



311 George St. N. Suite 200
Peterborough, ON K9J 3H3
T 705.876.8340 | F 705.742.8343
www.ecovueconsulting.com

February 28, 2019

Ontario Growth Secretariat, Ministry of Municipal Affairs
777 Bay Street
c/o Business Management Division, 17th floor
Toronto ON M5G 2E5
Canada

Attn: Charles O'Hara

RE: Environmental Registry of Ontario
Comments Regarding Proposed Changes to Growth Plan Related Policy and Regulations

Dear Mr. O'Hara

On January 15, 2019, the Minister of Municipal Affairs announced the first draft of Amendment No.1 to the Growth Plan for the Greater Golden Horseshoe. Also announced were proposed modifications to O. Reg 311/06 (Transitional Matters – Growth Plan) and modifications to O. Reg 525/97 (Exemption from Approval – Official Plan Amendments).

The Ministry of Municipal Affairs prefaces their introduction to the proposed amendment by explaining that the changes *“reflect some of the specific solutions discussed in these working groups and stakeholder forum, while some of the other ideas raised during those sessions will take additional time to address.”* The Minister is now seeking input regarding the proposed changes.

Having participated in the process thus far, it is our sense is that the Ministry is honestly seeking input and that Ministry staff are actively listening to the responses they receive. Based on the proposed changes to the legislation, it seems that there is a real commitment on the part of the Ministry to address the many issues arising from the enactment of 2017 Growth Plan on July 1, 2017 and the Natural Heritage System and Agricultural System mapping in February of 2018.

We continue to encourage the Minister to make changes to those Growth Plan policies that currently place rural communities in northern and eastern areas of the Outer Ring at an economic disadvantage.



Typically, these communities face low-growth, no-growth or negative population growth (decline) and depressed economies. This is not the reality the Growth Plan was intended to address. Although the changes proposed to date are positive, there are several specific issues which continue to place unreasonable limits on economic development within those areas where limited or no-growth scenarios characterize rural communities. Those who are willing to invest in these communities continue to be thwarted in their efforts. The main issue is that the policies of the Growth Plan are intended to direct development away from rural areas. Yet, rural areas, like their urban counterparts, require economic development in order to survive. Areas which are not suitable for intense agricultural production have few opportunities for the financial investment necessary to sustain existing service levels.

1. Recognition for Challenges Facing Rural Areas in the Outer Ring

It would be our preference to see the Outer Ring communities removed from the jurisdiction of the Growth Plan. It is our opinion that the policies of the PPS are sufficient to effectively manage development in settlement areas, to support economic sustainability in rural areas and to ensure the wise use of resources across this part of the Province, while protecting natural heritage, clean water and public safety.

The 2014 Provincial Policy Statement vastly improved the policy framework applicable to rural areas of the Province. As land use planners providing professional planning services to rural municipalities and the private sector in communities to the north and east of the GTA and Greenbelt, we embraced these changes. The Provincial Policy Statement recognizes the diversity of Ontario and acknowledges that not all policies will be applicable to every site, feature or area. The Introductory section of the 2014 PPS includes a section entitled *Geographic Scale of Policies*. This section explains that the PPS policies are “*outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld*”. The Section acknowledges that the PPS policies apply at a range of geographic scales. Some of the policies refer to specific areas or features and can only be applied where these features or areas exist. Other policies refer to planning objectives that need to be considered in the context of the municipality or planning area as a whole, and are not necessarily applicable to a specific site or development proposal

Part IV of the PPS states that:

Ontario is a vast province with diverse urban, rural and northern communities which may face different challenges related to diversity in population, economic activity, pace of



growth and physical and natural conditions. Some areas face challenges related to maintaining population and diversifying their economy, while other areas face challenges related to accommodating and managing the development and population growth which is occurring, while protecting important resources and the quality of the natural environment.

Regrettably, the inherent flexibility and recognition of geographic setting in the PPS is absent in the 2017 Growth Plan. Under the Growth Plan, most of the policies applicable to Apsley, Norland, and Peterborough in the Outer Ring, are the same as those applicable to Ajax, Newmarket and Pickering. This is despite the fact that there are substantive differences between these communities and their geographic settings.

