

National Observer

Ford's COVID-19 economic recovery bill was 'not compliant' with the law, auditor general says

By [Emma McIntoshNews](#), [Politics](#) July 21st 2020



Ontario Environment Minister Jeff pictured at Queen's Park in 2019, defended the government's COVID-19

The Ford government was "not compliant" with the law by passing its omnibus economic recovery bill Tuesday without consulting the public on major environmental changes, auditor general Bonnie Lysyk said.

The government used its majority to pass the legislation, Bill 197, on Tuesday night over the objections of opposition parties. The omnibus bill makes sweeping changes to 20 pieces of legislation, including major rewrites of environmental law.

Under Ontario's Environmental Bill of Rights, the Progressive Conservative government is required to post measures that impact the environment on the [Environmental Registry](#) and consult the public for 30 days. The government posted notices on the registry but did not hold consultations about Bill 197, which was introduced in early July.

"We did give (the government) a heads up indicating that we had concerns on Friday," Lysyk said in a phone interview with *Canada's National Observer*.

"We indicated that the bill, before it passes third reading, should be posted on the Environmental Registry (for a full 30 day consultation)."

Green advocates have said measures in the bill amount to a [rollback of environmental protections](#).

It includes a [rewrite](#) of environmental assessment rules — the government will now decide which projects get environmental assessments, rather than reviewing most public sector projects by default. It also streamlines assessments for projects that do need them, and removes a mechanism that allows the public to ask the environment minister to require a full review of a project.

The government has said it's working on more regulations to decide which projects should get assessments, and to define what streamlined assessments would look like.

The bill also expands the government's power to override the normal land planning process and potential opposition to projects through Ministerial Zoning Orders (MZOs).

Premier Doug Ford has previously said the proposed rewrite would be used to speed up infrastructure projects that would help Ontario recover from the financial hit it has taken during COVID-19.

"We aren't going to dodge (environmental assessments) or anything," Ford told reporters when the legislation was first introduced.

Ontario NDP environment critic Ian Arthur wrote to the province's auditor general to ask for an investigation into Bill 197, which Arthur said may be a violation of the Environmental Bill of Rights. #onpoli

"We're going to make sure we strengthen them, but we're going to do them quicker and smarter."

The government previously told *National Observer* it included a measure in the bill to exempt it from public consultation requirements under the Environmental Bill of Rights.

Lysyk said only the portion of the bill that deals with environmental assessments included that exception, not the one about MZOs. And either way, the government still needs to consult the public, she said, adding that it would be "precedent-setting" to allow the government to retroactively give itself an exception to the rules.

"It could undermine public confidence," she said.

NDP environment critic Ian Arthur said the legislative process doesn't work the way government was attempting to use it.

"You can't embed a change that affects legislation being tabled in the legislation itself," he said.

Arthur said he hopes the bill will be challenged in court.

"(The Ford government is) on a mission and it's to run roughshod over environmental protections, and they'll do that at any cost," Arthur said in a phone interview.

"I certainly hope that they're not allowed to do this without some sort of pushback."

Ontario Green Party Leader Mike Schreiner said the legislation shows a "total lack of respect" for environmental oversight.

"Bill 197 was a rush job that subverted the democratic process and bypassed public input," he said in a statement. "I hope the AG will hold them accountable."

Last October, an Ontario court found that Ford's government [broke the law](#) when it axed the province's cap-and-trade program without holding consultations in 2018. (The court didn't compel the government to restore the program.)

Spokespeople for Ontario Environment Minister Jeff Yurek, who is responsible for environmental assessments and Municipal Affairs Minister Steve Clark, who is responsible for MZO's, did not immediately reply to a request for comment.



Ontario NDP environment critic Ian Arthur questions Environment Minister Jeff Yurek at Queen's Park on July 21, 2020 about changes to environmental assessments. Photo from Legislative Assembly of Ontario

NDP MPP wrote to auditor general earlier Tuesday to ask for investigation

In a letter to Lysyk earlier Tuesday, Arthur asked that she and Jerry Demarco, assistant auditor general and commissioner of the environment, review the government's push to pass the environmental changes in the economic recovery bill. Not only did the government not hold public consultations, he said, it was also using its majority to skip the committee stage and fast-track the bill.

Lysyk said late Tuesday that she had not yet received Arthur's letter, but said her office is already done assessing the issue.

"We already concluded on that," she said. "We will issue a report on compliance or noncompliance with the Environmental Bill of Rights this fall. And we'll address it in that."

During question period at Queen's Park Tuesday, Arthur asked the government to withdraw the "potentially illegal" changes.

Ontario Environment Minister Jeff Yurek fired back in response, saying the bill would modernize the province's 50-year-old environmental assessment system and focus government efforts on higher-risk projects.

Though Yurek didn't directly address the Environmental Bill of Rights, he pointed to provisions in the bill that would preserve treaty rights for First Nations and allow municipalities to veto landfill projects.

"I don't know why the member is against those changes to environmental assessments," Yurek said.

"I have yet to hear the member opposite or that opposition party come up with a plan for the environment for the province of Ontario. All they say is, 'no, no, no.'"

Green and Liberal MPPs also flagged concerns about the bill.

Speaking by phone Tuesday night, Arthur said it's "in character" for the government to pass the bill despite concerns about the Environmental Bill of Rights.

"They view any sort of environmental regulation as red tape," he said.

"I think that this government is so sure of themselves and their view of what is right that there is very little consideration for what anyone brings to the table, be it the auditor general or the opposition."