

January 20, 2019

Mr. Michael Helfinger  
Ministry of Economic Development, Job Creation and Trade  
Business Climate and Funding Administration Division  
Policy Coordination and Business Climate Branch  
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Mr. Ken Petersen  
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Submitted via the Environmental Registry of Ontario at: <https://ero.ontario.ca/notice/013-4293>

**Re: Pembina Institute comments on Bill 66: *Restoring Ontario's Competitiveness Act* (ERO 013-4293); new regulation under the *Planning Act* for open-for-business planning tool (ERO 013-4239); and proposed open-for-business planning tool (ERO 013-4125)**

Dear Mr. Helfinger and Mr. Petersen,

The Pembina Institute welcomes the opportunity to share our views on the government's proposed Bill 66, *Restoring Ontario's Competitiveness Act, 2018*, a new regulation under the *Planning Act* to create a new economic development tool, and a new open-for-business planning bylaw tool.

## General Comments

We have concerns on many aspects of Bill 66 and its implications for Ontarians. We are of the opinion that Schedule 10 of the proposed Bill (amending the *Planning Act*), new proposed regulation under the *Planning Act* to create an open-for-business planning tool, and open-for-business planning tool could result in real, adverse, and potentially irreversible effects to Ontario's land, environment and climate, and public health. If Bill 66 becomes law, it would allow municipalities to pass "open-for-business" zoning bylaws that could allow new and potentially inefficiently located large-scale developments to be approved without the sound environmental protections and evidence-based growth management policies that ensure healthy and sustainable communities — including allowing development in the Greenbelt. The proposed Bill would also dramatically weaken the public's right to comment on development projects that might affect the environment, including access to clean water, natural heritage systems and agricultural lands.

We appreciate the government's recent stakeholder consultations with planning and policy practitioners and the business and development industry to hear concerns and feedback on how to wisely expedite location-efficient employment and residential development to accommodate growth in the province. In parallel to Bill 66 and the related regulation and bylaw under this submission, the government is conducting numerous consultations on matters affecting land use planning and growth management in the province, including but not limited to:

- i. potential changes to the *Planning Act* (over and above the proposed changes in Bill 66), Provincial Policy Statement and Local Planning Appeals Tribunal to support a forthcoming housing supply action plan (ERO 013-4190);
- ii. amendments to the Growth Plan for the Greater Golden Horseshoe (ERO 013-4504);
- iii. proposed framework for provincially significant employment zones (ERO 013-4506); and
- iv. a new Environmental Plan (ERO 013-4208).

We do, however, have concerns that these efforts are uncoordinated and are moving at a pace that makes it difficult for relevant stakeholders and the public to have a fulsome understanding of how the multiple policy proposals would work in lock-step or get a clear sense of the policy impacts and outcomes. To that end, we encourage the government to take an integrated and coordinated approach to land use planning, economic development, and growth management in such a way that allows stakeholders and the public to meaningfully contribute to the policy development process. We believe that Bill 66 takes a piecemeal approach to incentivize employment development, and undermines the building blocks and fundamentals of planning and the environmental policies in the province. That is why the Pembina Institute respectfully recommends the following:

**Recommendation 1:** Remove Schedule 10 from Bill 66, remove the associated regulation under the *Planning Act* for the open-for-business planning tool, and remove the open-for-business planning tool. These three policy proposals would permit development to be exempt from substantive provincial land use planning statutes and policies.

**Recommendation 2:** The Ministry of Economic Development, Job Creation and Trade should coordinate with the Ministry of Municipal Affairs and Housing and other partner ministries on inter-related policy initiatives that impact land use and environmental planning, growth management, economic development and housing supply and choice in the province. As first steps:

- i. coordinate and share input received from stakeholder consultation workshops held over fall 2018 and winter 2019, related to the provincial land use planning framework and
- ii. demonstrate how proposed and forthcoming inter-related policy initiatives, would work together.

