KING

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January 18, 2019

RECEIVED
JAN 28 2019
R.M.Y.
CLERK

The Honourable Steve Clark, Minister
Ministry of Municipal Affairs and Housing
17th Floor, 777 Bay St.
Toronto, ON M5G 2E5

Honourable Sir,

RE: Township of King Planning Department Report Number P-2019-02
Proposed Changes to Planning Act: Bill 66' Open for Business By-law
Policy Planning File # PP-2018-07

Please be advised that at the Council Meeting of January 14, 2019, Council of the Township of King received and approved recommendations which were provided by the King Township Planning Department regarding an overview of the proposed changes to the *Planning Act* specifically "Bill 66: Restoring Ontario's Competitiveness Act, 2018".

We respectfully submit the Council endorsed comments as outlined in Planning Department Report Number P-2019-02, a copy of which is attached for your information and file, which identifies comments and concerns King Township would like the Ministry of Municipal Affairs and Housing to take into consideration during the review process.

In addition to the comments contained in Report P-2019-02, please accept the following comment identified at the Council Meeting of January 14, 2019 for the Province's consideration:

Comment: *The Clean Water Act, 2006 is significant legislation, the intent of which is the protection of existing and future water sources, and public safety. To this end, the reference to the Clean Water Act in subsection 34.1(6) of Schedule 10 to Bill 66 should be removed.*

Yours truly,

Kathryn Moyle
Director of Clerks/By-law Enforcement
Township Clerk
Encls.

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cc. The Association of Municipalities of Ontario (AMO)
Chris Raynor, Clerk, Regional Municipality of York
Stephen Huycke, Clerk, Town of Richmond Hill
Michael De Rond, Clerk, Town of Aurora
Todd Coles, Clerk, City of Vaughan
Gillian Angus-Traill, Clerk, Town of Whitchurch-Stouffville
Fernando Lamanna, Clerk, Town of East Gwillimbury
Lisa Lyons, Clerk, Town of Newmarket
John Espinosa, Clerk, Town of Georgina
Kim Kitteringham, Clerk, City of Markham
Susan Plamondon, Chief Administrative Officer, Township of King
Stephen Naylor, Director of Planning, Township of King

KING **THE CORPORATION OF THE TOWNSHIP OF KING**

REPORT TO COMMITTEE OF THE WHOLE

Monday, January 14, 2019

Planning Department Report P-2019-02

RE: Proposed Changes to Planning Act: Bill 66; Open for Business By-law Policy Planning File # PP-2018-07

1. RECOMMENDATIONS:

The Planning Department respectfully submits the following recommendations:

a) THAT Planning Report P-2019-02 be received as information;

b) THAT Council endorses Planning Staff comments on the Ontario Ministry of Municipal Affairs (MMA) ERO Posting "Bill 66: Restoring Ontario's Competitiveness Act, 2018" (ERO Number 013-4293), and Environmental Registry of Ontario Posting "New Regulation under the Planning Act for Open-for-Business Planning Tool" (ERO Number 013-4239), and Proposed Open-for-Business Planning Tool (ERO Number 013-4125)

c) THAT the Township Clerk submit the comments contained herein, and any additional comments, arising from the January 14, 2019 Committee of the Whole meeting, to the Province via the ERO;

d) THAT the Township Clerk circulate this Report to York Region, local municipalities in York Region, and the Association of Municipalities of Ontario (AMO); and

e) THAT correspondence submitted to the Township in relation to Bill 66 be received.

2. PURPOSE:

The purpose of this Report is to (i) provide information to the Committee on the Province's proposed 'Bill 66: *Restoring Ontario's Competitiveness Act, 2018*', which introduces proposed changes to (amongst others) the *Planning Act* and (ii) present Planning Staff comments on the proposed legislation. Comments are to be submitted to the Province prior to January 20, 2019.

3. BACKGROUND

On December 6, 2018 the Province of Ontario introduced "*Bill 66: Restoring Ontario's Competitiveness Act, 2018*". Bill 66 proposes to amend or repeal a number of Provincial Acts, dealing with a range of subjects including labour, agriculture, and child care, among others. This Report deals specifically with Schedule 10 of Bill 66 which outlines the proposed changes to the Planning Act. Also dealt with in this report are the accompanying ERO postings '*New Regulation under the Planning Act for Open for Business Planning Tool*', and the '*Proposed Open for Business Planning Tool*'. The1st Reading of Bill 66 occurred on December 6th, 2018. No timeframe has been announced for the subsequent 2nd and 3rd Readings, and Royal Assent, however the Provincial Legislature is scheduled to return on February 19th, at which time it is presumed Bill 66 will progress to finalization.

The Province indicates the intent of the proposed changes to the Planning Act is to reduce barriers to businesses seeking development sites, thereby enabling municipalities to act quickly to attract such businesses. The Province notes that the tool would support the government's 1-year service standard for provincial approvals related to these land use planning proposals.

The proposed changes to the Planning Act introduce a new tool, being the 'Open for Business By-law' ("OfB") that would, if approved, provide an avenue to enable the use of land, buildings or structures for a prescribed land use in areas where such development may or may not typically be permitted. An OfB would (i) exempt the proposal from certain provincial, regional and municipal planning policy documents and plans, and (ii) reduce or eliminate elements of planning processes that would normally apply. The information available at this time suggests that the Open for Business By-law is intended only to be used to facilitate employment generating uses. In other words, it is to be utilized to facilitate such uses as manufacturing and research and development, but not residential, commercial or retail as the primary use. How such uses are defined and what they would include has not been specified to-date by the Province.

