infrastructure, services and community amenities intended to support growth.

- the maximum CBC rate would be based only on the land value of the new units and not an entire parcel of land that may include existing development. In this regard, the maximum CBC of 4% of the land value would be discounted by the existing square footage as a proportion of the total building square footage.
- upon proclamation, the maximum CBC of 4% of the land value would also be discounted by the square footage of affordable/attainable housing units (as defined in the *Development Charges Act*). Hence, the CBC would not be charged for these types of housing units.

## **Housing Targets and Affordable Housing Tools**

### **Housing Targets**

While not directly included in Bill 23, the Province has assigned housing targets based on population size and growth rates to 29 municipalities. These municipalities will be required to prepare housing pledges that identify tools and strategies to achieve their housing target. In this regard, Richmond Hill has been given a target of 27,000 new units to be built over the next 10 years. The new housing target from the Province anticipates a rapid acceleration of growth over the next decade.

- the City had previously projected through the preparation of the Community Benefits Charge Strategy that nearly 13,827 new residential units could be built from 2022 to 2032, which is 13,173 units short of the housing target set by the Province.

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- effectively, the new municipal target for Richmond Hill contemplates two-thirds of the previously forecasted growth to 2051 to occur within the first 10 years of the 30-year forecast horizon.
- this new target expects a doubling of anticipated Building Permits sustained over the next 10 years, which is a highly unprecedented rate of growth.
- the City may need to re-examine how existing infrastructure and municipal resources can accommodate the expected increase in the pace of growth over the next ten years.

### **Major Transit Station Areas** (In force date: November 28, 2022)

In keeping with its mandate to increase housing, municipalities will be required to update zoning to include minimum heights and densities within approved Major Transit Station Areas (MTSAs) and protected MTSAs within one year of an MTSA/PMTSA being approved. Minimum heights and densities for MTSAs/PMTSAs will need to be reflected in City policies and by-laws.

- the proposed change requires the City to update its Zoning By-laws to reflect approved MTSA height and density provisions within one year of the Official Plan policies for PMTSAs coming into effect in order for the implementing by-laws to be protected from appeals.

### **Fees and Charges related to Affordable/Attainable Housing**

Bill 23 proposes a number of discounts and exemptions on development charges, cash-in-lieu of parkland dedication and community benefits charge payments related to affordable housing units (rental/ownership), attainable housing units, inclusionary zoning units, non-profit housing developments and purpose-built rental housing units. It should be noted that the Province has yet to clearly define what constitutes 'affordable housing' or 'attainable housing' (e.g. market-based price, income-based threshold, etc.), which will help determine which units qualify for these discounts. Details on these discounts and exemptions are discussed in the Financial Considerations section of this report.

### **Inclusionary Zoning**

Also related to Bill 23 is a proposal to amend the regulation related to Inclusionary Zoning (IZ) policies and by-laws. Through inclusionary zoning, municipalities can require for-profit developers to construct some proportion of new residential development as affordable housing. The Province is proposing a cap on affordable housing units that could be secured to a maximum of 5% of total new residential units in eligible developments, and also to cap the maximum affordable period to 25 years. In accordance with the City's Affordable Housing Strategy, the City was to consider the use of IZ as a tool to secure affordable housing over a period of time through the City's Official Plan Update.

- in light of the proposed 5% cap and proposed changes to the *Development Charges Act* (yet to be proclaimed), the effectiveness of an IZ tool in helping the City achieve its affordable housing goal will need to be considered.

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### **Additional Residential Units** (In-force date: November 28, 2022)

Bill 23 allows additional residential units (ARU) within existing residential development. An ARU is a self-contained unit with a private kitchen, bathroom facilities and sleeping areas within a main residential building or a separate building located on the same property.

- as of right, up to three units per lot are allowed (i.e. up to three units in the primary building, or up to two units within the primary building and one unit within an ancillary building or structure).
- these changes apply to any parcel of urban residential land located within a Settlement Area having access to full municipal water and sewage services.

The City already has provisions to permit ARUs for which some details will need to be updated.

- in April 2021, Council amended the Official Plan and adopted By-law 13-21 to permit up to three residential units on most lots (i.e. up to two units in the primary building and one unit within an accessory structure) subject to specific criteria, including a provision for a proponent to comply with all of the technical requirements for such uses as mandated by the *Planning Act* and other applicable legislation (i.e. the Building Code, etc.).
- staff is in the process of reviewing the provisions of both the City's Official Plan and By-law 13-21 to ensure compliance with Bill 23.

