



October 31, 2016

Land Use Planning Review
Ministry of Municipal Affairs and Housing
Ontario Growth Secretariat
777 Bay Street, Suite 425 (4th Floor)
Toronto, ON M5G 2E5

RE: Oak Ridges Moraine Foundation Comments in Response to the Co-ordinated Review of the Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan (EBR Notice #s: 012-7194, 012-7195, 012-7197 & 012-7228)

The Board of Directors of the Oak Ridges Moraine Foundation (ORMF) is pleased to provide the following comments on the “Coordinated Land Use Planning Review” and Proposed Amendments. We are also pleased to have been included throughout the entire review process, including meetings with members of the Advisory Panel, participation in many of the Town Hall Meetings and the submission of specific recommendations and input highlighting the importance of the Oak Ridges Moraine as a distinct natural area. This submission has been created in consultation between the ORMF Board of Directors and several of our key partners.

As a trusted partner to the province since the inception of the Oak Ridges Moraine Conservation Plan, the ORMF allocated the province’s initial investment of \$14.1 million and in the process was able to leverage an additional \$35.8 million in investment from community partners – providing nearly \$50 million in investments in the moraine. In all, 177 projects in the areas of land securement, land stewardship, education, research and support were funded – all directly benefitting the Oak Ridges Moraine. We continue to believe strongly in the strengthening of the Oak Ridges Moraine Conservation Plan as it ensures the ecological and hydrological features and functions of the moraine remain protected, secured and enhanced for future generations and we hope to play a leading role in the renewed success of the plan and its implementation.

We believe that the review process was a thorough and productive process and the result is a set of well-aligned draft policies that take a bioregional approach, integrating watershed planning principles and Great Lakes strategies and an overall vision that will assist the province in meeting its critical climate change mitigation goals.

Although we are generally pleased with the proposed amendments, there are a number of key areas where we believe they need to be more specific, where language needs to be strengthened and where additional emphasis needs to be placed. We have outlined these considerations below:

Improved Implementation Tools

We believe that the Province should consider expanding the range of tools that can be used to support the implementation of the plans objectives.

These tools could include:

- investment in and filling gaps in environmental monitoring and reporting e.g., to continue and expand upon the Conservation Authorities Moraine Coalition's (CAMC) *Report Card on the Environmental Health of the ORM and Adjacent Greenbelt Lands* which examined the ecological and hydrological health of the 80 sub-watersheds originating on the Oak Ridges Moraine
- provincial funding support for private land stewardship, securement of priority lands, targeted restoration works and Environmental Farm Plans
- increased tools and requirement for, and implementation and enforcement of, municipal by-laws under the Municipal Act (tree conservation, fill control, erosion and sediment controls)
- investment in improvement and restoration of natural heritage systems, surface water quality, aquatic habitat and resilience to climate change impacts

Movement and Management of Excess Fill

We would like to underline our support for the draft plan's recognition of the need for proper management of excess soil (fill).

We support a strong policy framework for the management of excess fill, including legislative and regulatory oversight by the province in addition to the best management practices recommended in the proposed key changes issued by the province. However, the proposed policies for large-scale fill sites are general and high-level.

It is suggested that reference be made within these plans to the Province's concurrent efforts to develop an Excess Soil Management Policy Framework which should provide guidance to municipalities on how to address excess soil from source to receiving site. The Province is commended for its efforts to manage fill from source to receiving site through its Excess Soil Management Policy Framework, however the proposed amendments to these plans do not include sufficient strength to make that happen. The Province is encouraged to include a reference to the future legislative obligations to proponents under the Excess Soil Management Policy Framework and regulations. For example, within the proposed Policy Framework, a new Regulation to control the management of fill at source sites is being recommended and we strongly support that as a key oversight tool for the province, municipalities and conservation authorities.

In addition to fill, we are equally concerned with the unregulated dumping of sludge material in core and linkage areas and appeal to the province to ensure that the plans reinforce the prohibition of this activity.

A general strengthening of the policies is required. For example, section 4.2.9.3 b should be amended to note that excess soil will not be permitted in key natural heritage features and key hydrologic features. Fill placement in the areas adjacent to these features should also be discouraged.

Further direction will be required in order to put these proposals into effect. Overall, given the potential negative impacts on natural features and hazards that may result from large-scale fill, policy language should be strengthened to require best practices to sustainably manage excess soil.

Green Energy Legislation and EPA Regulation Conflicts

Currently, the Green Energy legislation and EPA Regulation 359/09 facilitate renewable energy projects (i.e. wind and solar projects) in conflict with the natural resource protection and enhancement principles contained in the ORMCP. Renewable energy projects are being approved on the ORM without full or proper natural heritage, water and hydrogeological assessment reports. Municipalities and Conservation Authorities are limited in the scope of their authority to challenge or regulate the location and implementation of these projects. The projects are pitting rural communities and residents against renewable energy proponents. The Green Energy legislation and EPA Regulation impose an unfair burden of proof and costs of demonstrating “will cause irreparable harm” on local residents. As already demonstrated through decisions of the Environmental Review Tribunal and Divisional Court, projects are being approved in the face of overwhelming public and agency opposition and notwithstanding comprehensive expert submissions demonstrating irreparable harm. The proposed inclusion of “electric generation facilities and electricity transmission and distribution systems” within the definition of “infrastructure” under Section 41.(1)(f) of the ORCMP will further exacerbate the current conflict.

Given the sensitivities of the landscape found on the Oak Ridges Moraine, it is recommended that the definition of “infrastructure” found within Section 41 of the ORMCP be amended to remove items related to energy, including 41 (1) (c) “gas and oil pipelines and associated facilities and (f) “electric generation facilities and electricity transmission and distribution systems”. The requirement under Section 41 (2) (a) to demonstrate need and that there is no reasonable alternative should be given legislative regard by infrastructure ministries and related legislation.

