



January 20, 2019

Dear Madam/Sir,

Please accept this submission as Environment Hamilton's formal comments regarding the proposed Bill 66 *Restoring Ontario's Competitiveness Act*. Our submission addresses concerns related to **EBR Registry Postings: #013-4293, #013-4234, #013-4235, #013-4125, and #013-4239.**

Environment Hamilton's comments are provided below in sections that address the proposed changes in Schedule 5 and Schedule 10 of Bill 66. We would also like to note that we are also a signatory to the submission made by the Ontario Greenbelt Alliance (OGA). Environment Hamilton is an organizational member of the OGA and serves on the Alliance's Steering Committee as a regional leader. We are very committed to the on-going protection and enhancement of Ontario's Greenbelt and we know that a huge majority of Ontarians support us in the desire to see our Greenbelt thrive.

SCHEDULE 5 - Ministry of Environment, Conservation & Parks & the *TOXICS REDUCTION ACT*

Hamilton is a city with a heavy industrial core and an extensive base of manufacturing facilities. Environment Hamilton has worked for many years to see these facilities make improvements to reduce their emissions to air, land and water. This has included pushing for greater openness and transparency so that Hamiltonians living in neighbourhoods near the industrial core have information about what their industrial neighbours are doing, what risks and challenges are associated with these activities and, most importantly, what efforts are underway at these facilities to minimize and ideally eliminate any environmental impacts from these operations. Ontario's *Toxics Reduction Act* and associated regulations represents an important piece in the on-going effort to increase openness and transparency and realize progress in reducing and/or eliminating the use and release of harmful substances from industry wherever possible. **Environment Hamilton strongly opposes the proposal in Schedule 5 of Bill 66 to repeal the *Toxics Reduction Act* and all associated regulations. Furthermore, because we strongly oppose the proposal to repeal the act and associated regulations, we also do not support the proposal in posting #013-4235 to create a new regulation that sets out "*Planning and reporting changes under the toxics reduction program and Ontario Regulation 455/09*".**

We have had the opportunity to review the very detailed submission prepared by the Canadian Environmental Law Association (CELA). CELA has undertaken an essential analysis that the Ministry of Environment, Conservation and Parks must consider. We continue to be deeply concerned about the generation and release of harmful substances into Hamilton's air, water and land; Hamiltonians deserve to feel safe and healthy in our city and elimination of important protections offered in existing legislation is detrimental. Having carefully reviewed CELA's submission, we concur with their call, not only to keep the *Toxics Reduction Act* and associated regulations in place, but also to enhance provincial efforts to see industries do even more to prevent the release of toxic substances into the environment. As CELA so effectively points out,

(T)he purpose of the TRA (*Toxics Reduction Act*) is to prevent pollution and protect human health and the environment by reducing the use and creation of toxic substances and informing Ontarians about

toxic substances. Pre-TRA legislation in Ontario (e.g. EPA, OWRA) focused on, and continues to focus on, pollution abatement, not pollution prevention. This problem explained, and continues to explain, why Ontario's emissions of toxic substances to air, land, and water are some of the highest in North America.

We fully support the following recommendations made by CELA in their submission. Recommendations include that:

1. MECP not repeal the *TRA*;
 2. MECP not revoke the regulations or eliminate any of the planning and reporting requirements of the *TRA*, including the requirement on industry to prepare toxics reduction plans;
 3. MECP proclaim in force sections 11, 15.1, 20.1, 26.1, 30, 38, and 50(1)(o.1)(o.2) of the Act;
 4. MECP list under the *TRA* as substances of concern the 135 substances identified in the 2008 Discussion Paper if they are still present in commerce and the environment in Ontario; and
 5. Pursuant to the authority under s. 50(1)(d) of the Act, MECP set targets relating to toxic substances under O. Reg. 455/09.
- CELA – Bill 66 submission

Finally, Environment Hamilton is currently preparing comments on the provincial government's 'Made In Ontario Environment Plan'. In that plan there is an entire section focused on 'Protecting Our Air, Lakes and Rivers'. The section begins with this commitment from the provincial government:

Ontario's water and air are life support systems for our province and our people. Pollution in our air and water increases healthcare costs, affects the enjoyment of our outdoors and contributes to lost economic opportunity. We will protect these critical systems by keeping our water and air clean while growing our economy.

- Made in Ontario Environment Plan, 2018, p9

The government goes further by explaining that:

Our plan will make it easier for people to report pollution that is impacting their lives by developing an online platform for reporting incidents that allows photos or video to be sent in, as well as reporting an incident by e-mail, phone or through an app. Additionally, we will put in place an improved complaint response system that sets out the services Ontarians can expect from inspectors and investigators when they file a complaint, and new standards on the response time they can expect based on the type of incident they report. We will be transparent about pollution incidents and spills, and provide real-time information where it is available so that people can see if a spill or incident has already been reported, as well as the status of the ministry's response. .

