

Major Modifications – Province of Ontario Approves City of Toronto Protected Major Transit Station Area Policies

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On Friday, August 15th, Ontario's Minister of Municipal Affairs and Housing (the "**Minister**") approved, with modifications, the City of Toronto (the "**City**")'s Official Plan Amendments 524, 537, 540, 544, 570, and 575 (each, an "**OPA**", collectively, the "**OPAs**").

The OPAs delineate and create policies for 120 Major Transit Station Areas ("**MTSAs**") and Protected Major Transit Station Areas ("**PMTSAs**") in the City, with a [stated goal](#) of supporting the construction of over 1.5 million homes in these areas, over the next 25 years.

The City initially adopted OPAs 537, 540, 544, 570, and 575 in its July 19-22, 2022 Council meeting, and OPA 524 (which dealt with PMTSAs in the City's Downtown area) in its Council meeting on February 22, 2022.

The MTSAs and PMTSAs approved by the Minister *via* the OPAs, alongside certain PMTSAs that were deferred by the Minister, to be approved on a future date or dates, are shown in the figure below.

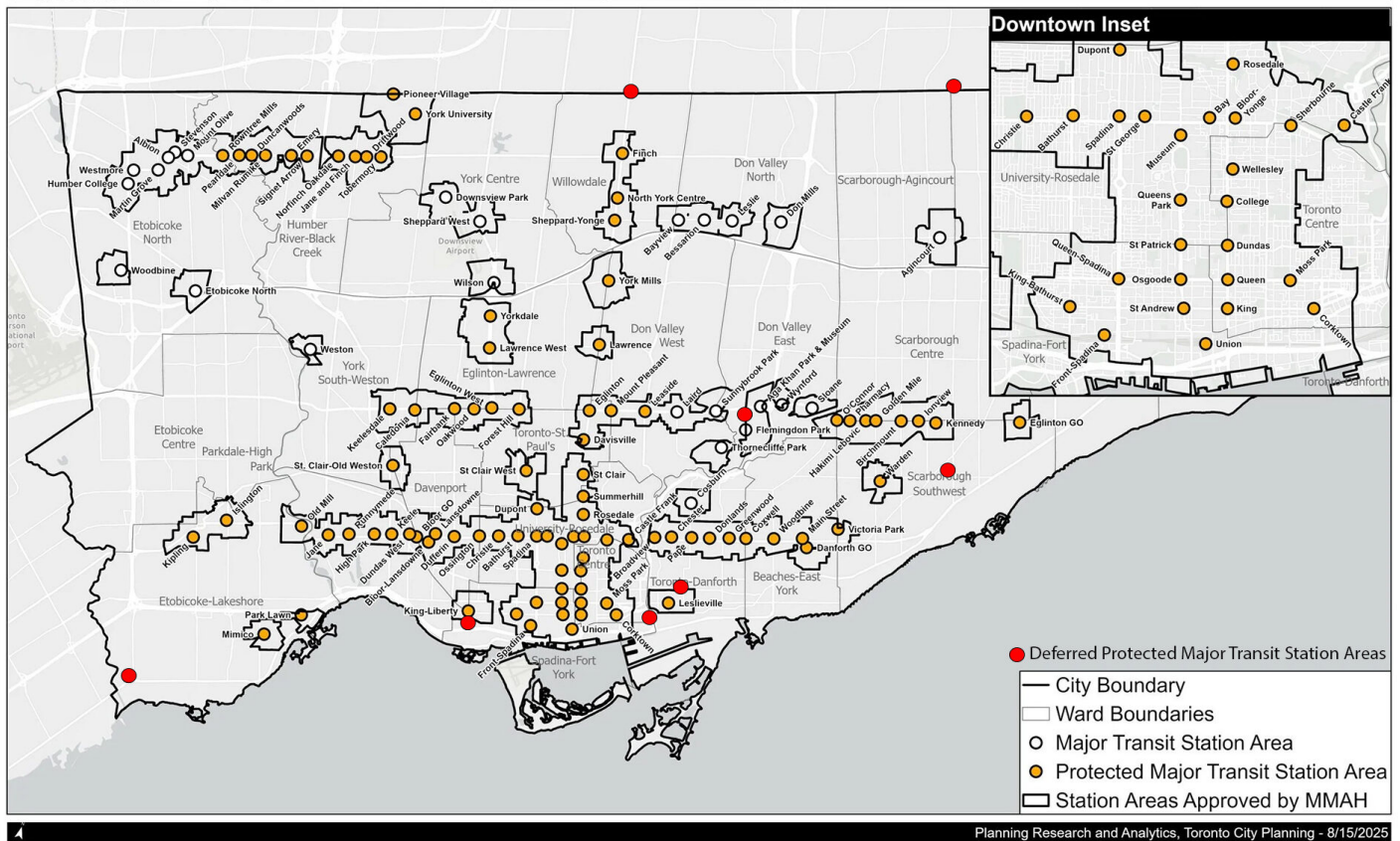


Figure 1 – City of Toronto map, as modified by WeirFoulds LLP, showing the MTSAs and PMTSAs approved by the Minister, and those deferred. Note some deferred stations in the City's east end are not shown due to the City's inset map.

