The Regional Municipality of Halton

Response to Ministry of Economic Development, Job Creation and Trade and Ministry of Municipal Affairs and Housing

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

January 18, 2019

Introduction

Halton Region welcomes the opportunity to participate in the Ministry of Economic Development, Job Creation and Trade's and Ministry of Municipal Affairs and Housing's request for comments regarding the proposed Bill 66: *Restoring Ontario's Competitiveness Act, 2018*. Halton Region Council received a report from staff at its meeting of January 16, 2019, and adopted a detailed resolution to be forwarded to the Ministries (as well as the Ministry of the Environment, Conservation, and Parks). Both are attached for consideration in the public consultation period.

Comments

Halton Region Council's resolution states, in part:

> THAT Halton Region does not support provisions in Schedule 10 of Bill 66, that amend, repeal or override the *Clean Water Act, 2006*, and the *Greenbelt Act, 2005*, and the *Toxics Reduction Act, 2009*; and
>
> THAT the approval of a Bill 66 by-law for a lower municipality must require the review and approval of the upper tier municipality; and
>
> THAT the approval of a Bill 66 by-law clearly requires that the integrity of the Greenbelt and source water protection be achieved.

Staff identified a number of concerns with the legislation with respect to Schedules 3 (*Child Care and Early Years Act, 2014*, and the *Education Act*) and 10 (Open-for-business planning by-law) in the attached Report LPS17-19/SS-04.

Schedule 3

The increase in number of children under the age of two years, from two to three children in home child care, is intended to increase access to child care spaces for infants, as they are in high demand and can be hard for families to find. However, this change presents some concerns regarding the health, safety and well-being of children in a home child care setting.

1. The increase in number of spaces for children under the age of two would mean one child care provider could be responsible for up to three children under the age of two at one time. In a licensed home, that could represent half of the children in care (maximum is up to six) and more than half in an unlicensed home (maximum is up to five children). Increasing the number of infants in a home care setting also contradicts Ministry requirements for staffing in family age groups, which allows the placement of children of different ages in the same play activity room with certain conditions. A home child care setting could be considered comparable to a family age group setting. In a family age group where there are six or fewer children, one staff member is required and there are to be no more than two children under two years of age (Schedule 4 of Ontario Regulation 137/15). It is recommended that the number of children under the age of two not be increased.

2. The CCEYA requires that licensed home child care providers' own children that are in the home must be counted, except where a child is six years old or older, or a child under the age of six years old is attending full-day kindergarten in a publicly-funded school, and the provider cares for more than one child under the age of two. Bill 66, if passed, will amend the CCEYA to reduce the age where the provider's own children are counted from six years old to four years old without any conditions. While this change aligns with the age that children are enrolled in a school setting, there are concerns with reducing the age at which the provider's children are included in the allowable maximum number of children, particularly if the number of children under two years of age increases. In an emergency, it may be difficult for the one adult to safety evacuate all children.

   If the decreased age where the provider's own children are counted was the only proposed amendment to age, it would be less concerning, as the impact would likely be minimal in a home. In light of this proposed change and the proposed change to increase the number of children under two years of age to three, it is recommended that the provider's own children under six years old be counted towards the maximum allowable children when the provider cares for more than one child under the age of two.

Schedule 10

The proposal to create an open-for-business planning by-law (OFBBL) introduces a number of changes that could undermine Halton's integrated planning system and the Region's unique role in ensuring that growth and economic development are coordinated and supported; that complete communities are achieved through planning outcomes; and that infrastructure can be provided in an efficient and cost-supportive manner.

