Dear Ms. Fusco, Interim Town Clerk,

I am following up on a conversation with Councillor Nick DeBoer regarding Schedule 10 of Bill 66 - the "open-for-business by-law" bill. I've attached an analysis undertaken by the Canadian Environmental Law Association that I think might be helpful for Council and staff to begin to understand the implications of this piece of legislation. As a resident of Caledon, I am highly concerned with the implications of circumventing a well-established and effective approach to land use planning and public consultation. I admit that I don't fully understand it and it is this uncertainty of the open-ended nature of Schedule 10 that is causing much of the concern.

I respectfully request that you circulate this note and attachment to members of Council for their consideration. I am unable to attend the January 15 Council meeting however I will be available in February.

Thanks very much. If you have any questions, I'd be happy to answer them.

Debbe Crandall
Ward 4

Annotated Excerpts – Schedule 10, Bill 66

An Act to restore Ontario's competitiveness by amending or repealing certain Acts

Version 1.0 - Subject to Revision
13 December 2018
Anastasia M Lintner and Theresa McClenaghan

OVERVIEW

Canadian Environmental Law Association has prepared this document to explain amendments to Ontario's *Planning Act* that are proposed in Schedule 10, Bill 66. If you have any questions or comments, please email Anastasia M Lintner (anastasia@cela.ca).

CELA's initial reaction to the introduction of Bill 66 "Deregulation Redux: Ontario's Environmental Laws under Attack (Again)" was posted on Dec 7, 2018.

The introduction of Bill 66 (particularly as relates to Schedule 10) was accompanied by three notices on the Environmental Registry of Ontario:

- Bill 66, Restoring Ontario's Competitiveness Act, 2018 (ERO Number 013-4239)
- Proposed open-for-business planning tool (ERO Number 013-4125)
- New Regulation under the Planning Act for open-for-business planning tool (ERO Number 013-4239)

The public comment period for all three notices runs until January 20, 2019.

Below, the Explanatory Note to Schedule 10, Bill 66 is reproduced without annotations. Then, the provisions (the proposed new section 34.1) in Schedule 10 are summarized. Finally, the "non-application of listed provisions" (proposed subsection 34.1(6)) are set out in a table that includes the specifics from the various impacted statutes and a plain language summary.

EXPLANATORY NOTE

[quoted directly from Bill 66 without annotation]

SCHEDULE 10
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

Planning Act

The Schedule amends the *Planning Act* to add a new section 34.1, which allows local municipalities to pass open-for business planning by-laws. These by-laws involve the exercise of a municipality's powers under section 34 of the Act and allow municipalities to impose one or more specified conditions. A municipality may pass an open-for-business planning bylaw only if it has received approval to do so in writing by the Minister and if criteria as may be prescribed are satisfied. Certain provisions of the Act and other Acts that would ordinarily apply to a by-law passed under section 34 do not apply to an open-for-business planning by-law.

SUMMARY OF PROPOSED SECTION 34.1

[CELA's brief description of the new provision to be added to the *Planning Act*, if Bill 66 passes]

The *Planning Act* is to be amended to add a new provision that enables a municipality to pass an "open-for-business planning by-law". The government's motivation is to create a "new economic development tool" that allows "municipalities to ensure that they can act quickly to attract businesses seeking development sites." (ERO Number 013-4125)

If Bill 66 is enacted, an open-for-business planning by-law will be an exercise of a municipality's zoning by-law powers. Before passing an open-for-business planning bylaw, the municipality must first seek the Minister of Municipal Affairs and Housing's approval, by way of a resolution and any "prescribed information". If the Minister gives the municipality approval in writing (with any conditions that the he or she "may provide"), the other prescribed criteria (if any) are met, and it only authorizes a "prescribed purpose" (related to the "use of land, buildings or structures"), then an open-for-business planning by-law can be passed. Anything "prescribed" must be set out in a regulation. The government has proposed that an accompanying regulation will require that a municipality seeking to make use of the open-for-business planning by-law (ERO Number 013-4239):

- provide "open-for-business information, including details about the proposed employment opportunity",
- demonstrate it will be for a "new major employment use" (minimum threshold of 50 jobs in municipalities with less than 250,000 population and 100 jobs for municipalities with more than 250,000 population), and
- identify the uses, which cannot have "residential, commercial or retail as the primary use".

No public notice or hearing is required prior to passing an open-for-business planning by-law. Once passed, an open-for-business planning by-law will come into force in 20 days (unless the Minister otherwise requires in writing a different, later date). Notice after the fact is required to given to the Minister (within 3 days after passing the open-for-business planning by-law) and "any persons or public bodies the municipality considers proper" and "in such manner as the municipality considers proper" (within 30 days of passing). A number of provisions within the *Planning Act* and other statutes will automatically not apply to an open-for-business planning by-law (see details in Table below). As well, there will be no site plan control application and no ability for appeal to the Local Planning Appeal Tribunal.

TABLE: NON-APPLICATION OF LISTED PROVISIONS
(Proposed subsection 34.1(6), Schedule 10, Bill 66)

[The first column names the specific legislation and associated provision(s) that will not apply to an open-for-business planning by-law. As well, the first column includes a plain language explanation of the specific provisions (currently and impact if Bill 66 passes as drafted). The second column reproduces the specific provisions from other legislation in full.]

Specific section numbers of legislation per s34.1(6), Schedule 10 (bolded) *Followed by CELA's plain language explanation of the affected statutory language (italicized)*	**Affected Provisions from other legislation (as Currently in Force) - statutory language column**
Subsection 3 (5), Section 24, Subsections 34 (10.0.0.1) to (34), Section 36 and Section 37 of the *Planning Act* *Subsection 3(5) of the Planning Act requires that planning decisions shall be consistent with the Provincial Policy Statement (PPS). By not applying to an open-for-business planning by-law, for example, there would not need to be consistency with the policies that prohibit development in provincially significant wetlands. The PPS also contains policies related to (among other things) density, compatibility, affordable housing, active transportation, stormwater management and low impact development, green infrastructure, natural heritage and water features protection, climate resiliency, and natural or human-made hazards. All of these requirements of the PPS would no longer apply in an open for business by-law area.* *Section 24 of the Planning Act requires that public works and by-laws conform to the municipality's official plan. By not applying to an open-for-business planning by-law, the community's interests as articulated in the requirements of the official plan can be ignored.*	**<u>Subsection 3 (5)</u>** **Policy statements and provincial plans** (5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Tribunal, in respect of the exercise of any authority that affects a planning matter, (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. **<u>Section 24</u>** **Public works and by-laws to conform with plan** **24** (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. **Pending amendments** (2) If a council or a planning board has adopted an amendment to an official plan, the council of any municipality or the planning board of any planning area to which the plan or any part of the plan applies may, before the amendment to the official plan comes into effect, pass a by-law that does not conform with the official plan but will conform with it if the amendment comes into effect. **Same** (2.1) A by-law referred to in subsection (2), (a) shall be conclusively deemed to have conformed with the official plan on and after the day the

