

January 15, 2019

The Honourable Todd Smith  
Minister of Economic Development, Job Creation and Trade  
900 Bay Street, Hearst Block  
Toronto ON M6H 4L1  
Canada

Dear Minister Smith:

**RE: Bill 66, Restoring Ontario's Competiveness Act**

Thank you for the opportunity to comment on the proposed Bill 66, Restoring Ontario's Competiveness Act. On January 14, 2019 the Committee of the Whole at the City of Guelph passed the following resolution:

1. That Report from Intergovernmental Relations dated January 14, 2019 regarding Bill 66, Restoring Ontario's Competiveness Act be received.
2. That The City of Guelph not support the Proposed Amendments to the Planning Act as set out in Bill 66, Restoring Ontario's Competitiveness Act, based on the information currently available and the perceived threat to the City's drinking water.
3. That Committee of the Whole recommends that the province remove from the proposed Bill 66 amendments to the Planning Act in regards to exemptions from water quality and quantity protection under the Clean Water Act, 2006 and that all relevant sections of the Clean Water Act continue to apply to all municipal development applications.
4. That the response prepared by staff, dated January 8, 2019 and included in Attachment 1, as amended, be endorsed and submitted to the Ministry of Economic Development, Job Creation and Trade and the Ministry of Municipal Affairs for consideration.
5. That the comments received by City of Guelph residents and stakeholders received and/or presented at the Committee of the Whole meeting be forwarded to the Province of Ontario for consideration.

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6. That the City request to meet with provincial staff to further discuss the City of Guelph's comments regarding Bill 66 and become a partner in any further review and amendments of the Bill.
7. That the province engage in a formal consultation with municipalities and hold a public consultation in Guelph on potential changes to the Act.

### **Staff Comments on Bill 66**

In reviewing the legislation, staff do not support the changes to the Planning Act in Section 10 as proposed by Bill 66 based on the information currently available. Below is a comprehensive summary of staff comments regarding Bill 66, including areas of the legislation in which staff require additional clarification from the province as to the proposed implementation of the Bill.

#### Schedule 3- *Child Care and Early Years Act, 2014* and *Education Act*

While the intent of this is to make more spots available, from the City's perspective, we are responsible for funding financial assistance for child care and the current annual budget for this is \$3.5M. There could potentially be a financial impact with an increase in the availability of spaces; however, it is challenging to comment on this without analysis and a fulsome consultation, which would be the responsibility of the County of Wellington as the childcare provider for the City.

The City has reached out to the County and they are currently reviewing and assessing Bill 66 and will be submitting comment by the January 20<sup>th</sup> deadline with respect to the changes to the *Child Care and Early Years Act, 2014*.

#### Schedule 8 — Amendments to the *Long-Term Care Homes Act, 2007*

Under the proposed changes, the Ministry would have added flexibility to issue licenses for temporary beds for a longer duration of time. Municipal homes have licenses subject to Minister's approval with no designated term.

There is a need for more discussions to develop a less prescriptive, outcomes-based framework that reduces burden while prioritizing patient care and well-being. In discussions with staff at The Elliott Community long-term care home, the proposed amendments would potentially result in a reduction in the frequency of attendance by long term-care licensees at public meetings. Further, the proposed amendments to improve the timeliness and process for issuing long-term care emergency licenses may help to support the operation of the long-term care home.

Staff at The Elliott Community are continuing their review of the proposed legislation and will be providing comments to the province and their professional associations.

#### Schedule 9 — Amendments to the *Labour Relations Act, 1995* (Construction Employer Designation) and *Employment Standards Act, 2000*

The changes to the *Labour Relations Act, 1995* are positive for the City by deeming municipalities to be non-construction employers. Although the City of Guelph was not

previously designated a non-construction employer, the risk was always there that, similar to the Region of Waterloo, we could be designated and that would have affected our costs. However, more time is required to better understand the risks and benefits of these changes and how they may impact the safety of workers. Further, the removal of the requirement to seek Director approval for working over 48 hours in a work week and overtime entitlement would be a positive change for the City and create efficiencies. However, more time is required to better understand the risks and benefits of these changes and how they may impact the safety of workers.

