

Pembina

Building Sustainable Urban Communities in Ontario: A Provincial Progress Report



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September 2006

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Director, Environmental Governance



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About the Pembina Institute

The Pembina Institute is an independent, not-for-profit environmental policy research and education organization specializing in the fields of sustainable energy, community sustainability, climate change and corporate environmental management. Founded in 1985 in Drayton Valley Alberta, the Institute now has offices in Calgary, Edmonton, Vancouver, Ottawa and Toronto.

For more information on the Institute's work, please visit our website at www.pembina.org.



Executive Summary

This report is the fifth in a series of studies by the Pembina Institute on provincial legislation and policy affecting urban development in southern Ontario. The studies have assessed provincial progress against a model "smart growth" policy framework in the areas of land-use planning, infrastructure funding, fiscal and taxation policy and governance issues, first articulated by the Pembina Institute in February 2003. The report focuses on provincial government initiatives between June 2005 and June 2006. The report assesses the government's overall progress on urban sustainability and smart growth issues, and highlights priority areas for action over the coming year.

The report finds that substantial progress has been made over the past few years in the alignment of provincial land-use planning policies with smart growth principles, and the strengthening of regional integration and municipal governance structures, particularly in the Greater Golden Horseshoe (GGH) region. However, the overall outcomes in terms of actually changing urban development patterns, particularly in the GGH, remain far from certain. The recent changes in provincial policy have yet to be substantially incorporated into municipal plans or reflected in actual planning and infrastructure decisions.

The process of the operationalization of the province's policy directions faces a number of significant barriers. These hurdles include the question of municipal and conservation authority capacity to carry out the required information gathering, analysis and policy development and planning activities, whether municipalities will effectively incorporate the province's directions into their own plans, the impact of the 'grandfathering' of most existing development applications under the new provincial policies and plans, and the issue of the likely usefulness of the Ontario Municipal Board (OMB) in ensuring municipal conformity with provincial policy.

With the exception of the dedication of a portion of provincial gasoline tax revenues to public transit, the study finds that the Province's re-engagement on land-use planning has not been matched by substantial initiatives on fiscal and taxation issues affecting urban development. The lack of movement on development charges and property tax reform, and on the establishment of non-property tax, development

charge and user fee municipal revenue sources, despite the clear commitments in the provincial government's 2003 election platform in these areas, is particularly noteworthy. The fiscal existing policy framework continues to present significant barriers and disincentives to the adoption of more sustainable urban development patterns.

The integration of infrastructure planning and funding with land-use planning is found to remain weak. Although substantial increases in project-specific provincial funding for public transit projects have occurred, the criteria guiding provincial decisions in this area are far from clear. Provincial road and highway planning continues to be poorly integrated with planning for other transportation modes or overall regional planning. The environmental assessment process continues to fail to provide an effective vehicle for the consideration of the impacts of major infrastructure projects on future development and transportation patterns or environmental quality.

On the whole, the Province has made an important start through the land-use planning initiatives of the past few years. However, the report concludes that it will be difficult to realize changes in development and transportation patterns in the absence of a more complete package of reforms that would more effectively address fiscal, taxation, and infrastructure planning and financing issues.

Summary of Recommendations

1. The Province should proceed with the Bill 51 amendments to Planning Act regarding: OMB appeal restrictions regarding non-municipally initiated official plan amendments regarding settlement area boundaries, new areas of settlement, and second units; regular reviews of official plans; "complete" applications; enhanced public consultation on official plans; requiring that planning decisions be made on the basis of policies in place at the time of decision; conditional zoning; the minimum and maximum height and density of development; and the exterior and sustainable design of buildings.
2. The Province should proceed with Bill 43, the proposed Clean Water Act, including provisions

- requiring the conformity of provincial and local planning decisions and infrastructure initiatives with source water protection plans. Prescribed provincial approvals required to conform with source water plans should include licences issued under the Aggregate Resources Act.
3. The Ministries of Municipal Affairs and Housing and Public Infrastructure Renewal should provide detailed guidance on the assessment of future development capacity and land requirements, particularly concerning the potential for redevelopment and intensification, and the use of designated growth areas, for the purposes of determining the need for settlement area boundary expansions under the PPS and the GGH Growth Plan. Provincial support and assistance to municipalities and conservation authorities should also be provided in the identification of natural heritage features and prime agricultural and source water related lands in relation to the revised PPS, GGH growth plan and source water protection planning. The Ministries of Natural Resources, Agriculture, Food and Rural Affairs and the Environment will have particularly important roles to play in this regard.
 4. The province should take steps to ensure that conservation authorities have appropriate mandates and capacities to fulfil their explicit and implied roles and responsibilities in the implementation of source water protection plans, the revised PPS, and the GGH growth plan.
 5. The Province should make clear its intention to play an active role in the review of conformity of municipal official plans and decisions with respect to the greenbelt and growth plans, revised PPS and source water protection plans, including a willingness to declare provincial interests and/or intervene before the OMB in relation to specific planning and development proposals as necessary.
 6. The province should assess the impact of development projects affecting the greenbelt that may be advanced under the transitional provisions of the Greenbelt Act and plan, and develop a strategy to ensure that the integrity of the greenbelt is maintained in relation to such projects.
 7. Bill 106, the Lake Simcoe Protection Act, should be adopted.
 8. The Province should proceed with Bill 130, the Municipal Statute Law Amendment Act.
 9. The Province should proceed with an amended version of Bill 51's provisions regarding the OMB appeal process, providing less restrictive leave tests for party status and the introduction of new evidence at OMB hearings rather than those proposed in the 1st reading version of the Bill.
 10. The OMB appointments process should be reformed following the model established by former Attorney-General Ian Scott regarding provincial court appointments. In particular, there should be an open call for qualified applicants when there are openings on the board, as is the case with provincial court judges. A non-partisan, lay advisory committee should be established to review applications and present a short list of qualified candidates for the Attorney-General to choose from.
 11. An intervenor funding mechanism for *bona fide* public interest intervenors in OMB hearings following the model of the Intervenor Funding Project Act should be established.
 12. The Development Charges Act should be amended to support the use of development charges to promote brownfields and greyfields redevelopment, including the adoption of additional charges on greenfields development to facilitate development-charges relief on intensification and redevelopment projects. More generally, the act should be amended to ensure that municipalities are able to recover the full range of infrastructure costs associated with new development.
 13. The Land Transfer Tax Rebate Program should be reformed to provide incentives for intensification and redevelopment of existing urban areas rather than greenfields development.
 14. The scope of the property tax and fiscal and services delivery reviews announced in the June and August 2006 should be expanded to include consideration of how the property tax and service delivery financing systems can be made supportive of more sustainable urban development and transportation patterns.
 15. The Ministry of Public Infrastructure Renewal and Infrastructure Ontario should establish clear criteria and processes for decision making regarding municipal requests for capital assistance with transit expansion projects and other major infrastructure projects. As recommended by the National Round Table on the Environment and Economy,¹ these criteria need to consider such factors as:
 - How the proposed infrastructure investment fits into a comprehensive, longer-term investment plan for improving urban environmental quality

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- How existing infrastructure capacities have been or will be fully exploited
 - How all options for jointly addressing infrastructure needs with surrounding municipalities or other relevant entities have been explored and fully exploited
 - How a comprehensive approach to managing the demand for the infrastructure has been taken (for example, for transportation infrastructure, a transportation demand management plan is required; for water-related projects, a metering program)
 - That a range of alternative options for solving infrastructure needs—including other types of infrastructure—have been explored
 - A quantification of the expected environmental improvements in terms of air, water or soil quality of the proposed project and the alternatives.
16. The Ministry of the Environment should ensure that the terms of reference for individual environmental assessments for major infrastructure projects such as new highway corridors or highway expansions or extensions require that the criteria for assessing alternative methods to address the need for undertakings include:
 - The impact of alternatives on future land-use patterns (induced development) and how this development would support or contradict regional and local land-use and growth management policies
 - A full assessment of the air quality impacts and greenhouse gas emissions associated with the alternative
 - The degree to which alternatives support existing federal, provincial and municipal air quality; greenhouse gas reduction; public health; and land-use and transportation policies.
 - The total financial, social, and environmental costs and benefits of alternatives
 17. Mechanisms should be established to permit the review of environmental assessment approvals where substantial changes in the environmental or policy context within which projects were approved occur.
 18. The environmental assessment of large infrastructure projects should occur on a whole project basis, rather than reliance on class environmental assessments of incremental project components.
 19. The provisions of Bill 51 regarding the exemption of energy-related projects from Planning Act approvals should not be adopted.



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Ontario

SCHEDULE 1
Greater Golden Horseshoe Growth Plan Area

PLACES TO GROW
 GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE 2006

Note: The information displayed on this map is not to scale, does not accurately reflect approved land-use and planning boundaries, and may be out of date. For more information on precise boundaries, the appropriate municipality should be consulted. For more information on Greenbelt Area boundaries, the Greenbelt Plan 2005 should be consulted. The Province of Ontario assumes no responsibility or liability for any consequences of any use made of this map.

Map courtesy of the Ontario Growth Secretariat.

1. Introduction



1.1. Purpose and Rationale

This report is the fifth in a series of studies by the Pembina Institute on provincial legislation and policy affecting urban development in southern Ontario. The report series began with the Pembina Institute's February 2003 report *Smart Growth in Ontario: The Promise vs. Provincial Performance*.¹

Drawing on materials from governmental, academic, non-governmental and institutional sources, ranging from the Federation of Ontario Naturalists (*Ontario Nature*)² to the Toronto-Dominion Bank³ and the C.D. Howe Institute,⁴ the Pembina Institute's February 2003 study outlined a provincial policy framework for urban development intended to reduce urban sprawl and result in more environmentally, economically and socially sustainable communities, particularly in the GGH Region⁵ (see map, page 9). The

study focused on five key areas of provincial influence on urban development: land-use planning, provincial infrastructure funding, fiscal and taxation issues, sustainable energy policies⁶ and governance structures.

The Pembina Institute published follow-up studies in August 2003,⁷ December 2003,⁸ June 2004⁹ and June 2005.¹⁰ Each report has assessed the provincial government's progress against the policy framework outlined by the Institute in February 2003, and commitments made in relation to these policies in the government's October 2003 election platform. This report focuses on provincial government initiatives between June 2005 and June 2006. The report assesses the government's overall progress on urban sustainability issues and highlights priority areas for action over the coming year.

1.2. Background and Context

The past five years, beginning with the adoption of the Oak Ridges Moraine Conservation Act and Plan in 2001, have been a period of major change regarding provincial policies on urban growth and development in Ontario. The October 2003 election brought with it a new provincial government that had made extensive commitments to the environmental, social and economic sustainability of the province's urban communities in its election platform. These commitments included:¹¹

- The allocation of two cents per litre of the provincial gasoline tax revenues to municipalities for public transit. This was projected to result in a contribution of \$312 million per year
- The establishment of clear planning rules to ensure that the Ontario Municipal Board (OMB) follows provincial policy and the reform of the OMB process, which would include giving municipalities more time to consider development applications and to prevent developers from forcing unwanted municipal expansion
- The protection of over 400,000 hectares of green space and farmland through the use of tax credits, easements, land trusts, land swaps and new park designations, working with conservation authorities, nature organizations, farmers, municipalities and other landowners
- The development of a long-term plan for managing growth responsibly in the Golden Horseshoe, taking into account expected population growth and infrastructure needs, and without developing areas that provide food, water and recreation
- The establishment of a 600,000-acre 240,000-hectare greenbelt in the Golden Horseshoe from Niagara Falls to Lake Scugog, under the authority of a Greenbelt Commission
- The provision of infrastructure funding to priority growth areas such as city centres and urban nodes, not to greenfields development
- The establishment of requirements that developers pay their "fair share" of the costs of new development
- The promotion of brownfields redevelopment
- The creation of a Greater Toronto Transportation Authority to identify and meet GTA transportation needs on a region-wide basis
- The enactment of source water protection legislation, protecting lands that surround water sources

The focus on urban sustainability issues during the 2003 election was not surprising. Economic and population growth in Ontario are very strongly con-

centrated in the Golden Horseshoe. More than 90 per cent of the province's population growth occurred in the region from 1996 to 2001.¹² The region saw the largest growth in employment in the province over the same five years.¹³

Unfortunately, the primary urban development pattern in the Golden Horseshoe region has been what is widely referred to as urban sprawl. Urban developments in the region have been dominated by:¹⁴

- The concentration of development at the outer edges of urban communities where it consumes farmland and green space
- Low-density residential, commercial and industrial development patterns with strong separations between these land uses
- The occurrence of development on a large-block basis with the blocks defined by high capacity arterial roads and with road patterns within each block that make direct travel difficult
- The development of communities that lack identifiable centres or focal points or a distinctive sense of place

In York Region, north of the City of Toronto, for example, more than 80 per cent of the existing housing stock consists of detached single family dwellings,¹⁵ and 79 per cent of trips made by the region's population are by automobile.¹⁶

1.2.1. The Consequences of "Business as Usual"

The environmental, social and economic consequences of continuing these sprawling development patterns are well documented. In August 2002, the Neptis Foundation (www.neptis.org) analyzed and offered projections of the impact of land use, transportation and infrastructure associated with the continuation of business-as-usual development patterns in the Toronto region¹⁷ over the next 30 years.¹⁸ These projections are summarized in **Table 1**.

The Neptis Foundation's analysis highlighted the costs of continuing current development patterns in terms of the loss of agricultural lands and ecologically significant areas, increased traffic congestion, increased transportation-related greenhouse gas emissions, and infrastructure construction and maintenance costs.

1.2.2. The Smart Growth Alternative

The new government's platform commitments reflected the emergence of a strong consensus regarding the need to address the environmental, economic and social impact of existing urban development patterns

Table 1: The Impact of Business-as-Usual Urban Sprawl in the Toronto Region

Issue	Impact
Population	<ul style="list-style-type: none"> • The region’s population will grow from 7.4 million in 2000 to 10.5 million in 2031, an increase of 43 per cent.
Land use	<ul style="list-style-type: none"> • In the region, 1,070 square kilometres of land will be urbanized. This is almost double the area of the City of Toronto and represents a 45 per cent increase in the amount of urbanized land in the region. • Of the land on which this urban growth will occur, 92 per cent will be Class 1, 2 or 3 agricultural lands as classified by the Canada Land Inventory; 69 per cent will be Class 1 land.
Transportation	<ul style="list-style-type: none"> • Automobile ownership in the region will increase by 50 per cent to 19 million vehicles. • The cost of delays due to traffic congestion, principally in the 905 region surrounding Toronto, will increase from about \$1 billion per year to \$3.8 billion per year. • Daily vehicle kilometres of auto travel in the region will increase by 64 per cent. • Costs associated with automobile accidents, reflecting this increase in auto travel, will rise from \$3.8 billion in 2000 to \$6.3 billion in 2031. • Reflecting the low levels of public transit use in the regions outside of the City of Toronto, where most of the growth will occur, the total public transit modal share will decrease by 11 per cent (public transit modal share for Toronto: 28 per cent; public transit modal share for surrounding area: 5.4 per cent). • Emissions of transportation-related greenhouse gases (GHG) are projected to increase by 42 per cent. • Reflecting reliance on the automobile for transportation, GHG emissions in new suburban areas are projected to increase 526 per cent relative to their current levels.
Infrastructure	<ul style="list-style-type: none"> • Projections suggest that \$33 billion in new investments will be needed in water and waste water treatment infrastructure. • Between 2000 and 2031, \$43.8 billion in investments in transportation infrastructure are projected. Of these investments, 68 per cent are projected to be in roads and highways under business-as-usual scenarios.

among academic researchers,¹⁹ financial institutions,²⁰ business organizations,²¹ government agencies, environmental²² and community groups, and the previous government’s own Central Region Smart Growth Panel.²³

The alternative approaches to managing population and economic growth in the region that have been advanced by these groups have been variously described using the terms “urban sustainability” or “smart growth,” but all focus on the principles outlined in **Table 2**.