- Made in Ontario Environment Plan, 2018, p9

Given this focus on improving openness and transparency combined with the expressed desire to keep our water and air clean, it makes absolutely no sense to us that the Ford Government is proposing to repeal the *Toxics Reduction Act*. We believe that doing this will only make the aspirational goals set out in the 'Made in Ontario Environment Plan' far more difficult to reach.

SCHEDULE 10 – Ministry of Municipal Affairs & Housing & the *Planning Act*

Environment Hamilton **strongly opposes Schedule 10 of Bill 66**, which proposes amendments to the *Planning Act* and an associated proposal to create a regulation that would enable the development of a municipal 'open for business planning tool'.

At the most fundamental level, **we do not believe that there is any need nor do we believe there is any**

justification to empower municipalities to create an ‘open for business planning by-law’ in the manner set out in Bill 66. As currently drafted, the Bill would enable municipalities to create such a by-law to pursue ‘job-creating economic development initiatives’, in a manner that would exempt the municipality from having to comply with a long list of essential planning and environmental legislation. This would undo decades of effort – including that of previous Conservative governments – to build a legislative framework designed to help create resilient communities where economy, environment and social needs are all carefully considered and balanced. For instance, should the City of Hamilton opt to pursue an ‘open for business planning by-law’ to facilitate a major economic investment, we understand that the undertaking would not be required to:

- Be consistent with provincial interests set out in the Provincial Policy Statement;
- Conform to Hamilton’s Rural and Urban Official Plans;
- Comply with source water protection policies in the *Clean Water Act*;
- Conform with the *Great Lakes Protection Act*;
- Conform with the *Greenbelt Act*;
- Conform with the *Places to Grow Act*;
- Be consistent with the *Metrolinx Act* or the *Resource Recovery & Circular Economy Act*.

This is not the approach to economic development that Environment Hamilton wants to see in our city and we believe a majority of Hamiltonians agree with us on this issue. Hamilton has learned, through its history, that there is a large price to pay when the environment is sacrificed for economic gain. We do not want to go back to the days when Hamilton pursued economic development at any cost; we are still struggling to address legacy problems that resulted from this past approach (think Randle Reef – the massive deposit of coal tar contamination on Hamilton’s harbour floor). We are not alone in our concern; City of Hamilton planning staff have submitted comments on Schedule 10 that reinforce the concerns that we are raising here. This makes us hopeful that the City of Hamilton will opt not to use this short-sighted tool and even pass a formal resolution to this end, like a growing list of municipalities have already done. Despite the growing number of municipalities committing not to use this provision, we remain concerned that the ‘open for business by-law’ generates a race to the bottom among Ontario municipalities. The legislation will enable development interests to go from municipality to municipality looking for a place to utilize the open for business by law. This will put enormous pressure on municipalities that opt not to use the by-law. At the end of the day, we are all residents of Ontario so what happens in other parts of the province affects all of us. That is precisely why we need a provincial government that sets appropriate higher level rules to guide development in a manner designed to protect essential elements like source water, natural ecosystems, and agricultural lands.

We are also extremely concerned about the threat that an ‘open for business planning by-law’ poses to Ontario’s Greenbelt and the prime agricultural land and specialty crop land within it. We know that Ontario has already lost too much of its prime agricultural land; we simply cannot afford to lose any more of it, especially as we face an uncertain climate future. An essential part of successful transformation to post-carbon society is to be able to grow enough food within close range to feed local populations. In Hamilton, we know that we have already lost too much of our farmland to achieve this goal – we cannot afford to lose any more of it to development that is better suited for brownfield sites or for already designated and unoccupied employment lands within the municipality.

Finally, we are deeply concerned about the manner in which our rights as Ontarians will be compromised if and when open for business planning by-laws become reality. It is shocking in this day and age to read draft legislation that proposes the elimination of public notice requirements and that condones decision-making

behind closed doors. To make matters worse, Bill 66 also proposes that ‘open for business zoning by-laws’ will not be open to appeal through the Local Planning Appeal Tribunal (LPAT) as would be the case with any other municipal zoning by-law proposal. This is an eroding of democratic rights in Ontario which, when considered with the threats to sustainable planning, ecological integrity, and drinking water sources that accompany it, constitutes an incredibly dangerous piece of legislation. **It is for this reason as well that Environment Hamilton is so very deeply opposed to Schedule 10 of Bill 66.**

SUMMARY AND CONCLUSIONS:

In summary, **Environment Hamilton is strongly opposed to both Schedule 5 and Schedule 10 of Bill 66.** We believe this legislation sets a dangerous precedent and that it will serve only to undo important progress that has been made over many years to make Ontario a place that is resilient, sustainable, and liveable. A sustainable environment is the base on which economic prosperity must be built. To do what Bill 66 sets out to do is short-sighted and will only serve to ensure economic hardship in the future.

Thank you,

A handwritten signature in black ink, appearing to read "L. M. Lukasik".

Lynda Lukasik, PhD
Executive Director
Environment Hamilton

cc Environment Hamilton Board of Directors

**NB – This submission does not contain any information that is private and so, it can be shared publicly on the ERO Registry.*