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	by-law was passed, if the amendment to the official plan comes into effect; and (b) is of no force and effect, if the amendment to the official plan does not come into effect. **Preliminary steps that may be taken where proposed public work would not conform with official plan** (3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan. **Deemed conformity** (4) If a by-law is passed under section 34 by the council of a municipality or a planning board in a planning area in which an official plan is in effect and, within the time limited for appeal no appeal is taken or an appeal is taken and the appeal is withdrawn or dismissed or the by-law is amended by the Tribunal or as directed by the Tribunal, the by-law shall be conclusively deemed to be in conformity with the official plan, except, if the by-law is passed in the circumstances mentioned in subsection (2), the by-law shall be conclusively deemed to be in conformity with the official plan on and after the day the by-law was passed, if the amendment to the official plan comes into effect.
Subsections 34 (10.0.0.1) to (34) of the Planning Act requires certain procedures, including public notice, consultation and opportunities to appeal to the Local Planning Appeal Tribunal, to be followed in order to amend a zoning by-law. By not applying to an open-for-business planning by-law, there will be no public engagement. In fact, Bill 66 expressly provides that no advance notice to the public of an open for business by-law is required.	**<u>Subsections 34 (10.0.0.1) to (34)</u>** Land Use Controls and Related Administration **Two-year period, no application for amendment** (10.0.0.1) If the council carries out the requirements of subsection 26 (9) by simultaneously repealing and replacing all the zoning by-laws in effect in the municipality, no person or public body shall submit an application for an amendment to any of the by-laws before the second anniversary of the day on which the council repeals and replaces them. **Exception** (10.0.0.2) Subsection (10.0.0.1) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally. **Consultation** (10.0.1) The council, (a) shall permit applicants to consult with the municipality before submitting applications to amend by-laws passed under this section; and (b) may, by by-law, require applicants to consult with the municipality as described in clause (a). **Prescribed information** (10.1) A person or public body that applies for an amendment to a by-law passed under this section or

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	a predecessor of this section shall provide the prescribed information and material to the council. **Other information** (10.2) A council may require that a person or public body that applies for an amendment to a by-law passed under this section or a predecessor of this section provide any other information or material that the council considers it may need, but only if the official plan contains provisions relating to requirements under this subsection. **Refusal and timing** (10.3) Until the council has received the information and material required under subsections (10.1) and (10.2), if any, and any fee under section 69, (a) the council may refuse to accept or further consider the application for an amendment to the by-law; and (b) the time period referred to in subsection (11) does not begin. **Response re completeness of application** (10.4) Within 30 days after the person or public body that makes the application for an amendment to a by-law pays any fee under section 69, the council shall notify the person or public body that the information and material required under subsections (10.1) and (10.2), if any, have been provided, or that they have not been provided, as the case may be. **Motion re dispute** (10.5) Within 30 days after a negative notice is given under subsection (10.4), the person or public body or the council may make a motion for directions to have the Tribunal determine, (a) whether the information and material have in fact been provided; or (b) whether a requirement made under subsection (10.2) is reasonable. **Same** (10.6) If the council does not give any notice under subsection (10.4), the person or public body may make a motion under subsection (10.5) at any time after the 30-day period described in subsection (10.4) has elapsed. **Notice of particulars and public access** (10.7) Within 15 days after the council gives an affirmative notice under subsection (10.4), or within 15 days after the Tribunal advises the clerk of its affirmative decision under subsection (10.5), as the case may be, the council shall, (a) give the prescribed persons and public bodies, in the prescribed manner, notice of the application for an amendment to a by-law, accompanied by the prescribed information; and (b) make the information and material provided under subsections (10.1) and (10.2) available to the public. **Final determination** (10.8) The Tribunal's determination under subsection (10.5) is not subject to appeal or review. **Notice of refusal**

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	(10.9) When a council refuses an application to amend its by-law, it shall ensure that written notice of the refusal is given in the prescribed manner, no later than 15 days after the day of the refusal, (a) to the person or public body that made the application; (b) to each person and public body that filed a written request to be notified of a refusal; and (c) to any prescribed person or public body. . **Contents** (10.10) The notice under subsection (10.9) shall contain, (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (10.11) had on the decision; and (b) any other information that is prescribed. . **Written and oral submissions** (10.11) Clause (10.10) (a) applies to, (a) any written submissions relating to the application that were made to the council before its decision; and (b) any oral submissions relating to the application that were made at a public meeting. **Appeal to L.P.A.T.** (11) Subject to subsection (11.0.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 150 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*: 1. The applicant. 2. The Minister. **Same, where amendment to official plan required** (11.0.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 210 days after the receipt by the clerk of the application. **Basis for appeal** (11.0.0.0.2) An appeal under subsection (11) may only be made on the basis that, (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and (b) the amendment that is the subject of the application is consistent with policy statements

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	issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. **Same** (11.0.0.0.3) For greater certainty, council does not refuse an application for an amendment to a by-law passed under this section or a predecessor of this section or fail to make a decision on the application if it amends the by-law in response to the application, even if the amendment that is passed differs from the amendment that is the subject of the application. **Notice of Appeal** (11.0.0.0.4) A notice of appeal under subsection (11) shall, (a) explain how the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and (b) explain how the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. **Exception** (11.0.0.0.5) Subsections (11.0.0.0.2) and (11.0.0.0.4) do not apply to an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.3). **Use of dispute resolution techniques** (11.0.0.1) If an application for an amendment is refused as described in subsection (11) and a notice of appeal is filed under that subsection, the council may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. **Notice and invitation** (11.0.0.2) If the council decides to act under subsection (11.0.0.1), (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and (b) it shall give an invitation to participate in the dispute resolution process to, (i) as many of the appellants as the council considers appropriate, (ii) the applicant, if the applicant is not an appellant, and (iii) any other persons or public bodies that the council considers appropriate. **Extension of time** (11.0.0.3) When the council gives a notice under clause (11.0.0.2) (a), the 15-day period mentioned in clause (23) (b) is extended to 75 days. **Participation voluntary** (11.0.0.4) Participation in the dispute resolution process by the persons and public bodies who receive