The implementation of policies based on these smart growth principles would carry with them a series of mutually reinforcing benefits. As illustrated in **Table 3**, many of these benefits flow from the reductions in per capita automobile travel and land consumption that would result from the implementation of smart growth principles. The benefits are cumulative and synergistic.²⁵

Table 2: Smart Growth vs. Business-as-Usual Urban Development Principles²⁴

Feature	Smart Growth	Business as Usual
Land-use density	Higher density, clustered.	Lower density, dispersed.
Development location	Infill (brownfields and greyfields).	Urban periphery (greenfields).
Land-use mix	Well mixed. Employment, shopping, services, recreation, schools within walking distances of residential areas.	Homogeneous, not mixed. Strong separations among residential, employment, commercial land uses, usually requiring motorized travel between areas focused on different uses.
Scale	Human scale. Smaller buildings, blocks and roads. Attention to detail as people experience landscape up close as pedestrians.	Larger scale. Larger buildings, blocks and roads. Less attention to detail as people experience the landscape at a distance from cars.
Public services	Local, distributed, smaller. Accommodates walking access.	Regional, consolidated, larger. Requires automobile access.
Transportation	Multi-modal – supports walking, cycling and public transit.	Automobile-oriented – poorly suited for walking, cycling and public transit.
Connectivity	Highly connected roads, sidewalks and paths, allowing direct travel by motorized and non-motorized modes.	Hierarchical road network with many unconnected roads and walkways, and barriers to non-motorized travel.
Streets	Designed to accommodate a variety of activities – traffic calming.	Designed to maximize motor vehicle traffic volume and speed.
Planning process	Planned – coordinated between jurisdictions and stakeholders.	Unplanned – little coordination between jurisdictions and stakeholders.
Public space	Emphasis on the public realm (streetscapes, pedestrian areas, public parks, public facilities).	Emphasis on the private realm (yards, shopping malls, gated communities, private clubs).
Natural Heritage	Protection of key natural heritage, source water features, with strong connectivity among features and systems.	Fragmentation/development of natural heritage and source water features, with poor connectivity among remaining features.

Table 3: Smart Growth Benefits²⁶

Economic	Social	Environmental
<ul style="list-style-type: none"> · Reduced development costs · Reduced public service costs · Reduced transportation costs · Economies of agglomeration · More efficient transportation · Greater support for industries that depend on quality environments (tourism, farming, knowledge-based economic activities) 	<ul style="list-style-type: none"> · Improved transportation options, particularly for non-drivers · Improved housing options · Enhanced community cohesion · Greater preservation of cultural resources (e.g., heritage buildings, neighbourhoods) · Increased physical exercise for individuals 	<ul style="list-style-type: none"> · Increased green space, farmland and habitat preservation · Reduced transportation related air pollution · Reduced transportation related GHG emissions · Reduced water pollution · Increased energy efficiency · Reduced urban “heat island” effects · Reduced demand for mineral aggregates

1.3. Report Structure

The report consists of four major sections dealing with infrastructure funding, land-use planning, fiscal and taxation issues, and governance structures, followed by a section presenting overall conclusions and recommendations. Each section includes a table outlining the provincial smart growth policies identified in the Pembina Institute’s February 2003 report, the commit-

ments made in relation to these policies by the Ontario Liberal Party in its October 2003 election platform and during the election campaign, and the government’s progress to date on these policies and commitments. The summary table in each section is followed by analysis and commentary. The information contained in the report was up to date as of June 30, 2006.

2. Infrastructure Funding



Jean Langlois

2.1. Introduction

Much of the funding for major new municipal capital infrastructure, such as transportation and sewer and water systems, comes from the Province. The Province's policies regarding infrastructure provision, therefore, can have a major impact on development patterns. Providing funding for the extension of transportation and sewer and water infrastructure beyond the boundaries of existing communities can, for example, facilitate and encourage urban sprawl. Requiring infrastructure investments to be supportive of more sustainable development patterns, such as infill developments, intensification, and brownfields and greyfields redevelopment, and the enhancement of services within existing urban areas, can have the opposite effect.

In addition to the funding that the Province pro-

vides to municipalities, it also undertakes infrastructure projects of its own. These can have a major impact on development patterns as well. The highway construction plan initiated by the SuperBuild Corporation between 1999 and 2003 was a prominent example of such an initiative. The program included

- The eastward extension of Highway 407 to Highway 35/115
- The extension of Highway 404 around the east and south sides of Lake Simcoe, including a Bradford Bypass, connecting highways 404 and 400
- The northward and eastward extension of Highway 427 to Barrie
- The construction of a new Mid-Peninsula Highway from Burlington to the U.S. border in the Niagara region

Table 4: Infrastructure Funding Policies

Smart Growth Policies	Platform ³ and Campaign Commitments	Action to Date
<p>Make provincial infrastructure investments on the basis of smart growth criteria.</p> <p>Focus investment on upgrading existing systems and intensifying existing urban areas.</p>	<p>“We will stop subsidizing sprawl.” (Pg. 19.)</p> <p>“We will provide infrastructure funding to priority growth areas like our city centres and urban nodes rather than new sprawl developments.” (Pg. 20.)</p> <p>“We will develop a long-term plan for managing growth responsibly in the Golden Horseshoe. It will take into account expected population growth and infrastructure needs, without developing areas that provide our food, water and recreation.” (Pg. 17.)</p>	<p>The SuperBuild Corporation was combined with the Smart Growth Secretariat to create the Ministry of Public Infrastructure Renewal following the October 2003 election.</p> <p>Final Growth Plan for the GGH released June 16, 2006.</p> <p>The plan’s stated goals are to focus future growth in existing and emerging urban centres, emphasizing public transit as the primary means of moving people, the protection of natural heritage, agricultural and source water lands, and the tying of future infrastructure investments to the achievement of the goals of the plan.</p> <p>Final version of the plan steps back from earlier drafts in key areas:</p> <ul style="list-style-type: none"> · Permitting estate development in rural areas. · Weakened emphasis on protection of natural areas · Removal of sustainability tests related to sewer and water services · Reintroducing highway extension projects that contradict stated goals of plan (e.g., Highway 404 extension). <p>May 2005 ReNew Ontario 5 year infrastructure investment initiative references links to Growth Plan implementation and land-use planning. Mechanisms to ensure consistency of infrastructure investments with planning directions are not evident.</p> <p>Greater Toronto Transportation Authority created via Bill 104, enacted June 2006. The legislation requires that the regional transportation plan to be developed by GTTA conform with provincial plans issued under the Places to Grow Act (e.g., the GGH Growth Plan).</p> <p>Release of 2006-2010 Southern Ontario Highways Program at same time as Growth Plan indicated detailed road transportation planning has proceeded in absence of completion of key elements of the Growth Plan (e.g., sub-area assessments).</p> <p>Approvals continued to be sought for the SuperBuild-initiated highway extensions in the Golden Horseshoe, particularly the Mid-Peninsula (Niagara to GTA) Highway, and the eastward extension of Highway 407 in the absence of the completion of the Growth Plan. Environmental Assessment Terms of Reference for these projects have consistently failed to consider the cumulative effects of projects on air quality and greenhouse gas emissions, or future development patterns.</p> <p>Planning and construction of major extensions of sewer and water infrastructure to non-urbanized areas in the Golden Horseshoe are also continuing.⁴ Provincial approvals for major expansions of the York-Durham Sewer System granted in August 2004 and April 2006.⁵</p>

Table 4: Infrastructure Funding Policies (continued)

Smart Growth Policies	Platform ³ and Campaign Commitments	Action to Date
Provide provincial capital and operating support for public transit.	“We will give two cents per litre of the existing provincial gasoline tax to municipalities for public transit.” (Pg. 12.)	<p>The 2004 Budget included a commitment of one cent per litre of the provincial gasoline tax for public transit beginning in October 2004, rising to 1.5 cents per litre in October 2005 and two cents per litre in October 2006. Funding is provided on the basis of a 70 per cent ridership/30 per cent population formula. 2005/06 transfers under the program totaled \$195 million.</p> <p>2006 Budget included a one time “Move Ontario” commitment of \$838 million transit projects in the GTA; \$670 million is for Spadina Subway extension to York Region.</p> <p>May 2005 ReNew Ontario initiative references \$3.1 billion in direct provincial transit funding 2005-2010 in addition to gasoline tax dedication (estimated to total \$1.4 billion 2005-2010).</p>
Focus transportation infrastructure investments in areas subject to urbanization pressures on non-automobile-based modes of transportation.		<p>2006 Budget includes one time “Move Ontario” commitment of \$838 million transit projects in the GTA.</p> <p>2006 Budget references five year ReNew Ontario commitment of \$5.2 billion for highway improvements, in addition to \$400 million one-time “Move Ontario” commitments in budget.</p> <p>ReNew Ontario reference suggests approximately the same level of highways capital budget over the previous five years (\$1 billion per year).</p> <p>References to Growth Plan guiding transportation investments in ReNew Ontario and budget, but no specific mechanisms identified.</p>
	“We will help communities become more self sustaining by giving them the means to invest in their own infrastructure and growth.” (Pg. 12.)	The 2004 Budget established an Ontario Strategic Infrastructure Financing Authority (OSIFA) to issue Infrastructure renewal bonds. Became Ontario Infrastructure Projects Corporation (Infrastructure Ontario) via 2006 Budget Implementation legislation (Bill 81). No sustainability criteria in OSIFA and Infrastructure Ontario mandates.
Reform the environmental assessment process to address the cumulative effects on development, transportation and the environment of large infrastructure projects, and to provide for the review of EA approvals where major changes in circumstances or policy related to an undertaking occur.		Alterations to the provincial Environmental Assessment process were announced in June 2006. Changes are intended to accelerate the environmental assessment process for energy, waste and transit/transportation projects. ⁶

- The creation of a new GTA East–West Corridor from Brampton to the Guelph area
- The extension of Highway 410 northwards “at least” to Highway 89

Three of the proposed highways (the 404, 410 and 427 extensions) would have passed over the Oak Ridges Moraine, while the 407 extension invited the urbanization of prime agricultural lands and sensitive watersheds south of the moraine. The Mid-Peninsula Highway would run over the Niagara Escarpment, a UNESCO¹ World Biosphere Reserve, while the GTA East–West Corridor would cut through it.

In addition to concerns over the direct impact of these projects on the Oak Ridges Moraine, Niagara Escarpment and other ecologically significant features, the program was criticized for encouraging urban sprawl far beyond existing urban areas and promoting long-distance automobile commuting throughout the region.²

Table 4 outlines the provincial smart growth policies on infrastructure identified in the Pembina Institute’s February 2003 report, the commitments made in relation to these policies by the Ontario Liberal Party in its October 2003 election platform and during the election campaign, and the government’s progress to date on these policies and commitments.

2.2. Analysis and Commentary

A key problem under the previous provincial government was the lack of any overall policy framework to shape provincial infrastructure investments in the direction of more sustainable urban development patterns. The SuperBuild highway expansion program in the Golden Horseshoe, which facilitated and encouraged urban sprawl, highlighted the consequences of this problem.

The Ministry of Public Infrastructure Renewal, combining the Smart Growth Secretariat created by the previous government with the SuperBuild Corporation’s capital investment portfolio, has the potential to provide policy direction for the Province’s capital infrastructure investments that is more focused on building environmentally, socially and economically sustainable communities than was the case during the 1999–2003 life of the SuperBuild Corporation.

2.2.1. Places to Grow

The centrepiece of the Province’s efforts to improve the integration of land-use and infrastructure planning has been the GGH Growth Plan, finalized in June 2006.⁷

The early drafts of the plan presented a bold vision for stopping sprawl, improving air quality, reducing greenhouse gas emissions, protecting natural areas and prime agricultural lands, and safeguarding sources of drinking water.⁸ The final version of the plan included important elements regarding the development of designated urban centres in the plan as transit supportive, mixed-use “complete” communities. However, at the same time, elements of the draft plan related to development at the urban periphery evolved towards being more of an affirmation of “business as usual” development in the region. In the final version of the plan for example:⁹

- The protection of natural heritage and agricultural lands is largely deferred to future sub-area assessments
- Estate subdivision developments are permitted in rural areas in certain circumstances
- The density targets for “outer ring: municipalities are reduced
- The density targets for new greenfield developments (50 jobs and people per ha) reflect what is current practice and are barely sufficient to be supportive of minimal transit services
- Highway projects identified in initial drafts of the plan as not being immediate priorities, and which contradict its overall directions, such as the Highway 404 extension to Lake Simcoe, reappeared in the final plan

More broadly, the plan has been subject to criticism that the intensification target (40 per cent of new residential development) may not effectively advance the plan’s goals, that too many urban growth centres (25) are identified in the plan, including some that are not yet established or for which transit services do not exist, and for relying on population and employment growth projections that may change substantially over the life of the plan.¹⁰

With respect to transitional issues, a regulation made under the Places to Grow Act on June 16 provides that development applications in process at the time of the approval of the plan involving urban boundary expansions of fewer than 300 hectares (almost 750 acres) will be largely exempt from the provisions of the plan.¹¹

The implementation of the GGH Growth Plan will require substantial effort on the part of the Province. It will need to lead and provide the information to support the sub-area assessments into which much of the detailed land-use and infrastructure planning has been deferred. The Province will also need to oversee municipal implementation via conformity amendments to

official plans, zoning by-laws, project specific approvals and infrastructure plans and initiatives.

More broadly, the actual integration of provincial infrastructure funding and the plan's directions remains an open question. The June 2005 Places to Grow Act under which the Growth Plan is to be implemented contains no provisions requiring that municipal or provincial works, structural improvements and other undertakings conform with plans made under the act. The Province's parallel greenbelt legislation (Bill 135 –the Greenbelt Act, 2005) did include such a provision with respect to municipal undertakings.¹² The role of the Growth Plan in shaping the Province's infrastructure spending in the region is referenced in the five year ReNew Ontario infrastructure plan released in May 2005, although no specific mechanisms to ensure integration are identified.¹³

2.2.2. Transportation Infrastructure

The second major development in the Province's approach to infrastructure funding has been the substantial increases in funding for public transit. There have been two elements to this development: the allocation of a portion of provincial gasoline tax revenues to public transit, beginning at one cent per litre in October 2004 rising to two cents per litre by October 2006; and the continuation of the increased allocations for transit capital grants in the provincial budget that began in 2002.

Table 5: Provincial Transportation Capital Investments, 1999/00 to 2006/0714

Year	Highways (\$ millions)	Public Transit (\$ millions)
1999/00	937	0
2000/01	1,049	0
2001/02	906	0
2002/03	1,023	193
2003/04	1,055	359
2004/05	992	448
2005/06	“more than \$1 billion” ¹⁵	514
2006/07	Approx 1,000 + \$400 million “move Ontario” program	838

The Province's overall transportation capital investments from 1999/00 to 2006/07 are summarized in **Table 5**.

Table 5 also makes it clear that there has been relatively little change in the Province's spending pattern on roads and highways. The Province's approach has been to increase transit funding, rather than shift funding from highways to transit.

With respect to the specific direction of road and highway spending, the Province made some important early decisions to halt projects that were obviously in conflict with the directions on land-use planning that were emerging through the Growth Plan initiative. These projects included the extension of Highway 427 north to Barrie, the Bradford Bypass linking Highways 404 and 400 north of the Oak Ridges Moraine, and the full extension of Highway 404 north and east along the shore of Lake Simcoe to Highway 12.

However, the overall approach to highway funding and planning appears largely unchanged. Planning and approval of major road projects has continued in isolation from broader land-use discussions, as is evidenced by the Ministry of Transportation's (MTO) very detailed 2006-2010 Southern Ontario Strategic Highways Program,¹⁶ released on the same day as the GGH Growth Plan. Given the apparently definitive nature of the highways program, it is unclear what influence the Growth Plan or the regional transportation plan to be developed by the newly created Greater Toronto Transportation Authority (GTTA)¹⁷ will have on the direction of the Province's road and highway plans.