A New Chapter and New Policies – The Minister's Modifications to the OPAs

The Minister, in approving the OPAs made substantial modifications to the adopted version of Chapter 8 of the City's Official Plan, as well as certain interpretation policies contained in Chapter 5 of the City's Official Plan, through new amendments it introduced through OPA 540 (the "Modifications"). These amendments apply to MTSAs and PMTSAs throughout the City. We address the key modifications below:

Conflicts between Floor Space Index Policies Resolved in Favour of Highest Density

A new interpretation policy provides that "minimum development densities" within delineated PMTSAs, which include minimum floor space index ("FSI") values and minimum units, are to be applied "together with all appropriate policies" contained within the Official Plan. This includes applicable Secondary Plans and Site and Area Specific Policies such as those pertaining to "heritage, built form and public realm, servicing, natural areas, parks and other open spaces, and others". Nonetheless, where there is a conflict between minimum density values within a Secondary Plan or a Site and Area Specific Policy contained in chapters 6 and 7 of the Official Plan, and an MTSA or PMTSA in Chapter 8, the policy with the greater density shall prevail.

Minimum FSIs of 6 – 8 within Certain Areas

The Modifications provide that lands within certain stipulated distances from an existing or planned transit station within a delineated MTSA or PMTSA are intended to achieve the following minimum FSIs, where such lands are designated as *Apartment Neighbourhoods*, *Mixed Use Areas*, or *Regeneration Areas* in the City's Official Plan:

- An FSI of **8 or more** for lands located within 200 metres of an existing or planned transit station; and
- An FSI of **6 or more** for lands located within 200–500 metres of an existing or planned transit station.

These minimum FSIs will be implemented *via* future City initiated zoning by-law amendments. Notably, the Minister did not modify the schedules in the OPAs to reflect the minimum densities required by this policy. This, in part, leaves some ambiguity as to how the distances from the existing or planned transit stations are to be measured.

As of Right Building Heights

The Modifications provide that where a site within a delineated MTSA or PMTSA “can accommodate” three or more towers, zoning for that site will permit the following building heights:

- Up to 30 storeys within 200 metres of an existing or planned transit station, or
- Up to 20 storeys within 200-500 metres of an existing or planned transit station.

The policies also provide that where a block context plan is provided that demonstrates elements “such as new public streets, new parks, publicly-accessible open spaces, mid-block connections, public art, and a mix of building types of heights” that additional building height will be permitted without the need for an official plan amendment.

It remains unclear what constitutes a “site” that can accommodate three or more towers.

New Density in Neighbourhoods

The Modifications permit, without a need for an official plan amendment, multiplexes and apartment buildings within a delineated MTSA or PMTSA that are:

- up to six storeys, if within 200 metres of an existing or planned transit station, **or** with frontage on one of the City’s Major Streets, shown in [Map 3](#); or
- up to four storeys in all other instances.

Continued Protection of Environmental Areas and Floodplains

The Modifications provide that policies within Chapter 8 relating to “protection of natural environments, watershed and water resource systems” are to be prioritized over “other development criteria policies”. Additionally, the Modifications amend certain of the maps within the OPAs to demarcate “special policy areas”, where there is a minimum FSI of 0. Combined, these policies reflect an intent to prevent the development over watersheds and other natural features.

Next Steps

Pursuant to subsection 16(20) of the *Planning Act*, the City has one year from the date of approval of the OPAs to amend its zoning by-laws to conform with the newly approved policies. We anticipate that the City will pass these bylaws relatively quickly for those PMTSAs that the Minister has approved, given the City would likely want the benefit of certain appeal restrictions noted in subsections 34(19.5) of the *Planning Act*, which expire within one year of the date of approval of the OPAs, as stipulated in subsection 34(19.9).

Notably, the OPAs do not represent the entirety of the PMTSAs to be approved by the Minister. For example, PMTSAs around Finch West Subway Station, and the future Sentinel Road Light-Rail Transit stop [remain to be approved](#).

Furthermore, within the OPAs, the Minister has deferred decisions on the following delineated MTSA or PMTSAs, which will need to be approved at a future date:

GO Stations:

Exhibition GO
Guildwood GO
Long Branch GO
Milliken GO
Rouge Hill GO
Scarborough GO

Subway or LRT Stations:

East Harbour Station
Gerrard-Carlaw Station
McCowan Station
Scarborough Town Centre (to the east of the Centre, at McCowan Road)
Science Centre Station
Yonge-Steeles Station

Further Information

For more information on the OPAs as adopted by the City, and as modified by the Minister, please see the below links.

OPA No.	OPA as Adopted by City	OPA as Modified by Minister
524	OPA 524 – City of Toronto	OPA 524 – Minister Decision
537	OPA 537 – City of Toronto	OPA 537 – Minister Decision
540	OPA 540 – City of Toronto	OPA 540 – Minister Decision
544	OPA 544 – City of Toronto	OPA 544 – Minister Decision
570	OPA 570 (Part 1) – City of Toronto OPA 570 (Part 2) – City of Toronto OPA 570 (Part 3) – City of Toronto	OPA 570 – Minister Decision
575	OPA 575 – City of Toronto	OPA 575 – Minister Decision

We have separately analyzed the impact of the Minister's approval of OPAs on the City's Inclusionary Zoning Policies in the following article: [City of Toronto's Inclusionary Zoning Policies One Step Closer to Coming into Effect](#).

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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