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	invitations under clause (11.0.0.2) (b) is voluntary. ***Consolidated Hearings Act*** (11.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of an application for an amendment to a by-law unless the council has made a decision on the application or the time period referred to in subsection (11) has expired. (11.0.2) REPEALED: 2017, c. 23, Sched. 3, s. 10 (2). **Time for filing certain appeals** (11.0.3) A notice of appeal under subsection (11) with respect to the refusal of an application shall be filed no later than 20 days after the day that the giving of notice under subsection (10.9) is completed. **Restricted appeals, areas of settlement** (11.0.4) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to implement, (a) an alteration to all or any part of the boundary of an area of settlement; or (b) a new area of settlement. **Restricted appeals, areas of employment** (11.0.5) Despite subsection (11), if the official plan contains policies dealing with the removal of land from areas of employment, there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to remove any land from an area of employment, even if other land is proposed to be added. . **No appeal re inclusionary zoning policies** (11.0.6) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to amend or repeal a part of the by-law that gives effect to policies described in subsection 16 (4). **Withdrawal of appeal** (11.1) If all appeals under subsection (11) are withdrawn, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding or the council may proceed to give notice of the public meeting or pass or refuse to pass the by-law, as the case may be. **Information and public meeting; open house in certain circumstances** (12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Tribunal made under subsection (26), (a) the council shall ensure that, (i) sufficient information and material is made available to enable the public to understand generally the zoning proposal that is being considered by the council, and (ii) at least one public meeting is held for the purpose of giving the public an opportunity

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	to make representations in respect of the proposed by-law; and (b) in the case of a by-law that is required by subsection 26 (9) or is related to a development permit system, the council shall ensure that at least one open house is held for the purpose of giving the public an opportunity to review and ask questions about the information and material made available under subclause (a) (i). **Notice** (13) Notice of the public meeting required under subclause (12) (a) (ii) and of the open house, if any, required by clause (12) (b), (a) shall be given to the prescribed persons and public bodies, in the prescribed manner; and (b) shall be accompanied by the prescribed information. **Timing of open house** (14) The open house required by clause (12) (b) shall be held no later than seven days before the public meeting required under subclause (12) (a) (ii) is held. **Timing of public meeting** (14.1) The public meeting required under subclause (12) (a) (ii) shall be held no earlier than 20 days after the requirements for giving notice have been complied with. . **Participation in public meeting** (14.2) Every person who attends a public meeting required under subclause (12) (a) (ii) shall be given an opportunity to make representations in respect of the proposed by-law. **Alternative measures** (14.3) If an official plan sets out alternative measures for informing and obtaining the views of the public in respect of proposed zoning by-laws, and if the measures are complied with, clause (10.7) (a) and subsections (12) to (14.2) do not apply to the proposed by-laws, but subsection (14.6) does apply. **Same** (14.4) In the course of preparing the official plan, before including alternative measures described in subsection (14.3), the council shall consider whether it would be desirable for the measures to allow for notice of the proposed by-laws to the prescribed persons and public bodies mentioned in clause (13) (a). **Transition** (14.4.1) For greater certainty, subsection (14.4) does not apply with respect to alternative measures that were included in an official plan before the day subsection 26 (6) of the *Smart Growth for Our Communities Act, 2015* comes into force. **Information** (14.5) At a public meeting under subclause (12) (a) (ii), the council shall ensure that information is made available to the public regarding who is entitled to appeal under subsections (11) and (19). **Where alternative procedures followed** (14.6) If subsection (14.3) applies, the information required under subsection (14.5) shall be made

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	available to the public at a public meeting or in the manner set out in the official plan for informing and obtaining the views of the public in respect of proposed zoning by-laws. **Information to public bodies** (15) The council shall forward to such public bodies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal. **Conditions** (16) If the official plan in effect in a municipality contains policies relating to zoning with conditions, the council of the municipality may, in a by-law passed under this section, permit a use of land or the erection, location or use of buildings or structures and impose one or more prescribed conditions on the use, erection or location. **Same** (16.1) The prescribed conditions referred to in subsection (16) may be made subject to such limitations as may be prescribed. **Same** (16.2) When a prescribed condition is imposed under subsection (16), (a) the municipality may require an owner of land to which the by-law applies to enter into an agreement with the municipality relating to the condition; (b) the agreement may be registered against the land to which it applies; and (c) the municipality may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 2006, c. 23, s. 15 (7). **City of Toronto** (16.3) Subsections (16), (16.1) and (16.2) do not apply with respect to the City of Toronto. **Further notice** (17) Where a change is made in a proposed by-law after the holding of the public meeting mentioned in subclause (12) (a) (ii), the council shall determine whether any further notice is to be given in respect of the proposed by-law and the determination of the council as to the giving of further notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed by-law. **Notice of passing of by-law** (18) If the council passes a by-law under this section, except a by-law passed pursuant to an order of the Tribunal made under subsection (11.0.2) or (26), the council shall ensure that written notice of the passing of the by-law is given in the prescribed manner, no later than 15 days after the day the by-law is passed, (a) to the person or public body that made the application, if any; (b) to each person and public body that filed a written request to be notified of the decision; and

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	(c) to any prescribed person or public body. **Contents** (18.1) The notice under subsection (18) shall contain, (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (18.2) had on the decision; and (b) any other information that is prescribed. **Written and oral submissions** (18.2) Clause (18.1) (a) applies to, (a) any written submissions relating to the by-law that were made to the council before its decision; and (b) any oral submissions relating to the by-law that were made at a public meeting. **Appeal to L.P.A.T.** (19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*: 1. The applicant. 2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council. 3. The Minister. **Basis for appeal** (19.0.1) An appeal under subsection (19) may only be made on the basis that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. **Notice of Appeal** (19.0.2) A notice of appeal under subsection (19) shall explain how the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. **No appeal re second unit policies** (19.1) Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (3), including, for greater certainty, no appeal in respect of any requirement or standard relating to such policies. **Exception re Minister** (19.2) Subsection (19.1) does not apply to an appeal by the Minister. **No appeal re inclusionary zoning policies** (19.3) Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (4), including, for greater certainty, no appeal in respect of any

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	condition, requirement or standard relating to such policies. **Matters referred to in s. 34 (1)** (19.3.1) Despite subsection (19.3), there is an appeal in respect of any matter referred to in subsection (1) even if such matter is included in the by-law as a measure or incentive in support of the policies described in subsection 16 (4). **Exception re Minister** (19.4) Subsection (19.3) does not apply to an appeal by the Minister. **No appeal re protected major transit station area – permitted uses, etc.** (19.5) Despite subsections (19) and (19.3.1), and subject to subsections (19.6) to (19.8), there is no appeal in respect of, (a) the parts of a by-law that establish permitted uses or the minimum or maximum densities with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16); or (b) the parts of a by-law that establish minimum or maximum heights with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16). **Same, by-law of a lower-tier municipality** (19.6) Subsection (19.5) applies to a by-law of a lower-tier municipality only if the municipality's official plan contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) with respect to the protected major transit station area. **Exception** (19.7) Clause (19.5) (b) does not apply in circumstances where the maximum height that is permitted with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is required in respect of that parcel. **Exception re Minister** (19.8) Subsection (19.5) does not apply to an appeal by the Minister. **When giving of notice deemed completed** (20) For the purposes of subsections (11.0.3) and (19), the giving of written notice shall be deemed to be completed, (a) where notice is given by publication in a newspaper, on the day that such publication occurs; (a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed; (b) where notice is given by personal service, on the day that the serving of all required notices is completed; (c) where notice is given by mail, on the day that the mailing of all required notices is completed; and (d) where notice is given by telephone transmission of a facsimile of the notice, on the day that

