



Pembina Institute for Appropriate Development

Holistic and practical solutions for a sustainable world.

Submission to the Standing Committee on General Government Regarding Bill 135, *the Greenbelt Act*

Prepared by:

**Mark S. Winfield, Ph.D.
Director, Environmental Governance Program**

January 2005

DRAYTON VALLEY (HEAD OFFICE)
Box 7558, Drayton Valley, AB T7A 1S7
Tel: (780) 542-6272, Fax: (780) 542-6464

OTTAWA - GATINEAU
164 Wellington, Gatineau, QC J8X 2J4
Tel: (819) 483-6288, Fax: (819) 770-2784

CALGARY
Suite 520, 600 – 6th Avenue SW, Calgary, AB T2P 0S5
Tel: (403) 269-3344, Fax: (403) 269-3377

EDMONTON
2nd Floor, 2830 Parsons Road, Edmonton, AB T6N 1H3
Tel: (780) 485-9610, Fax: (780) 485-9640

Introduction

The Pembina Institute is a national, independent environmental and energy policy research and education organization, founded in 1984. The Institute now has offices in Toronto, Ottawa, Calgary, Edmonton, Vancouver and Drayton Valley Alberta.

The Institute has followed the province's greenbelt initiative closely over the past year, and made submissions to the Greenbelt Task Force, and to the Standing Committee on General Government regarding Bill 27, the *Greenbelt Protection Act, 2004*.

General Comments on the Greenbelt Initiative

The Pembina Institute welcomes the introduction of the proposed *Greenbelt Act* and accompanying plan, released on October 28, 2004. The Institute believes the greenbelt initiative is an important component of the government's overall efforts to reform Ontario's land-use planning system to curb urban sprawl, protect key natural heritage, prime agricultural and source water lands, and promote more sustainable urban development patterns.

However, the protected countryside incorporated into the greenbelt plan leaves a significant amount of land (146,000 ha)¹ between current settlement areas and the greenbelt area, particularly south of the Oak Ridges Moraine. The Neptis Foundation has identified more than 1,000 square kilometres of underdeveloped land within the region's existing settlement area boundaries that is zoned and available for development. The foundation has concluded that this land is sufficient to meet the region's housing and employment needs for the next twenty to thirty years, even assuming no progress in increasing urban development densities, or in prompting the infill and redevelopment of existing areas.²

There is therefore no need to leave a large area of land available for development between the greenbelt and existing designated settlement area. This area encompasses prime agricultural areas and natural heritage and source water lands, and should be included in the greenbelt. Failure to incorporate the lands into the greenbelt will encourage speculation and unnecessary urban sprawl.

The possibility of the need to make lands outside of the greenbelt's prime agricultural and natural heritage and water resources system areas available for development can be assessed during the ten-year review of the greenbelt plan. At that stage, it will be possible to assess population growth and any changes in development patterns that may be emerging, with more than adequate time to make additional land available if it is needed.

At the same time, the outer boundary of greenbelt needs to be extended outwards to better encompass the Greater Toronto Area commutershed. The greenbelt needs to include, in particular, the southern part of Simcoe County, where there are already intense pressures for low-density urban development, particularly in the Bradford-Bond Head area.³ Similar concerns are emerging with respect to Northumberland County south of the Oak Ridges Moraine. In the

¹ Neptis Foundation, *Neptis Commentary on the Draft Greenbelt Plan*, January 2005, pg.8.

² See IBI Group, in association with Dillon Consulting Ltd. *Toronto Related Region Futures Study. Interim Report: Implications of Business-As-Usual Development* (Toronto: Neptis Foundation, August 2002), pg.50.

