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**ProtectNatureTO: Submission on Bill 66, Schedule 10**

Dear Mr. Helfinger and Mr. Petersen,

**RE: 013-4293 Bill 66: Restoring Ontario's Competitiveness Act, 2018; 013-4125 Proposed open-for-business planning tool; 013-4239 New Regulation under the Planning Act for open-for-business planning tool**

ProtectNatureTO is a coalition of over 20 nature- and stewardship-based groups advocating for the protection of wildlife and improvement of natural areas across the City of Toronto.

We, are writing on behalf of our organization to strongly oppose Bill 66, *Restoring Ontario's Competitiveness Act, 2018*.

Schedule 10 of the proposed legislation would allow municipalities to create an "open-for-business planning by-law" to circumvent planning requirements and land use restrictions under numerous provincial laws, plans and policies.

It would undermine everything we have learned – sometimes under tragic circumstances – about how to protect our environment, and the health of people and communities across Ontario.

We do not want another disaster like Walkerton, or unnecessarily put more stressors on our farmland, natural heritage system, our rivers' headwaters, native wildlife species and their habitats, the Great Lakes, Lake Simcoe, The Oak Ridges Moraine , Ontario biodiversity.

The fact that provincial government is choosing a course that we can reasonably know will add stressors to an already stressed environment is obviously a very serious issue. At this point, these problems are knowable. The consequences for the environment, human health and indeed climate change are predictable. How we now choose to proceed raises profound questions about our collective obligations to one another, to our society and the entire ecosystem. It raises profound questions about the choices this provincial government is making now as reflected in discussed Bill 66.

"Open-for-business by-laws" can bypass legal requirements intended to ensure fair, consistent and transparent public engagement with land use decisions in our communities.

In other words, these "open-for-business by-laws" would turn back the clock on many years of good planning, community input and strong leadership from previous Progressive Conservative and Liberal governments. They would sidestep laws and policies intended

to protect the long-term health and resilience of our communities and their residents by facilitating sprawling and unchecked development in areas that are home to sensitive natural features and the water resources upon which we all rely.

We disagree with the Government of Ontario's contention that Bill 66 cuts "unnecessary" and "out of date" regulations (ERO posting 013-4293). This is patently not true in the case of Schedule 10 which introduces "open-for-business by-laws" that would trump critical requirements under several laws that are designed to protect water, natural heritage and human health and well-being and to ensure fair, consistent and transparent public engagement in land-use decisions.

*"Bill 66 represents an unprecedented and unacceptable attack on legislative provisions which currently safeguard environmental quality and public health and safety throughout Ontario."* – Canadian Environmental Law Association

We outline our concerns below and trust that they will be considered with respect to all three relevant ERO postings (i.e., 013-4293, 013-4125, 013-4239).

### **Open-for-business by-laws would circumvent fundamental protections for environmental and human health.**

The Government of Ontario claims that Bill 66 will "make Ontario more competitive by cutting unnecessary regulations that are inefficient, inflexible or out of date" (ERO 013-4293). To this end it intends to allow municipalities to pass open-for-business by-laws so that they can permit land-uses "without having to strictly adhere to existing local requirements (e.g., official plan and zoning)" (ERO 013-4125). Both government statements are misleading. The laws, plans and policies that will be sidestepped through open-for-business by-laws are neither unnecessary nor out of date. Nor are they simply "local requirements." As outlined in the table below, open-for-business by-laws would override requirements to be consistent with many of Ontario's key planning laws and policies recently passed or updated with extensive public consultation.

#### **Key requirements that will be overridden in seven of the ten laws listed in Schedule 10**

<b>Law listed under Schedule 10 of Bill 66</b>	<b>Requirements that would not apply to an open-for-business by-law</b>	<b>Timing of the passing or most recent revision of specific law, plan or policy</b>
<i>Planning Act</i> , Subsection 3 (5)	This section requires the decisions of municipalities and others (boards, ministers, government agencies) to be consistent with policy statements and provincial plans. This includes Provincial Policy Statement (PPS) requirements regarding natural heritage protection, water features protection, active transportation, climate resiliency etc.	The Provincial Policy Statement was revised in 2014 following five years of in-depth public consultation.
<i>Planning Act</i> , Section 24	This section requires public works and by-laws to be consistent with municipal official plans.	Municipal official plans are to be reviewed at least every five years, with community consultation.
<i>Planning Act</i> , Subsections 34 (10.0.0.1) to (34)	These subsections set out requirements for public engagement in order to amend a zoning by-law, including public notice, public consultation and opportunities for appeal.	
<i>Clean Water Act, 2006</i> , Section 39	This section requires land-use planning decisions (municipal, provincial and others) to conform to the significant threat policies and Great Lakes policies adopted in approved source protection plans intended to protect existing and future sources of municipal drinking water. It also requires public works, municipal by-laws and provincial approvals to be consistent with the significant threat policies.	Since the law came into effect in 2007, communities across Ontario have been developing source protection plans, with public input required.
<i>Great Lakes Protection Act, 2015</i> , Section 20	This section requires planning decisions to conform with designated policies in	The law was passed in October 2015.