It is proposed that the Open for Business By-law would be authorized under a new section (34.1) of the Planning Act and would exhibit similar characteristics to a zoning by-law. The use of this new tool is to be at the discretion of the local municipality. If a local municipality elects to utilize an OfB, it is first required to pass a resolution requesting the Minister of Municipal Affairs and Housing to authorize it to do so. The request would have to be accompanied by prescribed supporting information. While the prescribed information is not yet known, the information available at this time suggests that at a minimum the following would be required: a description of the subject lands, land use planning information, and details about the proposed employment opportunity. In addition, the information available from the Province indicates a future regulation could require confirmation that the proposed employment opportunity would be a major employment use, and meet a minimum job creation threshold (i.e. a minimum of 50 jobs for a municipality of less than 250,000 people). Examples of uses permitted to be authorized by way of an OfB include manufacturing and research and development, but not residential, commercial or retail as the primary use.

If a municipality chose to pass an Open for Business By-law for a specific proposal, and received authorization from the Minister, the subject proposal would be exempt from the requirements of:

- Provincial Policy Statements issues under the Planning Act;
- Provincial Plans and Acts, including the Oak Ridges Moraine Conservation Plan, the Greenbelt Plan, the Lake Simcoe Protection Plan, and the Growth Plan;
- Clean Water Act, and Source Protection Plans;
- Regional and local official plans, zoning by-laws, holding provisions, and density bonusing provisions; and
- Any other prescribed provision.

The site plan control process would also not apply to any development subject to an Open for Business By-law. However, conditions to the by-law may be imposed to address matters that are typically dealt with through the site plan approval process, and may include the provision of plans/drawings, and details of the proposed development required to ensure the safe and proper function of the site. Matters of architectural design details, type and colour of building materials, sustainable design elements on any adjoining highway under a municipality's jurisdiction (i.e. landscaping, curb ramps, waste/recycling containers, bicycle parking facilities) or layout of interior areas are not permitted to be included as conditions of development. The

municipality may still enter into an agreement with the landowner to ensure the applicable conditions of development are fulfilled.

There are no public notice requirements or public hearings required prior to the passing of an Open for Business By-law. Public consultation prior to the passing of an OfB is at the discretion of the municipality. After a municipality has passed an OfB, notice to the Minister is required within three days of its passing. The municipality shall also notify any persons or public bodies it considers proper within 30 days. The by-law would come into force and effect on the 20th day after it was passed, or at a later date specified by the Minister, and the Minister may modify or revoke an OfB any time before it comes into effect (note: the OfB can be in full force and effect for 10 days prior to the deadline for the giving of notice).

It is also important to recognize the Open for Business By-law would not be subject to appeal to the Local Planning Appeal Tribunal.

An Open for Business By-law appears to be similar in effect to a Ministerial Zoning Order (which has been used in the past in King Township for the Showa and York Energy Centre facilities). The key difference is that an Open for Business By-law can be utilized, or not utilized, at the sole discretion of a municipality, whereas a Ministerial Zoning Order is initiated by the Province.

The Table below briefly summarizes the differences in process and requirements between a development proposal subject to a zoning by-law amendment, and an open for business by-law. The information in this table is based upon Planning staff's understanding of the information available at this time.

Table 1: Comparison between the Zoning By-law and Open for Business By-law Process

Process/Requirement	Zoning By-law Amendment	Open for Business By-law as per Bill 66
Pre-conditions	Conformity with Provincial and Regional policy	Demonstration the proposal meets minimum job threshold
Pre-consultation	Requirement for pre-consultation with the Municipality	No requirements for pre-consultation
Complete Application	Prescribed information and supporting documentation/studies identified in Planning Act and Official Plan are required to be submitted in order for review period to commence.	No complete application requirements. The Municipality passes resolution to Minister requesting authorization to pass an OfB. The municipal request to the Minister must be accompanied by prescribed information, if any.
Notice of Complete Application	Notice of application to surrounding landowners, and relevant public bodies.	No public notice requirements prior to passing the OfB
Circulation and Review of Application	Application and supporting plans, and studies are circulated to Township departments, and external agencies for review and comment	No explicit requirement for circulation and/or comment from external agencies, however it is presumed prescribed information submitted would undergo a review process to help inform Council's decision on an OfB
Public Meeting	A Public Meeting of Council is	No requirement for public

	required to present the application to the public for input .	consultation prior to the passing of the OfB
Council Decision	Council renders a decision on the zoning by-law amendment to (i) approve, (ii) approve with modifications, or (iii) reject an application based on its review and input received.	Once the Minister has authorized the municipality's request to use the new tool, Council may pass an OfB
Notice of Decision	The municipality must issue notice of Council's decision to relevant agencies and interested parties within 15 days of Council passing the zoning by-law.	The municipality must notify the Minister within 3 business days of passing an OfB. The Minister may modify or revoke the OfB any time before it comes into effect. The municipality must also notify any persons or public bodies it considers proper within 30 days.
Agreement Between Municipality and Landowner	Not typically required as part of ZBA process, but common at the site plan approval stage.	The municipality may require the landowner to enter into an agreement to ensure site plan type conditions are fulfilled. The agreement would be registered on title.
Appeal to LPAT	A 20 day appeal period during which any interested party may appeal Council's decision to the LPAT.	Not subject to appeal to the LPAT.
By-law in Effect	On the 20th day after the notice of decision is issued, pending no appeals.	On the 20th day after the OfB is passed, or as otherwise identified by the Minister.