**Recommendation 3:** Following the above, prioritize improvements and enhancements to long-term planning statutes and policies such as the *Planning Act*, Provincial Policy Statement, and the Growth Plan for the Greater Golden Horseshoe, where necessary, to better facilitate a comprehensive strategy towards employment and residential development while also advancing environmental and public interests.

**Recommendation 4:** Support and build capacity of municipalities with employment planning by initiating a comprehensive economic development study and strategy for the Greater Golden Horseshoe area. Maintain and enhance standardized tools that enable municipalities to assess land needs for employment and residential development, including the land needs assessment.

## Development without an end-game

Currently, the planning process requires development proposals to follow provincial and municipal policies designed to protect Ontarians' health and quality of life and support a strong economic future, and a key component to that is protecting the province's natural environment such as the Greenbelt. Under the proposed Bill, should a municipality enact an open-for-business planning bylaw, the bylaw or development projects pursuant to the bylaw would be exempt from essentially all substantive land use, transportation planning, and environmental statutes, such as the *Planning Act*, *Places to Grow Act*, *Oak Ridges Moraine Conservation Act*, *Greenbelt Act*, and *Ontario Planning and Development Act*. Provincial land use planning policies are a reflection of Ontarians' input and values on how to develop and grow our communities in a responsible manner. Some foundational provincial planning policies – the Greenbelt Plan, Oak Ridges Moraine Conservation Plan and Growth Plan for the Greater Golden Horseshoe – have all been recently updated in 2017 based on considerable public consultation. Given that these provincial policies are developed through a comprehensive public engagement and consultation process, planning policies should not be easily bypassed. Under Bill 66, a development project would not need to conform to municipal planning policies such as official plans or go through site plan approval – all due diligence requirements for any development. Overall, with the proposed changes, development projects could be built without checks and balances, and may undermine the Growth Plan's overarching vision to strategically grow in areas with existing or planned infrastructure and services.

## Public health risks and impacts to our natural environment

Development projects pursuant to open-for-business planning bylaws would bypass obligations to meet critical environmental protection policies that ensure Ontarians have access to clean drinking water and a clean environment, such as the *Clean Water Act* and *Great Lakes Protection Act*. Bill 66, coupled with new environmental management practices approved in another recent Bill (Bill 57) would significantly weaken private businesses' responsibilities to ensure that business practices do not have adverse impacts to Ontarians' health and natural

environment, for example access to clean drinking water. The impacts of weak environmental protections have led to serious public health concerns related to contaminated water. The *Clean Water Act* was introduced to strengthen protections for drinking water at its source, and a direct response to such concerns.

Bill 66 could allow employment uses in the Greenbelt should a municipality decide to apply an open-for-business bylaw in this protected area. According to a public opinion poll, 90% of Ontarians agree that the Greenbelt is one of the most important contributions to the future of the province.<sup>1</sup> The Greenbelt's productive farmland supports rural jobs, a strong agricultural business sector and provides food security. Its forests clean our air. Its soils filter our water, absorb carbon pollution and reduce flooding. That is why exempting major new employment uses from conforming to the *Greenbelt Act* could have adverse impacts to Ontario's food security and natural areas. Research shows that a healthy Greenbelt in Ontario generates economic benefits, by supporting 161,000 jobs and contributing over \$9.1 billion annually to Ontario's economy.<sup>2</sup>

In addition, the Oak Ridges Moraine Conservation Plan was created to protect groundwater supplies from contamination. Oak Ridges Moraine provides clean drinking water from groundwater wells fed by aquifers for 250,000 residents and thousands of farms. The sand and gravel soils of the moraine make it particularly susceptible to groundwater contamination which is why development is prohibited in aquifer vulnerable areas and key hydrological areas. Bill 66 puts at risk key natural heritage features, key hydrologic features, natural core areas and natural linkage areas across the Oak Ridges Moraine.

