



**Credit Valley  
Conservation**  
inspired by nature

January 20, 2019

***Sent via e-mail and the Environmental Registry of Ontario***

Michael Helfinger      michael.helfinger@ontario.ca  
Intergovernmental Policy Coordination Unit  
900 Bay Street, Hearst Block  
7th Floor  
Toronto ON M6H 4L1

Ken Petersen              ken.petersen@ontario.ca  
Provincial Planning Policy Branch  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 13th floor Toronto, ON M5G 2E5

Dear Mr. Helfinger and Mr. Petersen:

**Re:    Bill 66, Restoring Ontario's Competitiveness Act, 2018 ("Bill 66") –  
      ERO 013-4293**

Please be advised that at its meeting of January 18, 2019 the Board of Directors of the Credit Valley Conservation (CVC) passed the following resolution:

***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*** if enacted Bill 66 amends various provincial statutes including the Planning Act. Schedule 10 of Bill 66 empowers municipalities to pass open for business planning by-laws aimed at facilitating major new development in order to create employment and in doing so also exempts these bylaws from complying with various provincial environmental protections and land use controls, including the Greenbelt Act and the Clean Water Act;

***THEREFORE BE IT RESOLVED THAT*** the report entitled "Bill 66 Comments to Environmental Registry of Ontario" be received and appended to the minutes of this meeting as Schedule 'B'.

***THAT*** the CVC Board of Directors endorses the comments attached as Schedule 'B', Appendix 1 to be sent to the Environmental Registry of Ontario by January 20, 2019.

***THAT*** the CVC Board of Directors expresses its concern for the proposed environmental rollbacks contained in Schedule 10 of Bill 66 and encourages the government to consult with CVC staff to find other ways to achieve their objectives for reducing red-tape without risking the health and safety of Ontarians; and further

***THAT*** this report be forwarded to all municipalities, the Minister of Economic Development, Job Creation and Trade, Minister of Municipal Affairs and Housing, Minister of Natural Resources

*and Forestry and the Minister of Environment, Conservation and Parks as well as all MPPs in the watershed.*

CVC's more detailed comments follow as Appendix 1.

Please feel free to contact us for further clarification ([tamara.chipperfield@cvc.ca](mailto:tamara.chipperfield@cvc.ca))

Yours truly,

A handwritten signature in black ink, appearing to read "Deborah Martin-Downs". The signature is fluid and cursive, with the first name "Deborah" being more prominent.

Deborah Martin-Downs  
Chief Administrative Officer

**Appendix 1**  
**Environmental Registry of Ontario**  
**ERO Number – 013-4239**

**New Regulation under the Planning Act for Open-For-Business Planning Tool**

On December 6, 2018 the Minister of Economic Development, Job Creation and Trade introduced Bill 66, *Restoring Ontario's Competitive Act, 2018*. The Bill contains amendments to various Acts, most notably to the *Planning Act* and related provisions in a number of other Acts.

The proposed Bill 66 amendments to the *Planning Act* and concepts for an implementing regulation were posted on the Environmental Registry of Ontario (ERO) on December 6, 2018 for a commenting period of 45 days ending January 20, 2019.

Comments provided below have been endorsed by the Credit Valley Conservation (CVC) Board of Directors on January 18, 2019 to be sent directly to the ERO. The Credit Valley Board is also the Credit Valley Source Protection Authority established under the *Clean Water Act*, 2006.

CVC is one of 36 conservation authorities which are local watershed management agencies, mandated to ensure the conservation, restoration and responsible management of Ontario's water, land and natural habitats through programs that balance human, environmental and economic needs. Like other conservation authorities, CVC derives its authority from the *Conservation Authorities Act* and regulates development and interference with wetlands, shorelines and watercourses pursuant to Section 28 of the Act. CVC also provides planning and technical advice to planning authorities to assist them in fulfilling their responsibilities regarding natural hazards, natural heritage and other relevant policy areas pursuant to the *Planning Act*.

The Credit Valley Conservation Authority, under subsection 4(2) or section 5 the *Clean Water Act*, 2006 is required to exercise and perform the powers and duties of a drinking water source protection authority.