4. DISCUSSION & COMMENTS:

Staff Comments on Bill 66

Planning Staff acknowledges the potential advantages of a streamlined development process when attracting new business, and developing designated employment lands. Notwithstanding the above, Planning Staff has concerns and questions with respect to the changes to the Planning Act proposed under Bill 66, and the description of the Open for Business By-law regulation. Based on the limited information available at the time of writing, Planning Staff comments on Bill 66 are as follows:

Process Related to Consideration of Bill 66:

- The allotted 45 day consultation period is not sufficient time for municipalities to consider the full ramifications of Bill 66, and provide comprehensive comments to the Province, particularly when it includes a significant holiday period;
- Bill 66 lacks specificity relating to the format and use of an OfB. Pre-conditions, prescribed criteria, and supporting information to be submitted are key matters, the details of which should be considered as part of the changes proposed by Bill 66 for municipalities to better understand how the OfB may be used.

- Draft regulations providing pertinent details supporting the use of an OfB have not yet been released. Similar to the comment above, such details are necessary to understand the OfB process and how municipalities may use the tool.

Exemptions from Provincial and Local Policy:

- Bill 66 would provide exemptions from the requirements of many Provincial and local policy documents, including the Provincial Policy Statement, Provincial Plans, and Regional and local official plans, that would otherwise be applicable. Blanket exemptions from wide-ranging policies and requirements established to ensure public safety, and healthy and sustainable natural heritage, hydrological, and agricultural systems could disrupt comprehensively planned municipal urban structures, land needs projections, and infrastructure planning. This would not only be of concern by the municipality seeking an Open for Business By-law, but for adjacent municipalities as well. The Province should consider a "hybrid approach" whereby a municipality can determine which policy areas could be reasonably exempted and which ones need to be considered on a site-specific basis.
- It is not clear how lands subject to an OfB would be designated under a Municipal Official Plan if conformity is not required, and where the existing designation differs from that which would typically be required. Clarification from the Province is required.
- Similar to the above comment, where an OfB is passed, would the existing zone remain in place, and the OfB would function like a site-specific exception? Alternatively, would the lands considered to be an Employment Zone? Or an OfB Zone? The Province needs to clarify how a property would be zoned.

Site Plan Control:

- Bill 66 exempts developments approved under an Open for Business By-law from specific aspects of Section 41, while retaining other requirements. The exempted items generally relate to exterior and sustainable design elements. These elements are as important as other aspects included in municipal review of site plans. Bill 66 should allow municipalities to apply these requirements to developments approved under an Open for Business By-law.

Public Consultation:

- Public consultation is generally not required, with the exception of issuing notice of passing of an OfB. However, it appears consultation may be initiated at the municipality's discretion. The lack of a requirement for formal consultation is a concern as this is the primary way a municipality uses to solicit feedback on specific development proposals. The Province should require public consultation to be conducted as part of the consideration of an OfB.

Process:

- The information provided by the Province appears to be an "all or nothing" approach, concerning the stated planning policy exemptions. In other words, in order to utilize an OfB, a municipality must suspend consideration of all of the identified policies/plans/documents (many of which apply to environmental protection) in their entirety. However, in many cases there may only be certain policies and/or sections of plans that present the barrier to the proposed development, and such development may be able to be designed to conform to the balance of the policies/plans. There is no provision in Bill 66 which enables municipalities to be selective in terms of which policies/plans/documents, or elements thereof, are to be exempted as part of the OfB process. Planning staff is concerned that the proposed "all or nothing" approach is not necessary in most circumstances, and would not be desirable to the municipality. Discretion should be provided to enable municipalities to assess which exemptions from policy sections or plans may be appropriate as part of the OfB process on a case-by-case to reduce barriers to attracting business. This additional selective discretion would seem consistent with the spirit of Bill 66 to empower

municipalities' decision-making authority to pass an OfB, and may increase the likelihood that municipalities might utilize this tool.

Permitted Uses:

- Based upon the information available, the forthcoming regulations will prescribe which uses could be permitted by way of an Open for Business By-law. At this time, the description of the Open for Business By-law regulation suggests it would be used to attract businesses. However, Bill 66 itself does not identify uses for which this tool could be used, and therefore there exists the possibility that the classes of development permitted under an OfB could be broadened by provincial regulation at any time. The Province should include language in Bill 66 itself pertaining to which uses would be permitted under an OfB.

Open for Business By-law:

- It is understood that an OfB would function similarly to a zoning by-law under Section 34 of the Planning Act. It is unclear as to whether typical zoning provisions (i.e. setbacks; coverage; height; etc.) can be included in an OfB.
- Where an OfB is intended to apply to a specific employment use, it is not indicated what happens if the specific use that is permitted under an OfB moves or goes out- of-business in the future. Is the municipality able to revoke the OfB at its sole discretion?
- If the use permitted by an OfB re-locates or the use is no longer in operation, can a future property owner apply to amend the OfB for a use that was not originally intended to be permitted under Bill 66 (i.e. retail or residential)? This would occur utilizing a typical amendment process under the Planning Act, including an LPAT appeal process, and would provide an opportunity for uses that were not permitted through an OfB to establish.

Provincial Approval of Open for Business By-law:

- A municipality may utilize an OfB only following written approval from the Minister of Municipal Affairs and Housing, and meeting the prescribed criteria (if any). The Province has yet to formally confirm whether there will be any prescribed criteria, and if so, what this criteria will include. This information would be helpful to inform municipalities' review of Bill 66 and should be made available.
- Where the Minister authorizes a municipality to pass an Open for Business By-law, and the municipality proceeds to pass such a By-law, the Province has an opportunity to amend or revoke the By-law within 20 days of the date of passage. In the event that the Minister amends the OfB, and the municipality does not agree with the modifications, what is the municipality's recourse, if any? Can the OfB be immediately revoked by the municipality? The Province needs to provide details as to how this process would be conducted.
- The language in Bill 66 clearly states that a municipality's decision to pass an OfB is not subject to appeal to the LPAT. Additional language should be added to Bill 66 to state explicitly that a decision of a municipality not to enact an OfB cannot be appealed to or reviewed by any court.

For ease of reference, the above noted comments are summarized in the box below.

<u>Summary of Comments to the Province on Bill 66</u>

1. **Bill 66 Review Process:**
   a. Additional time for municipalities to adequately review Bill 66 is requested.
   b. Pre-conditions, prescribed criteria, and supporting information to be submitted are key matters, the details of which should be considered as part of the changes proposed by Bill 66 for municipalities to better understand how the OfB may be used.
   c. Draft regulations providing pertinent details are necessary to understand the open for

business by-law framework, and should be made available.

2. **Exemptions from Provincial and Local Policy:**
   a. The Province should consider a "hybrid approach" to provincial and local policy exemptions, whereby a municipality can determine which policy areas could be reasonably exempted and which ones need to be considered on a site-specific basis.
   b. Clarification is required as to how lands subject to an OfB would be designated under a municipal Official Plan if official plan conformity is not required, particularly where the existing designation differs from that which would typically be required.
   c. Clarification is required as to how the lands subject to an OfB would be zoned. Would the existing zone remain in place with a site-specific exception, or would the OfB rezone the lands to an appropriate employment zone?
3. **Site Plan Control:**
   a. Matters such as architectural detail and sustainable design are as important as other aspects included in municipal review of site plans. Bill 66 should allow municipalities to apply these requirements to developments approved under an Open for Business By-law.
4. **Public Consultation:**
   a. The Province should require public consultation to be conducted as part of the consideration of an OfB.
5. **Process:**
   a. Discretion should be provided through language in Bill 66 to enable municipalities to assess which exemptions from policy sections or plans may be appropriate as part of the OfB process on a case-by-case to reduce barriers to attracting business. Full exemptions from all Provincial and local policies may act as a deterrent to the use of the open for business tool.
6. **Permitted Uses**
   a. The Province should include language in Bill 66 itself pertaining to which uses would be permitted under an Open for Business By-law.
7. **Open for Business By-law**
   a. Clarification is required as to whether typical zoning provisions (i.e. setbacks; coverage; height; etc.) can be included in an OfB.
   b. Is the municipality able to revoke the OfB at its sole discretion in such cases where the use specifically permitted by an OfB relocates or goes out-of-business? Additional information and clarification is required.
   c. Clarification is required as to whether a future property owner is able to apply to amend the OfB for a use that was not originally intended to be permitted under Bill 66 (i.e. retail or residential)? If so, what would be the amendment process (a typical official plan and/or zoning by-law amendment process under the Planning Act)?
8. **Provincial Approval of Open for Business By-law:**
   a. The Province should confirm what the prescribed criteria will entail. This information would be helpful to inform municipalities' review of Bill 66 and should be made available.
   b. The Province needs to provide details respecting the municipality's recourse in the event that the Minister's modifications to a municipal OfB are not satisfactory to the municipality. Confirmation is required as to whether the OfB be immediately revoked by the municipality?
   c. Additional language should be added to Bill 66 to state explicitly that a decision of a municipality not to enact an OfB cannot be appealed to or reviewed by any court.

Consideration of External Correspondence and Information

The changes to the Planning Act proposed by Bill 66 represent a significant departure from the policy framework and approval process that typically applies. Municipalities, organizations, and individuals across Ontario are reviewing the information made available by the Province. As of the time of writing this report, the Township has received the following correspondence on this matter, attached as Appendices A and B respectively.

- A letter from the Rescue Lake Simcoe Coalition and Simcoe County Greenbelt Coalition outlines concern for the health of Lake Simcoe, and the impacts of enabling municipalities to pass an open for business by-law that would remove key protective policies for water, natural heritage, and farmland. The letter requests that King, along with all municipalities in the Lake Simcoe Watershed, to commit to not using Bill 66. A sample motion for Council's consideration was included in the correspondence.

- A copy of a resolution passed by Whitchurch-Stouffville Council on December 11, 2018 regarding Employment Growth along Highway 404. The Resolution identifies that Whitchurch-Stouffville's continued support for the intent and application of the Greenbelt Act, and the Oak Ridges Moraine Conservation Act, but also the appeal of lands along 400 series highway for industrial and employment uses. In light of Whitchurch-Stouffville's need for employment growth, it has requested the Province to (i) consider amending applicable Provincial plans to permit clean industrial development in the ORM Countryside Areas, and Protected Countryside of the Greenbelt where lands abut a 400 series highway, and (iii) that servicing these lands be given priority by affected municipalities. Whitchurch-Stouffville staff has been directed to develop a detail proposal for certain lands along Highway 404.

It is recommended that the above noted correspondence be received.

Also attached to this report (Appendices C and D) for reference purposes is information on Bill 66 forwarded to King Township by York Region, and the Association of Municipalities of Ontario, briefly outlined below.

- York Region's Chief Planner presented a Memo to Regional Council providing a summary and analysis of the changes proposed by Bill 66. The memo notes: (i) the potential impact on the Region's ability to provide comprehensive site plan conditions on developments proceeding under an open for business by-law, (ii) the potential for an open for business by-law to be approved without public consultation, and (iii) that Regional staff will be providing a formal response to the Province on Bill 66 by January 20, 2019.

- The Association of Municipalities of Ontario (AMO) has released its overview of Bill 66 to date. AMO is looking to the Province for clarification on (i) how the OfB process differs from the Minister's Zoning Order, how the powers to amend the OfB may be used, and additional information about the use of an OfB in general.

Next Steps

Planning staff will continue to participate in the Province's process to review and implement the changes proposed by Bill 66 as it progresses, and will provide updates to Council as additional details become available. In the event that Bill 66 becomes law as proposed, it is important to note that the Open for Business By-law would available to use, or not use, at the discretion of Council. Planning staff considers making a decision on whether to use an OfB at the present time to be premature. There is additional information and clarification required by the Province in order to understand how an OfB would operate. In addition, as the OfB is a permissive and

voluntary planning tool, a decision is not necessary until a specific request is made to the municipality to pass an OfB. .