Bill 66 may be inconsistent with and undermine the province's recently proposed Ontario Environment Plan, which aims to build resilient communities. By permitting development in the Greenbelt, this policy may weaken Ontario's capacity to mitigate climate change. As an example, protected areas directly absorb carbon. The Greenbelt keeps an estimated 172 million tonnes of greenhouse gases out of the atmosphere, locked away in its rich soils and vegetation.<sup>3</sup> This is more than Ontario's entire greenhouse gas emissions for 2016.<sup>4</sup>

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<sup>1</sup> Friends of the Greenbelt Foundation. "The Greenbelt." [https://www.greenbelt.ca/about\\_the\\_greenbelt](https://www.greenbelt.ca/about_the_greenbelt)

<sup>2</sup> Friends of the Greenbelt Foundation. *Evaluating the Economic Benefits of Greenbelt Assets* (2012), 16. [https://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/39/attachments/original/1526500524/14\\_-\\_ECOIMPACT\\_FINALcompressed.pdf?1526500524](https://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/39/attachments/original/1526500524/14_-_ECOIMPACT_FINALcompressed.pdf?1526500524)

<sup>3</sup> David Suzuki Foundation. *Carbon in the Bank: Ontario's Greenbelt and its role in mitigating climate change* (2012) [http://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/875/attachments/original/1383684921/Carbon\\_in\\_the\\_Bank\\_-\\_Ontario's\\_Greenbelt\\_and\\_its\\_Role\\_in\\_Mitigating\\_Climate\\_Change.pdf?1383684921](http://d3n8a8pro7vhm.cloudfront.net/greenbelt/pages/875/attachments/original/1383684921/Carbon_in_the_Bank_-_Ontario's_Greenbelt_and_its_Role_in_Mitigating_Climate_Change.pdf?1383684921)

<sup>4</sup> Environment and Climate Change Canada. *National Inventory Report 1990-2016 Greenhouse Gas Sources and Sinks in Canada* (2018), 13. <https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/emissions-inventories-reporting/nir-executive-summary/National%20Inventory%20Report%20Executive%20Summary%202018.pdf>

## Weakening of the democratic planning process

Public participation is fundamental to land use planning and a key tenet to balancing public and private interests. Currently, provincial and municipal planning processes require minimum public consultations for the public to provide input into a development proposal. Under this proposed Bill, a municipality is not required to hold public meetings if it decides to approve an open-for-business planning bylaw or developments pursuant to an open-for-business planning bylaw. As we understand it, in order for a municipality to use an open-for-business planning bylaw, a municipality must pass a resolution requesting the Minister of Municipal Affairs' approval, which the minister can do at their discretion. The bylaw comes into force once the municipality has received approval from the minister, 20 days after it is passed, or a later day that may be specified by the minister. However, unlike other current zoning bylaws, the municipality is not required to give notice of or hold a public meeting prior to passing an open-for-business planning bylaw. It is only after passing the bylaw that the municipality must give notice to "any persons or public bodies the municipality considers proper" within 30 days — 10 days after the bylaw has already come into effect. Furthermore, an open-for-business planning bylaw cannot be appealed to the Local Planning Appeal Tribunal. This proposed approach to fast-track development does not, in our opinion, advance good planning principles and in the best interest of the public. As such, we have serious concerns about the potential weakening of the democratic planning process as a result of such new zoning powers.

## A fragmented and incoherent approach to economic development

Rather than advancing a regional economic development strategy or approach, this proposed tool may encourage fragmented economic investments across the province and put municipalities in further competition with each other for employment development. As the proposed Bill is written, the Minister of Municipal Affairs has the authority to approve the bylaw in one jurisdiction but choose not to in another, or to impose different conditions across municipalities. This makes for an incoherent economic development strategy for cities that have integrated and connected economies such as those in the Greater Golden Horseshoe. The proposed open-for-business regulation aims to create job growth by requiring that development projects meet a minimum job creation threshold, but it is unclear how that would be determined. This is in contrast to how planning is currently guided, using evidence-based intensification targets for resident and job densities, which are informed by population and employment growth forecasts.

