



## BRIEFING NOTE BILL 197

### CURRENT SITUATION

On July 21<sup>st</sup>, Bill 197, *COVID-19 Economic Recovery Act*, 2020 received Royal Assent. Schedule 6 to Bill 197 adds a new section (6.01) to the Environmental Assessment Act (EAA). Section 6.01 requires all landfill proponents to obtain municipal support for the establishment of a landfill. The requirement to obtain “municipal support” applies not only to each local municipality in which the landfilling site will be situated but also to adjacent municipalities, where an adjacent municipality has allowed residential land use within 3.5 km of the proposed landfilling site.

Evidence of the required “municipal support” is defined within s. 6.01(5) as a copy of a municipal council resolution from each of the applicable municipalities that indicates the municipality supports the undertaking to establish the landfilling site.

### IMPACTS OF BILL 197

- Upper tier municipalities (who have been given jurisdiction over waste management by the *Municipal Act* or other provincial legislation) which are in support of the establishment of a landfilling site, are still required to be obtained municipal support from any other municipality that is within 3.5 km of the proposed landfilling site.
- These amendments allow lower tier municipalities to determine whether a landfilling site can be established in an adjacent upper tier municipality, even if the host municipality is in support of the landfilling site.
- Bill 197 does not address a situation where, as a result of an election, or as a result of a change of mind by Council, a local municipality which had previously passed a resolution in support of the establishment of a landfilling site, subsequently passes a resolution withdrawing that support. This further heightens the risk to a proponent seeking to establish a landfilling site.

### Municipal Autonomy

- Bill 197 removes local decision-making powers from municipalities and puts it the hands of their neighbours. Whom often have different waste disposal challenges and responsibilities.
- Bill 197 sets a dangerous precedent by now giving neighbouring municipalities (regardless of population size) decision-making powers over what kinds of commercial enterprises can operate in other communities. This means that Markham can halt a project in Pickering, and Toronto can veto a project in Vaughan or Mississauga — and vice versa.
- Upper tier municipalities, who are responsible for their own waste management under *The Municipal Act* will have to rely more heavily on shipping waste by truck to landfills in Michigan and other U.S. states.

## Precedent

Municipal support is required after notice is given by a proponent and must be provided prior to submission of the environmental assessment to the Ministry.

- If consideration is given to the time and cost associated with conducting an environmental assessment for a proposed landfilling site, it is unlikely that a proponent would commence an environmental assessment, or even give notice of proposed terms of reference without first having the required resolutions of all applicable local municipalities.
- At the same time it is also reasonable to expect that the affected municipalities may be unwilling to pass such resolutions without first having all of the relevant information which would otherwise be generated during the completion of the environmental assessment.
- With these considerations in mind, the real question is whether any proponent would proceed with an environmental assessment for the establishment of a landfilling site.
- Bill 197 However puts politics ahead of science, public safety, and the economy. It claims to give municipalities more power, but it in fact will do the opposite. This hurts both private and public landfill proponents, the legislation also makes it virtually impossible for municipalities to manage their waste in the future.

## Recommendations

- Ask for an amendment to Bill 197 to limit enhanced say to host municipalities.
- Contact your local MPP to make them aware of your position
- Contact Association of Municipalities of Ontario [*and the Rural Ontario Municipalities Association*]
- Contact Minister of Municipal Affairs, and Minister of Environment, Conservations, and Parks and make them aware of the impact this legislation will have on your municipality.
- Raise this issue at Council, and with your counterparts in other municipalities.

## Background

- *Landfills are an economically vital and safe disposal option for the 8 million tonnes of waste materials a year in Ontario that are not reused or recycled.*
- *Ontario's available landfill capacity is expected to be exhausted in 12 years, by the year 2032.*
- *It takes five to ten years for a new landfill to be approved under Ontario's rigorous Environment Assessment (EA) process.*
- *About 70% of the materials discarded by Ontarians are sent to landfill disposal.*
- *Over 80% of remaining waste disposal capacity is represented in just fifteen landfill sites (both private and public).*

## REQUEST TO SUPPORT CITY OF ST. CATHARINES RESOLUTION

OWMA is a not-for profit organization representing both private sector companies and municipal stakeholders in the Ontario waste management sector

### A Request

- Support of the City of St. Catharines' request to: (1) endorse their position on Bill 197; and (2) pass a supporting motion.

### Background to Bill 197

- Bill 197, the COVID-19 Economic Recovery Act, 2020 deals with COVID-19 issues, but obscured in a Schedule to the Act is a significant change to the Environmental Assessment Act impacting municipalities.