5. INTEGRATED SUSTAINABILITY PLAN LINKAGE:

The Province's proposed Bill 66 changes to the Planning Act, and Open for Business By-law does not appear to align with the Integrated Community Sustainability Plan's land use planning and infrastructure goals under the community based socio-cultural and environmental pillars to (i) strengthen the Township's planning legislation and by-laws to reinforce environmental protection and public health and safety, and (ii) to direct growth to our three villages with emphasis on our village cores, while respecting public input.

It is recognized that a municipal tool such as the proposed Open for Business By-law may help King to (i) proactively attract and strategically plan for new business that are compatible with the community's values and priorities, and (ii) achieve the financial sustainability. Therefore, it is possible that a refinement of the Province's proposed Open for Business By-law to reflect a more balanced approach to facilitating business, with greater consideration of environmental and socio-cultural sustainability, could better align with King's ICSP.

6. FINANCIAL IMPLICATIONS:

There are no specific financial impacts associated with this Report.

7. CONCLUSION:

The purpose of this Report is to (i) provide information to the Committee on the Province's proposed 'Bill 66: *Restoring Ontario's Competitiveness Act, 2018*', which includes changes to the *Planning Act*, and (ii) present Planning Staff comments on the proposed legislation for Council's endorsement. Comments will be submitted to the Province via the Environmental Registry prior to the January 20, 2019 commenting deadline. Planning Staff will continue to monitor and review information on this matter as it is released by the Province, and will report back as necessary. It is respectfully recommended that Council endorse the comments outlined in this Report.

8. ATTACHMENTS:

Appendix 'A' – Copy of Letter from Rescue Lake Simcoe Coalition and Simcoe County Greenbelt Coalition, dated December 19, 2018

Appendix 'B' – Copy of Resolution passed by the of Whitchurch-Stouffville on December 11, 2018

Appendix 'C'– Memo from York Region Chief Planner received by Regional Council, dated December 13, 2018

Appendix 'D' – Association of Ontario Municipalities: Bill 66 – Municipal Implications Overview, dated December 18, 2018

Prepared By:

Sarah Allin, MCIP, RPP
Policy Planner

Reviewed and Submitted By:

Stephen Naylor, MCIP, RPP
Director of Planning & Development

Rescue Lake Simcoe Coalition
RESCUE, RESTORE AND REHABILITATE LAKE SIMCOE · IMAGINE THE FUTURE

Simcoe County Greenbelt Coalition

December 19, 2018

Dear Mayor Pellegrini and King Council,

RE: Bill 66, Restoring Ontario's Competitiveness Act

The Rescue Lake Simcoe Coalition represents 17 local groups of citizens who are concerned about the health of Lake Simcoe. The Simcoe County Greenbelt Coalition represents 35 groups from across Simcoe County and the province including ratepayers, naturalists, indigenous communities and climate advocates who want to create a more prosperous Simcoe County through protection of our water, green spaces and sustainable development.

Recently, the provincial government tabled Bill 66, Restoring Ontario's Competitiveness Act. This bill would enable municipalities to pass an Open for Business Bylaw which would remove key protective policies for our water, farmland and green spaces in favour of expediently processing development applications which may create employment opportunities. These policies which are under attack are not small, insignificant pieces of legislation. Rather they are keystone policies that keep our water clean and safe to drink, including the Clean Water Act, the Lake Simcoe Protection Plan and the Great Lakes Protection Act.

Our coalitions stand behind these protective policies and their implementation because we know that local economies and the public's health rely on them. For example, Lake Simcoe contributes $200 M per year to its regional economy. The Clean Water Act, which was a direct to the tragedies in Walkerton, ensures that drinking water sources for Ontarians are free from contamination. We appreciate the need for economic opportunities, but we strongly believe that economic opportunities do not have to come at the expense of our drinking water, lakes or green spaces.

And some of your fellow mayors agree with us on that point. On Thursday December 13th, the Mayor of Barrie, Jeff Lehman, added his name to the growing list of Mayors who have criticized Bill 66. The Mayors of Hamilton, Burlington, Halton Hills, Milton, Aurora, Oakville and Guelph have also come out against Bill 66. These mayors appreciate the need to protect public health and understand their economies depend on a healthy environment.

APPENDIX A

Many citizens are very concerned about Bill 66. They want to hear that their councils believe community development and protection of our environment can coexist and be mutually supportive. To learn more about Bill 66 see the Canadian Environmental Law Association's briefing document at : http://www.cela.ca/sites/cela.ca/files/CELABriefingNote-Bill66andCWA.pdf

Today, we are calling on all municipal councils in the Lake Simcoe watershed, and in Simcoe County, to reassure those citizens that their water and green spaces won't be sacrificed. We respectfully ask that your council put safety and good regulation first and publicly commit not to use Bill 66. To that end, we enclose an example motion which could be considered by your council.

We would appreciate notification of any actions taken by Council regarding Bill 66.

Sincerely,

Claire Malcolmson

Executive Director, Rescue Lake Simcoe Coalition

rescuelakesimcoecoalition@gmail.com

Margaret Prophet

Executive Director, Simcoe County Greenbelt Coalition

margaret@simcoecountygreenbelt.ca

Keeping XX open for business without jeopardizing safe drinking water and other environmental protections.

