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January 18, 2019

Mr. Michael Helfinger
Intergovernmental Policy Coordination Unit
900 Bay Street, Hearst Block
7th Floor
Toronto, ON, M6H 4L1

Re: Proposed Restoring Ontario's Competitiveness Act, 2018 (ERO 013-4293)

Dear Mr. Helfinger:

Thank you for the opportunity to provide comments on Bill 66 - Restoring Ontario's Competitiveness Act, 2018 as posted to the Environmental Registry of Ontario (ERO 013-4293). Staff of the Grand River Conservation Authority (GRCA) have reviewed the proposed Bill and identified important considerations that relate to public health and safety. The GRCA Board of Directors meeting will be held on January 25, 2019 after the posted commenting period. A copy of this letter and a report will be provided to the Board at that time. Further comments from the GRCA Board may be provided to the province following this meeting.

The GRCA is concerned with the removal of sections of the Planning Act e.g. Provincial Policy Statement, Provincial plans, and the Clean Water Act for areas that would be covered by the proposed Open-for-business (OFB) by-law. We offer the following detailed comments for your consideration.

Ministry of Municipal Affairs and Housing – Schedule 10 (Planning Act)

Hazard Lands

The Provincial Policy Statement (PPS) directs new development to areas that are outside hazard lands such as floodplains, erosion hazards such as steep slopes, and unstable soils. Under Bill 66, municipal application of OFB by-laws would not need to be in conformance with the PPS. This section of the PPS ensures that public health and safety is addressed before land use decisions are made. For example, the proposed approach may increase challenges related to flood warning and response and a requirement for the province to provide provincial funding for disaster relief for new development in areas where flood risks are known.

Maintaining a requirement to ensure development is located outside of hazardous lands will ensure that new development does not increase existing hazard risks or create new hazards that affect a property and adjacent landowners.

In addition, the prescribed criteria for Ministerial approval should include a requirement that development permitted under an OFB by-law will not be located within hazard lands. Primary or secondary residential uses should not be permitted, and all uses should have safe access during a flood. New uses should not cause or contribute to offsite impacts to the community or neighbouring landowners such as increased flooding and erosion.

- The GRCA supports an amendment to the proposed Bill to keep Section 3.1 of the PPS (Natural Hazards) applicable to Open-for-business by-laws in order to protect public health and safety and prevent property damage.

Watershed Planning

Under Bill 66, the Planning Act would be amended so that the Places to Grow Act would not apply to OFB by-laws. The most recent changes to the Growth Plan for the Greater Golden Horseshoe (2017), has a requirement for municipalities to undertake watershed planning. Watershed Planning enables a comprehensive review of water management and the co-ordination of water and natural environment systems management across municipal boundaries. For example, the absence of information obtained through watershed planning, such as assimilative capacity of a river with multiple municipal waste water treatment facilities, may affect an adjacent municipality's ability to maintain their wastewater treatment requirements for current or future growth. Watershed studies also provide information to adjacent municipalities to identify and protect important ecological and hydrologic features and systems such as wetlands and recharge areas for municipal drinking water supplies.

- The GRCA supports an amendment to the Bill to require watershed planning for development associated with major employment uses prior to approval of OFB by-laws

Agency Notice

Under Bill 66, the Planning Act would be amended so that notice of proposed OFB by-laws to the public, agencies and other stakeholders would not be required. This amendment will remove conservation authorities from receiving notice of the proposed by-laws and the opportunity to provide technical information and advice to the municipality before the by-law is approved. This approach could result in creating a risk to public safety in cases where development is proposed in or adjacent to hazard lands (e.g. floodplains, erosion hazards). In some cases these hazards have not yet been identified in all municipal documents so this information is not readily available through current planning documents. Providing advice and information to municipalities and applicants at the beginning of the decision making process ensures that approvals for building and grading can be done quickly and efficiently.

- The GRCA supports an amendment to the Bill to include Conservation Authorities as an agency that is contacted prior to the approval of an OFB By-law to ensure that the risk to the public from natural hazards is assessed prior to new development.

Other Possible Exempted Acts

Included in the list of Acts which would not apply to OFB By-laws is a reference to "Any prescribed provision". It appears that the province may be proposing an approach that would enable the addition of more clauses or other Acts to this list.

- The GRCA supports modification to the Bill that would ensure that adding additional Acts or clauses to Schedule 10 would only be considered through further legislative amendments to the Planning Act or other legislation and not through a prescription by other means that may not provide an opportunity for public review.

The province recently released their Made-In-Ontario Environment Plan (2018) to protect water, address climate change, and conserve land and greenspace. Bill 66 appears to be inconsistent with the actions outlined in this plan. Many of the provisions outlined in Schedule 10 of Bill 66 (i.e. Planning Act (Provincial Planning Policy Statement and provincial plans), Clean Water Act, Places to Grow Act, Greenbelt Act) work together to ensure that the actions listed in the Environment Plan can be achieved. Together, they form the foundation of ensuring a strong economy while implementing sound water and environmental planning in the province of Ontario.

Source Protection Authority

Bill 66 proposes to exempt major employment uses passed through OFB by-laws from Section 39 of the Clean Water Act. This section of the Act requires that provincial and municipal decisions conform to policies in Source Protection Plans that address significant drinking water threats. Ensuring that development does not create drinking water threats is a key part of the Clean Water Act. Eliminating the requirement to adhere to Section 39 would not allow for proactive planning where impacts can be prevented early on in the development process.