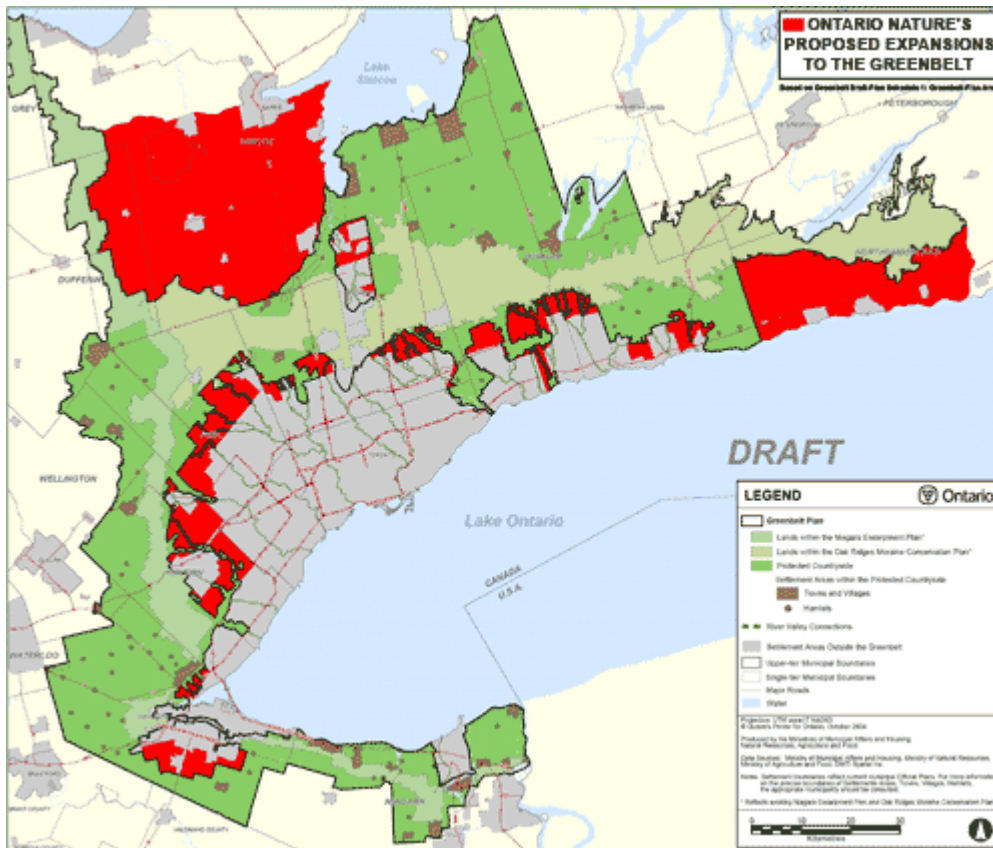
³ See L.Birnbaum, L.Nicolet and Z.Taylor, *Simcoe County: The New Growth Frontier* (Toronto: Neptis Foundation, May 2004).

absence of an extension of the area encompassed by the greenbelt there is a significant risk that the initiative will prompt low-density ‘leapfrog’ development in these locations. Such outcomes have been seen in other jurisdictions, particularly in the United States, when attempts to establish greenbelts as urban containment boundaries have not been undertaken on a sufficiently regional basis.⁴

‘Leapfrog’ sprawling developments would undermine one of the basic goals of the province’s greenbelt plan and other planning reform and growth management initiatives. These initiatives have sought to contain urban sprawl by concentrating future growth in existing and emerging urban centres, where infrastructure can be provided efficiently, and communities can be cost-effectively provided with public transit services and other alternatives to automobile-based travel.

Recommendation

1. *The greenbelt plan should include in the ‘protected countryside’ of the area outlined in the following map prepared by Ontario Nature, including the areas between the current settlement area boundary and the Oak Ridges Moraine, the southern part of Simcoe County, and Northumberland County south of the Oak Ridges Moraine.*



⁴ See generally R.Pendall, J.Martin and W.Fulton, *Holding the Line: Urban Containment in the United States* (Washington, D.C.: Brookings Institution Centre on Urban and Metropolitan Policy, August 2002).

The Pembina Institute emphasizes that the greenbelt initiative is only one component of the legislative, policy and fiscal reforms that the province of Ontario needs to undertake to ensure the development of more environmentally, socially and economically sustainable urban communities in the golden horseshoe region. The Institute looks forward to the completion and implementation of the other measures proposed by the government, including the reform of the *Planning Act*, Ontario Municipal Board Appeal process, and the Provincial Policy Statement made under the *Planning Act*.

Comments and Recommendations Regarding Bill 135

The Institute's comments on Bill 135 are focused on the aspects of the bill dealing with the conformity of municipal and provincial decisions, plans, and undertakings with the greenbelt plan, the role of the proposed advisory committee, and transitional issues related to the implementation of the plan.

Conformity of provincial and municipal decisions with the greenbelt plan (Bill 135 section 7)

Section 7 of the proposed legislation would require that municipal and provincial decisions under the *Planning Act*, *Planning and Development Act* and *Condominium Act* conform with the greenbelt plan. The section would also prohibit municipal by-laws and public works, improvements of a structural nature, or other undertakings that may conflict with greenbelt plan.

These provisions are central to the effective implementation of the plan. However, provincial decisions made under provincial legislation beyond the *Planning Act*, *Planning and Development Act* and *Condominium Act* may have significant implications for the integrity of the greenbelt plan as well.

Recommendations

2. *Section 7 of Bill 135 should be amended such that provincial decisions and approvals granted under the following legislation are required to conform with the greenbelt plan:*
 - *The Ontario Water Resources Act;*
 - *The Environmental Protection Act;*
 - *The Aggregate Resources Act;*
 - *The Mining Act;*
 - *The Public Lands Act; and*
 - *The Drainage Act.*
3. *Bill 135 should provide that decisions made under the Planning Act, Planning and Development Act, Condominium Act and other listed legislation that do not conform to the greenbelt plan are of no force or effect.*

Provincially initiated or financed undertakings, as well as municipal projects, may have significant implications for the integrity of the greenbelt as well. Bill 135 should address this consideration.

Recommendation

4. *Section 7 of Bill 135 should be amended to prohibit provincially initiated or financed undertakings (as defined by section 1 of the Environmental Assessment Act) that may conflict with the greenbelt plan.*

Aggregates Development within the Greenbelt

Mineral aggregate extraction represents a significant threat to natural heritage features, source waters, and prime agricultural lands in the greenbelt area.⁵ Aggregate extraction is not consistent with the natural heritage and source water protection goals of the greenbelt initiative, and should be excluded from key natural heritage features of the greenbelt.