## Planning for Employment Areas

It is important to note that Bill 66 does not just potentially permit employment uses in areas covered by the Greenbelt Plan, the Oak Ridges Moraine Conservation Plan or Growth Plan for

the Greater Golden Horseshoe, but rather all of Ontario where a municipality may decide to apply to the minister for an open-for-business bylaw. As a result, employment developments could be approved in areas that have limited public utilities and infrastructure, including poor transportation networks and services, in other sensitive natural areas, or in other areas not intended for employment uses. Allowing employment uses, including manufacturing, without access to existing or future planned public infrastructure, as the open-for-business bylaw could allow, may potentially put a significant financial burden on municipalities to expanding service delivery and infrastructure in undeveloped areas.

Allowing sprawling employment development and ancillary uses instead of encouraging greater density in built-up areas could result in longer commute times, and in turn, increased transportation-related greenhouse gas emissions.<sup>5</sup> In Ontario, the transportation sector is the largest sectoral source of emissions. That is why it is imperative that land use planning policies continue to support strategic development in built-up areas – within urban and town boundaries - with existing and planned public infrastructure that can support business operations, and ensure that sprawling development does not occur in protected areas like the Greenbelt or the Oak Ridges Moraine.

It is critical that the province maintain an adequate supply of employment areas but there is limited evidence that there is any need to make additional employment lands available for development, the ostensible purpose of open-for-business zoning bylaws. In fact, some municipalities have determined that they have a surplus of employment lands, as evidenced by their land needs assessments for employment uses. Presumably, that is why the government's recently proposed amendment to the Growth Plan for the Greater Golden Horseshoe (2017) “would change the policy for protecting employment areas by allowing employment area conversions to be approved ahead of the next municipal comprehensive review. This proposed amendment would provide flexibility to municipalities who wish to support mixed use development, while maintaining employment area protections where needed” through a *Proposed Framework for Provincially Significant Employment Zones*.

In summary, the province should continue to protect significant dedicated employment lands for future job growth and guard against ad hoc sprawling and inappropriate employment development in environmentally sensitive and protected areas – as permitted by Bill 66. Moving forward, it is critical that the province provides greater support and resources to municipalities so that they are better positioned with the information they need to plan for their employment needs. A standardized approach to undertake land needs assessments, as part of the municipal comprehensive review, allows municipalities to identify and allocate the appropriate quantity of lands based on projected needs. It is essential that municipalities have

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<sup>5</sup> Environment and Climate Change Canada. *National Inventory Report 1990-2016 Greenhouse Gas Sources and Sinks in Canada* (2018), 13. <https://www.canada.ca/content/dam/eccc/documents/pdf/climate-change/emissions-inventories-reporting/nir-executive-summary/National%20Inventory%20Report%20Executive%20Summary%202018.pdf>

the right data obtained through a land needs assessment to understand whether there is a need to expand settlement boundaries to meet growing employment or housing needs.

## Details matter, but planning fundamentals matter more

We recognize the need for public policies that allow Ontario municipalities to respond to changing and growing economies and populations and to ensure that development keeps pace with growth — but not at all costs. While further details may be offered in forthcoming regulations regarding preconditions and applicability of an open-for-business planning bylaw, what matters more is that governments do not undermine the building blocks and fundamentals of planning and the environmental policies in the province. Ontario’s regulatory framework must evolve in a way that not only attracts business investments but also protects Ontarians from risks like a changing climate and drinking water contamination, and protects our farmlands and green spaces.

## Conclusion

The Bill 66 changes to the *Planning Act* take us in the wrong direction. The health and vibrancy of our region depends on valuing our farms, forests, clean water sources, nature and building well planned communities. Bill 66 undermines the fundamentals of building healthy communities that work to balance the environment, public health, and economic interests.

We would be pleased to discuss these comments further with you.

Sincerely,



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