#### Schedule 10- Changes to the *Planning Act*

### **Environment and Source Water Protection**

#### *Water Quality*

The City of Guelph is a groundwater-based community with unique challenges with regards to growth and economic development policies and planning. To date, careful water supply management and planning within the current robust planning regime has allowed for sustainable growth for the City. This growth is currently managed to match available water capacity to meet our current planning targets, while protecting the existing water resources we rely on each day. The *Clean Water Act, 2006* enable municipalities, through watershed-based Source Protection Committees, to develop policies that would protect municipal drinking water from both water quality and quantity threats after the completion of science-based characterization and modelling exercises.

For example, if Bill 66 was in place and a subsequent by-law was passed by Council, current source water quality protection policies would be removed, as they cannot be implemented. The City of Guelph has 17 policies in effect that would be removed from the City's Source Protection Plan. These include policies regarding septic systems, storage and handling of fuels and chemicals (DNAPLS and organic solvents) in close proximity to municipal drinking water supply wells. Further, City staff are currently working with the Grand River Conservation Authority and Wellington County on the development of water quantity policies. Based on the potential outcomes of Bill 66, important tools for protecting water quantity (i.e., the City's municipal drinking water takings) would also be removed. This could affect the City's ability to continue to service existing industrial customers as well as meet Places to Grow targets.

A key challenge when looking at groundwater management for municipal drinking water supply is that the flow of groundwater does not respect municipal boundaries. Therefore, the City has wellhead protection areas (groundwater takings) and intake protection zones (surface water takings), which extend into the County of Wellington (Township of Puslinch and Guelph/Eramosa), Region of Waterloo (Cambridge), and Halton Region (Milton). The wellhead protection areas and intake protection zones were delineated as key components of the Source Protection Program work completed after the Walkerton tragedy and subsequent proclamation of the *Clean Water Act, 2006*.

Bill 66 may provide municipalities with the ability to side step current planning checks provided under the *Clean Water Act, 2006* in the sighting and approval of new industry. As the City's wellhead protection areas and intake protection zones extend beyond Guelph's municipal border, as noted above. Therefore, Bill 66 as proposed may provide surrounding municipalities with the ability to pass individual by-laws supporting new industry within these areas without consultation, creating a new, significant and unacceptable risk to the City's drinking water.

In summary, staff are highly concerned that the approval of Bill 66 may result in the loss of protection that the *Clean Water Act, 2006* specifically affords the City with respect to current and future municipal drinking water supplies. The City has delineated vulnerable areas in which policies are required to protect water resources, and, therefore, ensure that sustainable development can occur in the future and growth targets are met. Circumventing this process in an area where significant drinking water threats have been identified would put the City's water supply at risk, and, therefore, the health of our citizens and the environment. Risk to our groundwater supply would increase Guelph's risk and liability, jeopardize the City's ability to meet Places to Grow growth targets and long-term economic viability.

#### *Waste and Toxins*

The proposed repeal of the *Toxics Reduction Act, 2009*, which identifies accountabilities and qualifications of responsible parties, is aimed at prevention and protection of public health and is intended to inform Ontarians about toxic substances specifically, will be addressed if the Federal Plan is the focus of plan. City staff have a number of concerns about whether the adoption of a Federal Toxics Plan instead of a Provincial Plan will be capable of enforcing issues such as corporate accountability, sewer and waste discharges in communities with a heavy manufacturing base. More information is required to understand the implications of this change and how it would influence the use of toxins by manufacturers.

#### **Planning Provisions**

Schedule 10 of Bill 66 presents the City of Guelph with both risks and opportunities to consider. Additional time to undertake a coordinated staff review to better understand the implications of the proposed changes, as well as more robust public consultation on the proposed changes, is requested.

It appears that the proposed amendments to the *Planning Act* create a new development approval process that would allow municipalities to impose both zoning by-law amendment-related requirements and site plan control-related conditions and requirements within the same process through the Open for Business by-law. The requirements and conditions that can be imposed are subject to certain restrictions and significant exemptions from provincial policies and plans outlined in the Bill. Not outlined in the Bill itself, but based on the description of the proposed future regulations, it appears the idea that an Open for Business by-law could only be used for a major employment use needs to be defined in the legislation.