### **Rental Properties** (In force date: November 28, 2022)

The changes to the *Municipal Act* enable the Minister of Municipal Affairs and Housing to make regulations to standardize and clarify municipal powers to regulate the demolition and conversion of residential rental properties with 6 or more units and to standardize rules and requirements municipalities may include in their by-laws. These amendments will not impact renter protections or requirements under the *Residential Tenancies Act*. To date a proposed regulation has not yet been provided for comment.

- the City does not currently have a by-law that deals with the conversion of rental properties. However, the City recently adopted OPA 18.3 which includes policies that would restrict the demolition and conversion of purpose-built rental housing. The purpose of the OPA is to protect the small supply of purpose-built rental housing (less than 1,800 units) in the City.

## **Parkland**

**Parkland Dedication and Cash-in-Lieu** (In force date: November 28, 2022, except for certain changes which will come into effect on a date to be proclaimed by the Lieutenant Governor)

Bill 23 changes requirements for parkland dedication and cash-in-lieu to provide more certainty in parkland costs in order to facilitate housing development. These changes include:

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- requiring municipalities to enter into agreements to enforce parkland requirements;
- requiring municipalities to develop a Parks Plan before the enactment of a Parkland Dedication By-law;
- changing the maximum alternative parkland dedication rate for land to be conveyed from 1 hectare for each 300 dwelling units to 1 hectare for each 600 net residential units;
- changing the rate for payments in lieu of parkland dedication from 1 hectare for each 500 dwelling units to 1 hectare for each 1000 net residential units;
- ensuring that no more than 15 per cent of the land proposed for development or redevelopment (or equivalent value) will be required for parks or other recreational purposes for sites greater than 5 hectares and no more than 10 per cent for sites 5 hectares or less;
- establishing a framework for owners of land to identify land to be conveyed to satisfy requirements of a by-law passed under the parkland provisions of the *Planning Act*. In this regard, land that is identified for the purposes of conveyance may include, among other things, encumbered lands as well as privately owned publicly accessible spaces (POPS). The framework will permit owners to appeal to the OLT if the municipality refuses to accept the conveyance of the identified land; and,
- requiring municipalities to spend or allocate 60 percent of the monies in the special account required by subsection 42(15) of the *Planning Act* annually.

Richmond Hill's parks planning process already implements four of the proposed parkland changes arising from Bill 23 through the Council approved 2022 Parks Plan, the 2022 Parkland Dedication By-law and the City's capital planning process.

- Richmond Hill's 2022 Parkland Dedication By-law already freezes parkland rates for two years following the approval of any type of development application, provided that a building permit is sought during that time. Further modifications may be provided as part of the on-going OLT Appeals to the Parkland Dedication By-law;
- Richmond Hill's Parks Plan was approved in June of 2022 prior to the enactment of its Parkland Dedication By-law in September of 2022;
- since the previous by-law was enacted, Richmond Hill's Parkland Dedication By-law has only applied parkland dedication to new units.
- Richmond Hill's Capital Plan already allocates over 60% of the cash-in-lieu of parkland reserve funds anticipated at the beginning of 2023.

While the overall thrust of Bill 23 appears to provide more certainty for developers, there is less certainty for municipalities to acquire and/or pay for the provision of additional services, including parks, needed in growing, intensified and largely vertical communities. For example:

- an owner of land may identify lands for parkland conveyance in any location and with any encumbrance(s) underneath the lands (i.e. pipes, parking, stormwater tanks), which may limit the City's ability to provide parks close to housing, create a strain on existing parks, and limit the type of programming that can be provided on parks;
- funding available to provide municipal infrastructure, including parks, through cash-in-lieu of parkland is cut in half with no solution for how the municipality resolves this funding gap.



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For parkland service levels to keep pace with growth, the taxpayer will likely be subsidizing future park development, revitalization and repair and replacement by paying higher taxes. Alternatively, the City will need to put more resources into seeking grants, partnerships or pilot projects to provide parkland facilities for the growing population or initiate a pause period on parkland acquisition outside of *Planning Act* applications to continue to fund the capital program; and,

- limitations on funding plans and background studies, like the City's 2022 Parks Plan, will affect the City's ability to consult and develop such plans with the community. The City will also need to put more resources into seeking grants, partnerships or pilot projects to provide parkland facilities for the growing population or initiate a pause period on parkland acquisition outside of *Planning Act* applications to continue to fund the Capital program.

