

Bill 66, Restoring Ontario's Competitiveness Act, 2018 (Schedule 10)

February 5, 2019
(PED19027)

ERO Postings

On December 6, 2018, Bill 66, Restoring Ontario's Competitiveness Act, 2018, received first reading. The Bill, and two associated notices, were posted on the Environmental Registry of Ontario (ERO) for comment until January 20, 2019:

ERO# 013-4125:

“Proposed open-for-business planning tool”

- Introduces new economic development tool: the open-for-business planning by-law

ERO# 013-4239:

“New regulation under the Planning Act for open-for-business planning tool”

- Describes Planning Act regulation to implement the open-for-business planning by-law

ERO# 013-4293:

“Bill 66, Restoring Ontario's Competitiveness Act”

- Schedule 10 is amendments to Planning Act to implement the open-for-business planning tool

Withdrawal of Schedule 10

- On January 23, 2019, the Minister of Municipal Affairs and Housing announced that the government would be withdrawing Schedule 10 from Bill 66 after listening to concerns raised by multiple stakeholders

Bill 66 (Schedule 10)

- Schedule 10 allowed a municipality to pass an ‘open-for-business planning by-law’
- The by-law could only be utilized for a “prescribed purpose”
- Would establish specialized zoning that would not need to comply with City’s Official Plan
- Would not need to be consistent with the Provincial Policy Statement or many Provincial Plans (including Greenbelt Plan, Clean Water Act, Places to Grow Plan)
- Would not require public consultation
- Could not be appealed to the Local Planning Appeal Tribunal
- Would not require Site Plan Control

Open for Business Planning By-law & Regulations

The open for business planning by-law was proposed to:

- Provide a new economic development tool to allow municipalities to act quickly to attract major employment opportunities
- Be utilized at the discretion of the municipality and require approval of the Minister

Municipality could use the by-law if 'prescribed criteria' were met, including:

- Confirmation that the proposal was for a new major employment use
- Minimum job creation threshold of 100 jobs for municipalities with population greater than 250,000

Staff Comments

1. The open-for-business planning by-law is not a necessary tool:
 - The city already has a streamlined development approvals process
 - Many provincial approval requirements (eg MTO permits, Environmental Compliance Approvals) were not exempted under the by-law but can be a lengthy part of the development approvals process

Staff Comments

2. Concerns regarding proposed exemptions in Bill 66:
 - The Bill identified portions of several Acts which would not apply to the open-for-business by-law, including the Greenbelt, Clean Water, and Great Lakes Protection Acts
 - Concern that municipal councils would face pressure to permit development in areas that would normally be protected under legislation.
 - By-law could undermine protections for natural areas, water resources, and agricultural lands and incentivize development in these areas
 - The Bill also exempted the by-law from “any prescribed provision”

Staff Comments

2. Concerns regarding proposed exemptions in Bill 66:
 - The by-law would not need to be consistent with the PPS and would not need to conform to the City's Official Plans
 - The Urban and Rural Official Plans provide the land use planning framework to guide the growth and development of the City for next 30 years
 - City's urban structure is founded on directing employment uses to the City's business parks – potential impact on future viability and development of business parks if employment uses locate elsewhere
 - Creation of uncertainty in real estate market

Staff Comments

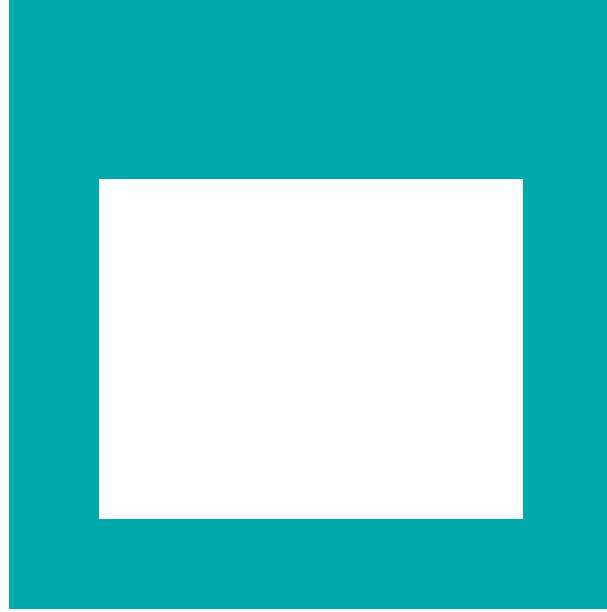
3. Need for clarity on the ‘prescribed purpose’ in Bill 66 and the proposed Regulations:
 - The Bill stated that the open-for-business planning by-law shall only be used for a ‘prescribed purpose’, but it did not provide details on the purpose
 - The vague language in the Bill is concerning and could allow the open-for-business by-law to be used for purposes beyond employment in the future
 - The ERO posting did not contain the full text of the draft regulation and used vague wording such as “prescribed criteria” and “prescribed information”

Minister's Zoning Order (MZO)

- The MZO is a tool under section 47 of the *Planning Act* which allows the Minister to impose zoning on a property outside of the municipal approval process. The MZO does not require consultation and can be passed quickly by the Minister. Currently it is subject to appeal.
- The MZO tool allows for expedited approvals, and removing the appeal rights would ensure it occurs in timely fashion.
- This would remove the onus from the municipality of having to undermine its own planning framework, and removes the pressure being put on municipal councils to allow development in locations not deemed appropriate.

Comments on ERO Postings

- Appendices “A” and “B” are the comments that City staff prepared and submitted to the Province in response to the ERO postings in order to meet the deadline of January 20, 2019.
- The Council decision on this Report, including any changes requested by Committee / Council, will be forwarded to the Province as additional comments, as per Recommendation (e) of the Report.



THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE