

REPORT

Planning and Development Council

Meeting Date: November 13, 2023

FROM: Planning Services Department

DATE: October 31, 2023

SUBJECT: **Bill 131, Transportation for the Future Act, 2023 and Bill 134, Affordable Homes and Good Jobs Act, 2023**

LOCATION: Town-wide

WARD: Town-wide

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RECOMMENDATION:

1. That the staff report titled Bill 131, *Transportation for the Future Act, 2023* and Bill 134, *Affordable Homes and Good Jobs Act, 2023* from the Planning Services Department be received.
2. That staff comments included in the report titled Bill 131, *Transportation for the Future Act, 2023* and Bill 134, *Affordable Homes and Good Jobs Act, 2023* and submitted to the Environmental Registry of Ontario (ERO) through Appendix A to this report with respect to ERO posting #019-7669 related to Bill 134, be endorsed by Council.
3. That the report titled Bill 131, *Transportation for the Future Act, 2023* and Bill 134, *Affordable Homes and Good Jobs Act, 2023* be forwarded by the Town Clerk to the Minister of Transportation, Minister of Municipal Affairs and Housing, Halton Area MPPs, Halton Region, the City of Burlington, the Town of Halton Hills, the Town of Milton, Conservation Halton and Credit Valley Conservation.

KEY FACTS:

The following are key points for consideration with respect to this report:

- On September 25, 2023, the province introduced Bill 131, the [Transportation for the Future Act, 2023](#). If passed, the Bill would enact the *GO Transit Station Fund Act, 2023*, and amend the *Municipal Act, 2001*, and *City of Toronto Act, 2006*. This legislation, if passed, would allow prescribed municipalities to impose transit station charges on development to pay for costs related to the construction of new GO transit stations.

- As Bill 131 is proposed to apply to new GO transit stations only, it is not directly applicable to the Town of Oakville currently.
- Staff will continue to monitor the provincial government's commitment to make municipalities whole, following its changes to the *Development Charges Act, 1997* and the *Planning Act* through Bill 23, [*More Homes Built Faster Act, 2022*](#). While Bill 131 proposes to introduce a new revenue stream for municipalities, revenues raised will go towards funding what has been considered provincial infrastructure – GO transit stations.
- On September 28, 2023, the Minister of Municipal Affairs and Housing introduced Bill 134, [*Affordable Homes and Good Jobs Act, 2023*](#) which proposes a new definition of “affordable residential unit” under the *Development Charges Act, 1997* (DCA) for the purposes of exemptions from the town's growth funding tools (GFTs) of development charges, community benefits charges and parkland dedication. The proposed change is posted to the Environmental Registry of Ontario as ERO #019-7669.
- Staff are reviewing Bill 134 in relation to an amended definition of “Affordable Residential Unit” to determine the financial impacts on the town's policies related to housing affordability (e.g., the [*Development Charges By-law*](#)).
- The proposed definition of “Affordable Residential Unit” relies on information that will be published in the ‘Affordable Residential Units Bulletin’ by the Minister of Municipal Affairs and Housing. This Bulletin is currently unavailable, making it difficult to assess the uptake and impact of affordable residential units. If housing units are exempt from GFTs per the Bill 134, this would have significant negative financial implications on the town.

BACKGROUND:

The purpose of this report is to provide Council and the public with an overview of Bill 131, the [*Transportation for the Future Act, 2023*](#), introduced by the Province on September 25, 2023, and Bill 134, [*Affordable Homes and Good Jobs Act, 2023*](#), introduced on September 28, 2023, and the potential implications to the town's ability to finance growth-related infrastructure as discussed.

Town staff provided a submission to the ERO on Bill 134 (ERO #019-7669) on October 27, 2023. The ERO memo is attached in Appendix A to this report, with the comments aligned with the content of this staff report. Due to the comment timelines, Town staff could not obtain Town of Oakville Council endorsement prior to the end of the ERO commenting period. Town staff advised provincial government staff that the comments submitted are subject to Town of Oakville Council resolution, which is set for November 13, 2023. Town staff will submit Council

resolution to the ERO once it is obtained. Further details and next steps will be provided at the November 13 Planning and Development Council meeting.

Since 2018, the province has advanced several initiatives and legislative changes related to the supply of housing in Ontario that affect GFTs. For development charges, these include the removal of housing and parking as DC eligible services, removal of studies as an eligible cost, rate freezes, DC phase-in of rates, discounts for rental units, exemptions for non-profit housing, and deferral of DC payments for long term care and rental housing. For parkland dedication, the alternative rates at which the town can require the conveyance of land or cash-in-lieu have been minimized, and caps based on site area have been implemented.