### **Conservation Authorities Act**

#### **Role of Conservation Authorities** (In force date: January 1, 2023)

In addition to previous legislation, Bill 23 further scales back the role of Conservation Authorities (CAs) as it relates to the land use planning process.

- CAs are prohibited from commenting on conservation and environmental matters, except where they are related to natural hazards (i.e. typically flooding and erosion or slope stability concerns) as outlined through the commitments and objectives of Ontario's Flooding Strategy.
- the changes also limit CA appeals of land use planning decisions under the *Planning Act*. Although CAs can continue to appeal matters affecting land that they own or where they are the applicant, as a public body CAs would only be able to appeal matters related to natural hazard policies in Provincial Policy Statements.
- additionally, Bill 23 gives the Minister the authority to direct a CA to maintain its fees charged for programs and services at current levels and to require a CA to identify and inventory lands it owns or controls that may support future housing development.

Changes to the CA's role in the land use planning process will result in technical and resource capacity issues for the City.

- since CA comments are now limited to natural hazards only, the TRCA will not be able to offer the City its expertise on ecology, natural heritage, wetlands and biodiversity for proposals under prescribed Acts and these responsibilities will now fall to the City.
- likewise, municipalities may no longer ask CAs to accompany them on appeals as subject matter experts related to areas beyond natural hazards (i.e. natural heritage matters, geomorphology matter, hydrogeological matters).
- the recent prohibition on the CA's commenting role is a direct departure from recent Provincial amendments to the *Conservation Authorities Act* which would have allowed municipalities to choose whether to ask CAs for technical advice based on their specific needs and as reflected in a Memorandum of Understanding between the City and TRCA.
- the City may need to seek additional staff resources in order to fill this gap in technical review and gap in subject matter expertise for appeals, or seek approval of consulting

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budgets to hire private sector environmental professionals to provide advice on these matters.

### **Wetlands Policy Implementation**

#### **Evaluation of Wetlands** (In force date: January 1, 2023)

Bill 23 includes updates to the Ontario Wetland Evaluation System (OWES) such as adding new guidelines related to the re-evaluation of wetlands and updates to mapping of evaluated wetland boundaries, changes to better recognize the professional opinion of wetland evaluators and the role of local decision makers (i.e. municipalities), and other housekeeping amendments.

- the changes to the OWES system will allow developers of land to compensate for the loss of a wetland versus protecting wetlands in-situ. This change may lead to the removal of wetlands and potential disconnection in the City's Greenway System in order to accommodate new housing.
- the City will need to establish a wetland offset program, which would likely require offsite solutions, the acquisition of lands and/or the provision of additional infrastructure. This may be difficult given the other Bill 23 changes that may impact a municipality's ability to acquire land (i.e. parkland).
- in addition to providing natural water quality improvement and ecological habitat, wetland complexes play a very important stormwater management role, particularly with respect to flooding and water quality treatment. If these wetland complexes are eliminated, additional stormwater management infrastructure will be required to compensate for their loss. This will put more pressure on the City's existing stormwater management assets as more stormwater infrastructure may be needed, increasing the financial burden to the municipality and ultimately the taxpayer.

### **Ontario Heritage Act**

#### **Heritage Properties and Districts** (In-force date: January 1, 2023)

Bill 23 amends the *Ontario Heritage Act* (OHA) and changes how municipalities identify and protect heritage properties and districts. Changes to the OHA include: new requirements and limitations for the management of Municipal Heritage Registers and the inclusion of non-designated ("listed") properties on the Register, changes to the criteria used to evaluate properties and districts for potential listing or designation, new procedural restrictions on the designation of properties and Heritage Conservation Districts, and other housekeeping amendments.

- Richmond Hill's Heritage Register will need to be reviewed and decisions made as to whether listed properties (properties of heritage interest) are to be designated within the prescribed two-year time frame (2025). If not, all 236 listed properties will automatically be removed from the Register. The City will also be prevented from re-listing these properties for five years.

