

Section III – Items for the Information of the Board

TO: Chair and Members of the Board of Directors
Meeting #10/18, Friday, January 04, 2019

FROM: Carolyn Woodland, Senior Director, Planning and Development

RE: **DRAFT COMMENTS TO ENVIRONMENTAL REGISTRY OF ONTARIO (ERO)**
Bill 66, Restoring Ontario's Competitiveness Act, proposed Open-For-Business Planning Tool (ERO #013-4125), and new regulation under the Planning Act (ERO #013-4239).

KEY ISSUE

Toronto and Region Conservation Authority's (TRCA's) draft comments on the Government of Ontario's proposed Bill 66, open-for-business planning tool and a new regulation under the *Planning Act*.

RECOMMENDATION

WHEREAS the Province of Ontario has posted the proposed amendments to the Planning Act as part of Bill 66, the Restoring Ontario's Competitiveness Act, for public comment on the Environmental Registry of Ontario (ERO);

AND WHEREAS the Board of Directors requested a report and draft comments be provided to the Board as soon as possible in 2019 given the January 20, 2019 deadline for submission of comments;

LET IT THEREFORE BE RESOLVED THAT the Toronto and Region Conservation Authority (TRCA) staff report and draft comments on the Ontario government's proposed open-for-business planning tool and associated implementing regulation, be received and that any comments from the Board of Directors be considered in informing TRCA's final ERO submission.

BACKGROUND

On December 6, 2018, the Government of Ontario released a request for comments on the Environmental Registry of Ontario (ERO) web page regarding two proposed changes to existing legislation. The first item being considered is the [proposed open-for-business planning tool](#), and the second is the [new regulation under the Planning Act for the open-for-business planning tool](#). The commenting period is open until January 20, 2019.

TRCA has an ongoing interest in this process and the amendments proposed through this legislation, given our experience and roles as a regulator under Section 28 of the *Conservation Authorities Act*, a public commenting body under the *Planning Act* and the *Environmental Assessment Act*. TRCA also derives interest as a resource management agency operating on a local watershed basis, and a body with delegated authority in plan review to represent the provincial interest for natural hazards.

The proposed legislation involves changes to the *Planning Act* to create a new economic development tool, the open-for-business planning by-law (OFBPBL). The OFBPBL would be available to all local municipalities to ensure they can act quickly to attract businesses seeking development sites. In circumstances where there are major employment and economic growth opportunities, municipalities could request to use an OFBPBL, provided certain criteria were

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satisfied. If a request is endorsed, the municipality could then pass an OFBPBL through a streamlined process. This process would:

- Allow municipalities to permit the use (for example, zone the lands) without having to strictly adhere to existing local requirements (for example, official plan and zoning requirements);
- Remove the application of a separate approval process for site plan control;
- Remove ability to use density bonusing (community benefits in exchange for height or density) and holding by-law provisions;
- Allow the municipality to impose limited planning-related conditions that may help to facilitate the proposal (for example, approval of plans and drawings that show site plan matters like transportation access, lighting, parking, and the like) and enter into agreements to ensure development conditions are secured;
- Allow public consultation at the discretion of the municipality, while requiring public notice after the by-law is passed (at a minimum);
- Provide that decisions are final and cannot be appealed to the Local Planning Appeal Tribunal (but allow the Minister of Municipal Affairs and Housing to intervene before the by-law comes into effect, 20 days after its passing); and
- Remove the requirement for decisions to strictly adhere to provincial policies and provincial plans (but allow the Minister of Municipal Affairs and Housing to impose conditions to protect matters like public health and safety when endorsing the use of the tool).

The regulation containing these criteria is not yet written, but would include details on the new major employment use, identify the uses of land, buildings or structures that may be authorized by the tool. The regulation would also prescribe how notice is to be given to the Minister of Municipal Affairs and Housing following the passing of an OFBPBL.

At Executive Committee Meeting #10/18, held December 14, 2018, TRCA staff gave a verbal update to the Board on the newly released provincial proposals. The Board requested that staff bring a report and draft comments back to the Board as early as possible in the new year, given that the deadline for comments to the posting on the Environmental Registry is January 20, 2019. Accordingly, staff has “fast-tracked” their draft comments based on the comments from the Executive Committee members, with limited additional internal or external discussion.

RATIONALE

The proposed changes to the *Planning Act* have significant implications for TRCA’s role in fulfilling its mandate and its role as a commenting agency under the *Planning Act*, and as a regulator delegated to represent the provincial interest on natural hazards under the *Conservation Authorities Act*. Bill 66 proposes a new OFBPBL process, which would enable municipalities to 1) request to remove applications for employment purposes from Planning Act requirements, and 2) remove the requirement for consistency with the Provincial Policy Statement, and 3) remove the conformity requirements to major pieces of environmental legislation such as the *Clean Water Act*, the *Great Lakes Protection Act*, the *Greenbelt Act* and the *Oak Ridges Moraine Conservation Act*. The key concerns highlighted in the attached draft comments are as follows:

- Public health risks from overriding significant threat policies of the *Clean Water Act* without the addition of appropriate safeguards;
- Public health and safety risks from overriding natural hazards provisions of the Provincial Policy Statement without the addition of appropriate safeguards; and
- Creating confusion for stakeholders by allowing matters to proceed outside of the LPAT process and long established processes related to public notification and consultation under

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the *Planning Act*. This could include the potential for costly litigation outside of the LPAT process.

FINANCIAL DETAILS

The financial impact related to TRCA's review of *Planning Act* applications will be assessed once more details on the Act and Plan and municipal responses is known. No additional funding is proposed to support the policy analysis work associated with the preparation of these comments.

DETAILS OF WORK TO BE DONE

Upon endorsement by the Board of Directors of the staff comments, the attached draft comment letter will be updated and submitted as TRCA's official comments to the ERO. Staff will continue to brief the Board on other legislative changes that result from this circulation.

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Date: January 2, 2019

Attachments: 1