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	the transmission of all required notices is completed. **Use of dispute resolution techniques** (20.1) When a notice of appeal is filed under subsection (19), the council may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. **Notice and invitation** (20.2) If the council decides to act under subsection (20.1), (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and (b) it shall give an invitation to participate in the dispute resolution process to, (i) as many of the appellants as the council considers appropriate, (ii) the applicant, if there is an applicant who is not an appellant, and (iii) any other persons or public bodies that the council considers appropriate. **Extension of time** (20.3) When the council gives a notice under clause (20.2) (a), the 15-day period mentioned in clause (23) (b) and subsections (23.2) and (23.3) is extended to 75 days. **Participation voluntary** (20.4) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (20.2) (b) is voluntary. **When by-law deemed to have come into force** (21) When no notice of appeal is filed under subsection (19), the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the amendment to the official plan comes into effect. **Affidavit re no appeal, etc.** (22) An affidavit or declaration of an employee of the municipality that notice was given as required by subsection (18) or that no notice of appeal was filed under subsection (19) within the time allowed for appeal shall be conclusive evidence of the facts stated therein. **Record** (23) The clerk of a municipality who receives a notice of appeal under subsection (11) or (19) shall ensure that, (a) a record that includes the prescribed information and material is compiled; (b) the notice of appeal, record and fee are forwarded to the Tribunal, (i) within 15 days after the last day for filing a notice of appeal under subsection (11.0.3) or (19), as the case may be, or (ii) within 15 days after a notice of appeal is filed under subsection (11) with respect to the failure to make a decision; and (c) such other information or material as the Tribunal may require in respect of the appeal is

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	forwarded to the Tribunal. **Withdrawal of appeals** (23.1) If all appeals to the Tribunal under subsection (19) are withdrawn and the time for appealing has expired, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding. **Exception** (23.2) Despite clause (23) (b), if all appeals under subsection (19) are withdrawn within 15 days after the last day for filing a notice of appeal, the municipality is not required to forward the materials described under clauses (23) (b) and (c) to the Tribunal. **Decision final** (23.3) If all appeals to the Tribunal under subsection (19) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the council is final and binding. **Hearing and notice thereof** (24) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Tribunal may determine. **Restriction re adding parties** (24.1) Despite subsection (24), in the case of an appeal under subsection (11) that relates to all or part of an application for an amendment to a by-law that is refused, or in the case of an appeal under subsection (19), only the following may be added as parties: 1. A person or public body who satisfies one of the conditions set out in subsection (24.2). 2. The Minister. . **Same** (24.2) The conditions mentioned in paragraph 1 of subsection (24.1) are: 1. Before the by-law was passed, the person or public body made oral submissions at a public meeting or written submissions to the council. 2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party. (24.3)-(24.6) REPEALED: 2017, c. 23, Sched. 3, s. 10 (9). **Conflict with *SPPA*** (24.7) Subsections (24.1) and (24.2) apply despite the *Statutory Powers Procedure Act*. **Dismissal without hearing** (25) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal shall dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party if any of the following apply: 1. The Tribunal is of the opinion that the explanations required by subsection (11.0.0.0.4) do not disclose both of the following: i. That the existing part or parts of the by-law that would be affected by the amendment

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	that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan. ii. The amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. 2. The Tribunal is of the opinion that the explanation required by subsection (19.0.2) does not disclose that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. 3. The Tribunal is of the opinion that, i. the appeal is not made in good faith or is frivolous or vexatious, ii. the appeal is made only for the purpose of delay, or iii. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process. 4. The appellant has not provided the explanation required by subsection (11.0.0.0.4) or (19.0.2), as applicable. 5. The appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017* and has not responded to a request by the Tribunal to pay the fee within the time specified by the Tribunal. 6. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. **Representation** (25.1) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 or 6 of subsection (25). **Same** (25.1.1) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal may, on its own initiative or on the motion of the municipality or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision. **Dismissal** (25.2) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (25) or (25.1.1), as it considers appropriate. **Powers of L.P.A.T.**

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	(26) Subject to subsections (26.1) to (26.10) and (26.13), after holding a hearing on an appeal under subsection (11) or (19), the Tribunal shall dismiss the appeal. **Notice re opportunity to make new decision — appeal under subs. (11)** (26.1) Unless subsection (26.3), (26.6), (26.7) or (26.9) applies, on an appeal under subsection (11), the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter, if the Tribunal determines that, (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with applicable official plans. **Same — appeal under subs. (19)** (26.2) Unless subsection (26.3), (26.8) or (26.9) applies, if, on an appeal under subsection (19), the Tribunal determines that a part of the by-law to which the notice of appeal relates is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, (a) the Tribunal shall repeal that part of the by-law; and (b) the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter. **Powers of L.P.A.T. — Draft by-law with consent of parties** (26.3) Unless subsection (26.9) applies, if a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. **Notice to make new decision** (26.4) If subsection (26.3) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal shall notify the clerk of the municipality that it is being given an opportunity to make a new decision in respect of the matter. **Rules that apply if notice received** (26.5) If the clerk has received notice under subsection (26.1), clause (26.2) (b) or subsection (26.4), the following rules apply: 1. The council of the municipality may prepare and pass another by-law in accordance with this section, except that clause (12) (b) does not apply.