### Municipal Autonomy Compromised

- The Environmental Assessment Act change, while dealing with landfill development, undermines municipal autonomy and establishes the principle that municipalities can 'veto' a development outside, and adjacent to, their own municipal boundaries.
- Bill 197 would empower multiple municipalities to 'veto' development – currently a landfill development - within a 3.5 km zone **inside** the boundary of an adjacent municipality - **even if the host municipality supports the development.**
- This veto empowerment to adjacent municipalities is **overreach.**

### Overreach Consequences

- The potential consequences are real and substantial.
- The overreach is a dangerous precedent – the 'thin edge of the wedge'.
- It is landfill development today, but if the principle remains unchallenged, what next? Consider the implications for: other waste management infrastructure like organics processing, composting and recycling facilities; agricultural developments and activities; transit infrastructure; waste water treatment facilities; etc.
- The overreach compromises the autonomy and the authority of elected officials to make decisions in the best interest of their communities and taxpayers.
- It will cause political entanglements between local municipal neighbours.

### Bill 197 Does Contain Supportable Change

- Bill 197 does change the landscape around landfill developments and environmental assessment.
- In the past, while local municipalities were intimately involved in the process, the province made the final decision on development.
- Bill 197 now establishes that the province cannot issue a positive development decision without the approval/support of the 'host' municipality.
- While this will make it more challenging to get new landfill developments approved and potentially exacerbates our current landfill capacity crisis, it is a reasonable and supportable change.

### The Solution

- The City of St. Catharines' resolution accurately reflects the issues and concerns around the 'adjacent municipality' overreach.
- The answer is a simple amendment to Schedule 6 in Bill 197, removing the reference to adjacent municipalities while maintaining the ultimate right of host municipalities to have the final say.

October 7, 2020

Honourable Jeff Yurek  
Minister of Environment, Conservation and Parks  
College Park 5th Flr,  
777 Bay St, Toronto, ON M7A 2J3

Sent via email: [minister.mecp@ontario.ca](mailto:minister.mecp@ontario.ca)

**Re: Development Approval Requirements for Landfills - (Bill 197)  
Our File 35.2.2**

Honourable and Dear Sir,

At its meeting held on October 5, 2020, St. Catharines City Council approved the following motion:

WHEREAS Schedule 6 of Bill 197, COVID-19 Economic Recovery Act, 2020 considers amendments to the Environmental Assessment Act relating to municipal autonomy and the principle that municipalities can veto a development outside their municipal boundary in an adjacent municipality; and

WHEREAS Bill 197 empowers multiple municipalities to 'veto' development of a landfilling site within a 3.5 km zone inside the boundary of an adjacent municipality; and

WHEREAS Bill 197 establishes a dangerous precedent that could be expanded to other types of development; and

WHEREAS Bill 197 compromises municipal autonomy and the authority of municipal councils to make informed decisions in the best interest of their communities and municipal taxpayers; and

WHEREAS amendments in Schedule 6 could cause conflict in the effective management of landfill sites, put significant pressure on existing landfill capacity, and threaten the economic activity associated with these sites;

THEREFORE BE IT RESOLVED That the City of St. Catharines calls upon the Government of Ontario (Ministry of the Environment, Conservation and Parks (MOECP) to amend Bill 197, COVID-19 Economic Recovery Act, 2020, to eliminate the development approval requirement provisions from adjacent municipalities and that the 'host' municipality be empowered to render final approval for landfills within their jurisdiction; and

BE IT FURTHER RESOLVED that a copy of this motion be forwarded to Premier Doug Ford, Jeff Yurek the Minister of Environment, Conservation and Parks, Steve Clark the Minister of Municipal Affairs and Housing, local MPP's., the Association of Ontario Municipalities (AMO) and Ontario's Big City Mayors (formerly Large Urban Mayors Caucus of Ontario-LUMCO)

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to all Ontario municipalities with a request for supporting motions to be passed by respective Councils and copies of the supporting motion be forwarded to Premier Doug Ford, Jeff Yurek the Minister of Environment, Conservation and Parks, Steve Clark the Minister of Municipal Affairs and Housing, the local MPP's, the Association of Ontario Municipalities (AMO).

If you have any questions, please contact the Office of the City Clerk at extension 1506.



Bonnie Nistico-Dunk, City Clerk  
Legal and Clerks Services, Office of the City Clerk  
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Cc. Hon. Premier Doug Ford [premier@ontario.ca](mailto:premier@ontario.ca)  
Hon. Steve Clark, Minister of Municipal Affairs, Housing [minister.mah@ontario.ca](mailto:minister.mah@ontario.ca)  
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Chair of Ontario's Big City Mayors, Cam Guthrie [mayor@guelph.ca](mailto:mayor@guelph.ca)  
All Ontario Municipalities (via email)