Notably, Bill 108, the *More Homes, More Choice Act, 2019* and Bill 197, the *COVID-19 Economic Recovery Act, 2020* replaced and amended (respectively) the bonusing regime under section 37 of the *Planning Act* and replaced it with a new Community Benefits Charge (CBC) regime.

The town utilizes the growth funding tools (GFTs) of development charges, community benefits charges, and parkland dedication to deliver the land and infrastructure required to maintain service levels as the town grows, while minimizing the financial impact of growth on exiting residents and businesses. While the town aims to ensure that “growth pays for growth”, there are legislative restrictions in the DCA and *Planning Act* that result in a cost to existing taxpayers.

Bill 23, the *More Homes Built Faster Act, 2022* has increased the cost of growth through changes already in force, including the DC by-law phase in and parkland dedication caps. Bill 23, *More Homes Built Faster, 2022* includes legislation not yet in force and effect, including subsection 4.1 that could further impact the ability of municipalities to utilize GFTs. The province has not yet indicated how they will keep municipalities whole, which could result in delays in key infrastructure required due to growth or impacts to property taxes.

COMMENT/OPTIONS:

Bill 131, the *Transportation for the Future Act, 2023*

On September 25, 2023, the Province tabled Bill 131, [*Transportation for the Future Act, 2023*](#) which introduced a new Act (the *GO Transit Station Funding Act, 2023*) that provides a mechanism for prescribed municipalities to collect development fees for the capital costs associated with new Metrolinx GO stations.

If passed, the Bill would enact the *GO Transit Station Fund Act, 2023*, and amend the *Municipal Act, 2001*, and *City of Toronto Act, 2006*. This legislation would allow

prescribed municipalities to impose transit station charges on development to pay for costs related to the construction of new GO transit stations.

The new tool, called the 'Station Contribution Fee', would allow municipalities to fund the design and construction of new GO stations and recover the costs over time as transit-oriented communities are built around these GO stations. To charge these fees, municipalities would be required to meet certain requirements, such as completing a background study, providing public notice and opportunities for consultation, and obtaining Minister's consent.

While Bill 131 proposes to introduce a new revenue stream for municipalities, revenues raised will fund what is considered provincial infrastructure – GO transit stations. At this time, there is no indication that this fee would replace the already existing GO Transit DC levied by municipalities on behalf of Metrolinx.

As Bill 131 is proposed to apply only to new GO transit stations, it is not directly applicable to the Town of Oakville since no new stations are being planned in Oakville.

Bill 134, the Affordable Homes and Good Jobs Act, 2023

On September 28, 2023, the Province introduced Bill 134, the [Affordable Homes and Good Jobs Act, 2023](#) which proposes amendments and additions to section 4.1 of the *Development Charges Act, 1997*. This section addresses exemptions for affordable and attainable residential units for GFTs, first enacted on November 28, 2022 through Bill 23 but not yet in force. Bill 23 had proposed that "affordable" be defined solely on the basis of market prices and rents that were no greater than 80% of the average purchase price or market rent, as defined by the Ministry of Municipal Affairs and Housing. This definition has not yet been brought into force.

Bill 134 focuses on exemptions for "affordable" residential units (both rental and home ownership). It is silent on the exemptions for "attainable" residential units.

The Bill 134 proposal, if implemented, takes a different dual approach to defining affordability, focused on the ability of households to pay (proposed household income test), as well as market prices and rents. The proposed definitions would be based on determinations of average market rents and purchase prices, as well as incomes for a local municipality that the Minister would make in the "Affordable Residential Units Bulletin", which has not yet been released by the province.

Based on these definitions, "affordable" for non-rental units will be a price that is no greater than the lesser of:

- A price for which the cost of accommodation is less than 30% of the 60th percentile of income for households in the municipality; or

- 90% of the average purchase price identified for the residential unit set out in the “Affordable Residential Units Bulletin”.

For rental units, the rent for a unit is no greater than the lesser of:

- 30% of the 60th percentile of income for rental households in the municipality; or
- The average market rent set out in the “Affordable Residential Units Bulletin”.

The proposed changes, if adopted, will provide exemptions from GFTs for those developments which meet the new definitions. What remains unclear, however, is how “attainable housing”, which is also proposed to be exempt from GFTs, is to be further defined by way of criteria to be prescribed by regulation.

Staff’s ERO submission on Bill 134 is attached as Appendix A. It is difficult to fully assess the potential impact of these proposed changes until the “Affordable Residential Units Bulletin” provides details on methodology used, geographic breakdowns, and actual market rents. This information would allow the town to better comment on whether the proposed definition may achieve to goal of increasing affordable housing in Oakville, and what the ultimate financial impacts to the town’s GFTs could be from Bill 134.

Staff are concerned with what will be required to properly administer exemptions to GFTs based on the proposed definition and timeline of the development process. Further, it will be extremely difficult to monitor affordability thresholds over a period of 25 years for those units deemed affordable at the time they are first rented or sold, and to enforce the collection of GFTs should a unit no longer meet the definition. It is anticipated that to provide exemptions to GFTs and ensure that affordability is maintained in line with the intent of the legislation, there will be a significant administrative burden to the town.

The [Region of Halton's staff report to Regional Council](#) on October 18, 2023 prepared an analysis (for demonstrative purposes) of how Bill 134 definitions could be applied in Halton Region to illustrate the potential number of residential units that could be exempt from paying DCs. Detailed analysis is outlined in [Attachment 1](#) to the region’s report.

The changes proposed under Bill 134 are unlikely to achieve the policy objectives of making homes more affordable. Staff highlight the following implications:

- Likely to result in significant impacts to the Town of Oakville’s ability to fully recover costs of growth-related infrastructure and services through GFTs.

- In the absence of funding from the province to keep municipalities whole, there could be delays in providing key infrastructure required for growth or impacts to property taxes which may further impact housing affordability.
- Even if the proposed changes are successful in incentivizing certain housing, the types of units may not achieve the desired mix of housing in the town and is unlikely to incentivize “missing middle” housing.

Should the province proceed with changes proposed under Bill 134, consideration should be given to providing exemptions only to Affordable Rental units and not Homeownership units, consistent with the Federal Government’s GST rental rebate.

CONCLUSION:

In the absence of details from the province (e.g., methodology, market rents) used to inform the ‘Affordable Residential Units Bulletin’ for exemptions from GFTs under subsection 4.1 of the *Development Charges Act*, 1997, it is difficult to assess the extent of administrative, monitoring and enforcement implications Bill 134 will have on the town. The region’s analysis of how Bill 134 definitions could be applied in Halton Region, and the potential number of residential units that could be exempt from paying GFTs, outlined in [Attachment 1](#) to the region’s report provides a high level sense of the potential financial impacts associated with Bill 134.

An ERO submission on Bill 134 has been submitted to the province, consistent with the comments provided in this report (see Appendix A). Council reserves the right to provide additional commentary to the ERO beyond what is included in this report and the ERO submission (Appendix A). Staff continue to monitor the provincial government’s commitment to make municipalities whole, following its changes to the *Development Charges Act*, 1997 through Bill 23, [More Homes Built Faster Act, 2022](#).

Staff will continue to review the impacts of Bill 134 in relation to an amended definition of “affordable residential unit” to determine financial and administrative impacts on the town’s affordable housing programs and policies. Next steps could include preparing town analysis (for demonstrative purposes) of the potential number of residential units that could be exempt from paying GFTs if Bill 134 is approved as proposed.

CONSIDERATIONS:

(A) PUBLIC

No public notice is required or provided in relation to this report.

(B) FINANCIAL

There are no financial impacts from this report, however there are significant potential financial implications to the town's ability to finance growth related infrastructure and administer the town's growth funding tools if Bill 134 is approved as proposed.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The proposed provincial legislation could have potential implications on the town's ability to finance growth-related infrastructure and affordable housing. There are potential impacts to the town's Finance, Legal, Planning Services and Transportation and Engineering departments in terms of resources required for additional administrative burden that would accompany Bill 134 if enacted.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's strategic priority/priorities with respect to Growth Management and Accountable Government by providing municipal feedback on proposed provincial legislation that could have implications on the town's ability to finance growth-related infrastructure and affordable housing.

(E) CLIMATE CHANGE/ACTION

N/A

APPENDICES:

Appendix A: ERO Memo – Concerns and Recommendations on ERO #019-7669 – proposed changes to the *Development Charges Act, 1997: Bill 134, Affordable Homes and Good Jobs Act, 2023*

Appendix B: Memo to Council (2023-10-31) – November 13, 2023 PDC

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