WHEREAS, the Government of Ontario has introduced Bill 66, An Act to restore Ontario's competitiveness by amending or repealing certain Acts; and

WHEREAS, Schedule 10 of Bill 66 would amend the *Planning Act* to allow municipalities to pass "open-for-business planning by-laws"; and

WHEREAS Bill 66 would allow open-for-business planning by-laws to override important planning, drinking water, agricultural and other environmental protections contained in the *Clean Water Act, 2006*, the Provincial Policy Statement, and other provincial policies, plans, and legislation; and

WHEREAS, the content Bill 66 was never discussed with XX residents in either the recent provincial or municipal elections; and

WHEREAS no notice or public hearing is required prior to the passing of an open-for-business planning by-law nor any appeals rights thereafter; and

WHEREAS, protections included in the *Clean Water Act, 2006* and in the corresponding approved XX Source Protection Plan are critical to the health of XX residents;

THEREFORE BE IT RESOLVED,

THAT the Town/City of XX opposes Schedule 10 of Bill 66, An Act to restore Ontario's competitiveness by amending or repealing certain Acts and calls for its removal from the Bill; and

THAT notwithstanding the future adoption of Bill 66, the Town/City of xx will not exercise the powers granted to it in Schedule 10 or any successor sections or schedules to pass open-for-business planning by-laws for the duration of this term of office;

THAT this resolution be distributed to: the leaders of all parties represented in the Legislature; the Minister of Municipal Affairs and Housing; the Minister of the Environment, Conservation and Parks; and the Association of Municipalities of Ontario.

THAT Bill 66 does not represent how the people of XX want to do business.

13. Resolutions from Council

1. Resolution from Councillor Kroon, re: Employment Growth Along Highway 404

Moved by Councillor Kroon
Seconded by Councillor Bartley

Whereas the Town of Whitchurch-Stouffville continues to vigorously support the intent and application of both the Greenbelt Act (2005) and the Oak Ridges Moraine Conservation Act (2001); and

Whereas the "countryside area" or "protected countryside" designations in the Oak Ridges Moraine Conservation Plan (2017) and Greenbelt Plan (2017) respectively are not sensitive environmental areas; and

Whereas all lands along the 400-series highways are very attractive to industrial development due to their ease of access to the highway network; and

Whereas not all industrial developments are a threat to the environment; and

Whereas permitting clean industrial development will not only help create jobs, but also recoup cost of the investment in and recapture the value of the 400-series highways; and

Whereas the Town of Whitchurch-Stouffville has a significant amount of land along Highway 404, that are highly attractive for employment growth; and

Whereas the Town of Whitchurch-Stouffville is in desperate need for employment growth.

Therefore be it resolved, that the Province of Ontario be requested to consider designating appropriate lands abutting a 400-series highway in the GTHA "Provincially Significant Employment Areas"; and

That the Province of Ontario be requested to amend all its applicable land use plans to permit and encourage clean industrial development on the lands designated "countryside area" or "protected countryside" generally abutting a 400-series highway, and

That the Province of Ontario be further requested to direct all affected municipalities to give high priority to servicing these lands; and

That staff be directed to report back with a detailed proposal for the Gormley lands along Highway 404 within the Town of Whitchurch-Stouffville for Council consideration and Provincial approval.

Carried

14. By-laws

Moved by Councillor Upton
Seconded by Councillor Smith

That Council read the following by-laws a first, second, third time and passed:

2018-160-AP being a by-law to appoint an Alternate Member of Regional Council for the 2018-2022 Term of Council.

2018-161-AP being a by-law to appoint a Member of Council to the Lake Simcoe Region Conservation Authority Board of Directors for the 2018-2022 Term of Council, and to repeal By-law 2014-133-AP.

2018-162-AP being a by-law to appoint Deputy Mayors and Vice-Deputy Mayors and to repeal By-law 2015-105-AP.

2018-163-TX being a by-law to levy an Interim Rate for 2019 upon the taxable properties of The Corporation of the Town of Whitchurch-Stouffville and to repeal By-Law 2018-094-TX.

2018-164-FI being a by-law to to establish fees or charges for services or activities provided by the Town of Whitchurch-Stouffville (General Fees and Charges) and to repeal By-law 2018-001-FI.

2018-165-FI being a by-law to establish development charges for The Corporation of the Town of Whitchurch-Stouffville and repeal By-law 2018-142-FI.

Carried

York Region

Planning and Economic Development
Corporate Services Department

MEMORANDUM

To: Regional Council

From: Paul Freeman
Chief Planner

Date: December 13, 2018

Re: Bill 66, Restoring Ontario's Competitiveness Act, 2018

This memorandum provides Council with a high level summary and analysis of the legislative changes identified in proposed Bill 66, Restoring Ontario's Competitiveness Act, 2018, with a focus on changes to the *Planning Act, 1990.*

The Province is consulting on proposed legislative changes to reduce regulatory burden on business

On December 6, 2018, the Province released the first draft of Bill 66, Restoring Ontario's Competitiveness Act, 2018 with the intent of giving businesses more flexibility to create jobs, making it easier to locate or expand, and reducing regulatory burden. The Province is proposing legislative changes to facilitate job creation in sectors such as agriculture, childcare, long term care, manufacturing and wireless services. Bill 66 includes proposed changes to the Planning Act to create a new planning tool, the open-for-business planning by-law and regulation. These regulatory proposals have been posted on the Environmental Registry of Ontario for consultation, closing January 20, 2019.

A summary of the proposed changes through Bill 66 are provided in Attachment 1.

Proposed Planning Act changes would create a new economic development tool that could be used by local municipalities to streamline approvals for economic opportunities

Under Bill 66, proposed Planning Act changes would permit local municipalities to pass an "open-for-business planning bylaw" to streamline planning approvals for major employment and economic growth opportunities. Before a local municipality can pass an open-for-business planning bylaw, the municipality must apply for and receive written approval from the Minister of

APPENDIX C

Municipal Affairs and Housing, and have met certain criteria. However, no criteria has been included under Bill 66, nor does the Bill specifically require the Province to ensure defined criteria be put in place.