1. The tool allows for approvals to be issued without conforming to a number of policy documents. Bill 66, as currently written, removes requirements to comply with important land use policy documents such as the Greenbelt Plan and Growth Plan for the Greater Golden Horseshoe—but also the Regional Official Plan and Source Protection Plans developed under the *Clean Water Act*. In the Halton Region context, this could potentially mean approving planning permissions without ensuring requirements related to the Natural Heritage System, the Agricultural System, prime agricultural lands, and source water protection have been met. Land use policy and growth management decisions have been made based on a considered approach to growth management, environmental and agricultural protection, land supply, and the provision of infrastructure. It is recommended that the OFBBL only be advanced if it also requires specific checks and balances in place to ensure the intent of policy represented in the Regional Official Plan and other important Planning policies are achieved.

2. Section 39(1) of the *Clean Water Act* currently prescribes that, "*A decision under the Planning Act or the Condominium Act, 1998 made by a municipal council, municipal planning authority, planning board, other local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the source protection area shall conform with significant threat policies and designated Great Lakes policies set out in the source protection plan, and have regard to other policies set out in the source protection plan*". All *Planning Act* decisions, therefore, must conform to policies in approved source protection plans that address significant drinking water threats prescribed by the *Clean Water Act*. The removal of this clause opens a door to introduce uses or related activities that may constitute potential quality and

quantity threats to Halton's drinking water sources. There is further concern with the passing of an OFBBL by adjacent municipalities, as groundwater aquifers and wellhead protection areas can extend across municipal boundaries. It is recommended that approvals not be exempted from the *Clean Water Act*.

3. There is no mandate within the tool, as proposed, for local municipalities to consult with Halton Region on matters within its jurisdiction—including, for example, phasing and servicing requirements, transportation (including transportation impact studies, access, and noise studies and mitigation), ensuring the completion of related planning studies or subwatershed studies, and ensuring protections related to the Natural Heritage System, the Agricultural System, and municipal drinking water sources are implemented. As an example, the minimum job thresholds proposed would likely necessitate the provision of urban-level of services. A proposed development under the OFBBL within the rural area could necessitate a need for extension of urban services at a significant cost, without a mandate to include Halton Region at the table in any discussions or decisions. This runs counter to the collaborative approach that the Halton municipalities have successfully employed in planning for growth and economic development in this Region. This could mean that Halton Region would only have a role if voluntarily engaged by the local municipality, with no guarantee that matters of Regional interest are satisfied, and no ability to appeal an OFBBL enacted by a local municipality for any reason. It is recommended that the Province ensures that upper-tier municipalities and agencies be consulted in the review process for OFBBL approvals in order to ensure their roles and responsibilities are represented in the approval process, and offer appeal rights to upper-tier municipalities and related agencies.

4. The Regulation Proposal Notice states that residential and commercial uses cannot be, "*the primary use.*" There is no definition or standard for "primary" at this time. It would be helpful to understand if and how this tool could be used to allow mixed use developments to proceed on employment lands. In particular, it may be relevant in advancing Council's endorsed policy framework for the Health Oriented Mixed Use Node in Oakville (Report No. LPS67-15). It is recommended any implementing regulation provide that definition or standard, and clarify the scale of secondary or accessory uses that can be permitted through an OFBBL.

5. There are also no details on ensuring the minimum number of jobs provided are subject to any criteria, including a minimum length of time guarantee or job security requirement. It is recommended that any implementing regulation allow for agreements to secure that minimum number of jobs over a certain amount of time (as allowed for in the inclusionary zoning regulation O.Reg 232/18).

6. There are no details on whether or not a Provincial review of any request is provided, or if an OFBBL request is intended to remain at the Ministerial level. It is recommended that clarity on the Ministerial request process be provided in any implementing regulation.

7. While no appeal for passing an OFBBL is proposed, there is no clarity on what happens if, after a Ministerial approval to pass is granted, the By-law is ultimately refused. Clarity should be provided on this scenario - with the recommendation being no appeal of non-passing of an OFBBL in order to prevent the additional administrative burden on municipalities.

Conclusion

Before advancing Bill 66 and associated regulations, Halton Region is requesting that the Province provide a response to all of the comments above.

Halton Region staff thanks the Ministries for the opportunity to provide comments on this important issue and look forward to the outcome of this consultation.