The specific direction of future transit investments is less clear. The GTTA's regional transportation plan is required to conform with the GGH Growth Plan,¹⁸ but again there is no requirement that project-specific provincial funding actually follow the direction of the plan developed by the authority. At the same time, there have been strong suggestions that the Province's actual transit investment decisions, such as the extension of the Spadina subway line to York Region, are more the product of aggressive municipal advocacy than conformity with an overall plan.¹⁹

2.2.3. Infrastructure Support to Municipalities

More generally the criteria the Province has provided to municipalities for provincial infrastructure support have tended to focus on management issues, rather than the sustainability of projects or the degree to which they advance the Province's stated directions on land-use planning or transportation.²⁰ The absence

of such criteria in the mandate of the Infrastructure Ontario Corporation, the successor to the Ontario Strategic Infrastructure Financing Authority (OSIFA), established through the Province's March 2006 budget implementation legislation²¹ is particularly noteworthy in this context. Infrastructure Ontario could play a key role in translating provincial priorities into municipal action, but no mechanisms have been established to ensure that this actually happens. The result may be to continue the fragmentation of infrastructure planning among municipalities, and to even provide support for projects that contradict the directions laid out in the growth and greenbelt plans and revised PPS.

The federal government, in contrast, required that Ontario municipalities prepare integrated community sustainability plans, covering social, cultural, environmental and economic issues, as a condition of receiving a portion of federal gasoline tax revenues for infrastructure. Reductions in greenhouse gas emissions and cleaner water and air were explicit identified as objectives of the funding arrangement.²² Similarly, municipalities were required to develop transportation demand management strategies in order to receive federal funding for transit projects.

2.2.4. Environmental Assessments of Major Infrastructure

The failures of the environmental assessment process to deal with larger development, transportation pattern, and climate change and air quality implications of major infrastructure projects such as new highways and major sewer and water systems are well documented. These outcomes have been the result of very limited scopings of environmental assessments²³ or reliance on class environmental assessments of incremental components of large projects²⁴.

In addition, in some cases, projects are proceeding on the basis of past EA approvals granted under vastly different circumstances. The northward extension of Highway 404, approved in 2002, before the adoption of the greenbelt legislation and plan, is the most prominent example. The extension would proceed through lands that are largely now part of the greenbelt and facilitate automobile dependent urban sprawl north of the Oak Ridges Moraine.

The modifications to the environmental assessment process announced in June 2006 seem unlikely to improve the situation. Provisions of Bill 51, The Municipal and Conservation Land Statute Law Amendment Act, that would permit exemptions of energy-related infrastructure from the approval requirements of the Planning Act seem likely to further reduce the integration of large infrastructure projects with overall regional planning.

2.3 Conclusions

The overall results of the Province's efforts to improve integration of land-use planning and infrastructure funding and approvals are mixed. The June 2006 GGH Growth Plan is potentially a central vehicle for strengthening integration, although mechanisms to ensure provincial and municipal infrastructure initiatives actually follow the plan's directions remain weak. More generally, the Province's approach to both direct infrastructure funding and financial assistance to municipalities continues to be more focused on management issues than the advancement of environmental sustainability or other substantive policy outcomes. The federal government, in contrast, attached sustainability and transportation demand management planning conditions to its funding to Ontario municipalities for infrastructure and public transit.

The Ministry of Transportation's road and highway initiatives continue to be poorly integrated with the Province's land-use planning directions. Substantial increases have been provided in provincial funding for public transit through the dedication of a portion of provincial gasoline tax revenues and project-specific capital funding. However, the decision-making processes and criteria guiding project-specific funding remain unclear. The ability of the newly created GTTA to shape a more integrated and criteria driven approach to transportation planning and capital funding is uncertain.

Still unaddressed are the long-standing gaps in the environmental assessment process regarding cumulative effects of large infrastructure projects and the need for sunset provisions regarding the review of EA approvals where the context within which a project was originally proposed has changed substantially.

3. Land-Use Planning

3.1. Introduction

The authority of Ontario municipalities over land-use planning is governed through the provincial Planning Act and Provincial Policy Statement, and overseen by the provincially appointed Ontario Municipal Board. The policy directions set by the Province through its legislation and policies therefore have a major impact on development patterns. The province can also direct planning in specific locations under the Ontario Planning and Development Act.

The provincial legislative and policy framework for land-use planning has undergone major changes over the past decade. A strong focus on containing urban sprawl and promoting more sustainable development patterns emerged through the work of the Commission on Planning and Development Reform, subsequent 1995 amendments to the Planning Act and a comprehensive set of provincial policy statements. Further amendments to the Planning Act and a new PPS issued in 1996 reversed this direction. The 1996 amendments to the Planning Act also severely constrained the roles of the Ministry of the Environment and the Ministry of Natural Resources in the land-use planning process.¹

In addition to the Planning Act and PPS, the Province can influence development patterns and land-use decisions through the establishment of agricultural land reserves and the provision of incentives for the creation of land trusts, agricultural and conservation easements, and public education activities. The work of the Walkerton Inquiry highlighted the need to integrate land-use planning with the protection of drinking water source waters.²

Table 6 outlines the provincial smart growth policies on land use identified in the Pembina Institute's February 2003 report, the commitments made in relation to these policies by the Ontario Liberal Party in its October 2003 election platform and during the election campaign, and the government's progress to date on these policies and commitments.

3.2. Analysis and Commentary

The past three years have been a time of extensive legislative and policy activity with respect to land use planning. Major amendments were made to the Planning Act, including the restoration of the requirement that planning decisions conform with provincial policy via Bill 26 in November 2004, the revised PPS and GGH Greenbelt Plan and legislation adopted in March 2005, and the GGH Growth Plan, made under the June 2005 Places to Grow Act, adopted in June 2006.

At the same time, some significant initiatives remain works in progress. These include source water protection legislation (Bill 43, The Clean Water Act), and a second round of amendments to the Planning Act, including provisions related to the reform of the role of the OMB (Bill 51, The Planning and Conservation Land Statute Law Amendment Act).

The Province has strongly re-engaged around land-use planning issues, following almost complete disengagement following the 1995 election. Indeed, it is now playing a direct role in regional-level planning, particularly in the GGH, as demonstrated by the greenbelt and growth plans.

In addition to strengthening the role of provincial policy in shaping planning decisions, the Bill 26 amendments to the Planning Act strengthened the ability of municipalities to control the planning process, particularly by removing the automatic right of appeal to the OMB regarding non-municipally initiated expansions of settlement area boundary. The provisions of Bill 51 with respect to complete applications,¹ permitting municipalities to specify the information that would be required to accompany development applications before triggering the timelines for automatic rights of appeal to the OMB by development proponents would further strengthen their position. Impact of the recent provincial policy initiatives, particularly the revised PPS and the Growth Plan would be strengthened by Bill 51's provisions that planning decisions be made on the basis of provincial policies in place at the time of decision, not those in force at the time development applications are made.²

The new PPS and GGH Growth Plan both emphasize intensification and redevelopment over green-

Table 6: Land-Use Planning Policies

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Ensure local planning decisions are consistent with provincial policy.</p>	<p>“We will give the OMB clear planning rules to ensure that it follows provincial policies.” (Pg. 16.)</p>	<p>Bill 26 amendments to the Planning Act adopted in November 2004 require that planning decisions, comments, submissions and advice by local planning bodies and provincial agencies “be consistent” with the Provincial Policy Statement issued under the act.</p> <p>Bill 51, <i>The Planning Law and Conservation Land Statute Law Amendment Act, 2005</i> introduced in December 2005, would limit appeals to the OMB and the introduction of new evidence before the Board.²</p> <p>Bill 51 would also permit municipalities to require “complete” applications from development proponents,³ set requirements for the content of official plans,⁴ require regular updates of plans⁵ and allow conditional zoning, including requirements for sustainable design of buildings and neighbourhoods.⁶ Bill 51 would also permit exemption by cabinet of energy-related projects from planning approvals.⁷</p>
<p>Provide a significant role for the Ministry of the Environment (MOE), the Ministry of Natural Resources (MNR) and conservation authorities in the planning process.</p>		<p>This issue is not addressed in Bill 26 amendments to the Planning Act or proposed Bill 51 amendments to the Act.</p>
<p>Ensure the PPS issued under the Planning Act</p> <ul style="list-style-type: none"> • Supports development forms for which non-automobile transportation modes are viable, including mixed uses • Supports intensification and minimum density requirements • Protects prime agricultural lands, ecologically significant areas and source water-related lands • Reduces/eliminates the need to hold reserves of non-urban lands for future development • Safeguards the availability of affordable housing • Establishes urban containment boundaries 	<p>“We will give the OMB clear planning rules to ensure that it follows provincial policies.” (Pg. 16.)</p>	<p>A new PPS came into force in March 2005.⁸</p> <p>The new PPS emphasizes redevelopment, intensification and infill development on lands that are already developed over greenfields expansion and brownfields redevelopment, but retains “escalator” clauses regarding the requirements for residential land supply (10-year supply and 3-year supply of serviced land at all times).</p> <p>The new PPS references transit-supportive land-use densities and mixes, and includes expanded provisions regarding source water protection.</p> <p>The policy strengthens long-standing policies, giving priority to mineral aggregate extraction over other land uses.</p> <p>The protection of prime agricultural lands from development is limited to specialty croplands.</p>

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Establish Urban Containment Boundaries.</p>	<p>“We will enhance our quality of life by containing urban sprawl and focusing growth inside a permanent Greenbelt.” (Pg. 17.)</p> <p>“This greenbelt will permanently protect more than 600,000 hectares of environmentally sensitive land and farmland, from Niagara Falls to Lake Scugog.” (Pp. 17–18.)</p> <p>“Pending a final decision on the lands to be protected, we will place a moratorium on zoning changes from rural to urban on all lands within the potential greenbelt area.” (Pg. 19.)</p>	<p>The March 2005 PPS emphasizes redevelopment, intensification and infill development on lands that are already developed over greenfields expansion, and provides that boundary expansions can only occur at the time of official plan reviews,⁹ but retains “escalator” clauses regarding the requirements for residential land supply (10-year supply and 3-year supply of serviced land at all times).¹⁰</p> <p>Bill 135 The Greenbelt Act and a Greenbelt Plan adopted March 2005. The plan protects more than 700,000 hectares of land (natural heritage, prime agricultural and rural countryside) in the Greater Golden Horseshoe from urbanization.</p> <p>The plan leaves significant amounts of land (68,000 hectares) available for future development between the greenbelt inner boundary and the current designated settlement area boundaries and does not include lands in Simcoe County and other locations subject to “leapfrog” development pressures.¹¹</p> <p>The Greenbelt Plan permits aggregate operations to expand anywhere in the greenbelt and permits new extraction operations throughout the greenbelt, except for provincially significant wetlands, significant habitat of threatened or endangered species, and certain specialty crop lands in the Niagara Peninsula.</p> <p>Infrastructure “corridors” (e.g., highways) are permitted through the greenbelt.</p> <p>The “permanence” of the greenbelt is subject to debate. The greenbelt legislation may allow “outward migration” of the greenbelt over time.</p> <p>Bill 16, the Duffins-Rouge Agricultural Preserve Act adopted in December 2005, ensures that all existing conservation easements in the preserve are held in perpetuity and reinstates easements previously held by the City of Pickering. Legislation interpreted as a strong signal from the Province of its intention to defend the greenbelt. Greenbelt expanded to include Rouge River watershed in Richmond Hill in February 2006.</p> <p>June 2006 GGH Growth Plan includes provisions similar to the PPS, requiring that forecast growth cannot be accommodated within the relevant regional market area (as defined by the municipality in question), considering opportunities for intensification, and already designated greenfield development sites for boundary expansions to be considered. Expansions may accommodate forecast growth up to 20 years.¹²</p>

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Implement the recommendations of the Walkerton Inquiry regarding watershed-based source water protection planning. The provisions were intended to provide for the integration of land-use and water resource planning.</p>	<p>“We will protect our water from stream to tap by preventing it from getting polluted in the first place.” (Pg. 7.)</p>	<p>The <i>White Paper on Watershed-Based Source Water Protection Planning</i> was released in February 2004.¹³ A Draft Drinking Water Source Protection Act was placed on the Environmental Bill of Rights registry for public comment in June 2004.¹⁴</p> <p>Advisory Committee reports on source water protection implementation were delivered to the Minister of the Environment in November 2004.¹⁵</p> <p>A revised water taking and transfer regulation was adopted December 2005, including provisions related to water budgets. A moratorium on new water takings was ended.¹⁶</p> <p>The revised PPS adopted March 2005¹⁷ includes expanded provisions regarding the protection, improvement and restoration of the quality and quantity of water.</p> <p>\$16.5 million funding announced for conservation authority capacity building for source water protection planning work in November 2005. \$51 million over five years for technical studies in support of source protection planning also announced.¹⁸</p> <p>Source water protection legislation (Bill 43 – Clean Water Act) Introduced December 2005. Planning decisions by municipalities, provincial agencies and OMB to be required to conform with source water protection plans.¹⁹ Conformity amendments to official plans to be required.²⁰ Municipalities barred from undertakings that conflict with source water protection plans.²¹ In event of conflict between source water protection plan and other provincial policies or plans (e.g., the PPS, Greenbelt Plan or GGH Growth Plan) the provision that provides the greatest protection to the quality and quantity of water prevails.²² “Prescribed instruments” (i.e., provincial approvals) would be required to conform with source water protection plans.²³</p>

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Support protection of agricultural and ecologically significant lands through fiscal and stewardship initiatives such as</p> <ul style="list-style-type: none"> · Land trusts · Agricultural land reserves · Conservation easements · Green space conversion taxes · The application of land and water conservation requirements as conditions of agricultural income support programs (cross-compliance) · Public education 	<p>“We will protect one million new acres of greenspace on the outskirts of our cities. We will use a wide array of creative solutions, including tax credits, easements, land trusts, land swaps and new part designations.” (Pg. 16.)</p> <p>“We will also establish new reserves, starting with the Niagara Tender Fruit Lands Agricultural Preserve.” (Pg. 19.)</p>	<p>Greater Golden Horseshoe Greenbelt²⁴ incorporates protection from urban development of specialty crop lands and prime agricultural lands within the greenbelt; some settlement area expansions onto prime agricultural lands may be permitted at time of Greenbelt Plan 10-year review.</p> <p>The revised PPS adopted in March 2005²⁵ and June 2006 GGH Growth Plan protect specialty croplands from development. Other prime agricultural lands can be urbanized.</p> <p>Bill 51, Planning and Conservation Land Statute Law Amendment Act, introduced December 2005, includes provisions intended to facilitate conservation easements and covenants.²⁶</p>
<p>Facilitate and support brownfields redevelopment. Address liability and remediation financing issues for contaminated “orphan” sites.</p>	<p>“We will develop our brownfields. . . . We will work with developers to get projects on these priority sites off the drawing board and into construction.” (Pg. 20.)</p>	<p>The March 2005 revised PPS included provisions intended to promote brownfields redevelopment.²⁷</p>
<p>Promote public transit-supportive planning guidelines.</p>		<p>March 2005 PPS includes provisions promoting land-use patterns, densities and mixes of use that minimize vehicle trips and support alternative transportation modes.²⁸</p> <p>The overall transportation provisions of the March 2005 PPS make no reference to air quality and climate change, and require protection of transportation “corridors.”</p> <p>June 2006 GGH Growth Plan states public transit will be the first priority for moving people in infrastructure planning and investments.²⁹ Plan references goals of increasing the modal share of transit and alternatives to the automobile.³⁰ The Plan includes provisions related to urban form and density intended to result in transit supportive communities, although transit viability of greenfields density requirements (50 people and jobs per ha) has been challenged.³¹</p>