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	2. The reference to "within 150 days after the receipt by the clerk of the application" in subsection (11) shall be read as "within 90 days after the day notice under subsection (26.1), clause (26.2) (b) or subsection (26.4) was received". **Second appeal, subs. (11) — failure to make decision** (26.6) On an appeal under subsection (11) that concerns the failure to make a decision on an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order. **Second appeal, subs. (11) — refusal** (26.7) Unless subsection (26.9) applies, on an appeal under subsection (11) that concerns the refusal of an application in respect of which the municipality was given an opportunity to make a new decision in accordance with subsection (26.5), the Tribunal may amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order if the Tribunal determines that, (a) the existing part or parts of the by-law that would be affected by the amendment that is the subject of the application are inconsistent with a policy statement issued under subsection 3 (1), fail to conform with or conflict with a provincial plan or fail to conform with an applicable official plan; and (b) the amendment that is the subject of the application is consistent with policy statements issued under subsection 3 (1), conforms with or does not conflict with provincial plans and conforms with all applicable official plans. **Second appeal — subs. (19)** (26.8) Unless subsection (26.9) applies, on an appeal under subsection (19) that concerns a new decision that the municipality was given an opportunity to make in accordance with subsection (26.5), the Tribunal may repeal the by-law in whole or in part or amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Tribunal's order, if the Tribunal determines that the decision is inconsistent with policy statements issued under subsection 3 (1), fails to conform with or conflicts with provincial plans or fails to conform with an applicable official plan. **Draft by-law with consent of the parties** (26.9) If, on an appeal referred to in subsection (26.7) or (26.8), a draft by-law is presented to the Tribunal with the consent of all of the parties specified in subsection (26.11), the Tribunal shall approve the draft by-law as a zoning by-law except for any part of it that is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan. **Same**

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	(26.10) If subsection (26.9) applies and the Tribunal determines that any part of the draft by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the Tribunal may refuse to amend the zoning by-law or amend the zoning by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the zoning by-law in accordance with the Tribunal's order. **Specified parties** (26.11) For the purposes of subsection (26.3) and (26.9), the specified parties are: 1. The municipality. 2. The Minister, if the Minister is a party. 3. If applicable, the applicant. 4. If applicable, all appellants of the decision which was the subject of the appeal. . **Effect on original by-law** (26.12) If subsection (26.3) or (26.9) applies in the case of an appeal under subsection (19), the by-law that was the subject of the notice of appeal shall be deemed to have been repealed. **Non-application of s. 24 (4)** (26.13) An appeal under subsection (11) shall not be dismissed on the basis that the by-law is deemed to be in conformity with an official plan under subsection 24 (4). **Matters of provincial interest** (27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days after the day the Tribunal gives notice under subsection (24) and the Minister shall identify, (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. **No hearing or notice required** (28) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (27). . **Applicable rules if notice under subs. (27) received** (29) If the Tribunal has received a notice from the Minister under subsection (27), the following rules apply: 1. Subsections (26) to (26.12) do not apply to the appeal. 2. The Tribunal may make a decision as to whether the appeal should be dismissed or the by-law should be repealed or amended in whole or in part or the council of the municipality should be directed to repeal or amend the by-law in whole or in part.

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	3. The Tribunal shall not make an order in respect of the part or parts of the by-law identified in the notice. **Action of L.G. in C.** (29.1) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine. **Coming into force** (30) If one or more appeals have been filed under subsection (19), the by-law does not come into force until all of such appeals have been withdrawn or finally disposed of, whereupon the by-law, except for those parts of it repealed under subsection (26.2) or (26.8) or amended under subsection (26.8) or as are repealed or amended by the Lieutenant Governor in Council under subsection (29.1), shall be deemed to have come into force on the day it was passed. **Unappealed portions** (31) Despite subsection (30), before all of the appeals have been finally disposed of, the Tribunal may make an order providing that any part of the by-law not in issue in the appeal shall be deemed to have come into force on the day the by-law was passed. **Method** (32) The Tribunal may make an order under subsection (31) on its own initiative or on the motion of any person or public body. **Notice and hearing** (33) The Tribunal may, (a) dispense with giving notice of a motion under subsection (32) or require the giving of such notice of the motion as it considers appropriate; and (b) make an order under subsection (31) after holding a hearing or without holding a hearing on the motion, as it considers appropriate. **Notice** (34) Despite clause (33) (a), the Tribunal shall give notice of a motion under subsection (32) to any person or public body who filed with the Tribunal a written request to be notified if a motion is made.
Section 36 of the Planning Act permits a municipality to create "holding" provisions, which could restrict the timing of development to some designated time in the future. This is often quite important for various reasons, including construction of infrastructure. By not applying to an open-for-business planning by-law, the municipality will not be able to control the timing of development.	**<u>Section 36</u>** **Holding provision by-law** **36** (1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol "H" (or "h") in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law. . **Condition**

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	(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1). **Appeal to L.P.A.T.** (3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 150 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order. **Matters of provincial interest** (3.1) Where an appeal is made to the Tribunal under subsection (3), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify, (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. **No hearing or notice required** (3.2) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (3.1). **No order to be made** (3.3) If the Tribunal has received notice from the Minister under subsection (3.1) and has made a decision on the by-law, the Tribunal shall not make an order under subsection (3) in respect of the part or parts of the by-law identified in the notice.. **Action of L.G. in C.** (3.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine. **Application of subss. 34 (10.7, 10.9-20.4, 22-34)** (4) Subsections 34 (10.7), (10.9) to (20.4) and (22) to (34) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and public bodies and containing the information prescribed, give notice of its intention to pass the amending by-law.

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Section 37 of the Planning Act permits a municipality to impose "density bonusing" (eg, exchanging "community benefits" in situations when limits that would otherwise apply to height or density are to be relaxed). By not applying to an open-for-business planning by-law, the municipality will not be able to secure local benefits to offset the non-compliance with height or density limits.	**Section 37** **Increased density, etc., provision by-law** **37** (1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law. **Condition** (2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the authorization of increases in height and density of development. **Agreements** (3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters. **Registration of agreement** (4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. **Special account** (5) All money received by the municipality under this section shall be paid into a special account and spent only for facilities, services and other matters specified in the by-law. 2015, c. 26, s. 27. **Investments** (6) The money in the special account may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account, and the auditor in the auditor's annual report shall report on the activities and status of the account. **Treasurer's statement** (7) The treasurer of the municipality shall each year, on or before the date specified by the council, give the council a financial statement relating to the special account. **Requirements** (8) The statement shall include, for the preceding year, (a) statements of the opening and closing balances of the special account and of the transactions relating to the account; (b) statements identifying, (i) any facilities, services or other matters specified in the by-law for which funds from the special account have been spent during the year, (ii) details of the amounts spent, and

