



**FRIENDS OF RURAL COMMUNITIES & THE ENVIRONMENT  
(FORCE)**

**SUBMISSION TO THE MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING RE: EBR REGISTRY NO. PF04E0006  
– THE DRAFT GREENBELT PLAN**

DECEMBER 18, 2004

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## **INTRODUCTION**

Friends of Rural Communities and the Environment (FORCE) thank the Ministry of Municipal Affairs and Housing for the opportunity to input to this next stage of the Greenbelt Plan's development through the draft Greenbelt Plan regarding protection of a permanent Greenbelt in the Golden Horseshoe. FORCE has also commented on the proposed legislation – Bill 135 and related policies. Those comments are reattached as Appendix A of this submission.

We welcome, as well, the government's corollary initiatives to establish stronger provincial direction in policies and procedures through the Strong Communities Act, its draft Provincial Policy Statement, proposed Source Water Protection legislation, and the proposed Growth Management Act and Plan. Each of these individually and collectively will work to promote more compact urban growth in order to protect and conserve our drinking water and natural heritage features. The release of the Greenbelt legislation and Plan is an important first step towards more sustainable urban development patterns in this region.

## **FRIENDS OF RURAL COMMUNITIES AND THE ENVIRONMENT (FORCE)**

Friends of Rural Communities and the Environment (FORCE) is a federally registered not for profit corporation. It is a citizen-based advocacy group with hundreds of supporters in Campbellville, Kilbride, rural Milton, Mountsberg, Freelon, and Carlisle. FORCE was formed in June 2004 to protect our natural and built environments in the face of a proposed large-scale, below the established groundwater table, aggregate development in the Northeast Flamborough portion of the amalgamated City of Hamilton. We note upfront that our organization is not anti-aggregate nor anti-road; indeed, our area is home to some of Ontario and Canada's largest aggregate operations. We do, however, have significant issues with the current application in its proposed location for substantive reasons. We also believe that our organization has a responsibility to promote good government in the area and in the provincial arena and ergo, we have a responsibility to input to the broader planning reform processes which bear upon the approvals process for development proposals such as the one before our communities. As such, FORCE is a member of the Ontario Greenbelt Alliance and supports its efforts regarding the Greenbelt.

## **FORCE APPLAUDS THE GREENBELT INITIATIVE**

FORCE supports the permanent Greenbelt initiative and applauds the long term vision demonstrated by the Province. Permanent Greenbelt protection is long overdue and it is not just about the preservation of agricultural lands and natural features. It is about our health and providing a sustainable economy for the long term. Protecting the remaining interconnected green spaces is an important legacy for us, for our children and for their children.

FORCE supports the permanent Greenbelt initiative even though it is not a "slam dunk" win for our communities with respect to the aggregate development that we are facing. Aggregate development is still permitted within the Greenbelt but we understand and recognize that aggregate is a necessary resource for our homes, roads, and public institutions. The Greenbelt legislation and plan is

important, however, as an approval procedure umbrella and because of the message it sends from the entire government about “ecology first”. Similarly, the proposed Growth Management Act carries an important section prioritizing environmental protection and human health when there is a land use conflict. The increased protection for sensitive watersheds, provincially significant wetlands, significant woodlots, and other natural heritage features in the Greenbelt Plan is very positive. FORCE looks forward to working with the Province, our area municipal partners, and other stakeholders to implement the Greenbelt vision locally.

## **LOCAL ISSUE IS A MICROCOSM OF LARGER PROVINCIAL INTERESTS**

The approval process for the proposed aggregate development by Lowndes Holdings and its concomitant issues and implications are a microcosm of the larger provincial interests which need to be reconciled in the Greater Golden Horseshoe. The initiative is also the first Greenfield aggregate proposal within the Greenbelt, with a significant proposed footprint as the 8<sup>th</sup> largest aggregate operation in the country in terms of proposed annual production, and should be subject to the new planning regime being established by this government. Specifically:

