



November 25, 2004

Ms. Barbara Konyi
Manager-Planning Systems
Prov. Planning & Environmental Services Branch
777 Bay Street, 14th Floor
Toronto, Ontario, M5G 2E5

Dear Ms. Konyi:

Re: EBR Posting AF04E0001
Bill 135 - *Greenbelt Act*, 2004

Planning and Economic Development Committee of the Regional Municipality of York will consider a Report, December 1, 2004 providing comments on both Bill 135 - *Greenbelt Act*, 2004 and the Greenbelt Draft Plan.

However, in order to meet the Province's deadline for comments on the *Greenbelt Act*, 2004, we are providing staff comments to you in advance of Committee and Council consideration of the Report. Council may add to these recommendations on the Act. Comments on the Greenbelt Plan will be forwarded after the Council meeting on December 16, 2004.

Many of the provisions of the *Greenbelt Act*, 2004 are similar to those contained in the *Oak Ridges Moraine Conservation, Act 2001*, and acceptable to the Region, however, there are four main issue areas for Regional staff within the legislation:

- Municipal Plan Conformity under Section 9
- Limitations of Liability under Section 19
- Transition Provisions under Section 24
- Greenbelt Plan Amendments

Each of these issues is discussed below with Recommendations provided for the Province.

Municipal Plan Conformity

Under the current proposed legislative provisions of the proposed *Greenbelt Act*, municipal plans will be brought into conformity with the Greenbelt Plan during the statutory five-year required by the *Planning Act*. The 5-year review provisions of the *Planning Act* require municipalities to give public notice of the review, examine their official plans to determine whether amendments are required and if so to proceed through public review, statutory meetings and decision by the Planning Authority. Decisions may be appealed to the Ontario Municipal Board.

Regional staff sees several difficulties with this approach. Firstly, the Greenbelt Plan is one of three important Provincial initiatives that must be incorporated into upper and lower tier official plans in order to provide a comprehensive framework for environmental protection and growth management in south-central Ontario. The first of these initiatives was the Oak Ridges Moraine Conservation Plan (ORMCP) which was incorporated through an amendment approved by the Minister of Municipal Affairs and Housing whose decision was without appeal. The Greenbelt Plan and the Growth Management Plan for the Greater Golden Horseshoe are the second and third initiatives. If the Province is serious in having the Greenbelt Plan become a permanent element in south central Ontario then it should first, establish a time deadline for adoption of municipal planning conformity amendments similar to that used in the ORMCP exercise and secondly ensure that decisions on such amendments by the approval authority cannot be appealed to the Ontario Municipal Board.

An adoption deadline provides certainty, maintains momentum and ensures implementation of the Greenbelt Plan in a timely fashion. Regional staff suggests an upper tier deadline of 3 years from the approval of the Greenbelt Plan and all regulations and technical guidelines required for interpretation and a lower tier deadline for adoption of 4 years.

Further, decisions by the approval authority should not be subject to appeal to the Ontario Municipal Board. Under the current process, not only would the Region and area municipalities be obligated to defend the Province's Greenbelt Plan at the Board but the costs for such hearings would be borne by the taxpayers of this Region. More importantly, appeals of this nature may result in significant delays in implementing the Province's Greenbelt Plan, and decisions by the OMB regarding Regional or area municipal OPAs could undermine the intent and purpose of the Province's Plan. This is unacceptable.

Regional staff therefore recommends:

- 1. That Bill 135 be amended to provide a deadline for adoption of conformity amendments of approximately 3 years for upper tier plans and 4 years from lower tier plans; and,*
- 2. That Bill 135 be amended to provide an amendment approval process similar to that used in the ORMCP exercise, i.e. that the Province approves municipal amendments to bring their official plans into conformity, with the Ministerial decision not subject to appeal to the OMB.*

Limitations or Remedies

Section 19 of the Act provides protection from actions against "persons" enacting (or repealing) the provisions of the *Greenbelt Act*, regulations or Plan. The definition of "person" contained in section 19(7) includes, but is not limited to, the Crown, a member of the Executive Council, an employee of the Crown, an agent of the Crown and an employee or agent of municipalities. The legislation however, does not extend this protection to members of Regional and municipal Councils.

Regional staff therefore recommends:

3. ***That Clause 19(7) of Bill 135 be amended to extend protection from liability to members of Municipal Councils in the same manner as Executive Council.***

Transition Provisions

The Transition Provisions Section 24 of the proposed *Greenbelt Act* are very similar to those contained in the *Oak Ridges Moraine Conservation Act, 2001* as amended. Essentially if applications were commenced (and there are different definitions for commencement depending on whether the application was municipally initiated or applied for externally) the application may proceed. The Minister has the ability to make regulations which would identify which sections of the Greenbelt Plan commenced applications would be required to satisfy, but no regulations have been identified at this time. Applications commenced after December 16, 2004, must comply with the Plan in all respects.

It is therefore imperative that there be a full understanding of transition applications currently outstanding at the Regional and local level in order to determine their impact on the Plan, and further that the Province decide, before Plan approval, whether it intends to proceed with prescribed provisions to assist in determining transition status.

Regional staff therefore recommends:

4. ***That the Province prescribe provisions relating to transition applications (Sections 6 and 22) before the Greenbelt Plan is approved to assist municipalities processing applications currently in progress.***

Amendments to the Greenbelt Plan

As the Act and the Greenbelt Draft Plan are currently written, only the Minister of Municipal Affairs may propose amendments to the Greenbelt Plan. The proposed *Greenbelt Act, 2004* establishes the consultation procedures for such amendments and requires that the Minister consult with local Councils and other prescribed persons or public body's and may accept submissions on the amendment. Other than the requirement to consult, there is no provisions which would require the consent of municipalities before an Amendment is approved. Since the Greenbelt Plan is an important structural element in future planning in south central Ontario, and amendments to the Greenbelt Plan may have Regional and local consequences, the Province may wish to consider modifying Bill 135 to require a resolution agreeing to the Amendment from at least the upper tier Council in the Region or County where the amendment is proposed, before an amendment is approved

Regional staff therefore recommends:

5. ***The Province consider modifying Bill 135 to require a resolution agreeing to the Amendment from at least the upper tier Council in the Region or County where the amendment is proposed, before an amendment is approved***

I trust these comments will assist the Province and look forward to the approval of this Act. In the interim, should you have any questions, please contact Barbara Jeffrey, Principal Planner at 905-895-1231, extn 1526. Barbara's Email address is barb.jeffrey@region.york.on.ca

Sincerely,

A handwritten signature in black ink, appearing to read "JB Waller". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John B. Waller, M.C.I.P., R.P.P.
Director, Long Range and Strategic Planning
Regional Municipality of York

BJ/bj