It is within this context, CVC provides the following comments.

1. A new Section 34.1 of the *Planning Act* is proposed, which would give new by-law making powers to lower-tier municipalities. Subject to approval by the Minister of Municipal Affairs and Housing, municipalities would be able to pass an "Open-for-business planning by-law" (OFB-PBL). These new Section 34.1 by-laws would override existing land use policy and controls contained in the *Planning Act* and other legislation including Provincial Policy Statements, Provincial Plans, Drinking Water Source Protection Plans, Official Plans, Zoning by-laws and Site Plan Control. Section 34.1 by-laws would be similar to a site-specific zoning by-law in that they would regulate land use and the erection, location or use of buildings or structures for a specific development site and certain conditions to approval could be imposed. Passage of such a by-law may be subject to satisfaction of criteria that may be prescribed by the Minister of Municipal Affairs and Housing.
2. As currently drafted, a Section 34.1 by-law could be enacted anywhere in a municipality without regard for any existing land uses, environmental hazards, features, constraints or established land use planning. The only scoping or conditions would be established by the Minister of Municipal Affairs and Housing. However, there is no requirement that the minister provide any scoping or conditions. Neither the minister nor the municipality is required to

conduct any consultation to determine what might be appropriate scoping or limitations to a Section 34.1 by-law prior to enactment.

3. Further, Subsection 34.1 (6) of the proposed amendment would exempt a Section 34.1 by-law from every fundamental land use planning requirement that would otherwise be applicable. The following table summarizes the critical land use planning requirements related to CVC's regulatory and policy interests that are proposed for exemption:

Proposed Exemptions under Subsection 34.1 Open for Business By-law	CVC response
Subsection 3 (5) of the <i>Planning Act</i>	This section is fundamental to the land use planning system and requires land use and development decisions to be consistent with the PPS and to conform to provincial land use plans.
Section 24 of the <i>Planning Act</i>	<p>Requires public works (roads and servicing infrastructure) and the enactment of by-laws to be undertaken in conformity with a municipal Official Plan (OP). This section gives legal effect to Official Plans and requires that decisions made conform to OPs.</p> <p>By excluding Section 24, development could occur which does not conform to an Official Plan and in particular does not comply with the OPs environmental policies.</p>
Section 34 (10.0.0.1) to (34) of the <i>Planning Act</i>	<p>This section provides a process that includes pre-consultation, public meetings, notification, appeal rights, etc. to the passing of zoning by-laws.</p> <p>Responsible for the provincial interest in relation to protecting people and property from natural hazards (flooding and erosion), CAs rely on these provisions to provide the policy and technical input into the passage of zoning by-laws with rights of appeal.</p>
Section 36 of the <i>Planning Act</i>	Provides for holding provisions in zoning by-laws. Holding by-laws are used frequently to ensure that technical matters related to CAs roles are addressed prior to the removal of the "H" (obtaining a permit from CVC prior to the "H" being removed on lands zoned floodplain).
Section 39 of the <i>Clean Water Act, 2006</i>	Gives legal effect to Drinking Water Source Protection plans by requiring planning and development decisions

	<p>conform to significant drinking water threat policies and requiring that planning and development decisions have regard to any Drinking Water Source Protection Plan.</p> <p>CVC is a drinking water Source Protection Authority and with TRCA and CLOCA make up the CTC. The CTC Source Protection Plan has Significant Drinking Water Threat policies that apply to land use decisions. The exclusion of Section 39 means that an OFB By-law could approve development that may threaten surface water and groundwater sources used as municipal drinking water systems.</p>
Section 20 of the <i>Great Lakes Protection Act, 2008</i>	Ensures that planning and development decisions conform with Great Lakes protection initiatives. Not requiring a shoreline project to conform to any protection initiatives would mean less environmental protection for the Great Lakes.
Section 7 of the <i>Greenbelt Act, 2005</i>	<p>Requires planning and development decisions made under the <i>Planning Act</i> to conform to the Greenbelt Plan. Excluding Section 7 would allow large scale development in the Protected Countryside which also identifies lands within a Greenbelt Natural Heritage System.</p> <p>Environmental protection could be compromised if development were permitted by an OFB By-law in the Protected Countryside and/or the Greenbelt Natural Heritage System. Major Employment uses are directed to Settlement Areas where there is a fixed urban boundary yet there is no distinction between Protected Countryside and Settlement boundaries in the Bill.</p>
Section 7 of the <i>Oak Ridges Moraine Conservation Act, 2001</i>	<p>Section 7 requires planning and development decisions to conform to the Oak Ridges Moraine Conservation Plan which provides policies which protect the ecological and hydrological integrity of the moraine.</p> <p>As with the Greenbelt Plan development is directed to settlement areas in order to protect agricultural lands, hydrologic features and natural heritage systems.</p>

