



BRIEFING NOTE BILL 197

CURRENT SITUATION

On July 21st, Bill 197, *COVID-19 Economic Recovery Act*, 2020 received Royal Assent. Schedule 6 to Bill 197 adds a new section (6.01) to the Environmental Assessment Act (EAA). Section 6.01 requires all landfill proponents to obtain municipal support for the establishment of a landfill. The requirement to obtain “municipal support” applies not only to each local municipality in which the landfilling site will be situated but also to adjacent municipalities, where an adjacent municipality has allowed residential land use within 3.5 km of the proposed landfilling site.

Evidence of the required “municipal support” is defined within s. 6.01(5) as a copy of a municipal council resolution from each of the applicable municipalities that indicates the municipality supports the undertaking to establish the landfilling site.

IMPACTS OF BILL 197

- Upper tier municipalities (who have been given jurisdiction over waste management by the *Municipal Act* or other provincial legislation) which are in support of the establishment of a landfilling site, are still required to be obtained municipal support from any other municipality that is within 3.5 km of the proposed landfilling site.
- These amendments allow lower tier municipalities to determine whether a landfilling site can be established in an adjacent upper tier municipality, even if the host municipality is in support of the landfilling site.
- Bill 197 does not address a situation where, as a result of an election, or as a result of a change of mind by Council, a local municipality which had previously passed a resolution in support of the establishment of a landfilling site, subsequently passes a resolution withdrawing that support. This further heightens the risk to a proponent seeking to establish a landfilling site.

Municipal Autonomy

- Bill 197 removes local decision-making powers from municipalities and puts it the hands of their neighbours. Whom often have different waste disposal challenges and responsibilities.
- Bill 197 sets a dangerous precedent by now giving neighbouring municipalities (regardless of population size) decision-making powers over what kinds of commercial enterprises can operate in other communities. This means that Markham can halt a project in Pickering, and Toronto can veto a project in Vaughan or Mississauga — and vice versa.
- Upper tier municipalities, who are responsible for their own waste management under *The Municipal Act* will have to rely more heavily on shipping waste by truck to landfills in Michigan and other U.S. states.

Precedent

Municipal support is required after notice is given by a proponent and must be provided prior to submission of the environmental assessment to the Ministry.

- If consideration is given to the time and cost associated with conducting an environmental assessment for a proposed landfilling site, it is unlikely that a proponent would commence an environmental assessment, or even give notice of proposed terms of reference without first having the required resolutions of all applicable local municipalities.
- At the same time it is also reasonable to expect that the affected municipalities may be unwilling to pass such resolutions without first having all of the relevant information which would otherwise be generated during the completion of the environmental assessment.
- With these considerations in mind, the real question is whether any proponent would proceed with an environmental assessment for the establishment of a landfilling site.
- Bill 197 However puts politics ahead of science, public safety, and the economy. It claims to give municipalities more power, but it in fact will do the opposite. This hurts both private and public landfill proponents, the legislation also makes it virtually impossible for municipalities to manage their waste in the future.

Recommendations

- Ask for an amendment to Bill 197 to limit enhanced say to host municipalities.
- Contact your local MPP to make them aware of your position
- Contact Association of Municipalities of Ontario [*and the Rural Ontario Municipalities Association*]
- Contact Minister of Municipal Affairs, and Minister of Environment, Conservations, and Parks and make them aware of the impact this legislation will have on your municipality.
- Raise this issue at Council, and with your counterparts in other municipalities.

Background

- *Landfills are an economically vital and safe disposal option for the 8 million tonnes of waste materials a year in Ontario that are not reused or recycled.*
- *Ontario's available landfill capacity is expected to be exhausted in 12 years, by the year 2032.*
- *It takes five to ten years for a new landfill to be approved under Ontario's rigorous Environment Assessment (EA) process.*
- *About 70% of the materials discarded by Ontarians are sent to landfill disposal.*
- *Over 80% of remaining waste disposal capacity is represented in just fifteen landfill sites (both private and public).*