We continue to urge the Minister to redraw the boundaries of the Greater Golden Horseshoe, to remove the Outer Ring, so that its communities can emerge as strong, sustainable and resilient communities. If the Minister is unable or unwilling to make changes to the physical extent of the Growth Plan, then we encourage his office to making changes to the way the policies are applied to communities within the Outer Ring.

1.1 Section 2.2.9.6

Section 2.2.9.6 - Rural Areas states that "New multiple lots or units for residential development will be directed to settlement areas, but may be allowed on rural lands in site-specific locations with approved zoning or designation in an official plan that permitted this type of development as of June 16, 2006.

On those lands where the principle of development has been previously established, as demonstrated by the current designation and zoning, it is important that any additional planning approvals required to implement these land uses (subdivision of land, minor variances, site plan approval) should be exempt from those policies of the 2017 Growth Plan that would otherwise overturn the established principle of development.

Many landowners have purchased land with existing designations and zoning that permit development, only to find themselves denied that opportunity because of the implementation of the 2017 GPGGH policies. Under the Planning Act, applications for Site Plan Approval and Permission/Minor Variance (Sections 41 and 43 of the Planning Act), applications for Plans of Subdivision/Condominium (Section 51 of the Planning Act) and applications for Consent to create additional lots (Section 53 of the Planning



Act) assume that the principle of development has been established on the lands subject to the application, through the approval of an Official Plan (Section 17) by the Minister of Municipal Affairs or by an Authority to whom this authority has been delegated. Further this principle of development of the lands has been implemented by a Zoning By-law (Section 34). The additional applications are simply required to define and describe the details of the form of permitted development on these lands. The Growth Plan does not make this same assumption – it assumes that the previously established principle of development can be dismissed without any regard for existing approvals. This assumption is totally contrary to the fundamentals of the planning process, which involve technical review and public input through a clearly defined statutory process.

We request that the language of Section 2.2.9.6 be clarified to enable owners of land with existing development rights to continue with the additional applications, subject to the policies of the PPS, rather than those of the GRPPH.

1.2 Natural Heritage Systems and Agricultural Systems

Amendment 1 recognises that the Natural Heritage System and Agricultural System mapping is limited in its applicability. It is our understanding that the proposed changes will make it possible for more precise, locally verified mapping to be included in the Natural Heritage System mapping included in Upper and Lower Tier Official Plans. Further, it is will be possible for the distinction between prime agricultural lands and rural/marginal lands within the Outer Ring to be properly delineated. We commend the Province for proposing this change.

Having said this, the policies of the Growth Plan, pertaining to Key Natural Heritage Features within the Natural Heritage System, as well as policies affecting Key Hydrologic Features and Key Hydrologic Areas lack the flexibility included in similar policies set out in the Greenbelt Plan. The 2017 Growth Plan policies assume that all natural heritage and hydrologic features are significant or “key”. The word significance is defined as *sufficiently great or important to be worthy of attention; noteworthy*, and key is defined as *of paramount or crucial importance*. The Growth Plan provides no opportunity to assess the significance of natural heritage features and hydrologic features in terms of context or relative contribution of natural features and areas to the Natural System. Notwithstanding the assumptions inherent in the Growth Plan, not every feature in the landscape is sufficiently important to be worthy of attention. Throughout the Outer Ring, woodlands, wetlands and small watercourses are commonplace, extending over this vast, sparsely populated and economically depressed area. This is not to say that these features should be disregarded,



but simply that there should be an opportunity to assess their value in context and to determine the best way for protecting them, or for mitigating impact.

Within the Outer Ring, it is the limited areas available and suitable for development that are noteworthy and in need of adequate policy support. (The *Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas* are one example of forward-looking policy that supports the rural economy and its communities)

It is critical that local communities within the Outer Ring be permitted to evaluate development proposals on their merits reflecting the local context rather than that of the Inner Ring realities. Changes to the Growth Plan which would provide for local evaluation and consideration are crucial to the survival of these rural communities.

The Growth Plan provides for the identification and protection of a Natural Heritage System for the GGH outside of the Greenbelt Area and settlement areas, and applies protections similar to those in the Greenbelt Plan to provide consistent and long-term protection throughout the GGH.