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- should the decision be made to proceed with review/selective designation of listed properties, this would require a significant shift in staff priorities. In this case, the City will likely require additional staff resources, or additional consulting budgets to hire private sector heritage professionals to complete this work.
- while there are listed heritage properties located throughout the City, the Village Core neighbourhood may see the most significant impact, due to its high proportion of listed properties. The loss of heritage protection in this area could result in the removal of many historic buildings, and a subsequent weakening of the area's unique character and sense of place.
- as owners of all listed properties are now able to object to their property being included on the Register, new processes for considering objections will need to be established.
- the Province's restructuring of the criteria (Reg. 569/22) for determining cultural heritage value (expanding three previous criteria to nine) provides greater clarity in the evaluation of cultural heritage significance.

### **Ontario Land Tribunal Act**

**Ontario Land Tribunal** (In force date: November 28, 2022)

Bill 23 amends the *Ontario Land Tribunal Act* by enhancing the power of the OLT to prioritize certain hearings and dismiss appeals.

- the OLT may dismiss a proceeding without a hearing on the basis that the person who brought the proceeding has contributed to undue delay, or if the OLT is of the opinion that a party has failed to comply with an order of the OLT in the proceeding.
- the OLT may order an unsuccessful party to pay a successful party's costs.
- the Minister has the authority to make regulations requiring the OLT to prioritize the resolution of specified classes of proceedings, prescribing timelines that would apply to specified steps taken by the OLT in specified classes of proceedings (the implications of a failure of the OLT to comply with the timelines prescribed by the Minister are also addressed), and to require the OLT to report on its compliance with the timelines.

The changes will have the potential to limit public/stakeholder input and consultation on the merits of a development proposal.

- requiring unsuccessful appellants to pay an applicant's costs may deter valid appeals by the public/stakeholders that have a specific interest in a development proposal.
- the revisions introduced by Bill 23 may reduce transparency and oversight in the land use planning process.

### **Development Charges Act**

**Development Charge Exemptions and Discounts** (In-force Date: November 28, 2022, except for certain sections which are dependent on future regulations which come into effect on a date to be proclaimed by the Lieutenant Governor).

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Bill 23 amends the *Development Charges Act* by reducing and exempting fees typically levied by municipalities and other authorities that can significantly impact the cost of development, as follows:

- exemptions to the payment of DCs for the following types of developments:
  - affordable residential rental/owned units;
  - attainable housing units;
  - non-profit housing developments; and
  - affordable housing units required pursuant to the enactment of an Inclusionary Zoning By-law.
- exemptions to the payment of DCs for additional residential units, as follows:
  - existing rental residential buildings with four or more residential units, the greater of one unit or 1% of the existing residential units will be exempt from DC;
  - a second unit in a detached, semi-detached, or rowhouse if all buildings and ancillary structures cumulatively contain no more than one residential unit;
  - a third unit in a detached, semi-detached, or rowhouse if no buildings or ancillary structures contain any residential units; and
  - one residential unit in a building or structure ancillary to a detached, semi-detached, or rowhouse on a parcel of urban land, if the detached, semi-detached, or rowhouse contains no more than two residential units and no other buildings or ancillary structures contain any residential units.
- removal of land from the list of eligible costs for certain services, to be prescribed later. In addition, the legislation removed growth studies from the list of eligible costs.
- discount on Rental Housing through reductions to the payment of DCs for the development of rental housing, as follows:
  - 3 or more bedrooms: 25% reduction;
  - 2 bedrooms: 20% reduction; and,
  - all other bedroom quantities: 15% reduction.
- for all DC by-laws passed after January 1, 2022, the charge must be phased-in annually over the first five years the by-law is in force, as follows:
  - Year 1: 80% of the maximum charge;
  - Year 2: 85% of the maximum charge;
  - Year 3: 90% of the maximum charge;
  - Year 4: 95% of the maximum charge; and
  - Year 5 to expiry: 100% of the maximum charge.
- under the new changes, the maximum DC interest rate is set at the average prime rate plus 1%. This maximum interest rate provision applies to all instalment payments and eligible Site Plan and Zoning By-law Amendment applications.
- annually, beginning in 2023, requirement that municipalities spend or allocate at least 60% of the monies in a Development Charges Reserve Fund at the beginning of the year for water, wastewater, and services related to a highway. Other services may be prescribed by the regulation.
- increase the average historical level of service calculated to over fifteen years from the ten year period preceding the preparation of the DC background study.

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- a DC by-law expires ten years after the day it comes into force. This extends the by-law's life from five to ten years.