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
Adopt and promote alternative development standards. ³²		The June 2004 discussion paper on Planning Act reform and implementation ³³ references the idea of revising provincial standards to reflect urban situations and support infill, intensification and brownfields redevelopment. No further action to date.
Protect the Niagara Escarpment: <ul style="list-style-type: none"> · Place the Niagara Escarpment Commission under jurisdiction of MOE · Update the Niagara Escarpment Plan to reflect the review completed in 2002. 		GGH Greenbelt Plan incorporates Niagara Escarpment Plan area lands. Revised Niagara Escarpment Plan adopted June 2005. Plan makes a number of minor improvements to existing plan regarding facilities at wineries, prohibitions of development in Escarpment parks, improved monitoring, conservation severances and size limits on rural tourism facilities. ³⁴

fields development and urban forms that are transit supportive and result in more "complete" (i.e., mixed-use with good internal connectivity) communities.³ The Province has also moved to constrain ability of municipalities to engage in settlement area boundary expansions, with both the revised PPS and the Growth Plan only permitting these at the time of comprehensive reviews of official plans.⁴

However, it is clear that the door not only remains open to such expansions but that some provisions of both the PPS and the Growth Plan can be interpreted as requiring them in certain circumstances.⁵ This is despite large amounts of land already designated for development in the GGH. The greenbelt, although a significant achievement, is unlikely to function as an effective urban containment boundary in the near to medium term, as the inner boundaries of the greenbelt leave an estimated 68,000 hectares of land available for future development in addition to the estimated 78,000 hectares of undeveloped lands already included in designated settlement areas of the Greater Toronto Area and Hamilton (see map, page 29). In addition, key areas that were already subject to intense leapfrog development pressures, such as Southern Simcoe County, parts of Wellington County and Northumberland County were excluded from the greenbelt.⁶

The Ministry of Municipal Affairs announced a provincially led growth management planning initiative for Simcoe County on March 2005.⁷ The initiative has been subject to criticism for proposing additional greenfield urban development in the Barrie area.⁸ Studies completed under the initiative suggest that total maximum monthly loadings of nutrients in

Lake Simcoe and Nottawasaga River watersheds can only be met considering existing development proposals through use of best management practices in the agricultural and municipal sectors, with the implication that it may not be possible to accommodate additional development even with best practices in place.⁹ A Lake Simcoe Protection Act was introduced as a private members bill in April 2006, providing for the development of a protection plan for the Lake Simcoe and Nottawasaga River Watersheds.¹⁰

The protection of prime agricultural lands beyond the greenbelt, through the PPS and the Growth Plan, except for specialty crop lands remains weak, with urbanization of such lands being permitted,¹¹ and only marginal gains were made with respect to natural heritage lands in the revised PPS. Additional protection of wetlands and surface and groundwater features may occur as a result of source water protection planning under the proposed Clean Water Act; however that legislation has yet to be enacted.

It is also important to note some significant steps backwards have also occurred, most notably with respect to the strengthening of the overrides provided to mineral aggregates extraction over other land uses in the PPS.¹² The GGH Growth Plan contains weak references to an aggregates conservation strategy. There has been no activity on such a strategy to date.¹³

A critical emerging question is that of what role the Province itself intends to play in both supporting and overseeing municipal implementation of the new provincial policies. Under the provisions of the Places to Grow Act and Greenbelt Act, the GGH growth and greenbelt plans will require conformity amendments

to the relevant municipal official plans. Oversight will also be required to ensure that actual zoning and development approval decisions conform with the plans.

Municipal challenges to the Greenbelt Plan have already begun to emerge, particularly in Durham Region, where the regional council has requested that 1,400 hectares be removed from the greenbelt.¹⁴ Recent work by the Monitoring the Moraine project¹⁵ highlights the very inconsistent performance of municipalities in the adoption of conformity amendments to their official plans and supporting policies required to implement the 2001 Oak Ridges Moraine Conservation Plan.¹⁶ The Monitoring the Moraine study also noted significant gaps in provincial technical and policy support to municipalities in their efforts to implement the plan.

To date, the provincial government has indicated a willingness to play an active role with respect to the implementation of the Greenbelt Plan and related initiatives. This has been particularly evident with the establishment of the Greenbelt Council and Foundation¹⁷ in June 2005, passage of Bill 16, the Duffins-Rouge Agricultural Reserve Act in December 2005 and February 2006 addition of Richmond Hill Rouge Headwaters lands to greenbelt.¹⁸

At the same time, the province's decision not to have the greenbelt plan apply to most development applications that were in process prior to December 16, 2004¹⁹ has created a situation where the greenbelt area may be significantly eroded as a result of such proposals. York Region's Regional Official Plan Amendment 51, for example, would create a large business park east of Keswick on land designated as 'protected countryside' in the greenbelt plan.

The Province's intended role with respect to revised PPS and the GGH Growth Plan is even less clear. Challenges to the GGH growth plan are also beginning to emerge. Niagara Region's proposed amendment 170 to its Policy Plan, for example, would allocate 500 acres of land for rural estate development, in apparent contradiction of the provisions of the plan regarding such developments.²⁰

The process of translating provincial policy into actual changes in development location and form will be complex. Provincial policies will have to be substantially incorporated into upper- and single-tier municipal official plans, and then, in the case of regions and counties, into low-tier official plans and zoning by-laws. These directions then need to be carried through in project-specific official plan amendments and zoning by-laws revisions and other approvals and the required supporting infrastructure put in place. Provincial identification and mapping natural heri-

tage areas and prime agricultural lands throughout the GGH is required of these areas are to be protected from development under the growth plan and PPS.

The OMB may play significant role in the enforcement of the new provincial policies and plans, particularly in the context of the Bill 26 amendments to the Planning Act, and provisions of the Greenbelt and Places to Grow Acts requiring that its decisions conform with provincial planning policies and the greenbelt and growth plans. In this context, the OMB would need to consider whether the relevant municipal plans and by-laws themselves conform with the province's policy directions in relation to project specific appeals. The reform of the board and its appeal process themselves remain works in progress via Bill 51. Even that initiative (see 5.2.3. below) has not addressed the need for broader reforms to the OMB appointment process and to provide intervenor funding for *bona fide* public interest intervenors in OMB hearings.

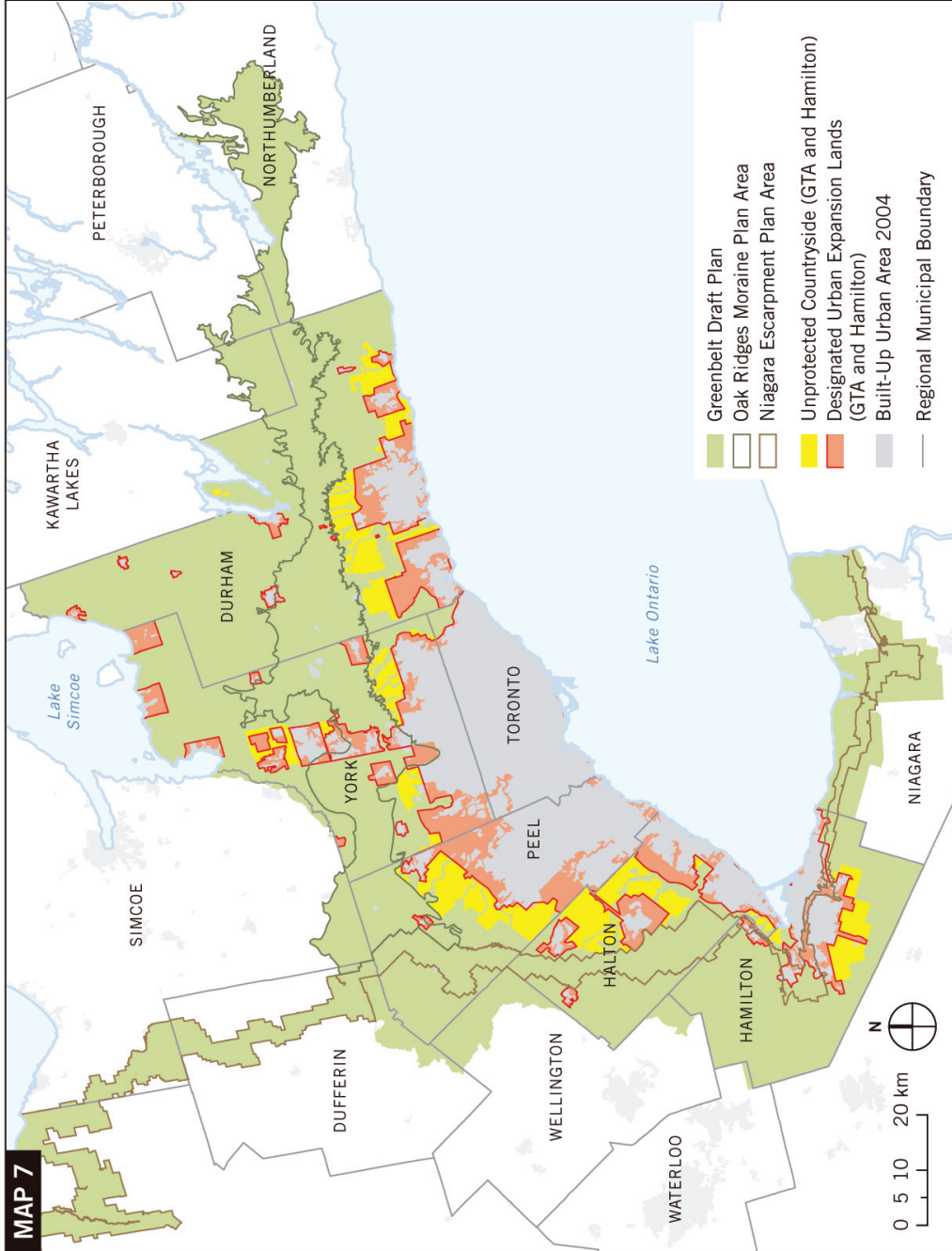
3.3. Conclusions

The Province has re-engaged strongly in land-use planning over the past five years beginning with the 2001 Oak Ridges Moraine Conservation Plan, and accelerating significantly since the 2003 election. The Province's major initiatives have included the Bill 26 amendments to the Planning Act, a revised PPS, the GGH Greenbelt Plan and legislation, and the GGH Growth Plan.

A number key initiatives remain incomplete, particularly OMB and Planning Act reform via Bill 51 and of source water protection through Bill 43, the Clean Water Act. The need for broader reforms to the OMB appointment process and to provide intervenor funding for *bona fide* public interest and community based intervenors in OMB hearings remain unaddressed.

As the current round of provincial legislative and policy reform approaches completion, the focus is now shifting to municipal implementation of the revised PPS, the Greenbelt Plan and the Growth Plan. Effective local implementation is essential to achieving the goals of the Province's revised policy framework. However, although crucial to translating its policy directions into actual changes in the form and location of development, the role the Province intends to play in both supporting and overseeing municipal implementation remains unclear. In addition, transitional provisions permitting most development applications in process at the time of the adoption of the new PPS, and GGH greenbelt and growth plans, to continue under the policy framework in place at the time of application, may significantly undermine the effectiveness of these policies and plans.

THE URBAN FRINGE IN THE GTA AND HAMILTON



Unprotected countryside
68,000 hectares

Designated Urban Expansion Lands
78,000 hectares

Total Built-up Urban Area
193,000 hectares

City of Toronto
63,000 hectares

Map courtesy of the Neptis Foundation. The final greenbelt boundaries did not substantially affect the analysis presented in the map.

4. Fiscal and Taxation Policies

4.1. Introduction

The rules regarding property taxation and the application of development charges by municipalities, both of which can have a major impact on development,¹ are defined through provincial legislation.² The Development Charges Act, 1997, for example, restricts the ability of municipalities to require internalization of infrastructure costs for new developments. The 1997 Fair Municipal Finance Act, and 1998 Fairness to Property Taxpayers Act severely constrain municipalities in the design of their property tax systems.

In addition, as with infrastructure, the Province makes taxation decisions of its own that affect urban development patterns. The Land Transfer Tax Rebate program, introduced in 1996, for example, has been widely criticized for providing incentives to consumers to purchase housing in new developments rather than resale housing in existing urban areas.³ Provincial property tax rebates on vacant commercial and industrial buildings are seen to provide incentives against the redevelopment of underutilized urban buildings.⁴

Table 7 outlines the provincial smart growth policies on fiscal and taxation issues identified in the Pembina Institute's February 2003 report, the commitments made in relation to these policies by the Ontario Liberal Party in its October 2003 election platform and during the election campaign, and the government's progress to date on these policies and commitments.

4.2. Analysis and Commentary

A wide range of observers have highlighted the need for 'smart growth oriented changes in land-use planning policies to be supported changes fiscal and taxation policies if they are to succeed in promoting more sustainable urban development patterns. Municipal dependence on property taxes and development charges for revenue may create perverse incentives to approve otherwise inappropriate development. Such development may represent the only way to increase revenues without increasing property taxes and user fees for existing residents.¹

The 2003 Liberal platform reflected this view, committing to the reform in the areas of development

charges, land-transfer tax rebate program and the municipal revenue base. Unfortunately with the notable exception of the dedication of a portion of provincial gasoline tax revenues to public transit, initiated in October 2004, there have been few initiatives in this area over the past three years. The 2003 Platform commitments to the reform of the development charges system and land transfer tax rebate program remain unfulfilled.

The Province has agreed to accept responsibility for a larger portion of the shared costs of municipally administered public health and land ambulance programs² but has done little beyond the gasoline tax revenue dedication to directly expand the municipal revenue base beyond property taxes, user fees and development charges. The 2006 City of Toronto Act provides the City with some very limited authority to raise additional revenues through City taxes on sales of tobacco, alcohol, entertainment and other items,³ but does not address the more fundamental issues related to the appropriateness of the property tax base for the wide range of services provided by the City. Even these limited taxation powers would not be expanded to other municipalities through Bill 130,⁴ introduced in June 2006.

A freeze on property tax assessments and a review of the practices of the Municipal Property Assessment Corporation was announced in June 2006. However, these initiatives relate to the corporation's administrative practices, rather than a more fundamental review of the structure and role of property taxes as the basis for municipal revenues,⁵ or an examination of perverse incentives provided to property owners by the current system.

A Provincial-Municipal Fiscal and Service Delivery Review was announced August 2006. The review is to cover delivery and funding of housing, health, social services and infrastructure funding. A report on the review is to be released in the spring of 2008. Taxing powers are not to be part of the review.⁶ Criteria for the review do not include the identification of mechanisms to ensure that funding mechanisms are supportive of more sustainable development and transportation patterns.