- The affected communities fall within the Golden Horseshoe Greenbelt Plan – as part of the proposed “Natural Heritage System” in the “protected countryside” – and within the draft Growth Management Plan for the Greater Golden Horseshoe
- Groundwater quantity and quality are already significant issues in our communities
- Our aquifers exist in a fractured & solid shale environment as opposed to a moraine environment
- A number of significant natural features face development pressures on the site and adjacent properties, including Provincially significant wetlands, Bronte Creek and its tributaries, significant woodlots/environmentally sensitive areas, and significant habitats (such as to the threatened Jefferson salamander and deer wintering areas)
- Three residential subdivisions abut the proposed development, there are numerous homes on the adjacent concessions and roads and the rural settlement areas of Carlisle, Kilbride and Campbellville are within 3 kilometres
- Schools and community centres operate as close as one concession away
- An active and viable agricultural economy exists on the concession and for many kilometres around
- Upper and lower tier Official Plans designate and Zoning By-laws zone the land for agriculture and conservation management and note the incompatibility of the area with future aggregate development
- Appendices to the Official Plans identified sand and gravel mineral potential as opposed to hard rock quarry
- An active file proposal is for a below the established groundwater table aggregate development – OPA and zoning by law amendment requests were submitted to the City of Hamilton in late September 2004
- There are conflicting provincial and local interests and incompatible land use issues.

As noted above, FORCE feels a responsibility to input to broader provincial policy development not only to address our local issue but in order to establish a better approach for development approvals processes in the future.

## **INSTRUMENT PRIMACY**

There are conflicting references within the draft Greenbelt Plan and legislation – Bill 135 – to which Acts, Plans, policies and regulations have relative primacy over the others when there is a conflict in application. *The Greenbelt legislation and Plan need to clarify relative primacy and ensure consistency across all sections/provisions.*

## **SOURCE WATER PROTECTION POLICIES (Sections 3.2.3 and 3.2.4)**

The Natural Heritage System component of the Greenbelt importantly includes a water resource system whose geography is identified in section 3.2.1. Development or site alteration is not to be permitted within key hydrologic or natural heritage features as per section 3.2.4. One hundred twenty metre vegetative protective zones are to be required around hydrologic features, such as provincially significant wetlands. *These provisions are significantly stronger than the draft Provincial Policy Statement released in June 2004 and FORCE believes that they provide the basis for strengthening that document before its final release.* Further, a number of specific water resource system policies are referenced in section 3.2.3 – with specific attention to development of watershed plans and the protection of well head areas and inherently susceptible aquifer areas. Here the policies are “expected” or “encouraged” as opposed to “required” as we anticipate with the pending source water protection legislation. *These water resource system policies – notably the protection of well head areas and inherently susceptible aquifer areas - should be required.* Consistency among government policies such as the Greenbelt Plan, the PPS, and the source water protection legislation will be important on a go-forward basis.

## **NATURAL RESOURCES POLICIES – NON-RENEWABLE RESOURCES (Section 4.3.2)**

Aggregate extraction remains permissible within the Greenbelt and within its Natural Heritage System – with the exception of provincially significant wetlands, significant habitat of threatened or endangered species, and significant woodlands (subject to certain conditions). As noted above, FORCE is not anti-aggregate nor anti-road – we do understand and accept the need for aggregate for our homes, roads and institutions. We do, however, have substantive concerns with a specific application in a specific location. *FORCE supports the increased protections afforded provincially significant wetlands, significant habitat of threatened or endangered species, and significant woodlands. FORCE supports protection of key natural heritage and hydrologic features of the Greenbelt from aggregate development.* We note that the source water protection policies in section 3.2.4 refer to prohibitions from development and site alteration for key hydrologic features such as wetlands, streams, seepage areas and springs. *The source water protection section’s prohibitions should be explicitly restated in 4.3.2.* Unlike the draft Growth Management Plan, *the draft Greenbelt Plan makes no reference to development of a 3Rs strategy for aggregate materials and support for compact forms of urban development to reduce aggregate demand. FORCE stands by its earlier comments to MMAH regarding the draft PPS along with the need for corollary policies for the Ministry of Natural Resources to optimize management of existing licenses and the aggregate resource overall.* A number of key organizations, including the Niagara Escarpment Commission staff and the Pembina Institute, have called for reference to the establishment of need for aggregate operations and for the updating of documentation on the status of and demand for aggregate in the province. *Need justification seems especially relevant within the Greenbelt Natural Heritage System for*