The City of Guelph does not support exempting development from any part or all of (including any prescribed provision) the following:

- a. Provincial Policy Statement, 2014 and other Provincial Plans
- b. Official Plan conformity for Public Works and by-laws
- c. *Clean Water Act, 2006*
- d. *Great Lakes Protection Act, 2015*
- e. *Greenbelt Act, 2005*
- f. *Lake Simcoe Protection Act, 2008*
- g. *Metrolinx Act, 2006*
- h. *Oak Ridges Moraine Conservation Act, 2001*
- i. *Ontario Planning and Development Act, 1994*
- j. *Resource Recovery and Circular Economy Act, 2016* and
- k. *Places to Grow Act, 2005*

If the above-listed exemptions continue to form part of the proposed legislation, the Bill should allow for municipalities to choose whether or not to apply these exemptions to Open for Business by-laws within their jurisdictions. With respect to the *Clean Water Act, 2006*, the City's position is that it should not be included on the list of potential exemptions, given that it is vital that our community's water quality is not put at risk in order to expedite development approvals. However, if it remains on the list of potential exemptions, a requirement to coordinate, consult or obtain approvals from adjacent municipalities that rely on the same groundwater and/or are subject to the same source water protection plans, prior to the Open for Business by-law being used, must be incorporated.

The decisions that are not consistent with or do not conform to the Growth Plan can impact the City's overall growth strategy. These have implications with respect to the municipalities long-term infrastructure and servicing plan. This may also impact the City's master planning, and is not consistent with the City's approach of integrating planning for employment with building complete communities. These implications may result in additional costs to the municipality and a less desirable community in which to live. It also has the potential to create land use conflicts by allowing major employment uses in areas that are not already planned to permit those uses.

Further, additional clarification is required as to whether "major employment use" should be more clearly defined and should not include residential, retail or commercial uses (even as non-primary uses). Moreover, clarification should be provided as to whether the proposed exemptions in section 34.1 (6) apply in all instances or if municipalities can choose to require conformity with any/all of the exempted provisions.

Last, the City is also concerned about the potential for development outside of settlement areas or planned employment areas that would detract from or negatively impact the viability of existing employment areas or create land use conflicts. We are concerned that while the changes proposed may result in additional employment uses in the immediate term, with all of the potential exemptions, the changes may not provide long-term economic benefit to the municipality.

The proposed regulation should also be clarified to ensure that an Open for Business by-law cannot be passed to permit development where municipal services are not

adequate and available.

### **Economic Development**

The perceived intention of section 10 of Bill 66 is to support the reduction of regulatory process, or “red tape”, in order to make it easier for businesses to be established in Ontario communities. However, despite the intent of section 10, in addition to the environmental concerns it presents, City Economic Development staff believe that the implementation of the schedule would in fact create the opposite effect of what it is intending.

In Guelph, we work with partners across the region and beyond. Workforce planning initiatives, transportation and transit advocacy, trade missions and expos, environmental initiatives, affordable housing round tables, policies and collaborations, etc. With the implementation of Schedule 10, these efforts to work collaboratively could be negatively impacted and longer-term effects would include economic hardships for Guelph and our neighbours.

### **Public Consultation**

While a streamlined public process may be supportable in some instances, the City of Guelph does not support the potential exemption of the planning and development of major employment uses from any public process prior to a decision being made. It is understood that Schedule 10 would allow for the municipality to still have a public process at their discretion; however, it is suggested that the minimum requirement to give notice after a decision is made is not sufficient in any instance.

### **Potential Financial Implications**

The potential financial implications of any future proposed changes under Bill 66 are being reviewed and are unknown at this time. However, Finance staff have indicated that the Bill could have an impact on the collection of development charges and other revenue streams that are modelled on certain assumptions for growth/population density. If changes occur to where development can occur, there is risk that the rates the City is charging are no longer sufficient and this could put the organization at financial risk.

The City’s overall position is that Schedule 10 of Bill 66 is not in the best interests of planning for employment uses and should not proceed as drafted because it disregards important policies, principles and legislation that are intended to protect the health, safety and well-being of Ontario residents.

Thank you again for the opportunity to comment on Bill 66. As demonstrated above, the City has highlighted a number of concerns regarding the proposed Bill that we would like the province to consider in its review. Further, the City would be happy to engage with the province as it reviews comments regarding the Bill and any subsequent programs and regulations. Please do not hesitate to contact me if you have any questions regarding the City of Guelph's feedback.

**Sincerely,**

A handwritten signature in blue ink, appearing to read 'Scott Stewart', followed by a horizontal line.

**Scott Stewart**  
**Deputy CAO, Infrastructure, Development and Enterprise**

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cc: Derrick Thomson, CAO, City of Guelph

cc: Association of Municipalities of Ontario

cc: Steve Clark, Minister of Municipal Affairs and Housing

cc: County of Wellington