Industry stakeholders, including the Association of Municipalities of Ontario, have been especially critical of these changes, arguing that the amendments will result in a shortfall of approximately \$5 billion for Ontario's municipalities which will be passed onto citizens in the form of higher property taxes and/or reduced services. The formation of a regulatory body to decide which services are eligible is also concerning as taxpayers will be responsible for costs associated with the delivery of ineligible infrastructure needed to support growth.

Changes to the *Development Charges Act* resulting from Bill 23 as discussed above, will negatively affect the City's ability to collect DC revenues that are currently being utilized for key infrastructure projects (i.e. sanitary, water, transportation, recreation, fire, etc.) needed to support planned growth, potentially slowing development, or adding financial pressures to existing taxpayers. These changes could have the effect of driving up market value prices which could inadvertently drive up the cost of affordable housing contrary to the policy direction.

### Financial Considerations:

City staff has worked with Watson & Associates Economists Ltd. in analyzing the City's financial impacts from Bill 23 over the next ten years. These changes will result in significant revenue losses to the City in growth-related funding tools (i.e. Development Charges, Community Benefits Charges and Parkland Dedication). The estimates are preliminary and high-level based on the information available to date. For certain aspects of the legislation, it is unclear how the changes will be implemented as the Province has indicated these changes are to be clarified through future regulations/bulletins. A summary of the total estimated reduction in revenues is as follows:

Revenue Tool	Overall Revenue Loss	Reduction in Forecasted Revenues
Development Charges	\$87.7 million	32%
Community Benefits Charges	\$3.9 million	25%
Parkland Dedication	\$238.2 million	61%
<b>Total Revenue Loss</b>	<b>\$329.8 million</b>	<b>49%</b>

### Development Charges:

#### Exemptions

- based on preliminary analysis the 13,827 units identified in the growth forecast, approximately 2,870 (21%) units will be exempt as a result of the changes to the legislation. This will result in revenue loss of \$30.8 million.

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- Additional Residential Units - approximately 550 units will be exempt under the additional residential unit exemption. This will result in revenue loss of approximately \$9.8 million.
- phase-in of DCs - assumption that the current rates would be phased in as of 2022 (i.e. 80% of the current rate would be charged to DC eligible development). As a result of this five year phase-in of the charge, the City would forego approximately \$11.6 million in revenues over the first five years of the forecast.
- removal of Land Costs - at this point, it is unclear what land costs are to be removed from the list of eligible costs. A conservative, and high-level estimate for related revenue loss of approximately \$25.2 million over the ten-year forecast period.
- removal of Growth Study Costs - revenue loss of approximately \$5.2 million has been estimated by applying the charge for growth studies (i.e. Official Plans, DC studies, master plans etc) to the growth forecast over the next ten years.
- discount for Rental Housing - approximately 1,500 units will be eligible for DC discount, which will result in revenue loss of approximately \$5.1 million over the ten-year forecast period.
- the service standard change has not been modelled and quantified; however, for municipalities experiencing significant growth in recent years, this may reduce the level of service cap, and the corresponding DC revenue recovery. The impact of this change will be better understood through the upcoming DC by-law update.

A summary of estimated reduced DC revenues is as follows:

Development Charge Act Change	Revenue Loss (\$)
<b>New Statutory Exemptions</b>	<b>\$30.8 million</b>
<b>Additional Residential Unit Exemption</b>	<b>\$9.8 million</b>
<b>Mandatory Phase-in of D.C.</b>	<b>\$11.6 million</b>
<b>Capital Costs Related to Land Excluded from Charge</b>	<b>\$25.2 million</b>
<b>Capital Costs Related to Studies Excluded from Charge</b>	<b>\$5.2 million</b>
<b>Rental Housing Discount</b>	<b>\$5.1 million</b>
<b>Total</b>	<b>\$87.7 million</b>

### **Community Benefits Charges:**

Similar to changes to the *Development Charges Act*, affordable residential units, attainable residential units, and inclusionary zoning residential units are now exempt from the payment of CBCs.