5. *Bill 135 should be amended to prohibit the granting of licences or permits under the Aggregates Resources Act for the establishment or expansion of aggregate extraction operations in key natural heritage features of the greenbelt plan, as identified in the plan.*

Conformity of official plans with the greenbelt plan (Bill 135, section 9)

Section 9 of Bill 135 requires that municipalities bring their official plans into conformity with the greenbelt plan at the time they make decisions under s.26 of the *Planning Act* regarding reviews of their official plans. Section 26 of the *Planning Act* requires that such decisions be taken every five years. As a result, some municipalities may have up to five years to bring their official plans into conformity with the greenbelt plan.

A five-year conformity period would be significantly longer than the one-year period provided for municipalities to bring their official plans into conformity with the Oak Ridges Moraine Plan under section 9 of the *Oak Ridges Moraine Conservation Act*. An extended conformity period may also invite speculation regarding the ultimate designation of rural and prime agricultural areas under the greenbelt plan.

Recommendation

6. *Section 9 of Bill 135 should be amended to require that municipalities bring their official plans into conformity with the greenbelt plan within one year of the adoption of the plan.*

Bill 136, the proposed *Places to Grow Act*, includes provisions that permit the Minister of Municipal Affairs and Minister of Public Infrastructure Renewal to amend municipal official

⁵ See, for example, M. Winfield and A. Taylor, *Rebalancing the Load: The Need for an Aggregates Conservation Strategy for Ontario* (Ottawa: Pembina Institute, January 2005).

plans to bring them into conformity with provincially initiated growth management plans that would be made under that Act.

Surprisingly, Bill 135 contains no similar provision to deal with situations where municipalities fail to bring their official plans into conformity with the greenbelt plan.

Recommendation

7. *Bill 135 should be amended to incorporate a provision similar to sections 12 and 13 of the Bill 136, the proposed Places to Grow Act, permitting the Minister of Municipal Affairs to amend official plans to bring them into conformity with the greenbelt plan, where the council or municipal planning authority fails to bring its official plan into conformity within the timeframe established by the Act.*

Amendments to the Greenbelt Plan

Section 12(2) requires that proposed amendments to the greenbelt plan not have the effect of reducing the total land area within the Greenbelt Plan. Such a provision would allow the movement of lands in and out of the greenbelt area, regardless of their importance from a natural heritage or agricultural perspective.

Recommendation

8. *Section 12(2) of Bill 135 should be deleted and replaced with a provision that the minister not recommend a proposed amendment to the plan if the proposed amendment would result in the removal of lands from the greenbelt area.*

Hearing Officers

Sections 12 and 13 of Bill 135 make provision for the appointment of hearing officers to conduct hearings with respect to proposed amendments to the greenbelt plan. Bill 135 contains no provisions regarding the affiliations or qualifications of these hearing officers.

9. *Bill 135 should be amended such that hearing officers appointed for the purposes of section 12 of Bill 135 are members of the Environmental Review Tribunal.*

Greenbelt advisory council (Bill 135 section 15)

Section 15 of Bill 135 would permit the Minister of municipal affairs to establish an advisory council to advise on matters relating to the Act and other functions the Minister may specify.

The greenbelt initiative is an important and complex undertaking. The initiative may take several years to be fully implemented, and for its impacts to become clear. The implementation and effectiveness of the plan will require ongoing monitoring and assessment. The mandate of the advisory committee should be amended to address this need.

Recommendations

10. *Bill 135 should be amended such that the Minister of Municipal Affairs is required to establish a greenbelt advisory committee (“shall” rather than “may” in ss.15 (1) & (2)).*
11. *Section 15(2) should be amended to require that the Minister appoint three or more persons to the council.*
12. *A section 15(4) should be added providing that in addition to providing the Minister advice on matters relating to the Greenbelt Act and plan, the committee to provide an annual report and recommendations on the status and integrity of the greenbelt.*

Relationship to *Ontario Planning and Development Act* (Bill 135, section 17)

Section 17 would provide that plans developed under the *Ontario Planning and Development Act* are exempt from the requirement to conform with greenbelt plan. The rationale for this provision is unclear.

Recommendation

13. *Section 17 (2) of Bill 135 should be deleted.*

Transitional issues (Bill 135 section 24)

Section 24 of Bill 135 deals with transitional issues related to the greenbelt plan. Decisions should be made on the basis on rules in place at time of decision, not at the time of receipt of an application or request. This is essential to preventing a rush of speculative applications prior to the adoption of the final greenbelt plan.

Recommendation

14. *Subsections 24(4)(b), and (d) – (i) should be amended such that all such matters, applications and proceedings commenced before December 16, 2004 in relation to which final decisions have not been made are deemed to have commenced on the day on which a final decision regarding the application is made.*

Contact for more information:

Mark Winfield, Ph.D.
Director, Environmental Governance
The Pembina Institute
Tel: 416-978-5656
e-mail: markw@pembina.org