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	(iii) for each facility, service or other matter mentioned in subclause (i), the manner in which any capital cost not funded from the special account was or will be funded; and (c) any other information that is prescribed. **Copy to Minister** (9) The treasurer shall give a copy of the statement to the Minister on request. **Statement available to public** (10) The council shall ensure that the statement is made available to the public.
Section 39 of the *Clean Water Act, 2006* *Section 39 of the Clean Water Act, 2006 requires land use planning decisions made by municipal councils, the province and others to "conform" to the significant threat policies and designated Great Lakes policies that are adopted in approved source protection plans. In case of a conflict between the significant threat source protection policy and other land use planning documents, the source protection policy prevails. Public works and municipal by-laws must also be consistent with the approved significant threat policies in source protection plans. Specified provincial approvals such as pollution permits for discharges to water must also conform.* *By not applying to an open-for-business planning by-law, these requirements for the municipal and provincial land use decisions, public works, municipal by-laws and provincial approvals to be consistent with the significant threat policies would be removed.*	**Effect of plan** **39** (1) A decision under the *Planning Act* or the *Condominium Act, 1998* made by a municipal council, municipal planning authority, planning board, other local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the source protection area shall, (a) conform with significant threat policies and designated Great Lakes policies set out in the source protection plan; and (b) have regard to other policies set out in the source protection plan. **Conflicts re official plans, by-laws** (2) Despite any other Act, the source protection plan prevails in the case of conflict between a significant threat policy or designated Great Lakes policy set out in the source protection plan and, (a) an official plan; (b) a zoning by-law; or (c) subject to subsection (4), a policy statement issued under section 3 of the *Planning Act*. **Limitation** (3) Subsection (1) does not apply to a policy statement issued under section 3 of the *Planning Act* or a minister's order under section 47 of the *Planning Act*. **Conflicts re provisions in plans, policies** (4) Despite any Act, but subject to a regulation made under clause 109 (1) (h), (i) or (j), if there is a conflict between a provision of a significant threat policy or designated Great Lakes policy set out in the source protection plan and a provision in a plan or policy that is mentioned in subsection (5), the provision that provides the greatest protection to the quality and quantity of any water that is or may be used as a source of drinking water prevails. **Plans or policies** (5) The plans and policies to which subsection (4) refers are, (a) a policy statement issued under section 3 of the *Planning Act*; (b) the Greenbelt Plan established under section 3 of the *Greenbelt Act, 2005* and any amendment to the Plan; (c) the Niagara Escarpment Plan established under section 3 of the *Niagara Escarpment Planning*

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	and Development Act and any amendment to the Plan; (d) the Oak Ridges Moraine Conservation Plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001* and any amendment to the Plan; (e) a growth plan approved under section 7 of the *Places to Grow Act, 2005* and any amendment to the plan; (f) a plan or policy made under a provision of an Act that is prescribed by the regulations; and (g) a plan or policy prescribed by the regulations, or provisions prescribed by the regulations of a plan or policy, that is made by the Lieutenant Governor in Council, a minister of the Crown, a ministry or a board, commission or agency of the Government of Ontario. **Actions to conform to plan** (6) Despite any other Act, no municipality or municipal planning authority shall, (a) undertake within the source protection area any public work, improvement of a structural nature or other undertaking that conflicts with a significant threat policy or designated Great Lakes policy set out in the source protection plan; or (b) pass a by-law for any purpose that conflicts with a significant threat policy or designated Great Lakes policy set out in the source protection plan. **Prescribed instruments** (7) Subject to a regulation made under clause 109 (1) (k), (l) or (m), a decision to issue, otherwise create or amend a prescribed instrument shall, (a) conform with significant threat policies and designated Great Lakes policies set out in the source protection plan; and (b) have regard to other policies set out in the source protection plan. **No authority** (8) Subsection (7) does not permit or require a person or body, (a) to issue or otherwise create an instrument that it does not otherwise have authority to issue or otherwise create; or (b) to make amendments that it does not otherwise have authority to make.
Section 20 of the *Great Lakes Protection Act, 2015* *Section 20 of the Great Lakes Protection Act, 2015, requires that planning decisions conform with designated policies and have regard for other policies contained in any geographically focused initiative. Geographically focused initiatives are a tool that allows communities to solve complex issues related to protecting or restoring the ecological health of the Great Lakes - St Lawrence River Basin and ensure that land use decisions respect policies*	**Effect of initiative** **Decisions under *Planning Act* or *Condominium Act, 1998*** 20. (1) A decision under the *Planning Act* or the *Condominium Act, 1998* made by a municipal council, municipal planning authority, planning board, other local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the area to which an initiative applies shall, (a) conform with designated policies that are set out in the initiative; and (b) have regard to policies described in Schedule 1 that are set out in the initiative and that are not designated policies. **Limitation**

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that are aimed at implementing such solutions (eg, a process akin to that which led to the Lake Simcoe Protection Plan could be completed by a willing community or communities). To date, no geographically focused initiatives have been created. *By not applying to open-for-business planning by-laws, a community's efforts to solve a complex freshwater challenge would be ignored.*	(2) Subsection (1) does not apply to a policy statement issued under section 3 of the *Planning Act* or a minister's order under section 47 of the *Planning Act*. **Conflicts re official plans, by-laws** (3) Despite any other Act, an initiative prevails in the case of conflict between a designated policy set out in the initiative and, (a) an official plan; (b) a zoning by-law; or (c) subject to subsection (4), a policy statement issued under section 3 of the *Planning Act*. **Conflicts re provisions in plans, policies** (4) Despite any Act, but subject to a regulation made under clause 38 (1) (d), (e) or (f), if there is a conflict between a provision of a designated policy set out in an initiative and a provision in a plan or policy that is mentioned in subsection (5), the provision that provides the greatest protection to the ecological health of the Great Lakes-St. Lawrence River Basin prevails. **Plans or policies** (5) The plans and policies to which subsection (4) refers are, (a) a policy statement issued under section 3 of the *Planning Act*; (b) the Greenbelt Plan established under section 3 of the *Greenbelt Act, 2005* and any amendment to the Plan; (c) the Niagara Escarpment Plan continued under section 3 of the *Niagara Escarpment Planning and Development Act* and any amendment to the Plan; (d) the Oak Ridges Moraine Conservation Plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001* and any amendment to the Plan; (e) a growth plan approved under the *Places to Grow Act, 2005* and any amendment to the Plan; (f) a plan or policy made under a provision of an Act, if the provision has been prescribed by the regulations; and (g) a plan or policy that has been prescribed by the regulations, or provisions of a plan or policy that have been prescribed by the regulations, that is made by the Lieutenant Governor in Council, a minister of the Crown, or a ministry, board, commission or agency of the Government of Ontario. **Actions to conform to initiative** (6) Despite any other Act, no municipality or municipal planning authority shall, (a) undertake, within the area to which an initiative applies, any public work, improvement of a structural nature or other undertaking that conflicts with a designated policy set out in the initiative; or (b) pass a by-law for any purpose that conflicts with a designated policy set out in the initiative. **Comments, advice** (7) If a public body provides comments, submissions or advice relating to a decision or matter

