

## **Attachment 1**

### **York Region Staff Comments on Proposed Bill 66 – Restoring Ontario’s Competitiveness Act (ERO # 013-4125), proposed open-for-business planning tool (ERO # 013-4239) and regulation (ERO # 013-4293)**

#### **ERO # 013- 4125 Proposed open-for-business planning tool**

##### **General Comments**

**York Region is supportive of the Province’s efforts to stimulate business investment, create jobs and make Ontario competitive by reducing regulatory burden and reducing streamlining processes.**

- The Province should provide clarification on how OFB bylaw will interact with other Acts influencing land use planning approvals including the *Conservation Authority Act*, 1990, the *Environmental Assessment Act*, 1990 and the *Building Code Act*, 1992.

##### **The Province is encouraged to consider a public consultation process in support of the open-for-business bylaw to maintain openness and transparency**

- The new planning tool, as proposed, contemplates OFB bylaws could be passed without prior notice and includes no public consultation requirements. In addition, there would also be no avenue for appeal.
- While it appears consultation may be initiated at the discretion of the local municipality, there is concern there is no requirement for a public consultation process and no formal mechanism through which to include Regional input or conditions. It is recommended the Province include a public consultation process in support of openness and transparency ensuring the principles of good planning is achieved and the public interest is served.
- In addition, it appears the Regional governments are restricted to providing transportation-related conditions to the Minister for consideration. Given the two-tier nature of municipal government, there should be a mechanism for local municipalities to impose regional conditions such as transit, water and wastewater servicing, public health, and cross-municipal boundary impacts.
- It is also unclear how the Region could ensure certain studies or infrastructure that may be required to service a development are provided by the proponent. It is recommended the province clarify how a municipality could require or implement off-site or cross-municipal boundary impacts, in the absence of the use of Holding (H) provisions. In York Region’s case, Holding (H) Provisions are used to advance approvals and prevent delay when servicing capacity and allocation is imminent.

**Appropriate safeguards are needed to protect the financial, human and environmental health of residents and municipalities**

- As proposed, developments under an open-for-business bylaw would be exempt from many provincial, regional and local acts, plans, policies and zoning bylaws.
- York Region staff are not supportive of proposed exemptions from source water protection requirements under the Clean Water Act, 2006 and the Great Lakes Protection Act, 2015 presenting a potential risk to public health and source water protection.
- It is critical that source water protections remain in place as this is one of the key aspects of the multi-barrier approach implemented following the Walkerton tragedy. This is an important piece of legislation that ensures Ontario residents continue to receive clean and safe drinking water.
- It appears there would continue to be an ability to ensure risk mitigation is put in place for source water protection at the building permit stage. While staff are supportive of this backstop at the building permit stage, the Province should consider providing a process ensuring early consultation with the Risk Management Official, to identify mitigations, if any, that may be required at design phase where it can be accommodated at a lower cost than at the building permit stage.
- In reviewing municipality’s requests for OFB bylaws, the Province should balance the financial benefits of the economic development opportunity with the long-term health and financial costs on Ontario that could result from irreparable damage to the environment or public health.
- Should the proposed changes take effect, it would be imperative that public health authorities be granted the ability to review and comment on developments proposed under an open for business bylaw to assess potential risk and hazards to public health to protect and promote public health and safety.

**The OFB bylaw should support York Region’s growth management strategy or planned urban structure**

- Under the Growth Plan, 2017, York Region is required to designate an appropriate amount of employment lands to meet projected needs to 2041. On the other hand, as proposed local municipalities and the Minister have the authority to approve OFB bylaws without substantive Regional input.
- Staff are concerned the proposed planning tool may have the unintended consequence of undermining the Region’s planned urban structure and growth management strategy by diverting development away from existing vacant urban employment lands, increased

pressure to convert existing urban employment areas to other non-employment uses or allowing incremental encroachment into Greenbelt and Oak Ridges Moraine Conservation Plan areas resulting in increased fragmentation of agricultural land or natural heritage systems.

- In addition to the consultation process noted above, the Province should consider the amount of employment land available at a regional-scale when evaluating the reasonableness of an OFB bylaw request.
- There is also concern that this type of tool may increase unhealthy competition between municipalities for economic development opportunities without planning rationale informed by evidence-based information (including population and employment forecasts).

