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**Mr. Ken Petersen,
Manager,
Ministry of Municipal Affairs and Housing,
Local Government and Planning Policy Division,
777 Bay Street, Floor 13,
TORONTO ON M5G 2E5**

**Subjects: EBR Registry Number: 013-4239
New Regulation under the Planning Act for Open-for-Business Planning
Tool**

**EBR Registry Number: 013-4125
Proposed Open-For-Business Planning Tool**

QUESTIONING BILL 66

**An Act to restore Ontario's competitiveness by amending or repealing certain Acts
*Restoring Ontario's Competitiveness Act, 2018***

Overview

I have reflected on Schedule 10 of Bill 66. These comments are based on my experience as a Registered Professional Planner in Ontario.

The appropriateness and planning merits of Schedule 10 of Bill 6 will not be demonstrated without knowing and understanding the detailed criteria for implementation [s. 34.1(2)2]; and the prescribed purpose of the bylaw [s. 24.1(5)]; otherwise, the details of the implementing Regulations.

An important uncertain component of section 34.1 is whether the Minister will abide by the provincial interest when considering the proposed open-for-business planning bylaw. The proposed section 34.1 is silent on the Minister's and Cabinet's responsibility.

The Minister, in consideration of a proposed open-for-business planning bylaw, shall have regard to matters of provincial interest under section 2 of the *Planning Act* and his or her decision shall be consistent with provincial planning statements and shall conform with all provincial plans, in effect on the date of the decision, according to section 3(5) of the *Planning Act*.

One of the purposes of the *Planning Act*, under section 1.1 (c) is to "integrate matters of provincial interest in provincial and municipal planning decisions".

December 24, 2018

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Questions

I have read and reviewed Schedule 10 included in this Bill 66, the "Proposed Open-for-Business Planning Tool" and the proposed "Regulation for the Open-for-Business Planning Tool".

I appreciate that the Provincial Government wants to expedite the local planning approval process for exciting, new employment proposals. The proposed approach in Bill 66 is to add section 34.1 to the *Planning Act* that provides authority to municipal councils to enact an "open-for-business planning by-law" (OBPBL).

As I read and reviewed the Bill, questions arose in my mind. I stopped at question 34. My intent is that we can fill in the answers to these questions and others. I realize that some of my questions are easily answered, but others need further, deeper thought from myself and others.

The following questions are ordered according to my tentative understanding of subjects.

Municipal Authority

1. Subsection 34.1(1)(a) implies that an OBPBL is a zoning bylaw under section 34 of the *Planning Act* and that the only applicable conditions are those related to site plan control and agreements with the municipality. Will the forthcoming Regulation provide guidance to the municipality with respect to the exercise of section 34 powers?
2. Does a landowner need to make an application to the municipality requesting an OBPBL or is this bylaw initiated by the municipality?
3. What happens if a landowner objects to an OBPBL enacted by the municipality that directly or indirectly impacts their property?
4. Is there authority for the municipality to recover expenses from a landowner for purposes of enacting an OBPBL?
5. Are other municipal bylaws to be considered by Council prior to enacting an OBPBL?
6. Does section 28, development permits, under the *Conservation Authorities Act* apply to consideration of enacting an OBPBL and if not does the OBPBL supercede section 28?
7. Is the municipal council required to have regard to section 2 (Provincial Interest) of the *Planning Act*?
8. Under subsection 34.1(13) of Bill 66 is the Minister's Order to modify or revoke an OBPBL, a Minister's Zoning Order under section 47 of the *Planning Act*?
9. What land uses are included in the category of "manufacturing"; for example, aggregate extraction and processing, agricultural processing, warehousing, petroleum processing, cannabis growing and processing, cement plant?



10. What land uses are included in the category of “research and development?”
11. What is the threshold to allow for secondary uses, such as residential, commercial and retail uses in conjunction with the employment uses?
12. Are the permitted land uses in the proposed OBPBL specifically defined inside the proposed buildings and structures or are they generally described?
13. What is the impact if a municipality refuses to enact an OBPBL? Will the Minister enact a Minister’s order?
14. Is it intended in all cases that the enactment of an OBPBL does not need to conform to any official plan in effect? (Paragraph 2 of subsection 34.1(6) in Bill 66).
15. In what way does Bill 66 relate to the “Making Ontario Open for Business Act, 2018”? (Royal Assent on November 21, 2018).

Applicability

16. Is the intent of an OBPBL to create healthy and safe communities?
17. Is it intended that the proposed employment area may be located outside and inside designated settlement areas or is Bill 66 intended that provincial plans and policies and municipal policies do not apply to consideration of an OBPBL?
18. Is the Provincial Government giving up on managing growth in settlement areas and focussing growth in any geographic location?
19. Subsection 34.1(5) states that OBPBL shall authorize the use of land, buildings and structures for a prescribed purpose. Will the forthcoming Regulation prescribe that the OBPBL must be project-specific or can the OBPBL apply to a new land area or an expansion of an existing employment area or business park?
20. Will an OBPBL “rezone” existing lands within an existing business park or employment area for a site-specific project?
21. What is the intended basis for the municipal council to determine the community’s interest or is the intent of the OBPBL to implement the provincial interest?
22. Should the municipality consider the impact of the proposal on land values in the area impacted?
23. Does the enactment of an OBPBL disregard the interests of other residents, businesses and property owners in the municipality and neighbouring municipalities?
24. Is it possible that a municipality may “pre-zone” land using an OBPBL?
25. What are the consequences if the proposed employment project does not take place after the enactment of an OBPBL?



26. Will the forthcoming regulation require language in an OBPBL that provides certainty or can the language be deliberately vague?
27. Is an OBPBL creating a new employment area that would establish a competitive disadvantage and unfair competition to existing zoned manufacturing lands, business parks and employment areas?
28. Will the Minister consider the provisions under subsection 34.1(6) of Bill 66 when reviewing a municipality's proposed OBPBL?
29. Will the Minister consider the Purposes of the *Planning Act* when reviewing a municipality's proposed OBPBL?

Tests

30. Will the provincial D-6 Guidelines apply to the consideration of an OBPBL?
31. Will the components of provincial Natural Heritage mapping and Agricultural Systems mapping apply to the consideration of an OBPBL?
32. Are the prescribed jobs required to be full-time and/or part-time and seasonal?
33. Is it possible that the prescribed jobs can be home-based or remote?
34. How will the consideration of the OBPBL account for robots and other technological processes?



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