Table 7: Fiscal and Taxation Policies

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Remove subsidies and fiscal incentives for urban sprawl:</p> <ul style="list-style-type: none"> · The Land Transfer Tax Rebate program should be eliminated or limited to new units constructed in existing urban areas. · Property tax rebates for vacant commercial and industrial buildings should be removed and incentives provided for re-development. 	<p>“We will stop subsidizing sprawl.” (Pg. 19.)</p> <p>“We will change the Land Transfer Tax Rebate Program to encourage people to buy homes in priority growth areas.” (Pg. 20.)</p>	<p>Reference to possibility of reform of Land Transfer Tax Rebate program to promote more sustainable development patterns in first, July 2004 draft GGH Growth Plan.² References dropped in February 2005 and subsequent drafts of plan.³</p> <p>Property tax assessments frozen for two years in June 2006, pending revisions to the assessment system.⁴</p>
<p>Ensure the full internalization of infrastructure costs of new developments outside of existing urban areas on a location-specific basis.</p>	<p>“We will stop subsidizing sprawl.” (Pg. 19.)</p> <p>“We will make sure developers absorb their fair share of the costs of new growth.” (Pg. 20.)</p>	<p>Reference to possibility of reform of development charges system to promote more sustainable development patterns in first, July 2004 draft GGH Growth Plan.⁵ References dropped in February 2005 and subsequent drafts.⁶</p> <p>No changes to the Development Charges Act or system have been made.</p>
<p>Widen the municipal revenue base beyond property taxes, development charges and user fees.</p>	<p>“We will give two cents per litre of the existing provincial gasoline tax to municipalities for public transit.” (Pg. 12.)</p> <p>“We will give municipalities the option to place up to a three per cent levy on hotel room bills.” (Pg. 12.)</p>	<p>The 2004 Budget included a commitment of one cent per litre for public transit beginning in October 2004, rising to 1.5 cents per litre in October 2005, and two cents in October 2006. 2005/06 transfers under the program totaled \$195 million.</p> <p>Bill 53, the City of Toronto Act, 2006, adopted June 2006, permits the City to impose direct taxes on sales of tobacco, alcohol and entertainment; land transfers; surcharges and fees on parking lots; and vehicle licence registrations.⁷ Legislation also provides for Tax Increment Financing.</p> <p>2006 provincial budget includes commitments to increase the provincial share of funding for public to 65 per cent in 2006 and 75 per cent in 2007. Budget also contains a commitment to move towards a 50-50 provincial municipal cost sharing for land ambulance services.⁸</p> <p>References to proposals for legislation providing for tax increment financing to assist with brownfields redevelopment and public infrastructure development in 2006 budget.⁹</p> <p>A Provincial-Municipal Fiscal and Service Delivery Review announced August 2006. The review is to cover delivery and funding of housing, health, social services and infrastructure funding.¹⁰</p>

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Give municipalities greater discretion in the reform of the property tax regime to</p> <ul style="list-style-type: none"> · Move utility costs to cost-recovery basis · Separate taxation of land and buildings · Provide incentives for higher value uses of vacant land and buildings, and underused urban lands, such as parking lots. 		<p>No structural modifications to the property tax regime been made.</p> <p>Property tax assessments frozen for two years in June 2006, pending revisions to the assessment system.¹¹</p>
<p>Modify vehicle sales tax and licensing fees on the basis of vehicle weight and fuel economy, with higher charges for heavier and less fuel-efficient vehicles.</p>		<p>No modifications to the vehicle sales tax and licensing system have been made.</p>
<p>Use fuel taxes and road-use fees to internalize costs of automobile use and finance transportation alternatives.</p>	<p>The Premier has indicated tolls may be considered to finance new highway construction.¹²</p>	<p>“We will give two cents per litre of the existing provincial gasoline tax to municipalities for public transit.” (Pg. 12.)</p>
<p>Provide incentives for the use of public transit.</p>	<p>“Make employer provided transit passes a non-taxable benefit for income tax purposes.” (Pg. 15.)</p>	<p>No action to date.</p>

4.3. Conclusions

The Province’s one major initiative with respect to fiscal and taxation issues to date has been the dedication of a portion of provincial gasoline tax revenues to transit public transit from October 2004 onwards. \$195 million in funding was provided to municipalities under the initiative in the 2005/06 fiscal year. No significant movement has occurred with respect to commitments to the reform of the development charges system and the land transfer tax rebate program.

With the exception of the provision of some minor additional authority to the City of Toronto to impose taxes on a limited range of goods and services, there

has been no movement on the widening of the municipal revenue base beyond property taxes, development charges, and user fees. Nor has the Province provided municipalities greater flexibility to experiment with structural reforms of their property tax systems to promote redevelopment, infill and other more sustainable urban development patterns. The absence of such directions in the reviews of the Municipal Property Assessment Corporation and municipal services funding mechanisms announced in the summer of 2006 is particularly noteworthy.

5. Governance Structures

5.1. Introduction

Municipal governments in Ontario work within the policy and legislative framework provided to them by the Province. The Province, for example, defines the basic structures and geographic boundaries of municipal governments. Municipalities' legislative and licensing powers are limited to those provided through the provincial Municipal Act. As well, provincial legislation establishes and defines the powers of agencies and other bodies that coordinate activities across municipal borders, such as conservation authorities and the Greater Toronto Services Board that existed between 1999 and 2001. The role, structure and authority of the Ontario Municipal Board are also defined through provincial legislation.

The rules for municipal electoral processes and election financing are established through provincial legislation as well.

Table 8 outlines the provincial smart growth policies on governance issues identified in the Pembina Institute's February 2003 report, the commitments made in relation to these policies by the Ontario Liberal Party in its October 2003 election platform and during the election campaign, and the government's progress to date on these policies and commitments.

5.2. Analysis and Commentary

5.2.1. Regional integration

One of the less noticed implications of the GGH Growth Plan initiative has been the Province's implicit assumption of the role of regional planning agency in the GGH, as opposed to creation of a supra-regional body incorporating representatives of the upper-tier and single-tier municipalities. As noted earlier, the success of this approach will depend on a number of factors, including the level of provincial oversight of municipal implementation of the Growth Plan, and the Province's willingness to tie both its infrastructure funding support to municipalities and its own infrastructure initiatives to the achievement of the plan's goals. This will require considerable policy coordination among provincial agencies.

At same time, the adoption of legislation creating

the GTTA (Bill 104) partially reverses this direction, creating a supra-regional planning body consisting of representatives of the constituent upper-tier and single-tier municipalities. The likely effectiveness of the GTTA remains an open question. It is unclear whether the body will be able to overcome inter-municipal competition for transit capital funding from the Province that has been evident over the past few years.¹

The GTTA's effectiveness as a planning agency may also be undermined by the consideration that the Ministry of Transportation has already issued its 2006-2010 strategic plan for highway development in the region.² The MTO plan carries with it the implication that the Province has already made detailed decisions on road and highway initiatives, making transportation planning intended to integrate road, transit and other forms of transportation difficult, if not impossible.

5.2.3. Ontario Municipal Board Reform

The need for the reform of the Ontario Municipal Board's role in the planning process and processes by which board members are appointed has been a focus of significant public attention over the past few years.³ Concerns have focused on the qualifications and expertise of appointees to the board, the difficulties faced by public interest and community based groups in participating the appeal process, and the board's ability to substitute its own decision for municipal ones it has found to be "faulty."⁴

The importance of OMB reform has taken on added importance, given the board's role in the interpretation and enforcement of the revised PPS, particularly in the context of the Bill 26 amendments to the Planning Act. The amendments require that planning decisions "be consistent with" the policy statement. The board will also play a large role in the interpretation and implementation of the GGH greenbelt and growth plans. Local and provincial planning decisions are required to conform to these plans as well.

The Bill 26, and Greenbelt and Places to Grow Act decision conformity provisions apply to the OMB itself. These provisions will have the effect of reducing the scope of discretion available to the board in for-

Table 8: Governance Structures

Smart Growth Policies	Platform ¹ and Campaign Commitments	Action to Date
<p>Provide for regional integration of key services and infrastructure, particularly public transit, while ensuring that suburban interests do not overwhelm the interests of the urban core.</p>	<p>“We will develop a long-term plan for managing growth responsibly in the Golden Horseshoe. It will take into account expected population growth and infrastructure needs, without developing areas that provide our food, water and recreation.” (Pg. 17.)</p> <p>“We will bring a region-wide approach to identifying and meeting GTA transit needs, by creating a Great Toronto Transportation Authority.” (Pg. 21.)</p> <p>The GTTA mandate to include “more GO trains on existing lines, expanded GO parking, new vehicles for the TTC and removal of highway bottlenecks.” (Pg. 21.)</p>	<p>GGH “Growth Plan” adopted June 2006 (See discussion above). Effectively establishes the Province as the regional planning agent between upper-tier and single-tier municipalities and the provincial government.</p> <p>Legislation to create a Greater Toronto Transportation Authority adopted June 2006. The Authority is to develop a regional transportation plan for the GTA (Cities of Toronto and Hamilton and Regions of Halton, Peel, York and Durham) that conforms with the GGH Growth Plan. Authority also takes over the GO Transit system.</p>
<p>Undertake Ontario Municipal Board reform:</p> <ul style="list-style-type: none"> · Reform the appointments process to ensure qualified and unbiased appointees. · Reform the appeal process to include a “leave to appeal” test to only permit appeals to be initiated once a municipal decision has actually occurred and limit the OMB to setting aside municipal decisions for reconsideration, rather than substituting its own decision. · Provide funding for <i>bona fide</i> community and public interest interveners in the OMB hearings process. 	<p>“We will prevent developers from forcing unwanted municipal expansion, and we will give municipalities more time to consider development applications.” (Pg. 16.)</p>	<p>Bill 26, the Strong Communities Act, adopted in November 2004, eliminates the automatic right of appeal where the rezoning of lands as urban settlement areas are sought and increases the time period before appeals can be initiated for certain other types of decisions.²</p> <p>Bill 26 requirement that decisions “be consistent with” the PPS applies to OMB decisions.</p> <p>Bill 51, introduced in December 2005, would limit OMB appeal rights and the introduction of new information at OMB hearings that was not before municipal councils at the time of their decisions.³ OMB would be required to “have regard to” municipal decisions in its decision making.⁴ The legislation would also permit municipalities to establish their own appellate bodies to hear appeals of minor matters.⁵</p> <p>The issue of intervener funding <i>bona fide</i> community and public interest interveners in OMB hearings is not addressed in Bill 51.</p> <p>The issue of the reform of the OMB appointment process is not addressed in Bill 51.</p>

Address Functionality of City of Toronto and other municipalities		<p>Bill 53, the City of Toronto Act, adopted June 2006, provides general powers for the City; provides council with authority to make changes to its governance structure; provides for the appointment of an Integrity Commissioner, Ombudsman and Auditor General; and provides limited powers to impose taxes in addition to property taxes and fees and charges.</p> <p>Bill 130, introduced in June 2006, would amend the Municipal Act to give other municipalities most of the powers and duties given to the City of Toronto via Bill 53.</p>
Reform the municipal electoral finance system to prohibit donations from corporations, unions and other third-party organizations. Limit contributions to individuals who reside in the municipality. Place financial limits on individual donations.		<p>A Democratic Renewal Secretariat was established in October 2003, but no specific election financing reform proposals have been issued to date.</p>

mulating its own decisions, as they must also conform with the PPS, and greenbelt and growth plans.

The provisions of Bill 51, The Planning and Conservation Land Statute Law Amendment Act, introduced in December 2005 would permit municipalities to establish local appeal bodies to hear appeals of minor matters (e.g., consents and committee of adjustment matters) as an alternative to the Ontario Municipal Board. However, given that the municipality establishing such local appeal bodies would have to bear the costs of their operations, it is unclear how many municipalities will actually take advantage of these provisions.

The proposed legislation would also remove the right of appeal of official plans, official plan amendments and plans of subdivision to the OMB for persons, other than public bodies, who do not make oral submissions at public meetings or written submissions regarding the development of the official plan, amendment to the plan or a plan of subdivision. Such persons would also be prohibited from becoming parties to an OMB hearing unless granted party status by the board.

In addition, Bill 51 would restrict the introduction of evidence at OMB hearings that was not available to the municipal council concerned when it made its decision regarding an official plan, official plan

amendment or plan of subdivision. The OMB would be permitted to allow new information if it believed that it was not “reasonably possible” to provide the information or material to the municipality before the council made its decision. Public bodies are permitted to introduce new information and evidence at an OMB hearing. Where new information is permitted to be introduced, the OMB is to permit the municipality to reconsider its decision in light of the new information or make a written recommendation to the board.

These provisions regarding appeal rights, rights to party status at hearings and regarding the introduction of new evidence have been criticized as being unnecessarily restrictive, particularly from the perspectives of community-based and public-interest intervenors in council and OMB processes.⁶

The OMB reform provisions of Bill 51 have also been criticized for their failure to address the need for the reform of the OMB appointments process and the establishment of an intervener funding mechanism for *bona fide* public interest intervenors before the board.⁷

5.2.3. Municipal Election Finance Reform

The Democratic Renewal Secretariat, created in October 2003, has not included provincial or municipal election finance reform in its current work plan.⁸

5.2.4. Municipal Governance Functionality

Bill 53, the City of Toronto Act, adopted June 2006, provides general powers for the City; provides council with authority to make changes to its governance structure; provides for the appointment of an Integrity Commissioner, Ombudsman and Auditor General; and provides limited powers to impose taxes in addition to property taxes and fees and charges.

Bill 130, introduced in June 2006, would amend the Municipal Act to give other municipalities most of the powers and duties given to the City of Toronto via Bill 53, with the exception of the authority to impose city taxes on certain goods and services.

5.3. Conclusions

The Province has effectively assumed the role of supra-regional planning agency for the GGH itself via growth and greenbelt plans, although it has partially reversed this direction via the creation of the GTTA. The effectiveness of the Province's approach will depend on

how active a role it plays in supporting and overseeing municipal implementation of the growth and greenbelt plans, and the degree to which it will tie its own infrastructure initiatives and its support (capital and financing) to municipal undertakings to the directions of these plans.

The OMB is likely to play a central role in overseeing implementation of the revised PPS, and GGH growth and greenbelt plans. Despite the centrality of the board's role, OMB reform remains a work in progress. The Bill 51 provisions that would limit rights to appeal, standing as parties and to introduce new evidence at OMB hearings are the subject of considerable controversy. The questions of the reform of OMB appointment process and intervener funding mechanisms for *bona fide* public-interest intervenors before the OMB remain unaddressed.

Bill 130 would amend the Municipal Act to give other municipalities most of the powers and duties given to the City of Toronto via the 2006 City of Toronto Act. There have been no initiatives on municipal election finance reform to date.

6. Conclusions and Recommendations

6.1. Land-Use Planning

The past 18 months have been a period of major activity on land-use planning. The Province has adopted a revised PPS under the Planning Act, adopted greenbelt and growth plans for the GGH and a revised Niagara Escarpment Plan. These initiatives have been generally consistent with smart growth principles, placing a strong emphasis on intensification, redevelopment, mixed use and the viability of non-automobile transportation options while limiting settlement area boundary expansions to the time of comprehensive OP reviews.

At the same time, however, provisions requiring municipalities to maintain continuous minimum supplies of land for development have been retained in the PPS and the primacy given to mineral aggregate development over other land uses reinforced. The protection of natural heritage and prime agricultural lands, except for specialty croplands, and protection outside of the greenbelt have only marginally improved.

The completion of further modifications to the Planning Act through Bill 51, particularly with respect to the regular review and updating of official plans, "complete" applications, and requiring that planning decisions be made on the basis of the policies in place on the day of decision provisions, will be essential to the implementation of the revised provincial policy framework. The adoption of source water protection legislation (Bill 43), including provisions regarding the conformity of provincial and local planning decisions and infrastructure initiatives with source water protection plans, will be critical to the integration of source water protection with the overall planning framework.

Recommendations:

1. The Province should proceed with the Bill 51 amendments to Planning Act regarding: OMB appeal restrictions regarding non-municipally initiated official plan amendments regarding settlement area boundaries, new areas of settlement, and second units; regular reviews of official plans; "complete" applications; enhanced public consultation on official plans; requiring that planning decisions be made on the basis of policies in place at the time of decision; conditional zoning; the minimum and maximum height and density of development; and the exterior and sustainable design of buildings.
2. The Province should proceed with Bill 43, the proposed Clean Water Act, including provisions requiring the conformity of provincial and local planning decisions and infrastructure initiatives with source water protection plans. Prescribed provincial approvals required to conform with source water plans should include licences issued under the Aggregate Resources Act.

As the cycle of provincial legislative and policy reform that began with the Oak Ridges Moraine Conservation Plan in 2001 approaches completion, the question of municipal implementation of provincial policy becomes crucial. In order to become operational, the new provincial policies need to be incorporated into municipal official plans, zoning bylaws, project specific approvals and infrastructure plans.

The burden placed on municipalities and conservation authorities by the Province's initiatives is substantial. Conformity amendments to official plans and supporting zoning bylaws and policies will be required in relation to the Growth Plan, the Greenbelt Plan, revised PPS (assuming Bill 51 is enacted) and source water protection plans (assuming Bill 43 is enacted). The direction of provincial policy will also need to be reflected in individual planning approvals and infrastructure initiatives. The capacity of municipalities and conservation authorities to undertake the information gathering, analysis and policy development and planning activities necessary carry through on these tasks without substantial provincial assistance and support is open to question.