In addition, an open-for-business planning by-law would allow a major employment use development to proceed without being subject to:

- Provincial Policy Statements issued under the *Planning Act 1990*, *Metrolinx Act, 2006*, and the *Resource Recovery and Circular Economy Act, 2016*
- Provincial Plans and Acts including the Oak Ridges Moraine Conservation Plan, Greenbelt Plan, Growth Plan, Lake Simcoe Protection Plan and the Great Lakes Protection Plan
- Significant threat policies identified in source protection plans (Section 39 of the *Clean Water Act, 2006)*
- Regional or local official plans, zoning by-laws, holding provisions and increased height and density provisions in exchange for community benefits

Exemption from Provincial Policy Statements, Plans and Acts may be seen to undermine important protections put in place to protect natural heritage systems, municipal water supply and preserve agricultural land.

York Region's ability to provide fulsome site plan conditions on developments proceeding under this streamlined process could be limited

While not subject to Site Plan Control, under an open-for-business planning bylaw, local municipalities would retain the ability to impose conditions reasonable and related to the appropriate use of land and necessary for protection of public health and safety.

As proposed, It appears regional municipalities have little to no role in the development or implementation of open-for-business planning by-laws. Local municipalities could impose conditions related to Regional roads including right-of way-width, land conveyance, access points and grading.

An Open for Business Planning By-law could be approved without public consultation

Local municipalities will be able to pass an open-for-business planning bylaw without public consultation, with public notification required within 30 days after it is passed. These bylaws would be able to take effect within 20 days of passing, meaning that a bylaw can be in force 10 days prior to notification being required.

A request by a local municipality to use an open-for-business planning by-law will need to be supported by information prescribed by regulation. The Province is proposing a new regulation under the Planning Act that would:

- Require information such as description of subject lands, land use planning information and details about the proposed employment opportunity
- Require confirmation that the proposal is for a new employment use

- Require evidence that the proposal would meet minimum job creation thresholds (e.g. 50 jobs for municipalities with a population of less than 250,000 and 100 jobs for municipalities with a population of more than 250,00 people
- Identify land uses, buildings and structures that may be authorized under the tool, such as manufacturing and research and development, but not residential, commercial or retail as the primary use
- Prescribe how notice is to be given the Minister of Municipal Affairs and Housing following the passing of an open-for-business by-law

Regional Staff will provide a formal response to the Province on Bill 66, Restoring Ontario's Competitiveness Act by the January 20th deadline

As currently proposed, the Bill contemplates development may be approved outside of the Region's urban area and potentially contrary to the Region's planned urban structure, infrastructure master planning and the achievement of complete communities.

A more comprehensive review of the proposed changes contemplated by Bill 66 is currently underway. This review will inform a Regional staff response which will be provided to the Province by January 20, 2018. Given the short timeframe, staff will provide another update to Council following submission of staff's comments on the proposed Bill.

Paul Freeman
Chief Planner

Attachment (1)
e-9039742

Attachment 1

Summary of Changes identified in proposed Bill 66, Restoring Ontario's Competitiveness Act, 2018

Legislation	Proposed Changes
Agricultural Employees Protection Act, 2002	• Extends the application of the Act to employees who engage in ornamental horticulture
Farm Registration and Farm Organizations Funding Act, 1993	• Changes to the process for obtaining a farming business registration number
Ministry of Agriculture, Food and Rural Affairs Act, 1990	• Provide Minister of agriculture, Food and Rural Affairs with the Authority to establish or make changes to loan guarantee programs • The Lieutenant Governor would retail authority over the amount and form of the guarantee
Pawnbrokers Act, 1990	• Repeal of the Pawnbrokers Act and amendments to the Personal Property Security Act
Child Care and Early Years Act, 2014	• Removes restriction in home-based child care providers by increasing flexibility in the number and ages of children they can care for. • Lowering the age of children that authorized recreation programs can serve from 6 to 4.
Ontario Energy Board Act, 1998	• Removes reference to sub-metering of units and adds reference to unit smart meter providers.
Toxics Reduction Act, 2009	• Repeals of the Toxics Reductions Act and Regulation 455/09 and 296/18and associated regulations on December 31, 2021. • Rely on the *Federal Chemicals Management Plan*
Pension Benefits Act, 1990	• Allows private-sector employers to more easily merge single-employer pension plans with jointly sponsored pension plans
Technical Standards and Safety Act, 2000	• Amended so no longer applicable to upholstered or stuffed articles
Wireless Services Agreements Act, 2013	• Repeals the Act and the associated regulations to harmonize with Federal regulations
Long-Term Care Homes Act, 2007	• Modernizes and streamline administrative requirements for the operators of long-term care homes.
Employment Standards Act, 2000	• Eliminates the requirement for employers to apply for Ministry of Labour approval for excess weekly hours of work and overtime averaging • Stops the requirement for employers to post the Employment Standards Act poster in the workplace
Labour Relations Act, 1995	• Amended to deem municipalities and certain local boards, hospitals, colleges, universities and public bodies to be non-construction employees • Trade unions no longer represent employees of these employers
Planning Act, 1990	• New section allowing local municipalities to pass open for businesses planning by-laws • Written approval from the Minister required to pass this type of by-law if prescribed criteria are certified • Exempts applications proceeding under this by-law from Provincial Policy Statements, Provincial Plans, Official Plans, Zoning By-laws.
Highway Traffic Act, 1990	• Allows electronic versions of permits to satisfy the requirements on the Act including surrendering the permit to police

Subject: AMO Policy Update - Bill 66 - Municipal Implications Overview

December 18, 2018

Bill 66 – Municipal Implications Overview

On December 6th, 2018, Minister of Economic Development, Job Creation and Trade, the Honourable Todd Smith, introduced Bill 66, the *Restoring Ontario's Competitiveness Act*. This proposed legislation has significant interest for municipal governments. Bill 66 has only had First Reading at this time and will continue through the debate and hearing process. After this week's sitting, the Legislature is scheduled to return for the next Session on Tuesday, February 19, 2019.