*proposed Greenfield operations* – there is no shortage of aggregate rock within the Province; rather, it is a social, economic and environmental trade-off as to where the government sanctions aggregate extraction. Again, consistency among government policies such as the Growth Management Plan, the PPS, and the Greenbelt Plan will be important on a go-forward basis. While necessary, it must be recognized that aggregate development has a significant impact footprint and, once established, expansions are common, making this “temporary” intrusion onto the Greenbelt’s features one that will last for fifty years to a century, often with unremediable impacts, in cases below the established water table.

## **STATUS AND EFFECT OF THE GREENBELT PLAN (Section 5.1)**

The proposed Greenbelt Plan would apply to decisions on applications made under the *Planning Act*, *Condominium Act*, and *Ontario Planning and Development Act* made on or after December 16, 2004. Given the Province’s signal to protect the Greenbelt permanently as of December 2003 and now the delay in passage of Bill 135 until March 2005, transition provisions are even more necessary. Please see Appendix A for FORCE’s recommendations regarding Bill 135. Suffice it to say that *decisions on applications which would have a significant impact on the hydrological and ecological integrity of the Greenbelt, even if submitted before December 16, 2004, should be made on the basis of the Greenbelt Plan and other rules in place at the time of the final decision on the application.*

## **MUNICIPAL IMPLEMENTATION OF THE PROTECTED COUNTRYSIDE POLICIES (Section 5.2)**

As noted with respect to the source water protection section 3.2.3, *municipalities should be required rather than encouraged to map well head protection areas and inherently susceptible aquifer areas and to adopt policies for the protection of these areas within their Official Plans.*

## **ADOPTION OF MORE RESTRICTIVE/PROTECTIVE POLICIES**

The draft Greenbelt Plan prohibits municipalities from adopting Official Plans or Zoning By-laws that are more restrictive on agricultural activities or mineral aggregate resources than the provisions of the draft Plan. Such an approach fails to consider the potential need for policies that are more protective of communities, natural heritage features, source waters/susceptible aquifers, and public health than the draft Greenbelt Plan, where local conditions warrant a more protective approach. An example is in the City of Hamilton where the Carlisle well head areas and sensitive recharge areas warrant protection, especially since new and expanded lake-based water systems are prohibited by the draft Greenbelt Plan. *FORCE believes that the Greenbelt Plan should permit municipalities to adopt more stringent OPA and zoning policies than those specified in the Plan or at a minimum should establish mechanisms to permit same where local conditions warrant.*

## **PLAN AMENDMENTS, PERFORMANCE MONITORING, AND ADVISORY COUNCIL**

The ecological and hydrological integrity of the Greenbelt in terms of both structure and function should be paramount. *FORCE supports the recommendations of the Pembina Institute with respect to a process for Plan amendments, performance monitoring, and role for the Greenbelt Advisory Council.*

## **CONCLUSION**

FORCE believes that the consistency and Plan issues noted above, along with the areas for suggested improvement, are necessary to ensure, rather than undermine, the government's important directions in terms of permanent Greenbelt protection, source water protection, growth management, viable agriculture and rural strategy, and planning reform.

## **THANK YOU**

FORCE again respectfully appreciates the opportunity to input to the Ministry on the draft Greenbelt Plan. We have submitted selected comments with respect to the proposed legislation – Bill 135 - prior to its deadline as well. We look forward to further discussion and to the government's response to comments submitted by stakeholders.

## APPENDIX A

### FORCE COMMENTS RE: BILL 135

#### **CONFORMITY OF PROVINCIAL AND MUNICIPAL DECISIONS WITH THE GREENBELT PLAN (SECTION 7)**

Provincially initiated or financed undertakings, as well as municipal projects, may have significant implications for the integrity of the Greenbelt as well. Bill 135 should be expanded to address this consideration. Approvals and decisions granted under legislation such as the following should be captured by the Greenbelt Plan:

- *Ontario Water Resources Act*
- *Environmental Protection Act*
- *Aggregate Resources Act*
- *Mining Act*
- *Public Lands Act*
- *Drainage Act and*
- *Environmental Assessment Act.*

#### **TRANSITION ISSUES**

Given the constructive submissions of the Alliance partners which address other germane issues, the FORCE submission will focus mainly on how the Greenbelt will be applied.