In addition, some municipalities are already signaling their willingness to challenge provisions of the GGH greenbelt and growth plans. Furthermore, under the transitional provisions of the greenbelt plan, most development proposals in process prior to December 2004 may be able to proceed under pre-greenbelt planning policies, resulting in the urbanization of areas that are nominally part of the greenbelt. The failure to include key areas, such as southern Simcoe County, that are subject to intense development pressures, in the greenbelt plan, may also undermine the impact of the province's policy initiatives in terms of limiting urban sprawl and protecting key natural heritage and source water features in the GGH if these pressures are not effectively addressed in some way.

The role the Province intends to play in overseeing and supporting local implementation of its new and revised plans and policies is unclear. Experience with Oak Ridges Moraine Conservation Plan highlights the need for an active role on the part of the provincial government, through the provision of technical and policy support to local governments and active oversight and review of official plan conformity amendments, supporting policies and bylaws, and specific planning approvals.

Recommendations:

3. The Ministries of Municipal Affairs and Housing and Public Infrastructure Renewal should provide detailed guidance on the assessment of future development capacity and land requirements, particularly concerning the potential for redevelopment and intensification, and the use of designated growth areas, for the purposes of determining the need for settlement area boundary expansions under the PPS and the GGH Growth Plan. Provincial support and assistance to municipalities and conservation authorities should also be provided in the identification of natural heritage features and prime agricultural and source water related lands in relation to the revised PPS, GGH growth plan and source water protection planning. The Ministries of Natural Resources, Agriculture, Food and Rural Affairs and the Environment will have particularly important roles to play in this regard.
4. The province should take steps to ensure that conservation authorities have appropriate mandates and capacities to fulfil their explicit and implied roles and responsibilities in the implementation of source water protection plans, the revised PPS, and the GGH growth plan.
5. The Province should make clear its intention to play an active role in the review of conformity of municipal official plans and decisions with respect to the greenbelt and growth plans, revised PPS and source water protection plans, including a willingness to declare provincial interests and/or intervene before the OMB in relation to specific planning and development proposals as necessary.
6. The province should assess the impact of development projects affecting the greenbelt that may be advanced under the transitional provisions of the Greenbelt Act and plan, and develop a strategy to ensure that the integrity of the greenbelt is maintained in relation to such projects.
7. Bill 106, the Lake Simcoe Protection Act, should be adopted.

6.2. Governance

Substantial developments have occurred with respect to regional integration in the GGH and municipal governance. One of most notable developments has been the implicit assumption of a supra-regional planning role by Province in the GGH via the growth and greenbelt plans. This direction has been partially reversed by the creation of the GTTA, an inter-municipally constituted regional planning body, although the effectiveness of the authority remains an open question.

The Province has also taken steps to address functionality issues with City of Toronto, through the 2006 City of Toronto Act and is proposing to extend a similar framework, providing local greater control over governance structures and broad permissive authority with respect bylaws, to other municipalities via Bill 130. The November 2004 Bill 26 amendments to the Planning Act strengthened municipal control over the planning process, particular regarding settlement area boundary expansions. Bill 51 includes a number of complementary provisions regarding "complete" applications and removing the right of appeal to the OMB for non-municipally initiated proposals regarding settlement area boundaries and new areas of settlement.

Recommendations:

8. The Province should proceed with Bill 130, the Municipal Statute Law Amendment Act.

The reform of the OMB remains a key outstanding issue. The board is likely to play a central role in overseeing municipal implementation of the GGH growth and greenbelt plans and revised PPS. The provisions of

Bill 51 that would limit rights of appeal, party standing and ability to introduce new evidence at OMB hearings have been the subject of controversy. The proposed amendments are seen as potentially excessive in terms of their impact on the ability of community and public interest actors to participate in the OMB appeal process. The Bill 26 amendments to the Planning Act requiring OMB decisions to be consistent with provincial policy, limiting appeals of unwanted settlement area boundary expansions and other Bill 51 provisions regarding complete applications are seen to have the potential to address a number of problems with the existing OMB appeal process.

At the same time, there has been no movement on the reform of the OMB appointment process or on the establishment of an intervenor funding mechanism for *bona fide* public interest intervenors in OMB hearings.

Recommendations:

9. The Province should proceed with an amended version of Bill 51's provisions regarding the OMB appeal process, providing less restrictive leave tests for party status and the introduction of new evidence at OMB hearings rather than those proposed in the 1st reading version of the Bill.
10. The OMB appointments process should be reformed following the model established by former Attorney-General Ian Scott regarding provincial court appointments. In particular, there should be an open call for qualified applicants when there are openings on the board, as is the case with provincial court judges. A non-partisan, lay advisory committee should be established to review applications and present a short list of qualified candidates for the Attorney-General to choose from.
11. An intervenor funding mechanism for *bona fide* public interest intervenors in OMB hearings following the model of the *Intervenor Funding Project Act* should be established.

6.3. Fiscal and Taxation Issues

The Province's progress on infrastructure related and fiscal issues has been less substantial than that seen with respect to land-use planning and governance. The lack of progress in these areas represents a significant threat to the effectiveness of the Province's planning policy reforms. The need for smart growth planning policies to be accompanied by supportive fiscal and infrastructure policies in order to be effective is widely recognized. Redevelopment, intensification and increased transit use, will be difficult to achieve

if municipal revenue structures continue to provide incentives to approve greenfield development, and provincial infrastructure funding continues to support such development patterns.

The dedication of a portion of provincial gasoline tax revenues to municipalities for public transit purposes from October 2004 onwards has been an important step both in terms of transit funding and in widening the municipal revenue base. Unfortunately, beyond the gasoline tax revenue dedication, there has only been very minor progress, via the 2006 City of Toronto Act, on the issue of expanding the municipal revenue base to include forms of taxation beyond property taxes. There has been no progress on the reform of the development charges system or land transfer tax rebate program to support more sustainable patterns of urban development.

The property tax assessment freeze and review announced in June 2006 is related to management issues with Municipal Property Assessment Corporation and is not a more fundamental structural review of the role and structure of the property tax system and the incentives it provides municipalities and property owners regarding urban development. Similarly the provincial-municipal fiscal and services delivery review announced in August 2006 does not include consideration of how funding mechanisms could support more sustainable urban development and transportation patterns.

Recommendations:

12. The Development Charges Act should be amended to support the use of development charges to promote brownfields and greyfields redevelopment, including the adoption of additional charges on greenfields development to facilitate development-charges relief on intensification and redevelopment projects. More generally, the act should be amended to ensure that municipalities are able to recover the full range of infrastructure costs associated with new development.
13. The Land Transfer Tax Rebate Program should be reformed to provide incentives for intensification and redevelopment of existing urban areas rather than greenfields development.
14. The scope of the property tax and fiscal and services delivery reviews announced in the June and August 2006 should be expanded to include consideration of how the property tax and service delivery financing systems can be made supportive of more sustainable urban development and transportation patterns.

6.4. Infrastructure Planning and Funding

The Integration of infrastructure and land-use planning was a major goal of the GGH Growth Plan initiative. The actual results achieved so far have been mixed. In particular, road and highway planning by the Province remain poorly integrated with land-use planning. The issuance of a strategic highways plan for southern Ontario before the GTTA has an opportunity to develop a regional transportation plan would seem to undermine the possibility of the integration of transportation planning between road, transit and other forms of transportation.

Although provincial policy documents, including the five-year ReNew Ontario infrastructure initiative, include references to the GGH Growth Plan guiding provincial infrastructure investments in the region, formal mechanisms to tie provincial infrastructure initiatives and funding and financing for municipal initiatives to the plan's directions remain weak or non-existent. Recent provincial budgets have included large increases in provincial project-specific capital funding for transit projects, but there is a lack of clarity regarding what criteria are guiding provincial decision making in relation to these projects.

The June 2006 GGH Growth Plan attempts to begin to establish criteria for provincial funding in relation to public transit. However, much greater substantive and process clarity in the decision-making process with respect to provincial funding of major infrastructure projects are needed.

Recommendations:

15. The Ministry of Public Infrastructure Renewal and Infrastructure Ontario should establish clear criteria and processes for decision making regarding municipal requests for capital assistance with transit expansion projects and other major infrastructure projects. As recommended by the National Round Table on the Environment and Economy,¹ these criteria need to consider such factors as:
 - How the proposed infrastructure investment fits into a comprehensive, longer-term investment plan for improving urban environmental quality
 - How existing infrastructure capacities have been or will be fully exploited
 - How all options for jointly addressing infrastructure needs with surrounding municipalities or other relevant entities have been explored

and fully exploited

- How a comprehensive approach to managing the demand for the infrastructure has been taken (for example, for transportation infrastructure, a transportation demand management plan is required; for water-related projects, a metering program)
- That a range of alternative options for solving infrastructure needs—including other types of infrastructure—have been explored
- A quantification of the expected environmental improvements in terms of air, water or soil quality of the proposed project and the alternatives.

It has been widely recognized that the current provincial environmental assessment process for major infrastructure projects, particularly highways and sewer and water infrastructure, is failing to provide an effective vehicle for the assessment of the impacts of projects on future development and transportation patterns. The existing process also fails to provide mechanisms to address situations where the circumstances or policy framework related to a given undertaking changes significantly after the completion of the EA process. The changes to the environmental assessment process announced in June 2006 will not address these problems. Provisions of Bill 51, The Municipal and Conservation Land Statute Law Amendment Act, that would permit exemptions of energy-related infrastructure from the approval requirements of the Planning Act seem likely to further reduce the integration of large infrastructure projects with overall land-use planning policy.

Recommendations:

16. The Ministry of the Environment should ensure that the terms of reference for individual environmental assessments for major infrastructure projects such as new highway corridors or highway expansions or extensions require that the criteria for assessing alternative methods to address the need for undertakings include:
 - The impact of alternatives on future land-use patterns (induced development) and how this development would support or contradict regional and local land-use and growth management policies
 - A full assessment of the air quality impacts and greenhouse gas emissions associated with the alternative
 - The degree to which alternatives support existing federal, provincial and municipal air quality;

greenhouse gas reduction; public health; and land-use and transportation policies.

- The total financial, social, and environmental costs and benefits of alternatives

17. Mechanisms should be established to permit the review of environmental assessment approvals where substantial changes in the environmental or policy context within which projects were approved occur.
18. The environmental assessment of large infrastructure projects should occur on a whole project basis, rather than reliance on class environmental assessments of incremental project components.
19. The provisions of Bill 51 regarding the exemption of energy-related projects from Planning Act approvals should not be adopted.

6.5. Conclusions

Substantial progress has been made over the past few years in the alignment of provincial land-use planning policies with smart growth principles and to strengthen regional integration and municipal governance structures. However, the outcomes in terms of actually changing urban development patterns, particularly in the GGH, remain far from certain. The recent changes in provincial policy have yet to be substantially incorporated into municipal plans, much less reflected in actual planning and infrastructure decisions and the urban form that emerges as a result.

The process of the operationalization of the province's policy directions faces a number of significant barriers. These hurdles include the question of municipal and conservation authority capacity to carry out the required information gathering, analysis and policy development and planning activities, whether municipalities will effectively incorporate the province's directions into their own plans, the impact of the 'grandfathering' of most existing development applications under the new provincial policies and plans, and the issue of the likely usefulness of the Ontario Municipal Board (OMB) in ensuring municipal conformity with provincial policies and plans.

With the exception of the dedication of a portion of provincial gasoline tax revenues to public transit, the Province's re-engagement on land-use planning has not been matched by substantial initiatives on fiscal and taxation issues affecting urban development. The lack of movement on development charges and property tax reform, and the development of non-property tax, development charge and user fee municipal revenue sources, despite the clear commitments in the provincial government's 2003 election platform in these areas, is particularly noteworthy. The existing fiscal and taxation policy framework continues to present significant barriers and disincentives to the adoption of more sustainable urban development patterns.

Similarly, the integration of infrastructure planning and funding with land-use planning remains weak. Although substantial increases in project-specific provincial funding for public transit projects have occurred, the criteria guiding provincial decisions in this area are far from clear. Provincial road and highway planning remains poorly integrated with other transportation modes or overall regional planning. The environmental assessment process is continuing to fail to provide an effective vehicle for the consideration of the impacts of major infrastructure projects on future development and transportation patterns or environmental quality. These issues present major challenges in terms of policy coordination among provincial agencies. However these challenges will have to be overcome if significant changes in existing, unsustainable development and transportation patterns are to be achieved.

On the whole, the Province has made an important start through the land-use planning initiatives of the past few years. However, given the absence of a more complete package of reforms, more effectively integrating fiscal and infrastructure planning and financing issues with land-use planning it will be difficult to realize the changes in development and transportation patterns necessary to ensure a sustainable and prosperous future for the province's urban communities.

Appendix 1: Urban Sustainability and Smart Growth in Ontario – A Chronology

June 1992

Report of the Commission on Planning and Development Reform in Ontario. Report places strong emphasis on compact development, non-automobile transportation modes, preservation of prime agricultural land and ecologically significant areas.

March 1995

Amendments to the Planning Act adopted to implement Commission on Planning and Development reform recommendations. Complete set of provincial policy statements adopted.

March 1996

Adoption of Bill 20, the Land-Use Planning and Protection Act and adoption of new provincial policy statement. Key reforms flowing from Commission on Planning and Development Reform repealed.

May 1996

1996 Provincial Budget. Land Transfer Tax Rebate on purchases of newly built homes introduced.

January 1997

Mega-week announcements of restructuring of provincial-municipal relationship. Provincial capital and operating funding for public transit and sewer and water infrastructure terminated.

May 1997

Fair Municipal Finance Act introduced market value assessment. Includes provisions to reduce the property tax burden on farm, managed forest and conservation lands.

December 1997

Development Charges Act enacted. Legislation limits ability of municipalities to require that developers internalize the infrastructure costs for new developments through development charges.

January 1998

Forced amalgamation of the City of Toronto.

October 1998

Energy Competition Act enacted.

December 1998

Fairness to Property Taxpayers Act enacted. Introduces significant limitations on the ability of municipalities to set and modify property tax rates.

January 1999

Greater Toronto Area Services Board established to review and promote integration of public transit systems in the GTA.

December 1999

SuperBuild Corporation established with five-year mandate to achieve \$20 billion in infrastructure investments through provincial, broader public-sector and private-sector partnerships.

May 2000

2000/01 Provincial Budget. SuperBuild investments of \$1.049 billion in highways, \$62 million in “other transportation” announced.

January 2001

Greater Toronto Area Services Board disbanded.

Premier Harris makes speech to Ontario Real Estate Board, expressing concern over congestion and urban sprawl, and introducing the concept of smart growth.

April 2001

Province announces smart growth initiative. Key feature is regional multi-stakeholder smart growth panels. Central Region panel includes the GTA and Niagara Regions.

May 2001

Oak Ridges Moraine Protection Act enacted. Provides temporary restrictions on development on the Moraine.

2001/02 Provincial Budget. SuperBuild investments of \$906 million in highways, \$50 million in public transit announced.

July 2001

Five-year review of Provincial Policy Statement initiated. Public consultations end October 2001. No changes in Policy Statement to date.

September 2001

Announcement of new capital funding commitment for public transit of \$300 million per year over ten years.

November 2001

Brownfields Statute Law Amendment Act adopted. Addresses certain issues related to liability and financing of brownfields redevelopment.

December 2001

Revised Municipal Act adopted.

Oak Ridges Moraine Conservation Act enacted and plan adopted.

May 2002

Competitive electricity market introduced.

2002/03 Provincial Budget. SuperBuild investments of \$1.03 billion in highways, \$193 million in public transit announced.