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	described in subsection (8), the comments, submissions or advice shall, (a) conform with designated policies that are set out in an initiative; and (b) have regard to policies described in Schedule 1 that are set out in an initiative and that are not designated policies. **Same** (8) Subsection (7) applies to the following: 1. A decision under the *Planning Act* or the *Condominium Act, 1998* that relates to the area to which the initiative applies. 2. A decision to issue, otherwise create or amend a prescribed instrument that relates to the area to which the initiative applies. 3. Any other matter specified in the initiative. **Prescribed instruments** (9) Subject to a regulation made under clause 38 (1) (g), (h) or (i), a decision to issue, otherwise create or amend a prescribed instrument shall, (a) conform with designated policies that are set out in the initiative; and (b) have regard to policies described in Schedule 1 that are set out in the initiative and that are not designated policies. **No authority** (10) Subsection (9) does not permit or require a person or body, (a) to issue or otherwise create an instrument that it does not otherwise have authority to issue or otherwise create; or (b) to make amendments that it does not otherwise have authority to make.
Section 7 of the *Greenbelt Act, 2005* *Section 7 of the Greenbelt Act, 2005 requires that planning decisions conform to the Greenbelt Plan. Further, no by-laws can be passed which conflict with the Greenbelt Plan. The Greenbelt Plan protects 2 million acres of farmland and natural areas from development.* *By not applying to an open-for-business planning by-law, protections in the Greenbelt Plan, including those related to specialty crops in the Niagara Region and the Holland Marsh, would be overridden.*	**Decisions to conform to plan** **7** (1) A decision that is made under the *Ontario Planning and Development Act, 1994*, the *Planning Act* or the *Condominium Act, 1998* or in relation to a prescribed matter by a municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, shall conform with the Greenbelt Plan. **Limitation** (2) Subsection (1) does not apply to a policy statement issued under section 3 of the *Planning Act*. **Actions to conform to plan** (3) Despite any other Act, no municipality or municipal planning authority shall, within the areas to which the Greenbelt Plan applies, (a) undertake any public work, improvement of a structural nature or other undertaking that conflicts with the Greenbelt Plan; or (b) pass a by-law for any purpose that conflicts with the Greenbelt Plan. **Comments, advice**

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	(4) Comments, submissions or advice provided by a minister of the Crown, a ministry, board, commission or agency of the Government of Ontario or a conservation authority established under section 3 of the *Conservation Authorities Act* that affect a planning matter relating to lands to which the Greenbelt Plan applies shall conform with the Greenbelt Plan.
Section 6 of the *Lake Simcoe Protection Act, 2015* *Section 6 of the Lake Simcoe Protection Act, 2015 requires that planning decisions conform with designated policies and have regard to other policies that are set out the Lake Simcoe Protection Plan. Further, in the case of conflict between a by-law and a designated policy in Lake Simcoe Protection Plan, the Lake Simcoe Protection Plan prevails. As well, if there is a conflict between policies in other provincial plans or policies (eg, Provincial Policy Statement, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Growth Plan for the Greater Golden Horseshoe, etc.) and policies in the Lake Simcoe Protection Plan, whichever policy provides for "greatest protection to the ecological health of the Lake Simcoe watershed prevails." The Lake Simcoe Plan sets out policies that address long term environmental issues including the immediate threat of excessive phosphorus and emerging threats of invasive species, road salts, and climate change.* *By not applying to an open-for-business planning by-law, the community's interest and current legal requirements to prioritize freshwater and ecological health over other land uses will not be respected.*	**Effect of Plan** **6** (1) A decision under the *Planning Act* or the *Condominium Act, 1998* made by a municipal council, local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the Lake Simcoe watershed shall, (a) conform with designated policies set out in the Lake Simcoe Protection Plan; and (b) have regard to other policies set out in the Lake Simcoe Protection Plan. **Limitation** (2) Subsection (1) does not apply to a policy statement issued under section 3 of the *Planning Act* or a minister's order under section 47 of the *Planning Act*. **Conflicts re official plans, by-laws** (3) Despite any other Act, the Lake Simcoe Protection Plan prevails in the case of conflict between a designated policy set out in the Plan and, (a) an official plan; (b) a zoning by-law; or (c) subject to subsection (4), a policy statement issued under section 3 of the *Planning Act*. **Conflicts re provisions in plans, policies** (4) Despite any Act, but subject to a policy described in paragraph 6 of subsection 5 (2), if there is a conflict between a provision of a designated policy set out in the Lake Simcoe Protection Plan and a provision in a plan or policy that is mentioned in subsection (5), the provision that provides the greatest protection to the ecological health of the Lake Simcoe watershed prevails. **Plans or policies** (5) The plans and policies to which subsection (4) refers are, (a) a policy statement issued under section 3 of the *Planning Act*; (b) the Greenbelt Plan established under section 3 of the *Greenbelt Act, 2005* and any amendment to the Plan; (c) the Oak Ridges Moraine Conservation Plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001* and any amendment to the Plan; (d) the Growth Plan for the Greater Golden Horseshoe 2006 approved under section 7 of the *Places to Grow Act, 2005* and any amendment to the Plan; (e) a plan or policy made under a provision of an Act that is prescribed by the regulations; and (f) a plan or policy prescribed by the regulations, or provisions prescribed by the regulations of a plan or policy, that is made by the Lieutenant Governor in Council, a minister of the Crown, or a ministry, board, commission or agency of the Government of Ontario.

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	Actions to conform to Plan (6) Despite any other Act, no municipality shall, (a) undertake within the Lake Simcoe watershed any public work, improvement of a structural nature or other undertaking that conflicts with a designated policy set out in the Lake Simcoe Protection Plan; or (b) pass a by-law for any purpose that conflicts with a designated policy set out in the Lake Simcoe Protection Plan. **Comments, advice** (7) If a public body provides comments, submissions or advice relating to a decision or matter described in subsection (8), the comments, submissions or advice shall, (a) conform with designated policies set out in the Lake Simcoe Protection Plan; and (b) have regard to other policies set out in the Lake Simcoe Protection Plan. **Same** (8) Subsection (7) applies to the following: 1. A decision under the *Planning Act* or the *Condominium Act, 1998* made by a municipal council, local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that relates to the Lake Simcoe watershed. 2. A decision to issue, otherwise create or amend a prescribed instrument that relates to the Lake Simcoe watershed or a prescribed outside area. 3. Any other matter specified by the Lake Simcoe Protection Plan. **Prescribed instruments** (9) Subject to a policy described in paragraph 9 of subsection 5 (2), a decision to issue, otherwise create or amend a prescribed instrument shall, (a) conform with designated policies set out in the Lake Simcoe Protection Plan; and (b) have regard to other policies set out in the Lake Simcoe Protection Plan. **No authority** (10) Subsection (9) does not permit or require a person or body, (a) to issue or otherwise create an instrument that it does not otherwise have authority to issue or otherwise create; or (b) to make amendments that it does not otherwise have authority to make.
Subsection 31.1 (4) of the *Metrolinx Act, 2006* *Subsection 31.1(4) of the Metrolinx Act, 2006 requires that planning decisions in the "regional transportation area" be consistent with "designated policies set out in a transportation planning policy statement". To date, no such transportation*	**Effect of designated policies** (4) A decision under the *Planning Act* or the *Condominium Act, 1998* made by a municipal council, local board, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, that applies in the regional transportation area shall be consistent with the designated policies set out in a transportation planning policy statement.

