



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

**WRITTEN SUBMISSION TO THE ONTARIO LEGISLATIVE
STANDING COMMITTEE ON GENERAL GOVERNMENT RE:
BILL 135, THE PROPOSED GREENBELT ACT**

FEBRUARY 1, 2005

INTRODUCTION

Friends of Rural Communities and the Environment (FORCE) thank the Standing Committee on General Government for the opportunity to input to this next stage of the Greenbelt Plan's development through the proposed legislation regarding protection of a permanent Greenbelt in the Golden Horseshoe. FORCE made a similar submission to the Ministry of Municipal Affairs and Housing regarding the Bill and also commented on the draft Greenbelt Plan and related policies.

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 Places to Grow Act and its companion 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 has supported its efforts and constructive feedback regarding the proposed Greenbelt.

Two of the overriding themes behind our comments are "*Ecology or Conservation First*" and *Certainty*. We can look to the conservation community for the "Ecology or Conservation First" Principle: there should be no new or expanded development uses until a network of protected areas is reserved which adequately represents the natural regions affected by that future development. The Greenbelt Act and Plan are an effort to achieve this principle. Certainty is the second principle – certainty, in our case, for the Aggregate industry, Certainty for the Municipalities charged with implementing Provincial Policies and Procedures locally, and Certainty for the residents who make the decision to call these Communities home for their families and their businesses and are then impacted by the uncertainty of proposed developments and land use changes. An effective Greenbelt Act, Greenbelt Plan, and transition provisions can provide greater certainty for all.

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 Places to Grow 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 8th 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. Our specific comments on Bill 135 are found below.

MORE ENVIRONMENTALLY PROTECTIVE PLAN TO PREVAIL

There is a clear primacy clause for environmental protection and public health when land use conflicts occur in the Places to Grow legislation (section 14(4)). Reflecting an “ecology first” orientation, sections 4, 8, 20, and 22 in Bill 135 should be supplemented similarly. FORCE also supports allowing municipal Official Plans and by-laws which strengthen protection for natural heritage features, notably those which are central to the hydrological and ecological integrity of the Greenbelt.

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 March 2005 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 (the original expiry date for the existing Greenbelt Study Area legislation). Its companion reports are preliminary but the application for OPA and zoning by law amendment are technically submitted and on active file 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 8th largest aggregate development, of any kind, in Canada and the 7th 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 a Greenbelt legacy policy.

TRANSITION OPTIONS

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

1. Possible Amendments to Bill 135

1. amend sections 22-24 to have the legislation effective December 16, 2003 (in essence to overlap the previous study area legislation) when the Greenbelt first became protected
2. 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 passage of Bill 135 in March 2005, but rather when a municipal council decision is made or similar

3. amend section 24(4)(b) and (d) as per above but narrow its breadth to apply to applications submitted between December 16, 2003 and the Bill's passage
4. 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 the Bill's passage 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 that involve sensitive hydrogeology and natural heritage features, 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

CONCLUSION

With the above noted changes, FORCE feels that the legislation can fairly deal with these transitional land use applications - applications which have the potential to significantly impact the Greenbelt Landscape. Failing to apply the Greenbelt standards to these applications, in our opinion, would see the government failing in the first tests of commitment to this legislation – and failing to uphold the principles of ecology/conservation first and certainty.

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

THANK YOU

FORCE again respectfully appreciates the opportunity to input to the Standing Committee on General Government on the proposed Greenbelt legislation. We look forward to further discussion and to the government's response to comments submitted by stakeholders.

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