In this members' update, AMO is providing an overview and brief analysis as we pursue additional information and clarification to bring a report to the January Board of Directors meeting. Further communications on the Bill will occur at that time.

Several corresponding proposed regulations are now open for comment on the Ontario Regulatory Registry. In most cases, the deadline for comment is January 20th to respond via the registry process.

Schedule 2 — Repeal of the *Pawnbrokers Act*

Schedule 2 of the Bill repeals the *Pawnbrokers Act* in its entirety. Created in the early 1900s, the Act regulates pawnshops and second hand stores. Municipal governments would retain the authority to create bylaws and business licenses regulating pawnshops, however, the repeal would eliminate law enforcement tools aimed at enforcing against theft and enabling the search and return of stolen goods. AMO will connect with police services to obtain their perspectives on the impacts that the change would bring and consider alternatives.

Schedule 3 — Amendments to the *Child Care and Early Years Act*, 2015 and the *Education Act*

Changes to rules regarding in-home child care services and authorized recreational and skills building programs; increasing the permissible number and age of children per provider a day will likely increase access to childcare. The proposals may also raise concerns related to children's health and safety and the quality of childcare, with possible impacts on municipal monitoring of childcare spaces.

Schedule 4 — Amendments to the Ontario Energy Board Act, 1998 (Sub-metering)

The proposed change deletes references to 'unit sub-metering' from the *Ontario Energy Board Act*, and replaces it with references to smart meters. It is unknown if conversions to smart meters have taken place in all housing units being managed by municipal governments. This may impact the ability to individually charge tenants for energy used. Studies show that lack of individual meters can raise energy use over 30%, which will bring financial impacts. As well, it is unclear if it would have any impact on second suites or inclusionary zoning initiatives.

Schedule 8 — Amendments to the *Long-Term Care Homes Act*, 2007

Proposed changes for long-term care homes' licences include that the Director, as appointed by the Minister, may determine the need and how public consultations shall be conducted. This may reduce the frequency of attendance by licensees at public meetings. Further, the Ministry would have added flexibility to issue licenses for temporary beds for a longer duration of time. Municipal homes have licences subject to Minister's approval with no designated term. Further efforts to improve long-term care and reduce administrative burden should continue. There is a need for more discussions to develop a less prescriptive, outcomes-based framework that reduces burden while prioritizing patient care and well-being. AMO will continue to work with other long-term care partners to identify opportunities for positive reform and to monitor long-term care impacts of Bill 66 and corresponding regulations. Proposed regulations have been posted for public comment until January 28th, 2019.

Schedule 9 — Amendments to the *Labour Relations Act*, 1995 (Construction Employer Designation)

Bill 66 would clarify that municipal governments are not construction employers. Construction employer designation reduces the number of eligible bidders for municipal construction projects and increases municipal capital costs by eliminating competition. Construction is not a core municipal function and municipal governments should not be treated as construction employers. This has been a longstanding municipal ask and AMO has supported past private members' bills seeking this clarification.

Schedule 10 — Amendments to the *Planning Act* ('Open For Business' Tool)

The proposed legislation introduces a new planning tool called an "open for business" bylaw. Provincial government commentary has indicated that this tool could fast track permanent job creating opportunities, indicating that the specifics of the use of the

tool will come in future regulation. The posted description of the scope of a regulation indicates that a proposal to use this tool would require a minimum job creation threshold (e.g. 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). It would appear that the tool, like a Minister's Zoning Order (MZO) would be for a specific land use application. We look to the Province to provide greater clarity and how this tool is different or similar to a Minister's Zoning Order.

Once there is greater clarity, we can turn attention to whether this tool can deliver what is expected. The draft legislation outlines the order of the process as follows, presumably after a planning application is received by the municipality as well as some planning evaluation:

1. The municipality must receive approval from the Minister to pass the "open for business" by-law.
2. The municipality passes the by-law.
3. An agreement between the land use proponent and municipality regarding site plan type conditions is signed and registered against the land to which it applies.
4. It comes into effect within 20 days of passing and is sheltered from LPAT appeal.
5. Notice is provided to the Minister within 3 days of passing and to others within 30 days.
6. The Minister may modify or revoke the by-law.
7. The municipality can amend or revoke the by-law.

NOTE: Public consultation is not required but not prohibited.

While not clearly stated, the fact that conditions are registered against a specific property implies that the 'open for business' by-law is site specific and not a 'blanket' across a large area of a municipality. As well, we would look to the Province for greater clarity on how the powers to amend, by both the Minister and the municipal government, might be used.

The sections ((6) *Non-application of listed provisions*) indicating which elements of provincial law do not apply to an "open for business by-law" are being widely discussed. This list generally requires that municipal decisions conform to the intent of the listed *Acts*. Many of these Acts refer to environmental and water related protections, which raises questions about achieving economic gains that may result in longer-term environmental concerns. It should be noted that the *Environmental Assessment Act* and EA process has not been identified in this list. Perhaps this is the backstop that will avoid costly environmental remediation.

There are also other financial, health, and safety factors within these listed Acts that need to be considered as well as the other aspects, such as relationship to municipal planning documents and public consultation.

AMO will be continuing our Bill 66 analysis and pursuing answers to these questions over the coming weeks.

AMO Contact: Monika Turner, Director of Policy, mturner@amo.on.ca, 416.971.9856, ext. 318.

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