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- based on the same assumptions utilized to estimate the revenue loss for DCs, the loss in CBC revenue as a result of exemptions for affordable and inclusionary zoning residential units is approximately **\$3.9 million over the 10-year forecast period**

### **Planning Act - Parkland Dedication**

The City's current parkland dedication by-law provides for a fixed per unit rate based on the alternative rate. This charge has been recalculated for the purposes of this analysis to reflect the 1 hectare for every 1,000 units. The change results in a significant loss in revenue, especially with respect to the cap when applied to high-density development. **It is estimated that over the 10-year forecast period, the loss to the City will be approximately \$238.2 million.**

### **Summary of Bill 23 Impacts to Richmond Hill:**

The provision of housing at an accelerated pace is the main driver behind Bill 23, in that the Province is directing municipalities to meet more ambitious housing targets and is implementing a number of changes to planning and financial tools to incentivize affordable housing. In some cases, the City is already implementing similar measures such as permissions for additional residential units, an update to the City's Parks Plan and Parkland Dedication By-law, and discounts for non-profit housing development. In other areas, projections, policy measures and processes will need to be revised.

- the Province has issued housing targets based on population size and growth rates to 29 municipalities; Richmond Hill has been given a target of 27,000 new units to be built over the next 10 years.
- with respect to inclusionary zoning, the Province is proposing a cap on affordable housing units that could be secured to a maximum of 5% of total new residential units in eligible developments, and also to cap the maximum affordable period to 25 years.
- additional residential units are permitted, as of right, up to three units per lot (i.e. up to three units in the primary building, or up to two units within the primary building and one unit within an ancillary building or structure).
- affordable housing units, attainable housing units, inclusionary zoning units and non-profit housing developments will be exempt from the payment of development charges.
- affordable housing units, attainable housing units, inclusionary zoning units are exempt from the payment of community benefit charges.
- parkland dedication rates and cash-in-lieu of parkland rates have been cut in half and affordable housing, attainable housing, inclusionary zoning, non-profit and ARU units are exempt from parkland dedication requirements.

To further stimulate housing development, a number of planning mechanisms and controls are being removed in order to streamline the development approvals process.

- planning responsibilities in a number of upper tier municipalities, including the Region of York, will be removed and the Minister becomes the approval authority for Official Plans and Official Plan Amendments.

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- municipalities will no longer be required to hold a statutory public meeting in consideration of draft Plan of Subdivision applications.
- Bill 23 exempts Site Plan control for residential development proposals that contain ten residential units or less and removes the municipality's ability to require plans and drawings related to exterior design and landscaping.
- matters pertaining to the review of architectural and landscape details are no longer within the scope of Site Plan control.
- although exterior design considerations where the appearance impacts matters of health, safety, accessibility, sustainable design, or the protection of adjoining lands under Site Plan control remain, clarification is needed on how the changes impact the City's Sustainability Metrics program.
- current engineering approval processes will be directly impacted since small scale residential proposals will likely have to be approved through an alternative/revised process.
- developments containing up to 10 units will now be able to directly apply for Building Permits where applicable zoning permits such development.
- architectural controls, engineering standards, construction management plans, etc., that are typically addressed through the Site Plan approval process cannot be implemented through the Building Permit process.
- Bill 23 prohibits third party appeals of Consent and Minor Variance applications.
- the maximum rate of Community Benefits Charges (CBC) to be collected from development is reduced as it is now based only on the land value of the new units and not an entire parcel of land.
- for parkland service levels to keep pace with growth, the City will likely have to charge higher taxes, seek out more grants and partnerships, and/or initiate a pause on parkland acquisition outside of planning applications.
- since CAs are prohibited from commenting on matters other than natural hazards, responsibility for natural heritage, geomorphology and hydrogeological matters will rest with the City, requiring additional staff resources or the hiring of private sector consultants to fill this gap.
- changes to the Ontario Wetland Evaluation System to allow for compensation of wetlands versus protecting wetlands in-situ may lead to wetlands being removed and the City's Greenway System potentially being disconnected in order to accommodate new housing.
- Richmond Hill's Heritage Register must be reviewed and decisions made within a two-year timeframe to prevent the automatic delisting of properties and the resulting loss of heritage protection for many of the City's historical buildings.

The loss of these planning mechanisms and controls will impede the City's ability to achieve city building goals such as high quality building design, heritage conservation and public realm, sustainable development and green infrastructure, complete streets that support pedestrian and transit-oriented environments, and provision of parkland and other greenspaces. These changes also limit the City's ability to manage adverse impacts and nuisance issues during construction and limits our ability to fulsomely track and plan for growth and services.

