

Comments on Schedule 10, Bill 66

Bill 66, Restoring Ontario's Competitiveness Act, was introduced by the Government of Ontario on December 6, 2018 with a deadline for submission of comments of January 20 2019. Our comments are directed only at Schedule 10 of the proposed legislation.

Schedule 10 would firstly create a new economic development tool, the open-for –business planning by-law (OFBPBL), which would be available to all local municipalities to ensure they can act quickly to attract businesses seeking development sites. A second change would create a new regulation under the Planning Act which would specify the criteria the Province would require the Municipality to conform with before it approved the OFBPBL. The Province has yet to outline these criteria.

If an OFBPBL request was made by the municipality and endorsed by the Province, the municipality could then bypass a very broad range of existing laws and regulations including provincial laws, and official plans and zoning requirements, avoid public notice requirements and local planning Appeal Tribunal appeals. Green Durham Association comments are as follows:

1 We oppose Schedule 10 of Bill 66, as it is currently presented, for the following reasons:

- a) The proposal would allow an OSBPBL to be passed without public notice or meetings or right of appeal. We see absolutely no justification for such an approach.
- b) The extremely short timeline allowed for comment over the holiday period allows no time for developing better understanding, for interaction with local government, or for careful reflection on the implications of this sweeping proposed legislation.
- c) The proposed legislation provides no background information or rationale for the problems this Bill has been designed to address; and why such problems cannot be addressed either within the current planning framework, or through a much less intrusive approach.
- d) The proposed legislation does not include any of the criteria which the Province would apply when approving a municipal OFBPBL request, thereby making it virtually impossible to evaluate the proposal, since without the criteria, the proposed change has no real substance.
- e) Some municipalities may decide they can use the OFBPBL, while also assuring consistency with certain elements of the existing planning framework, (including Source Water Protection Plans, the Oak Ridges Moraine Plan, The Regional Official Plan etc) However legal experts at CELA (Canadian Environmental Law Association), have

pointed out that once the OSBPL is approved, such assurances could put municipalities in an unlawful situation, since they have no legal basis for providing such assurances.

CELA also point out, that while developing legislation follows a formal, transparent process with opportunity for comment throughout development of the legislation, replacing some of the legislation governing the existing planning framework with regulation, which Bill 66 effectively does, makes the overall planning framework less transparent, and less open to public scrutiny when regulations as opposed to legislation are changed. If the Province were now to impose regulations, that to name just a few of the regulations that we feel would be necessary, required the draft Bill to require municipalities to maintain conformity/ consistency with the PPS, and the Moraine, Greenbelt, and Growth plans, and the Regional Official Plan, we understand these criteria could be far more easily modified by the Province in future than the current legislative framework that Bill 66 would partially replace.

2 We believe in most cases it makes sense to only consider making significant planning and policy changes at specific points when reviews of Official Plans or of Provincial Policy are scheduled. If major changes can be made quickly with less oversight and broad consideration outside such cycles, then we are concerned it will create a tendency where advocates for major changes promoting employment opportunities, will realize it is in their best interests not to raise such change when overall plans are being set and there will be far more scrutiny, but under “open for business” legislation.

3 We have been strongly supportive of most of the Provincial level planning changes that have been made over the past few decades beginning with the introduction of the Moraine Plan by the Provincial Conservatives some 18 years ago. We believe that by clarifying the nature and location of what development would and would not be allowed, a lot of red tape was removed and long fights between development advocates and opponents that ended up in costly OMB hearings were greatly reduced after such legislation was implemented, at least in the area of West Durham where our efforts have been largely focused.

However we have also seen over the past few decades a significant increase in the red tape and expense that one has to go through for even modest changes in land use and related matters. So we too have real concerns with overregulation and are very open to thoughtfully examining the removal of red tape, however no such examination has taken place here. Furthermore the red tape that sometimes frustrates us, has nothing to do with obstacles to creating employment, which is the only area the Province is concerned about with this legislation.

We believe that a more meaningful discussion around removing such obstacles could be had, if before adopting a solution like Bill 66, there was more focus on the problems municipalities and others are having in moving forward, overall and not only with respect to the important issue your government has raised - attracting new business and employment. If for example Uxbridge has had a need it can justify to expand employment lands, why have they been unable to accomplish this in the past, and is Bill 66, or another approach, the best way to improve the process?

Studies we have read suggest there are sufficient employment lands set aside in the GTA to accommodate employment needs, and the most likely pressures that would create a shortfall, seems to stem from the fact that there has been pressure to use employment lands for residential growth.