August 2002

Interim Report of the Central Region Smart Growth Panel. Recognizes linkages between land use and transportation and between transportation and air quality.

November 2002

Competitive electricity market terminated.

December 2002

Sustainable Sewerage and Water System Act enacted.

Safe Drinking Water Act enacted.

February 2003

Release of Central Region Smart Growth Panel discussion paper, *Shape the Future*. Report highlights links between transportation and land use and the need to protect ecologically significant areas, but also emphasizes development of network of transportation “corridors” (i.e., highways).

March 2003

March 27: 2003/04 Provincial Budget. Budget includes \$1.055 billion for highway expansion, \$359 million for public transit.

April 2003

April 17: Central Region Smart Growth Panel releases final report, *Shape the Future*. Report highlights links between transportation and land use and the need to protect ecologically significant areas, but also emphasizes development of network of transportation “corridors” (i.e., highways).

April 21: Advisory Committee on Watershed-based Source Water Protection Planning tables report. Report follows up on recommendations of Part II of the Walkerton Inquiry regarding source water protection and makes strong connections between source water protection and land-use planning.

May 2003

May 5: Northwestern Ontario Smart Growth Panel releases final report.

May 7: Bill 25, the Smart Transportation Act, introduced. Legislation would permit Minister of Transportation to override municipal land-use planning decisions and the Environmental Assessment Act in the location of transportation infrastructure corridors (i.e., highways).

May 27: Northeastern Ontario Smart Growth Panel releases final report.

June 2003

June 4: Government announces transportation investments in Central Region. In addition to expansion of GO Transit service, the announcement highlights the government’s plans to construct a grid of highways across the Golden Horseshoe.

June 16: City of Burlington and Halton Region apply for judicial review of the environmental assessment of the proposed Mid-Peninsula Highway, stating that the terms of reference for the environmental assessment fail to consider alternatives to the highway or to review the highway’s full environmental impact.

June 18: Richmond Landfill decision by Ontario Divisional Court requiring that environmental assessments of projects under the Environmental Assessment Act include consideration of the need for projects and “alternatives to” projects. The decision

has major implications for the Province's highway expansion program, as environmental assessments for the new highways were proceeding without consideration of need and "alternatives to" (i.e., consideration of public transit and rail as alternatives to new highways).

June 27: In the face of public opposition, litigation by the City of Burlington and Halton Region, and the Richmond Landfill decision, the Ministry of Transportation withdraws the Terms of Reference for the environmental assessment of the Mid-Peninsula Highway for revision.

July 2003

July 3: Government announces renewable portfolio standard for renewable energy sources. Proportion of electricity from renewable sources is to rise from 1 per cent in 2006 to 8 per cent in 2014. No specific legislation or regulations to implement the standard were announced.

Formation of the Ontario Smart Growth Network.

September 2003

September 2: Provincial election called.

October 2003

October 2: New provincial government elected.

October 16: Premier-elect states intention to halt suburban development of key areas of the Oak Ridges Moraine.

October 23: New provincial government takes office. Ministry of Public Infrastructure Renewal created. Democratic Renewal Secretariat created.

November 2003

November 14: David Johnson replaced as OMB Chair.

November 21: Government withdraws from campaign commitment regarding housing on the Oak Ridges Moraine. Announces intention to proceed on broader Planning Act reforms.

December 2003

December 11: Canada-Ontario Agricultural Policy Framework Implementation Agreement announced.

December 15: Bill 26, the Strong Communities Act, introduced.

December 16: Bill 27, the Greenbelt Protection Act, introduced.

December 17: 2003 Economic Outlook and Fiscal Review by Minister of Finance. Commitment of portion of provincial gasoline tax revenues to public transit deferred.

February 2004

February 12: White Paper on Watershed-Based Source Water Protection White Paper released.

February 16: Greenbelt Task Force established.

February 27: Ministry of Public Infrastructure Renewal infrastructure's funding discussion paper released.

March 2004

March 15: Municipalities provided greater discretion regarding business property tax levels for the coming fiscal year.

March 31: Federal-provincial-City of Toronto TTC funding announced.

April 2004

April 21: Addition of 1,432 ha of provincial land to the Rouge Park.

April 28: Bill 27, the Greenbelt Protection Act, passes Second Reading.

April 30: Transfers of farms within families exempted from Land Transfer Tax.

May 2004

May 6: Federal-provincial-municipal and rural infrastructure letter of intent announced.

May 7: Federal-provincial-municipal GO Transit funding announced.

May 13: Bill 26, the Strong Communities Act, passes Second Reading.

May 14: Federal-provincial-Ottawa light rail transit funding announced.

May 17: Greenbelt Task Force discussion paper released.

May 18: 2004 Provincial Budget. Budget includes commitment of portion of provincial gasoline tax revenues to public transit, increase in public transit capital funding and increase in the Ministry of Environment and Ministry of Natural Resources capital and operating budgets for drinking water and source water protection initiatives. Funding levels for highway expansion consistent with previous years.

June 2004

June 1: Draft revised Provincial Policy Statement and discussion papers on broader Planning Act reform and OMB reform released.

June 10: Bill 27, the Greenbelt Protection Act, reported out of committee.

June 17: Adoption of brownfields cleanup regulations announced.

June 22: Municipal Act review initiated by Ministry of Municipal Affairs.

June 23: Draft Drinking Water Sources Protection Act placed on Environmental Bill of Rights registry for public comment.

June 24: Bill 27, the Greenbelt Protection Act, enacted.
Review of provincial environmental assessment process announced.

July 2004

July 12: Release of first draft growth plan for the Greater Golden Horseshoe

October 2004

October 1: Regulation providing liability relief for brownfields redevelopment comes into force.

October 22: Government announces distribution formula for portion of gasoline tax revenue to be dedicated to public transit.

October 28: Bill 135, the Greenbelt Act, introduced.
Bill 136, the Places to Grow Act, introduced.

November 2004:

November 17: \$12.5 million funding for conservation authorities announced to support source water protection background studies.

November 30: Bill 26, the Strong Communities Act, receives Royal Assent.

December 2004

December 8: Greenbelt Protection Act planning freeze extended to March 2005.

December 14: Revised Water Taking and Transfer Regulation announced. Source water protection technical and implementation committee reports released.

January 2005

January 14: Draft terms of reference for environmental assessment for “Niagara to GTA” corridor (i.e., the mid-peninsula highway) released.

January 17: Ministry of Environment approves terms of reference for environmental assessment of 407 east extension.

Ministry of Public Infrastructure Renewal publishes background papers on GGH growth management.

February 2005

February 16: Second Draft GGH Growth Management Plan released.

February 21: Revised Provincial Policy Statement Released.

February 24: Bill 135 the Greenbelt Act receives Royal Assent.

February 28: Final Greenbelt Plan released.

March 2005

March 1: Revised Provincial Policy Statement comes into force.

March 10: Simcoe County Intergovernmental Action Plan announced regarding growth management.

April 2005

April 5: Release of the report of the Minister’s Environmental Assessment Advisory Panel.

May 2005

May 25: Renew Ontario Infrastructure Plan Announced

- States \$3.1 billion in direct provincial investment in transit over the next five years in addition to gas tax revenue stream.

- Highways: States government will proceed with engineering planning and property acquisition for new routes, including extensions of existing 400-series highways as well as the development of new corridors. Planning is underway for new corridors including the Niagara to GTA corridor, the completion of highway 407 East and extensions of Highways 404 and 427.

June 2005

June 2: Greenbelt Council Appointed.

June 9: revised Niagara Escarpment Plan released.

June 13: Bill 136, the Places to Grow Act, receives Royal Assent.

June 13: Bill 186, Regional Municipality of Peel Act, receives Royal Assent. Provides cities of Brampton and Mississauga additional seats on Peel Regional council.

June 16: Greenbelt Foundation established by the Province with \$25 million endowment.

June 17: Federal, Ontario, City of Toronto and AMO agreement announced on allocation of federal gas tax revenues to municipalities.

July 2005:

July 15 Proposed Central Pickering (Seaton Lands) Development Plan released.

July 22: Water strategy expert panel report issued.

August 2005

August 11: Office of the Provincial Development Facilitator established by Ministry of Public Infrastructure Renewal.

October 2005

October 1: Requirements for owners of brownfield sites to file records of site conditions when property use is changed to more sensitive uses, and increased consultation requirements around risk based remediation strategies.

October 15: Speech from the Throne. References to

- Modifications to EA progress
- Source water protection legislation
- Bob Hunter memorial park
- ReNew Ontario
- GTTA
- City of Toronto Act

October 28: Draft terms of reference for environmental assessment of the Niagara to GTA corridor (Mid-peninsula highway) released.

November 2005

November 1: Terms of Reference for Environmental Assessment of 427 Transportation Corridor (south of greenbelt).

November 7: Ontario Infrastructure Projects Corporation (Infrastructure Ontario) established. Government indicates intention to introduce legislation to give Infrastructure Ontario responsibility for overseeing OSIFA. Infrastructure Ontario board appointed as board of directors of OSFIA. Infrastructure Ontario also to oversee implementation of infrastructure projects that use alternative financing and procurement (AFP) methods.

November 14: Ontario/Toronto Task Force on City of Toronto Act and other legislation tables final report.

November 15: York Region holdback on pooled social services costs¹

November 18: Private prosecution of York Region under the Fisheries Act in relation to the big-pipe project stayed by federal department of Justice²

November 24: Final Draft Growth Plan for the GGH released.

November 29: \$16.5 million funding announced for conservation authority capacity building for source water protection planning work. \$51 million over five years for technical studies in support of source protection planning also announced.

December 2005

December 5: Bill 43, Clean Water Act (Source water protection legislation), introduced.

December 12: Bill 51, the Planning and Conservation Land Statute Law Amendment Act, 2006 introduced.

Bill 37 Respect for Municipalities Act enacted. Removes requirement for referendum before legislation providing municipalities with the authority to change tax rates or levy new taxes is introduced.

December 14: Bill 53, City of Toronto Act, 2005 Introduced.

December 15: Bill 16, the Duffin-Rouge Agricultural Preserve Act adopted. The legislation ensures that all existing conservation easements in the Preserve are held in perpetuity, and reinstates easements previously held by the City of Pickering.

January 2006

MTO initiates discussions with municipalities re: GTA East-West Corridor.

February 2006

February 3: Rouge River headwaters in Richmond Hill added to Greenbelt via amendment to the Greenbelt Transition Regulation.

February 10: OSIFA opens continuous call for applications.

February 15: Ministry of Environment excludes the Boyd Conservation Area as a possible route to address transportation problems in the Pine Valley Corridor.³

Six Nations occupation of Caledonia subdivision site begins.

March 2006

March 23: 2006 Provincial Budget Tabled
Move Ontario: \$1.2 billion one time investment in transportation infrastructure projects.

- \$838 million for GTA
 - \$670 million for York Subway
 - \$95 million Brampton transit
 - \$65 million Mississauga transit
 - \$25 million Go
 - \$7 million York Region for transit planning
 - \$ 1 million Scarborough Transit replacement EA
 - Also references to \$200 million for TTC operations over 2 years – not in budget
- \$400 million for municipalities outside of GTA for roads
- Also includes funding for
 - 404 to Ravenshoe Rd
 - 417 EA in Vaughn
 - 410 extension to join Highway 10 in Brampton
- Partial upload of public- and land-ambulance costs to the Province
- References to tax increment financing being permitted by municipalities.

April 2006

April 6: Province grants certificates of approval for Big Pipe 19th Avenue link in York Region

April 10: : Bill 53, City of Toronto Act, 2005 passes second reading.

April 24: Bill 104 Legislation to create Greater Toronto Transportation Authority (GTTA) introduced.

April 25: Bill 106, Lake Simcoe Protection Act introduced as a private member's bill.

April 26: Bill 51, Planning and Conservation Land Statute Law Amendment Act, 2006 passes second reading.

May 2006

May 2: Federal Budget Tabled. Continues gas tax transfer (\$400 million/yr), plus \$900 million over three years for transit (p115), contingent on federal surplus for 05/06 being over \$2 billion. Adds \$2 billion to the Canada Strategic Infrastructure Fund (p118), and tax credit for public transit passes (p116).

May 4: Province announces final Central Pickering (Seaton) Development Plan.

May 10: Durham regional council votes to request removal of 1,400 hectares from the Golden Horseshoe Greenbelt.

May 17: MTO announcement of \$1.4 billion for highway improvement projects (including 9-km 410 extension to Highway 10).

June 2006

June 6: Changes to environmental assessment process announced. Focus on "streamlining" approvals for energy, waste and transit projects (references to class EA for transit projects but no details).

June 12: Bill 53, The City of Toronto Act, 2005 receives Third Reading and Royal Assent.

June 15: Bill 130, Municipal Statute Law Amendment Act introduced. Amends Municipal Act to replacing prescribed, or very specific, powers with broad permissive powers for municipal governments, extends many of the powers provided to the City of Toronto via Bill 53, to other municipalities.

June 16: GGH Growth Plan released
MTO Southern Ontario Highways Program 2006-2010 released. Includes Highway 410, 427, 407 and 404 extensions and references to Niagara to GTA and GTA West Corridors.

June 22: Bill 104, The Greater Toronto Transportation Authority Act receives Third Reading and Royal Assent. Bill was amended at committee stage to include references to reducing transportation-

related emissions of smog precursors and greenhouse gases as goals of the regional transportation plan to be developed by the Authority.

June 30: Two-year freeze on property tax assessments and review of MPAC announced.

August 2006

August 14: Review of provincial municipal fiscal and service delivery announced.

Appendix 2: National Round Table on Environment and Economy Infrastructure Funding Criteria¹

In March 2003 the National Round Table on the Environment and Economy published a major report on environmental quality in Canadian cities. One of the major issues addressed in the report was how senior (i.e. federal and provincial) levels of government approached the issue of providing funding for infrastructure to municipal governments.

The Round Table recommended that existing ad hoc approaches to decision-making regarding infrastructure support be replaced with a criteria based approach, which also placed a strong emphasis on ensuring the environmental and economic sustainability of funded projects.

The Round Table's key recommendations are reproduced here, as they provide a potential guide for the types of criteria the Province of Ontario should employ in making infrastructure funding decisions.

Supporting the Use of Urban Transit

Recommendation 4:

This investment should target growing urban regions where there are opportunities to discourage land use that does not support transit and to significantly increase the net number of transit riders. Federal funding should be allocated according to a basic yet effective set of criteria, such that project proponents:

- a) show how the proposed transit investment fits into a comprehensive, longer-term plan to support transit ridership and, specifically, increase the share of trips taken by urban transit;
- b) estimate the net number of new transit riders who will be attracted from cars as a result of the investment;
- c) indicate how the attractiveness of transit will be improved relative to the automobile (e.g., traveller cost, travel times, convenience);
- d) quantify investment in transit versus investment in automobile-related travel;
- e) document a comprehensive approach to achieving land use patterns that will support transit ridership, including area-wide planning policies; transit node and corridor-specific land use poli-

cies; and area-wide, transit node and corridor-specific municipal pricing policies (e.g., development charges, property taxes, user fees);

- f) create a transportation demand management plan;
- g) quantify the net cost of the investment per new transit rider;
- h) indicate the financial contributions and roles of other partners, including provincial and municipal governments, other agencies, and the private sector;
- i) document the environmental and economic benefits of the investment (e.g., reductions in greenhouse gas emissions, road infrastructure investments averted, congestion costs averted); and
- j) monitor the results (e.g., actual net number of new transit riders, development in identified transit nodes and corridors).

Promoting Sustainable Infrastructure

Recommendation 6:

That the granting of federal infrastructure funding be subject to a practical, performance-based set of criteria that ensures funded projects make substantial contributions to improved environmental quality in a cost-effective manner.