Furthermore the loss of revenue from reduced development charges, parkland cash-in-lieu payments and community benefit charges restricts the City's capacity to fund major capital



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investments designed to improve and maintain services and amenities for our growing community. Based on assumptions to date, the total loss in revenue for the City is estimated to be \$329.8 million over the next ten years, representing a 49% reduction in forecasted revenues. These revenue losses will require the City to either delay the construction of growth-related infrastructure, issue debt, and/or increase property taxes.

Changes from Bill 23 are expected to continue as the Province releases supporting regulations, proclamations and bulletins that trigger various pieces to come into effect. As noted, for example, definitions for affordable housing and attainable housing are yet to be released and will impact how we calculate the discounts and exemptions for fees related to these types of housing. Complementary to Bill 23, the Province is also proposing to create a new policy document that would replace the Provincial Policy Statement and A Place to Grow: the Growth Plan for the Greater Golden Horseshoe. These additional changes will likely impact the timing of the City's Official Plan Update and other related work to support growth and development.

### **Relationship to Council's Strategic Priorities 2020-2022:**

Impacts from Bill 23 changes to the planning system, tools and fees available to municipalities will affect Council Strategic Priorities. Efforts to stimulate and accelerate housing development in the City supports growth and intensification in Richmond Hill as well as a 'Strong Sense of Belonging' through the City's Affordable Housing Strategy. However the City's ability to 'Balance Growth and Green' and reinforce a sense of belonging unique to the City may be challenged with less tools to acquire parkland, conserve natural heritage features such as wetlands, secure sustainable design features in development, and promote urban design and heritage conservation. Although increased intensification in major transit station areas support 'Getting Around the City' through higher-order transit such as the subway, providing amenities and facilities to improve active transportation networks may be more difficult. With respect to 'Fiscal Responsibility' the loss of revenue from exemptions or discounts for Development Charges, Cash-in-lieu of Parkland Dedication, and Community Benefit Charge payments will negatively impact our ability to invest in our growing community.

### **Climate Change Considerations:**

Bill 23 impacts the City's ability to secure parkland, require sustainable design in developments of ten units or less, and adds increased pressure on infrastructure and services as a result of accelerated growth targets. In turn these changes affect the City's ability to incorporate climate mitigation and adaptation measures through enhancement of our parks and urban forest, the development of energy efficient buildings and alternative/renewable energy, and the funding of capital infrastructure to abate flooding and address other local climate change impacts.

### **Conclusion:**

Changes to legislation via Bill 23 and related initiatives are wholly focused on facilitating the construction of more housing in the Province and the Greater Golden Horseshoe in particular. Collectively these initiatives have prioritized the provision of housing over all of the other 19 Provincial interests provided in Section 2 of the *Planning Act*. Furthermore, most of the

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changes as noted in this report are geared towards changing the way the municipality approves new housing and finances the construction of infrastructure (hard and soft) to support new growth in our communities.

As all provisions of the legislation come into effect, municipalities will need to change their systems and processes to address the new way of delivering housing in Ontario. Upcoming regulations and policy updates, to some degree, will help to inform these changes in the intervening time. However, municipalities are left with little guidance to best adapt to all of the changes. The collective changes focus on increasing housing supply, but few of them result in ensuring that the supply meets the affordability needs of our communities. While discounts and/or exemptions from various municipal fees are intended to be provided, there is no ability for municipalities, in most cases, to ensure that the discount is transferred to the home occupant. Furthermore, despite all of these proposed changes, municipalities are still reliant on actual developers to build these units and there are no tools in place to mandate the construction within the Province's desired timeframe.

### **Attachments:**

The following attached documents may include scanned images of appendixes, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format please call the contact person listed in this document.

Attachment 1: Financial Impact of Bill 23 Memorandum from Watson & Associates Economists Ltd.

Attachment 2: Bill 23, *More Homes Built Faster Act, 2022*

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### Report Approval Details

Document Title:	SRPI.23.018 - Request for Comments - Bill 23.docx
Attachments:	- Attachment 1 Financial Impact of Bill 23.pdf - Attachment 2 Bill 23, More Homes Built Faster Act, 2022.pdf
Final Approval Date:	Jan 27, 2023

This report and all of its attachments were approved and signed as outlined below:

**Gus Galanis - Jan 27, 2023 - 9:10 AM**

**Sherry Adams - Jan 27, 2023 - 10:08 AM**

**Kelvin Kwan - Jan 27, 2023 - 10:08 AM**

**Darlene Joslin - Jan 27, 2023 - 11:06 AM**