The provincial initiative identifies that the “primary use” of the by-law must be for jobs and employment use. However residential, commercial, and retail, can be a secondary use, and we believe a considerable amount of support for this by-law is from interests who see this as a way of pursuing future residential growth. A delay in moving forward would enable fruitful discussion to take place in each municipality around what changes stakeholders might recommend the Province take to address specific concerns, while at the same time protecting and balancing other environmental and community interests.

4 Green Durham Association has been particularly focused on matters pertaining to the urban fringe. All municipalities want to attract more employment. Uxbridge, and Durham Region, haven’t wanted to attract too much residential growth in Uxbridge for two reasons: because that would support urban sprawl since most residents work in urban areas mainly to the south and west, and also because sewage treatment facilities in the Town are limited.

Aggregate pits occupy a few thousand acres of land in Uxbridge Township. Most have been operating for 35 years or more and are an interim use, so what happens on these lands in future is critical to us. While many future uses can be beneficial, we have recent experience with the nearby Greenbank Airport in Scugog where airport proponents made a case for an airport and associated employment. In reality there was no serious airport proposal; it was a commercial fill operation where contaminated fill was being imported under the guise of a worthy project. So when residents hear of a way to bypass ‘red tape’ to stimulate employment opportunities, particularly on land not designated for such purposes, we have some cynicism!

5 When considering North Pickering and Uxbridge, apart from ensuring that sufficient employment land is available for suitable development, one of the most likely ways of increasing employment is to increase tourism particularly agri–tourism. This is particularly true given the following: 1) our area’s proximity and public land connection to major urban centers, 2) the recent addition to the Rouge Park of 5200 acres in Durham (some 1200 acres in Uxbridge, the remainder in Pickering), 3) the attractive and extensive trails and conservation lands in the entire area, and 4) the fact that in North Pickering, a great amount of the high quality agricultural lands is publicly or developer owned and being cash cropped on short term leases, rather than being invested in – investments which could create more agricultural jobs and revenue..

GDA’s position is that while a major airport has not currently been justified on the Federal lands, we recognize that any Federal Government will want to ensure that if/when the need arises, a portion of these lands will remain available for that purpose in future, We feel however there is a way of leaving that possible future possibility open, while also promoting far better employment generating use of these prime agricultural lands. The Food and Farming sector in Ontario’s Greater Golden Horseshoe is one of the largest in North America and far more could be done in this area to further encourage its growth

In conclusion, we urge the Province to:

- a) Drop any consideration of approving development proposals without any public meetings, notice or review.**
- b) Significantly extend the comment period, and set a comment deadline well after releasing a draft of the criteria and regulations the Province plans to impose in approving any municipal open-for-business by-law.**
- c) Include criteria which ensure that the OFBPBLW will not subvert the extensive planning framework and processes the Province has currently created**
- d) Use the extended comment period to more substantively explain, and encourage discussion about the problems the OFBPBL is intended to address, and seriously consider alternatives for dealing with it in less intrusive ways than the open- for –business approach.**

We further urge the Town of Uxbridge and other Municipalities to:

Oppose the Provincial initiative and agree to never use the by-law if implemented, unless the Province addresses at least a), b) c) and d) above.

Addendum

Our comments above on Bill 66, Schedule 10 were completed before we became aware of the Province's January 2019 announcement that it was also amending the Greater Golden Horseshoe Growth Plan, and providing another very short public comment deadline of Feb 28, 2019 (<http://www.mah.gov.on.ca/Page20926.aspx>)

Communities on the urban fringe are very affected by the Growth Plan. Any reductions in urban area density targets, amendments to which the Province has announced and appears to be considering, will almost inevitably lead to more sprawl and residential expansion of the urban area, onto prime agricultural and/or Moraine land on the urban fringe to the north.

Because of this interconnection, the Province's previous review of the Growth Plan was completed together with a review of the Provincial Moraine, Greenbelt and Escarpment Plans, and considerable time was set aside for public comment that we participated in, before the final changes to these plans were announced in 2017.

This provides yet another reason to increase the period for comment for Bill 66, Schedule 10, as well as for the proposed changes to the Growth Plan. A longer comment period would enable the public and Government to review any such interconnected changes, and others the Province may be considering which affect the overall Provincial Planning framework together, rather than making piecemeal final decisions. This interconnection may not be an issue in some parts of Ontario but it certainly is in the Greater Golden Horseshoe.