The ORMCP should prohibit renewable energy projects in natural core and natural linkage areas. Period.

In Countryside areas, the ORMCP should contain more detailed policies related to Renewable Energy projects (i.e. wind and solar farms) that require conforming to the key natural heritage/hydrologic features protection requirements and an evaluation of cumulative impacts of the surface and groundwater systems of the ORM. There should also be standards for conducting the Water Assessment reports component of the REA application that includes specific requirements for detailed hydrogeological assessments. Furthermore, policies need to be developed to ensure renewable energy infrastructure installations fully comply with the protection policies in the plans and are monitored by the province.

Ecological Integrity and the Weakening of Protection of Endangered Species

Under the guise of bringing policies for species at risk into closer alignment with the PPS 2014 and the Endangered Species Act, 2007 (ESA), the government is proposing changes that will significantly weaken

protections for the habitat of species at risk under the Greenbelt Plan (GP), the Oak Ridges Moraine Conservation Plan (ORMCP) and, to some degree, the Niagara Escarpment Plan (NEP). Simply put, this proposed alignment means that ESA permits and exemptions for activities that harm species at risk and their habitats will trump land use planning decisions on development and site alteration in the GP and ORMCP areas. It also means the removal of protections for species at risk from harmful activities on lands adjacent to their habitats in the GP and ORMCP areas. Finally, it means the narrowing of the scope of protections to the habitats of endangered and threatened species only – current protections for the habitats of special concern (GP, NEP) and rare (ORMCP, NEP) species will be removed.

The ESA permitting process was never designed to take the place of land use planning. ESA permit applications are not reviewed through the lens of what the most appropriate land use designation is. Rather, they address a technical consideration – is the development proponent able to create an overall benefit to the species? If so, the permit is granted. The proposed alignment with the ESA is based on the faulty premise that ESA permits can serve as a surrogate for the consideration of species at risk habitat in land use decision-making.

In contrast, land use planning is fundamentally a values-based exercise. It is about determining what is the best use of the land – what activities should be allowed to occur where. With respect to the three provincial land use plans, they were designed to prioritize the protection of species at risk, and even rare species in the case of the ORMCP and the NEP, over other land uses. Yet, under the proposed regime, once an ESA permit is granted or an exemption is registered development will be able to proceed, except within Escarpment Natural Areas and Escarpment Protection Areas.

Further, the new ESA exemptions approved in 2013 have dramatically weakened protections for species at risk built into the permitting process and the overall benefit standard has been replaced by a requirement to minimize harm. Hundreds of development proposals have since proceeded through exemptions, circumventing the permitting process, with no information about the types or locations of the activities or the species affected publicly available. On March 3, 2016, Ontario Nature learned that as of that date there were 1299 registered exemptions under the ESA. In response to our request for further details, ministry staff told us that: “Any additional requests would need to be submitted via the formal Freedom of Information and Protection of Privacy Act (FIPPA) process.”

Recognition of First Nations within the Plans

We also look forward to improved acknowledgement of First Nations within the plans and encourage ongoing consultation with First Nations peoples who possess unique traditional knowledge of the traditional territories covered by the plans.

Conclusion

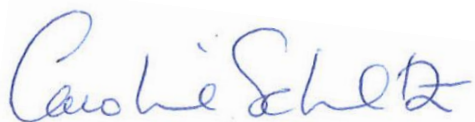
We continue to believe it is in the best interest of the Ontario Government and the people of Ontario to ensure the successful implementation of the ORMCP to sustain and enhance the Moraine’s critical ecological and hydrological functions and, while doing so, reinforce a clear focus on the geological, ecological, recreational, social and economic attributes of the Oak Ridges Moraine as a distinct entity. We also believe that a strengthened ORMCP is consistent with many aspects of the Province’s mandate, including our commitment to ensure clean water, air and land for Ontarians, to mitigate climate change and its effects and to support a strong biodiversity strategy.

We believe strongly in the important ecological and hydrological role that the Oak Ridges Moraine plays in Ontario, not only for the conservation and stewardship of source waters and biodiversity for southern Ontario but also for the broader role that it plays in improving human health in the region. As such, we see renewed opportunities within the context of the coordinated plans to revisit the potential UNESCO designation of the Oak Ridges Moraine as a biosphere reserve – a natural complement to the status already achieved by the Niagara Escarpment.

As a trusted partner to the province, with extensive longstanding relationships on the moraine, and an unbiased, non-partisan approach, we believe that the ORMF is well-positioned to partner with the province in the next critical phase - implementation of the plans. Our proven model for the management of provincial funding to critical programs on the moraine and the exponentiation of that funding through partnerships has been exceptionally successful in ensuring that every tax-payer dollar works hard to meet the goals of the plans. We look forward to the opportunity to speak with Provincial Ministers and their staffs about the potential for funding to the Oak Ridges Moraine Foundation to research and develop approaches to implementation and monitoring of the plans, once they are finalized.

Thank you for the opportunity to provide comments on the “Co-ordinated Land Use Planning Review” of the Growth Plan for Greater Golden Horseshoe, Greenbelt Plan, Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan. The Oak Ridges Moraine Foundation is strongly supportive of the continued implementation of these plans and looks forward to a continued dialogue as the Province completes its ten year review. Should you have any questions about this letter, please contact our Chair Caroline Schultz at carolines@ontarionature.org and 416-444-8419 ext. 237.

Sincerely,



Caroline Schultz, Chair
Oak Ridges Moraine Foundation

On behalf of the members of the Board of Directors,
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