It is important to remember that the Minister issued a Zoning Order and introduced then Bill 27 – creating the Greenbelt area for *protected* study – in December 2003. These two instruments created the development moratorium in effect until December 2004. Ideally, the Greenbelt should be considered to exist as of December 2003.

It is understandable that a “clean, go-forward” policy might be desirable for the Province. This is easy to apply to “urban use” applications in rural areas, especially residential development, since these are already prohibited until after December 16, 2004 by the existing Greenbelt legislation.

The transition from the existing legislation to Bill 135 lacks consistency and coherence, however, if significant applications which would materially impact the integrity of the Greenbelt, even if they are for rural uses, are allowed to proceed through the approvals process outside of the Greenbelt Plan and its related policy umbrella. In effect, significant “footprint” applications would be exempt from the Greenbelt Plan. FORCE believes that the Province needs to recognize that there are some “rural use” applications that will have significant impact on the Greenbelt and should be subject to its higher standards – especially those relating to hydrological and ecological integrity – as part of the approvals process and as part of the operating conditions, should they receive affirmative decisions.

As an example, the aggregate development proposal in our area was submitted in late September 2004, just 3 months prior to December 16, 2004. Its companion reports are preliminary but the application for OPA and zoning by law amendment are technically submitted and on active file with

with the City of Hamilton. The specific lands are within the Greenbelt, within the protected countryside, and within the natural heritage system lands. There are significant hydrological and ecological issues. FORCE's expectation, given the Province's commitment to the permanent Greenbelt legacy, is that the Greenbelt legislation, plan and policies will apply to the approvals process for the first "Greenfield" aggregate proposal in this area for decades. It is a proposal of significant scope and scale with annual production targeting some 3 million tonnes – which would place it as the 8<sup>th</sup> largest aggregate development, of any kind, in Canada and the 7<sup>th</sup> largest limestone development. FORCE is not asking for the outcome to be predetermined; we are asking that in these types of cases, that the Greenbelt legislation, plan and policy be the standard for the approvals process. The planning regime of the previous government is not a high enough standard for this government's legacy policy.

## TRANSITION OPTIONS

There are several options to make transition between the existing Greenbelt legislation and Bill 135 work. MMAH staff may develop any number of approaches. FORCE simply tables the following for consideration and to begin the exercise:

### 1. Possible Amendments to Bill 135

1. amend section 24(4)(b) and (d) to "raise the bar" such that the time of commencement for a request for OPA or zoning by law amendment is **not** simply on the day the request is received, including those requested on or before December 16, 2004, but rather when a municipal council decision is made or similar
2. amend section 24(4)(b) and (d) as per above but narrow its breadth to apply to applications submitted between December 16, 2003 and December 16, 2004
3. amend section 24(4)(b) and (d) as per above but further narrow the breadth to apply to significant applications, such as for Industrial/Industrial Extractive amendment, and/or specify reference to such applications involving sensitive watersheds and significant natural heritage features (i.e. provincially significant wetlands, significant woodlots, and endangered/threatened species)

OR

- ### 2. Possible Prescription Regulations (Please note that it has been suggested to us by legal counsel that to exercise such regulations as per section 24(3) of Bill 135 may still require date amendment to sections 22-24 in order to permit application – although section 24(3) appears to permit such retroactivity)
1. implement a General Prescription Regulation as per section 24(3) of Bill 135. An example for reference would be the Oak Ridges Moraine prescription regulation. The intent would be to apply the Plan and its policies to applications, matters or proceedings commenced before December 16, 2004 that involve sensitive hydrogeology and natural heritage features
  2. implement a Specific Prescription Regulation as per section 24(3) of Bill 135. In this case, one or a series of specified applications, matters or proceedings would be listed (such as the Lowndes Holdings' application for OPA and zoning by law amendment before the City of Hamilton) such that they would be prescribed to conform to the policies (or specified policies) of the Greenbelt Plan