The majority of municipalities in the Grand River watershed and approximately 861,000 people rely on groundwater and/or the Grand River as the source of their drinking water. Source protection plan policies addressing significant drinking water threats should remain applicable to protect drinking water and public health.

- The Clean Water Act should be removed from Schedule 10 of Bill 66 to ensure the short and long-term protection of municipal drinking water supplies in the Grand River watershed.

GRCA staff note that it is difficult to fully assess or predict the outcomes of Bill 66 in relation to the Planning Act in the absence of more detailed information including the associated regulation. If the province proceeds with the exemptions as outlined in the current wording of Schedule 10 of Bill 66, the proposed Regulation and Open-for-Business Planning Tool will need to include specific criteria that avoids putting people at risk or creating new risks for the community.

The GRCA has a long history of working with watershed municipalities, and the development industry through a Liaison Committee, to ensure that technical information and advice is provided in a timely manner and the planning approval process is streamlined. The GRCA would be pleased to meet with the province to discuss our comments on Bill 66 and other mechanisms to streamline the approval process to achieve the provincial goals of economic development, preservation and protection our environment and the protection of people and property. Should you have any questions, please contact Melissa Larion at (519) 621-2763 ext.2247 or Nancy Davy at ext. 2235.

Sincerely,

A handwritten signature in black ink that reads "Joe Farwell". The signature is written in a cursive, flowing style.

Joe Farwell, P. Eng.
Chief Administrative Officer
Grand River Conservation Authority

Grand River Conservation Authority

Report number: GM-01-19-04

Date: January 25, 2019

To: Members of the Grand River Conservation Authority

Subject: Bill 66 - Restoring Ontario's Competitiveness Act (ERO Posting #013-4293)

Recommendation:

THAT Report Number GM-01-19-04 – Bill 66 – Restoring Ontario's Competitiveness Act, 2018 be received as information.

Summary:

Grand River Conservation Authority (GRCA) staff submitted this report and the attached comments on Bill 66 - Restoring Ontario's Competitiveness Act, 2018 (ERO Posting #013-4293) through the Environmental Registry. The proposal outlines the purpose of the Act is to streamline development approvals, thereby increasing business and employment opportunities at the local level. If approved, the Bill would allow municipalities to pass Open-for-business by-laws. Through proposed amendments to the Planning Act, these by-laws would be exempted from a number of provincial policies, plans and statutes such as the Provincial Policy Statement and Clean Water Act. GRCA staff's comments to the province focus on the sections of the Bill that could present challenges to the protection of public health and safety as it relates to natural hazards and water resources.

Report:

Bill 66 – Restoring Ontario's Competitive Act was given first reading on December 6, 2018 by the provincial legislature. The Bill is part of the provincial government's Open for Business Action Plan which aims to streamline development approvals, reduce red-tape and attract businesses and jobs to the province. Consultation on the Act is provided through the Environmental Registry of Ontario (ERO #013-4293). The province has also posted two associated initiatives: the proposed Open-for-Business Planning Tool (ERO #013-4125) and a proposed New Regulation under the Planning Act for an Open-for-Business Planning Tool (ERO #013-4239).

Bill 66 proposes substantial amendments and repeals to 18 provincial statutes including the Planning Act. These changes would allow municipalities to utilize Open-for-business by-laws (the "planning tool") which would be exempted from conformance to provincial policies, plans and Acts in order to quickly approve applications for "major employment uses". Details of when and how the by-laws could be used will be provided in a supporting regulation at a later date. Little detail is provided at this time on the regulation except for general requirements of applications for the Open-for-Business (OFB) by-law.

GRCA staff has identified sections of the proposed Act and OFB by-law planning tool that could have a significant impact on the short and the long term health and safety of people in the Grand River watershed. Amendments proposed to the Planning Act would allow municipalities to disregard sections of the Planning Act, Provincial Policy Statement (PPS), Clean Water Act, Places to Grow Act, Greenbelt Act and Great Lakes Protection Act to name a few. OFB by-laws would be exempted from conformance with municipal official plans, public/agency consultation and could not be appealed through the Local Planning Appeals Tribunal.

GRCA Key Comments

It is proposed that the natural hazard policies of the PPS and Section 39 of the Clean Water Act will not apply to development applications where OFB by-laws are approved. This is a particular concern to GRCA staff. Section 3 of the PPS directs new development away from hazard lands such as floodplains, steep slopes and unstable soils in order to protect public health and safety and minimize property damage. Application of the hazard lands policies of the PPS is becoming increasingly important with the impacts of climate change on communities such as significant flood events. The PPS should remain applicable to any proposed OFB by-law.

Under the Clean Water Act, municipalities must conform to significant drinking water threat policies in source protection plans when making Planning Act related decisions. These policies ensure that impacts from development do not harm municipal drinking water sources. In the Grand River watershed, approximately 861,000 people are serviced by municipal water supplies, from both surface and groundwater sources. Based on this, Section 39 of the Clean Water Act should also remain in effect.

In addition to the key GRCA areas of importance noted above, GRCA has also identified other areas where the proposed Bill should be amended to ensure a streamlined planning approval process that achieves provincial goals and objectives for economic development. A copy of GRCA's detailed comments to the Province is included as Attachment 1.

GRCA staff will continue to monitor the progress/status of the Bill moving forward.

Financial implications:

Not applicable

Other department considerations:

Source protection program staff contributed to this report.

Prepared by:

Melissa Larion
Policy Planner

Approved by:

Nancy Davy
Director of Resource Management