Subsection 14 (1) of the <i>Places to Grow Act, 2005</i>	Section 14 requires a decision under the <i>Planning Act</i> to conform with the Growth Plan for the Greater Golden Horseshoe. As with other provincial plans, the Growth Plan provides for environmental protection and directs development to rural and urban settlement areas.
--	---

4. It is understood that the minister could establish conditions to the approval of a Section 34.1 by-law that might re-establish some of the policy direction contained in the fundamental planning requirements set out in the table above. However, that would be undertaken at the complete discretion of the minister in the absence of any legislated obligation on the minister to consult the public or agencies with technical and site-specific knowledge such as conservation authorities.
5. Section 34.1, as currently drafted, automatically exempts critical public health and safety provisions related to drinking water source protection, land use policies that direct new development away from flooding and erosion natural hazards, including areas that would be unsafe for people in the event of a natural disaster and basic environmental protections for natural heritage including wetlands, woodlands, valleylands and watercourses. The section is very broad, provides the minister with unchecked discretion, and should be re-drafted to require the minister to apply all relevant health and safety and environmental protection policies, as a condition to any approval of a Section 34.1 by-law.
6. Some suggestions to be incorporated in the Bill and/or the associated regulation are:
  - The consideration of use of an OFB-PBL should be geographically limited to existing designated employment lands with access to full municipal sewer and water services and proximity to 400 series highways and/or other major transportation corridors.
  - The province should require consistency with the PPS, *Clean Water Act*, and area specific plans in the proposed regulation to ensure the CA mandate for protection from natural hazards is implemented through an OFB-PBL application, a process that has been developed over decades of consultation and application of legislation to minimize risk to people, life and property in Ontario.
  - If the recommendation above is not pursued in full, CVC recommends including in the regulation of “prescribed criteria” for an OFB-PBL application, the following minimum requirements to demonstrate that public health and safety issues will be addressed:
    - Remove the *Clean Water Act* from Schedule 10;
    - Appropriate considerations are incorporated to development and redevelopment decisions, to ensure new natural hazards from flooding and erosion are not created and existing hazards not aggravated, including review and sign off by the local CA prior to Ministerial endorsement;
    - Include requirements that no development or site alterations take place within a 30 metre setback from key natural heritage features and key hydrologic features; and
    - That sites be pre-screened by a municipality, with approval from the local CA, to ensure the development feasibility of the proposal in relation to the physical characteristics of the site, so that public health, safety and natural hazard technical issues can be addressed appropriately on the site to meet provincial standards and that permits can ultimately be issued.

- Allow for field verification of limits of the Greenbelt applying some criteria to ensure its continued integrity while allowing for boundary modifications that are rational from a land-use planning and environmental perspective.
7. The province should engage stakeholders, including CA's, in a consultation process over red tape reduction that would yield ideas and options to improve service delivery and identify legislative impediments to the timely approval of development lands.

In conclusion, CVC does not support Bill 66 as currently drafted and it would appear from an environmental perspective, this Bill to eliminate red tape and burdensome regulations, may not speed up the process and could lead to further environmental degradation that will have long term implications for the province. CVC maintains that there are other mechanisms that can be helpful to the streamlining of approvals that will be easier to implement and may have a greater chance of broad implementation among municipalities.