Proponents should be required to submit a Sustainable Community Investment Plan, outlining the needs to be addressed by the infrastructure investment and demonstrating:

- a) how the proposed infrastructure investment fits into a comprehensive, longer-term investment plan for improving urban environmental quality;
- b) how existing infrastructure capacities have been or will be fully exploited;
- c) how all options for jointly addressing infrastructure needs with surrounding municipalities or other relevant entities have been explored and fully exploited;
- d) a comprehensive approach to managing the demand for the infrastructure (for example, for transportation infrastructure, a transportation demand management plan is required; for water-

-
- related projects, a metering program);
 - e) that a range of alternative options for solving infrastructure needs—including other types of infrastructure—have been explored;
 - f) a life-cycle costing analysis of the proposed project and alternatives;
 - g) financial contributions and roles of other partners, including provincial government, municipal government, other agencies and the private sector; and
 - h) a quantification of the expected environmental improvements in terms of air, water or soil quality of the proposed project and the alternatives.

Endnotes

Executive Summary

1 National Round Table on the Environment and Economy, 2003, Environmental Quality in Canadian Cities: The Federal Role (Ottawa NRTEE) Recommendation 6.

Section 1

- 1 M. Winfield, *Smart Growth in Ontario: The Promise vs. Provincial Performance* (Ottawa: Pembina Institute, February 2003).
- 2 www.ontarionature.org/home/sprawl.html.
- 3 See, for example, TD Economics, *The Greater Toronto Area (GTA): Canada's Primary Economic Locomotive in Need of Repairs*. (Toronto: TD Bank Group, May 2002)
- 4 See, for example, E. Slack, *Municipal Finance and the Pattern of Urban Growth* (Toronto: C.D. Howe Institute, February 2002).
- 5 Defined as the region bounded by Kitchener-Waterloo in the west, Peterborough in the east, Barrie in the north and Fort Erie in the south.
- 6 Provincial energy policies have been subsequently addressed in a separate report series by the Pembina Institute.
- 7 See M. Winfield, *Smart Growth in Ontario: A Provincial Progress Report on Smart Growth and Urban Sprawl* (Ottawa: The Pembina Institute, August 2003).
See www.pembina.org/publications_item.asp?id=159.
- 8 See M. Winfield, *Building Sustainable Urban Communities in Ontario: Overcoming the Barriers* (Ottawa: The Pembina Institute, December 2003).
- 9 See M. Winfield, *Building Sustainable Urban Communities in Ontario: Towards Implementation* (Ottawa: Pembina Institute, June 2004).
- 10 M. Winfield, *Building Sustainable Urban Communities in Ontario: A Provincial Progress Report* (Toronto: Pembina Institute, June 2005).
- 11 Ontario Liberal Party, *Growing Strong Communities: The Ontario Liberal Plan for Clean, Safe Communities that Work* (Toronto: Ontario Liberal Party, 2003).
- 12 Statistics Canada, 2001 Census Analysis Series—*A Profile of the Canadian Population: Where We Live* (Ottawa: Statistics Canada, March 2002).
- 13 Ministry of Finance, *Ontario Budget 2004: Paper B: Ontario's Economy* (Toronto: Ministry of Finance, 2004), p.95.
- 14 For a detailed discussion of the evolution of development patterns in the region see P. Blais et al., *Inching Towards Sustainability: The Evolving Urban Structure of the GTA* (Toronto: Neptis Foundation, March 2000).
- 15 York Region, *Official Plan Consolidation* (2002), p.36.
- 16 York Region, *Transportation Master Plan* (2002), p.23-4.
- 17 Defined as per the definition of the "Golden Horseshoe" above.
- 18 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).
- 19 See for example, E. Slack, L. S. Bourne, and M. S. Gertler, *Vibrant Cities and City-Regions: Responding to Emerging Challenges*, (Paper prepared for the Panel on the Role of Government, Government of Ontario, August 2003).

- 20 See, for example, TD Economics, *The Greater Toronto Area (GTA): Canada's Primary Economic Locomotive in Need of Repairs*.
- 21 See, for example, E. Slack, *Municipal Finance and the Pattern of Urban Growth*.
- 22 See, for example, the Ontario Smart Growth Network at www.greenontario.org/smartgrowth/.
- 23 Central Ontario Smart Growth Panel, *Shape the Future: Final Report* (Toronto: Ministry of Municipal Affairs, 2003).
- 24 Adapted from T. Litman, *Evaluating Criticism of Smart Growth*, (Victoria: Victoria Transport Policy Institute, 2003) Table 2.
- 25 T. Litman, *Evaluating Criticism of Smart Growth* p.9.
- 26 Adapted from T. Litman, *Evaluating Criticism of Smart Growth*, Table 2.

Section 2

- 1 United Nations Education, Social and Cultural Organization.
- 2 See for example, Canadian Environmental Law Association, Pembina Institute and Ontario Smart Growth Network, "Smart transportation bill anything but 'smart,'" *Media Release*, June 2, 2003. See also L. Birnbaum, L. Nicolet and Z. Taylor, *Simcoe County: The New Growth Frontier* (Toronto: Neptis Foundation, May 2004).
- 3 Ontario Liberal Party, *Growing Strong Communities*.
- 4 See, L. Ferenc, "Close-up: the big pipe," *Toronto Star*, January 3, 2004.
- 5 Gail Swaison, "Big pipe green light draws fire," *Toronto Star*, April 7, 2006.
- 6 Ministry of the Environment, "Environmental Assessment Improvements Will Protect the Environment: Save Time and Money," *News Release*, June 6, 2006.
- 7 Ministry of Public Infrastructure Renewal, *Growth Plan for the Greater Golden Horseshoe* (Toronto: MPIR, 2006).
- 8 See, for example, the initial discussion paper released by MPIR, *Places to Grow: Better Choices, Brighter Future* (Toronto: Summer 2004).
- 9 For a detailed analysis of the final GGH Growth Plan see M. Winfield, *Analysis of Final Greater Golden Horseshoe Growth Plan* (Toronto: Pembina Institute, July 2006).
- 10 See generally, *Commentary on the Ontario Government's Proposed Growth Plan for the Greater Golden Horseshoe*, (Toronto: Neptis Foundation, March 2006).
- 11 Ontario Regulation 311/06.
- 12 The Greenbelt Act, 2005, Section 7(3).
- 13 See Government of Ontario, *ReNew Ontario 2005-2010 Strategic Highlights* (Toronto: May 2005) pg.3.
- 14 Ministry of Finance, *Ontario Budgets 1999-2006*.
- 15 Ministry of Transportation "McGuinty Government Makes Record Investment To Improve Highways," *News Release*, May 17, 2005.
- 16 Ministry of Transportation, *Southern Ontario Strategic Highways Program 2006-2010*, June 2006.
- 17 The GTTA is discussed in detail in section 5.
- 18 See *The Greater Toronto Transportation Authority Act*, 2006, s.5.
- 19 See, for example, J. Spears, "Subway wars," *The Toronto Star*, December 12, 2005.

- 20 See generally, Ministry of Public Infrastructure Renewal, *Building a Better Tomorrow* (Toronto: July 2004).
- 21 See Bill 81, *The Budget Measures Act, 2006 Schedule I (Ontario Strategic Infrastructure Projects Corporation Act, 2006)*.
- 22 See the *Canada-Ontario-Association of Municipalities of Ontario-City of Toronto Agreement for the Transfer of Federal Gas Tax Revenues under the New Deal for Cities and Communities* (June 17, 2005).
- 23 See, for example, R.Tomalty *Submission to the Ontario Ministry of the Environment regarding the Draft Environmental Assessment Terms of Reference for the Niagara to GTA Corridor* (Toronto: Pembina Institute, October 2005).
- 24 The handling of extensions York-Durham Sewer System ('the big pipe') under a class environmental assessment often cited as an example of this problem.

Section 3.1

- 1 M. Winfield and G. Jenish, *Ontario's Environment and the 'Common Sense Revolution: A Four-Year Report* (Toronto: Canadian Institute for Environmental Law and Policy, 1999) pp.2–37.
- 2 Justice Dennis O'Connor, *Report of the Walkerton Inquiry: Part II* (Toronto: Queen's Printer, 2002), Chapter 4.

Table 6

- 1 Ontario Liberal Party, *Growing Strong Communities*.
- 2 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, ss.8., 14, and 21.
- 3 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, s.10.
- 4 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, s.7.
- 5 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, s.12.
- 6 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, ss.14 and 15.
- 7 Bill 51, The Planning Law and Conservation Land Statute Law Amendment Act, 2005, s.23.
- 8 Ministry of Municipal Affairs and Housing, *2005 Provincial Policy Statement* (Toronto: February 2005).
- 9 Ministry of Municipal Affairs, *Provincial Policy Statement (March 2005)* s.1.1.3.
- 10 Ministry of Municipal Affairs, *Provincial Policy Statement (March 2005)*, s.1.4.
- 11 For a detailed critique of the Greenbelt Plan see T.Coombs, *Neptis Commentary on the Draft Greenbelt Plan* (Toronto: Neptis Foundation, January 2005)
- 12 Ministry of Public Infrastructure, *Places to Grow* (June 2006), s.2.2.8.
- 13 Ministry of the Environment, *White Paper on Watershed-Based Source Protection Planning* (Toronto: Queen's Printer, February 2004).
- 14 EBR Registry No.AA04E0002 June 23, 2004.
- 15 Implementation Committee, 2004. *Watershed Based Source Water Protection: Implementation Committee Report to the Minister of the Environment* (Toronto: Ministry of the Environment); Technical Experts Committee. 2004. *Science Based Decision-Making for Protecting Ontario's Drinking Water Resources: A Threats Assessment Framework* (Toronto: Ministry of the Environment).

Section 3.2, 3.3

- 1 Bill 51, Planning and Conservation Land Statute Law Amendment Act, 2005, s.10.
- 2 Bill 51, s.4.
- 3 See for example, Ministry of Municipal Affairs, *Provincial Policy Statement* (March 2006), s.1.1.3., MPIR, *Places to Grow* (June 2006), s.2.2.3.
- 4 PPS, (March 2005) s.1.1.3.9.; *Places to Grow* (June 2006), s.2.2.8.
- 5 PPS (March 2005) s.1.4.1.; *Places to Grow* (June 2006), 2.2.8.
- 6 For a detailed critique of the Greenbelt Plan see T.Coombs, *Neptis Commentary on the Draft Greenbelt Plan* (Toronto: Neptis Foundation, January 2005).
- 7 Ministry of Municipal Affairs, "Province Helps Simcoe County Plan for the Future" *News Release*, March 10, 2005. See Ian McInroy, "Barrie a natural growth centre," *The Barrie Examiner*, July 27, 2006.
- 8 See Ian McInroy, "Barrie a natural growth centre," *The Barrie Examiner*, July 27, 2006.
- 9 Lake Simcoe Region Conservation Authority and Nottawasaga River Conservation Authority, *Assimilative Capacity Studies to the Lake Simcoe Watershed and Nottawasaga River: Executive Summary* (July 2006).
- 10 Bill 106, the Lake Simcoe Protection Act.
- 11 PPS (March 2005), s.2.3.5.
- 12 PPS (March 2005), s.2.5.
- 13 *Places to Grow* (June 2006), 4.2.3.
- 14 S.Josey, "Durham wants less greenbelt," *The Toronto Star*, May 11, 2006.
- 15 The project is a collaboration between Citizens' Environment Watch, the University of Waterloo's Centre for Community Mapping and the Save the Oak Ridges Moraine Coalition.
- 16 Citizen's Environment Watch, Centre for Community Mapping and STORM Coalition, *Monitoring the Moraine: Status Report on the Implementation of the Oak Ridges Moraine Conservation Plan: Implications for the Greenbelt Plan* (Toronto: June 2006).
- 17 Ministry of Municipal Affairs and Housing, "McGuinty Government Enhances Greenbelt Legacy," *News Release*, June 16, 2005.
- 18 Ministry of Municipal Affairs and Housing, "Ontario Government Permanently Protects Crucial Headwaters in Rouge River Watershed," *News Release*, February 3, 2006.
- 19 *The Greenbelt Act*, 2005, s.24.
- 20 *Places to Grow*, Policy.2.2.9.3.

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- 1 See, for example, E. Slack, *Municipal Finance and the Pattern of Urban Growth*.
- 2 See, for example, the *Development Charges Act, 1998*.
- 3 See, for example, M. Winfield and G. Jenish, *Ontario's Environment and the 'Common Sense Revolution: A Four Year Report*, 2–39. See also National Round Table on Environment and Economy, *State of the Debate: Environmental Quality in Canadian Cities: The Federal Role* (Ottawa: National Round Table on Environment and Economy, 2003), 25.
- 4 National Round Table on Environment and Economy, *State of the Debate: Environmental Quality in Canadian Cities*, 24.

Table 7

- 1 Ontario Liberal Party, *Growing Strong Communities*.
- 2 Ministry of Public Infrastructure Renewal, 2004. *Places to Grow: A Growth Plan for the Greater Golden Horseshoe*, pg.51.
- 3 Ministry of Public Infrastructure Renewal, 2005. *Places to Grow: Draft Growth Plan for the Greater Golden Horseshoe*, s.6.7.
- 4 K.Howlett, "Ontario moves to ease property tax furor," *The Globe and Mail*, June 30, 2006.
- 5 Ministry of Public Infrastructure Renewal, 2004. *Places to Grow: A Growth Plan for the Greater Golden Horseshoe*, pg.51.
- 6 Ministry of Public Infrastructure Renewal, 2005. *Places to Grow: Draft Growth Plan for the Greater Golden Horseshoe*, s.6.7.
- 7 *City of Toronto Act, 2006*, s.262.
- 8 Ontario Ministry of Finance, 2006 *Ontario Budget: Budget Papers*, pg.147.
- 9 Ontario Ministry of Finance, 2006 *Ontario Budget: Budget Papers*, pg.146.
- 10 Office of the Premier, "Premier Launches Review to Strengthen Communities" *News Release*, August 14, 2006.
- 11 K.Howlett, "Ontario moves to ease property tax furor," *The Globe and Mail*, June 30, 2006.
- 12 R. Mackie, "Ontario considers toll superhighways to ease congestion," *Globe and Mail*, March 12, 2004.

Section 4.2

- 1 See D.Siegel, "Urban Finance at the Turn of the Century," in D.Siegel and E.Fowler, *Urban Policy Issues: Canadian Perspectives* (Toronto: Oxford University Press, 2002), pp.44-45.
- 2 Ministry of Finance, 2006 *Ontario Budget: Budget Paper B* (Toronto: March 2006) pg.146.
- 3 *City of Toronto Act, 2006*, s.262.
- 4 *The Municipal Statute Law Amendment Act, 2006*.
- 5 Ministry of Finance, "Ontario cancels property tax reassessments for 2006 and 2007," *News Release*, June 29, 2006.
- 6 Office of the Premier, "Premier Launches Review to Strengthen Communities" *News Release*, August 14, 2006.

Section 5

- 1 See, for example, K.McGran, "Brampton adding fuel to bus plan," *The Toronto Star*, November 7, 2005.
- 2 MTO, *Southern Ontario Strategic Highways Program 2006-2010*.
- 3 "Overbearing OMB needs reigning in," *Toronto Star*, Ontario 20, 2003.
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- 5 See M.Winfield, *Comments on Bill 51: The Planning and Conservation Land Statute Law Amendment Act, 2005* (Toronto: Pembina Institute, February 2006) for a detailed discussion of the bill's provisions.
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Table 8

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- 4 Bill 51, *Planning and Conservation Land Statute Law Amendment Act, 2005*, s.4.
- 5 Bill 51, *Planning and Conservation Land Statute Law Amendment Act, 2005*, s.6.

Section 6

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Appendix 1

- 1 G.Swainson, "York snubs nose at province," *The Toronto Star* November 15, 2005.
- 2 M. Funston, "Big pipe opponents dealt new blow" *Toronto Star*, November 19, 2005.
- 3 Ministry of the Environment, "Ontario Government Rules Out Road Through Boyd Conservation Area," *News Release*, February 15, 2006.

Appendix 2

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