**York Region continues to ensure a more integrated approach to land use and infrastructure planning in a fiscally responsible way**

- Staff are concerned the proposed planning tool may have the unintended consequence of undermining efforts to fully integrate land use and infrastructure planning. Since development could occur on lands not contemplated for development in 10-year capital plans or asset management plans, infrastructure requirements may be unfunded. Municipalities need to have revenue tools (e.g. development charges) in place that can ensure growth pays for growth and unplanned infrastructure can be built in a timely manner.

**A streamlined approval process for infrastructure projects is critical to avoid servicing delays**

- Water/wastewater projects are already constrained by lengthy approvals processes (such as EAs, which can be delayed by Part II order requests) that often result in projects being delayed for years. Delays in providing servicing could result in significant delays to developing these lands and negate intended near-term employment benefits.
- To mitigate potential delays, it is recommended the legislation specifically state that any unplanned infrastructure or infrastructure rehabilitation/replacement required to service the functions of the employment lands be subject to streamlined approvals processes. At a minimum, streamlining needs to be provided for EA requirements and other MECP approvals processes (similar to what is already permitted for transit projects) along with all of the streamlining provided under Bill 66 to help meet timelines for newly unlocked employment lands.

**Waste reduction and diversion programs have little impact on siting of facilities; these efforts should not be undermined by an open for business bylaw**

- An open for business bylaw would permit bypassing any policy statements made under the Resource Recovery and Circular Economy Act, 2016 (RRCEA). In effect, this means that waste reduction and diversion targets established through policy statements may not apply to industrial, commercial, and institutional uses that are sited using open for business bylaws. Eliminating the requirement to participate in waste diversion programs provides little to no benefit to incent employment growth. As a result, it is recommended that references to the RRCEA be removed from Bill 66.

**ERO # 013-4239**

**New Regulation under the Planning Act for open for-business planning tool**

- The Province has not yet released the proposed regulation detailing the prescribed information that would be required to support a municipality’s request to use an open-for business bylaw.
- York Region is well located with the Greater Toronto and Hamilton Area. As a high growth area, the minimum job creation threshold may be set to low at 50 jobs for municipalities with a population of less than 250,000 people, or 100 jobs for municipalities with a population of more than 250,000 people. The Province should set varying targets reflecting the varying economic realities existing throughout the Province or allow municipalities to increase minimum thresholds at their discretion.
- The Province should consider including the following in the OFB regulation:
  - A requirement that OFB bylaws are only contemplated where the proposed use cannot be accommodated within existing employment lands or an overriding public interest.
  - A process for the reasonable use of the proposed tool that includes requirements for notice and consultation in advance of the submission to the Minister of Municipal Affairs and Housing
  - Clarification that permissible secondary uses are limited to only employment-generating uses;
  - A requirement for employment performance measures to ensure that minimum job thresholds are met and maintained over the longer term as well as consequences if not met.
  - A requirement for Provincial monitoring and reporting on the effectiveness of open-for-business planning bylaws including a formal review of the process three years after coming into full force and effect
  - A lapsing provision that automatically applies if a building permit is not issued with a specified time-frame (i.e. 12 - 24 months after the OFB bylaw comes into full force and effect).

- A requirement for Provincial monitoring and reporting on the effectiveness of open-for-business planning bylaws including a formal review of the process three years after coming into full force and effect.

**ERO # 013-4293**

**Bill 66 – Restoring Ontario’s Competitiveness Act, 2018 Comments**

***Schedule 3 – Ministry of Education***

- The Province is proposing changes to the *Child Care and Early Years Act, 2014*. These changes advocate for an increase in the number of children that can be cared for under the age of two in both licensed and unlicensed home child care settings. As such, there is concern for proper cleaning and disinfection and food safety, given the potential increased risk that comes with caring for this high risk population, especially in unlicensed settings.

***Schedule 5 – Ministry of the Environment, Conservation and Parks***

- While York Region supports efforts to avoid duplication between provincial and federal regulations, it is important to recognize the need to further reduce toxic substances in Ontario. Existing federal requirements through the National Pollutant Release Inventory and the Chemical Management Plan have limitations and there is a need to support Ontario businesses to achieve the intended goals of the Toxics Reduction Act, including the need to further reduce toxic, cancer-causing substances. Legislation requiring toxic reduction plans are shown effective in other jurisdictions in the United States. The province should reconsider repealing the Toxics Reduction Act and evaluate more effective opportunities for toxics reduction to protect the health of Ontarians and the environment while reducing barriers for business.