	“geographically focused initiatives,” a tool that allows communities to solve complex problems to protect or restore the ecological health of the Great Lakes – St. Lawrence River basin.	
<i>Greenbelt Act, 2005, section 7</i>	This section requires that planning decisions conform to the Greenbelt Plan and prohibits by-laws to be passed that conflict with the Greenbelt Plan.	The Greenbelt Plan was amended in 2017, after extensive public consultation.
<i>Lake Simcoe Protection Act, 2008, Section 6</i>	This section requires that planning decisions conform with designated policies of the Lake Simcoe Protection Plan. It requires that in cases where policies in the Lake Simcoe Protection Plan conflict with other provincial plans or policies, that which provides the greatest level of protection for the ecological health of the Lake Simcoe watershed will prevail.	The law was passed in 2008.
<i>Oak Ridges Moraine Conservation Act, 2001, section 7</i>	This section requires that planning decisions conform with the Oak Ridges Moraine Conservation Plan and prohibits by-laws to be passed that conflict with the plan.	The Oak Ridges Moraine Conservation Plan was amended in 2017, after extensive public consultation.
<i>Places to Grow Act, 2005, Subsection 14 (1)</i>	This section requires that planning decisions comply with the Growth Plan for the Greater Golden Horseshoe and the Growth Plan for Northern Ontario.	The Growth Plan for the Greater Golden Horseshoe was amended in 2017, after extensive public consultation.

The potential negative impact of open-for-business by-laws is far-reaching and profound. In each case they would override key operative provisions in the laws listed in Schedule 10, undermining fair and consistent application of laws and policies designed to protect drinking water, natural heritage, farmland and watershed health across Ontario, and leaving communities open to unchecked development. For example, policies that would not apply in open-for-business by-law areas include:

- Those addressing significant threats to municipal drinking water (e.g., landfills, sewage systems, and the storage or handling of fuel, fertilizers, manure, pesticides, road salt, organic solvents and other substances on lands near wells or surface water intake pipes used by municipal drinking water systems);
- Those protecting provincially significant wetlands, woodlands and valley lands and habitat of species at risk;
- Those supporting active transportation, affordable housing, green infrastructure and climate resiliency;
- Those protecting key natural heritage features, key hydrologic features, natural core areas and natural linkage areas across the Oak Ridges Moraine;
- Those protecting two-million acres of natural areas and farmland across the Greenbelt;
- Those protecting fresh water and the ecological health of the Lake Simcoe watershed;
- Those supporting smart, integrated, long-term planning for the Greater Golden Horseshoe, a heavily developed region facing intense development pressures.

These and other outcomes of Bill 66 would run contrary to interests and desires of the people of Ontario: a 2016 Nanos poll found that 90 percent of Ontarians believe the government is responsible to ensure a healthy environment for all, and 97 percent support the right to clean air and water.

**Open-for-business by-laws would eliminate opportunities for public input on planning decisions.**

Under the guise of cutting red tape, open-for-business by-laws would bypass legal requirements (*Planning Act, Clean Water Act*) designed to ensure fair, consistent and transparent public engagement with land-use decisions in our communities. Open-for-business by-laws could be passed without any prior public notice or meetings and could not be appealed to the Local Planning Appeal Tribunal. In other words, by-laws passed behind closed doors would trump laws, policies and municipal official plans developed through extensive and open public consultation. Communities would have no recourse to influence or challenge them.

Further, Bill 66 would allow Cabinet (not the Legislature) to add other legal provisions to the list of those in Schedule 10 to be circumvented by open-for-business by-laws, an approach which limits opportunities for transparent public consideration and debate.

Finally, we question whether there is demand from municipalities for open-for-business by-laws, ostensibly proposed by the government to make more employment lands available. At the Growth Plan implementation consultation held on November 8, 2018 at Queen's Park many municipalities indicated that they have a surplus of employment lands and would like to see these repurposed for residential. Since the introduction of Bill 66, many municipal leaders (e.g., in Guelph, Aurora, Burlington, Barrie, Oakville, Hamilton, Toronto) have expressed serious concerns about open-for-business by-laws and the circumvention of laws that protect drinking water, farmlands and natural areas and ensure public input and transparency in decision-making.