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planning policy statement exists. *By not applying to an open-for-business planning by-law, any efforts to develop effective regional transportation networks in the future will be ignored in the area of the open for business by-law.*	
Section 7 of the *Oak Ridges Moraine Conservation Act, 2001* *Section 7 of the Oak Ridges Moraine Conservation Act, 2001 requires that planning decisions conform with the Oak Ridges Moraine Conservation Plan. Further, municipalities cannot pass a by-law that conflicts with the Oak Ridges Moraine Conservation Plan. The Oak Ridges Moraine Conservation Plan recognizes the importance of protecting the moraine as it is headwaters for 64 rivers or streams, biodiversity, and groundwaters.* *By not applying to open-for-business planning by-laws, the community's interest in and requirements that provide for prioritizing freshwater and ecological health over other land uses will not be respected.*	**Effect of Plan** **7** (1) A decision that is made under the *Planning Act* or the *Condominium Act, 1998* or in relation to a prescribed matter, by a municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, shall conform with the Oak Ridges Moraine Conservation Plan. **Same** (2) Despite any other Act, no municipality or municipal planning authority shall, within the area to which the Plan applies, (a) undertake any public work, improvement of a structural nature or other undertaking that conflicts with the Plan; or (b) pass a by-law for any purpose that conflicts with the Plan.
Section 13 of the *Ontario Planning and Development Act, 1994* *Section 13 of the Ontario Planning and Development Act, 1994 requires that municipalities cannot undertake public projects that conflict with a development plan. Further, municipalities cannot pass by-laws that conflict with a development plan. One example of a development plan made under this legislation is the Parkway Belt West Plan created in 1978. This forward thinking plan designates and protects "land needed for linear regional infrastructure such as transit, utility and electric power facility corridors."* (Parkway Belt West Plan) *By not applying to an open-for-business planning by-law, any such protections would be ignored.*	**By-laws, etc., to conform to plan** **13** Despite any other Act, if a development plan is in effect, (a) no municipality or local board as defined in the *Municipal Affairs Act* having jurisdiction over the area covered by the plan or in any part of it and no ministry shall undertake any public work, any improvement of a structural nature or any other undertaking within the area covered by the development plan that conflicts with the plan; and (b) no municipality or planning board having jurisdiction in such area shall pass a by-law for any purpose that conflicts with the plan.

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Subsection 14 (1) of the *Places to Grow Act, 2005* *Subsection 14(1) of the Places to Grow Act, 2005 requires that planning decisions conform with any growth plan that applies. Ontario currently has two growth plans under this legislation: the Growth Plan for the Greater Golden Horseshoe, 2017 and the Growth Plan for Northern Ontario, 2011. These plans were created, with extensive public consultation, to provide a vision and framework for regional planning in the long-term. The Growth Plan for the Greater Golden Horseshoe, in particular, has policies which focus on integrated, compact, and complete communities.* *By not applying to an open-for-business planning by-law, the overall long-term vision and framework for these regions will be ignored.*	**Effect of growth plan** **14** (1) A decision under the *Planning Act* or the *Condominium Act, 1998* or under such other Act or provision of an Act as may be prescribed, made by a municipal council, municipal planning authority, planning board, other local board, conservation authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, or made by such other persons or bodies as may be prescribed that relates to a growth plan area shall conform with a growth plan that applies to that growth plan area.
Section 12 of the *Resource Recovery and Circular Economy Act, 2016* *Section 12 of the Resource Recovery and Circular Economy Act, 2016 requires consistency with all applicable "resource recovery and waste reduction" policy statements when planning for and operating waste management systems, particularly when conducting resource recovery or waste reduction activities. This legislation is aimed at moving Ontario towards a "waste-free" economy. A current policy statement is the Food and Organic Waste Policy Statement, which is focused on "preventing, reducing, rescuing surplus food, and recovering food and organic waste" and thereby reducing greenhouse gas emissions* (Food and Organic Waste Policy Statement). *By not applying to an open-for-business by-law, these waste reduction and climate change goals will be ignored.*	**Consistency with policy statements** **12** (1) Subject to section 13, the following persons and entities shall, when doing the following things, ensure the things are done in a manner that is consistent with all applicable policy statements: 1. A person or entity when exercising a power or performing a duty under this Part or Part III, IV or V. 2. A person or entity when exercising a power or performing a duty under an Act mentioned in subsection (2) or a provision mentioned in subsection (3), if the exercise of the power or the performance of the duty relates to resource recovery or waste reduction. 3. A person or entity retained to provide services in relation to another person's responsibilities under section 67, 68, 69 or 70 when performing those services. 4. An owner or operator of a waste management system when engaging in waste management activities. 5. A prescribed person or entity when carrying out prescribed activities related to resource recovery or waste reduction. **List of Acts** (2) The following are the Acts referred to in paragraph 2 of subsection (1): 1. *City of Toronto Act, 2006*. 2. *Condominium Act, 1998*. 3. *Consumer Protection Act, 2002*. 4. *Environmental Assessment Act*. 5. *Environmental Protection Act*.

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	6. *Municipal Act, 2001*. 7. *Nutrient Management Act, 2002*. 8. *Ontario Water Resources Act*. 9. *Planning Act*. 10. Any prescribed Acts. **List of provisions** (3) The following are the provisions referred to in paragraph 2 of subsection (1): 1. Section 11.6 of the *City of Greater Sudbury Act, 1999*. 2. Section 11.7 of the *City of Hamilton Act, 1999*. 3. Section 12.13 of the *City of Ottawa Act, 1999*. 4. Section 13.6 of the *Town of Haldimand Act, 1999*. 5. Section 13.6 of the *Town of Norfolk Act, 1999*. 6. A prescribed provision of a prescribed Act. **Interpretation** (4) For the purposes of paragraph 4 of subsection (1), "operator", "owner" and "waste management system" have the same meaning as in Part V of the *Environmental Protection Act*.
Any prescribed provision *This allows any other legislated provisions to be added to the "not apply to an open-for-business planning by-law" at any point in the future. Such a regulation would be made by Cabinet, not the Legislature.*	

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