**ProtectNatureTO also fully supports submissions done by other organizations namely:**

- **CELA's Bill 66 Schedule 10 Brief - Planning and Clean Water**

[Download PDF file](#)

**RE: ENVIRONMENTAL REGISTRY NO. 013-4293 (Restoring Ontario's Competitiveness Act, 2018)**

**ENVIRONMENTAL REGISTRY NO. 013-4125 (Proposed Open-for-Business Planning Tool)**

**ENVIRONMENTAL REGISTRY NO. 013-4239 (New Regulation under the Planning Act for Open-for-Business Planning Tool)**

*"On behalf of the Canadian Environmental Law Association (CELA), we are writing to provide comments on Schedule 10 of Bill 66 (Restoring Ontario's Competitiveness Act, 2018). These comments are being sent to you in accordance with the above-noted Registry notices.*

*For the reasons outlined below, CELA is gravely concerned by, and strongly opposed to, Schedule 10 of Bill 66 in its entirety.*

*In our view, there is no persuasive legal, jurisdictional or environmental rationale for revising the Planning Act in the manner proposed by Schedule 10 of Bill 66. In addition, CELA concludes that exempting open-for-business planning by-laws from important procedural and substantive protections under the Planning Act and other key provincial laws is wholly unnecessary, contrary to the public interest, and potentially threatens the environment and public health.*

***Accordingly, CELA recommends that Schedule 10 be wholly deleted from Bill 66 at the earliest opportunity in the forthcoming legislative process. Since Schedule 10 is fundamentally flawed, it cannot be salvaged or tweaked through piecemeal amendments which leave this "planning tool" intact and available for use by Ontario municipalities."***

- **The Ontario Greenbelt Alliance**

The OGA submission, <https://www.stopbill66.ca/wp-content/uploads/2019/01/OGA-Bill-66-Submission-final.pdf>

*"RE: 013-4293 Bill 66: Restoring Ontario's Competitiveness Act, 2018; 013-4125 Proposed open-for-business planning tool; 013-4239 New Regulation under the Planning Act for open-for-business planning tool*

*The Ontario Greenbelt Alliance members have deep concerns about many aspects of Bill 66, Restoring Ontario's Competitiveness Act, 2018. The proposed legislation would override critical requirements, under several provincial laws and policies that are designed to protect water, farmland, natural heritage and human health. It would do so in a fashion that undermines fair, consistent and transparent public engagement in decision-making and sets the stage for costly property tax increases to subsidize economically inefficient sprawl development.*

*Collectively, our organizations represent thousands of citizens across the Greater Golden Horseshoe. On their behalf we urge the government not to proceed with Bill 66, Schedule 10 for the reasons outlined below and trust that they will be considered with respect to all three relevant ERO postings (i.e., 013-4293, 013-4125, 013-4239)."*

and

**Ontario Nature**

**RE: 013-4293 Bill 66: Restoring Ontario's Competitiveness Act, 2018; 013-4125 Proposed open-for-business planning tool; 013-4239 New Regulation under the Planning Act for open-for-business planning tool**

*"We, the undersigned organizations, strongly oppose several aspects of Bill 66, Restoring Ontario's Competitiveness Act, 2018. We disagree with the Government of Ontario's contention that Bill 66 cuts "unnecessary" and "out of date" regulations (ERO posting*

013-4293). This is patently not true in the case of Schedule 10 which introduces “open-for-business by-laws” that would trump critical requirements under several laws that are designed to protect water, natural heritage and human health and well-being and to ensure fair, consistent and transparent public engagement in land-use decisions. “

### **Concluding remarks**

From Kenora to Toronto and Ottawa to Windsor, Schedule 10 of Bill 66 would turn back the clock on many years of good planning, community input and strong leadership from governments of all political stripes. Open-for-business by-laws would sidestep laws and policies intended to protect the long-term health and resilience of our communities and would facilitate sprawling and unchecked development, threatening sensitive natural features and water resources upon which we all rely. Bill 66 would undermine everything we have learned – sometimes under tragic circumstances – about how to protect our environment and the health of our communities.

Ontarians do not want another disaster like Walkerton, when over 2,000 people fell ill and seven died as a result of a failure to safeguard the local water system. Environmental deregulation, budget cuts and staffing reductions were all identified as major contributing factors in that tragedy.

At this point, the root causes of these problems are knowable. The consequences for the environment and human health are predictable.

We urge the government to avoid similar mistakes and to remove Schedule 10 from Bill 66.

Yours truly,

send on behalf of [ProtectNatureTO](#)

cc. Minister of Municipal Affairs and Housing, Steve Clark [steve.clark@pc.ola.org](mailto:steve.clark@pc.ola.org)  
Minister of Economic Development, Job Creation and Trade, Todd Smith [tsmith-gp@pc.on.ca](mailto:tsmith-gp@pc.on.ca)  
Minister of Environment, Conservation and Parks, Rod Phillips [rod.phillips@pc.ola.org](mailto:rod.phillips@pc.ola.org)