1.3 Resource -based Recreation and Development.

Section 4.2.5.5. states that Outside of settlement areas, in developed shoreline areas of inland lakes that are designated or zoned for concentrations of development as of July 1, 2017, infill development, redevelopment and resort development is permitted subject to a series of conditions including a vegetation protection zone (VPZ) along the shoreline with a minimum width of 30 metres. In developed shoreline areas there are many locations where a 30m VPZ would preclude development or would separate the development from the resource-base which is integral to the recreational use. Further refinement to this policy is required to address its rigidity and provide an opportunity for the results of the natural heritage evaluation or hydrologic evaluation to be integrated into the development plan.

1.4 Transition Provisions

O. Reg. 311/06 is a Minister's regulation under the Places to Grow Act, 2005 that prescribes transition provisions for Growth Plans under that Act. The Transition Regulation determines which policies apply to applications and municipal planning policies already in process at the time the 2017 Growth Plan came into effect (July 1, 2017). The current Regulation requires that decisions on any applications in process on July 1, 2017 must conform to the new policies which came into effect on that date. This is quite



problematic because it overrules the Clergy Principle which had previously which policies would be applicable. Instead, active applications would be evaluated on the basis of policies which were not in effect at the time the applications were filed. This has been quite a challenge for approval authorities that have had to withdraw support from applications which were previously consistent with Provincial Policy.

It is our opinion that the Transition Provisions should permit applications to be processed under the long-standing Clergy Principal, rather than under the current Regulation. It is unreasonable to expect that applications be judged on a different basis than the one in effect when they were filed. The current approach completely disregards the investments that developers and landowners have made in preparing applications and the efforts expended by municipalities in processing those applications, only to find that they are no longer consistent with the Provincial policy in effect.

1.5 Example of Impact

For illustration purposes we wish to describe a situation where the impacts of the Growth Plan have prevented a landowner for pursuing a development plan which predates the 2017 Growth Plan. The facts are the following

- The landowners bought the shoreline property within the Outer Ring because the Official Plan designation and Zoning permitted shoreline development;
- A development proposal for 14 1.5 acre lots was prepared for the property. The lots were proposed to be set back 30 metres from the shoreline.
- Given the presence of Species at Risk (SAR) on the property, the developer and his consultants worked with staff at the MNRF to fine tune the plan to ensure that the SAR would be protected and their habitat enhanced. Wildlife corridors and protected crossings were introduced.
- The technical reports in support of the proposed development were peer reviewed by experts retained by the Upper and Lower Tier municipalities having jurisdiction.
- All commenting agencies, including the MNRF, Trent Severn Waterway and First Nations, stated that they had no objection to the proposed development, as proposed.



- The proposal met all policy and regulatory requirements in place at the time the applications were filed.
- Shortly before statutory Public Meetings were scheduled for the proposed plans of Subdivision/Condominium and a Zoning By-law Amendment (to increase the amount of land within the Environmental Constraint (EC) Zone), the 2017 Growth Plan for the Great Golden Horseshoe was released. The policies of the GP have completely sterilized the property, removing all development potential.
- The landowners have spent more than \$650,000 in this project and are left with nothing, despite the fact that the applications met all provincial and local policy and regulatory requirements in effect at the time the applications were filed.

1.6 Ontario Regulatory Policy

According to the Ontario Regulatory Policy, dated July 2014, posted on the Regulatory Website, regulatory changes that affect Ontario Businesses and Ontario's Economic prosperity are to be guided by nine principles, which include but are not limited to:

- i) Regulations respond to a clearly identified need for regulation
- ii) Regulations are based on assessed risks, costs and benefits and minimize impacts on a fair, competitive and innovative market economy,
- iii) Regulations are developed and implemented in a transparent matter
- iv) Differences and duplication of regulation is minimized, where appropriate,
- v) Regulations are made easily accessible and written in language that can be easily understood by the public business

Additionally, this same policy states "proposed Ontario regulations must be accompanied by a regulatory impact assessment that addresses, at a minimum, the impact on the access of persons, goods, services and investments from other jurisdictions, including jurisdictions within Canada."



As a land use planning agency that represents various municipalities and developers most affected by the extended Growth Plan regulations, we provided comments and input to the initial proposals posted on the Environmental Registry. Despite our efforts however, we and many other planners, municipalities, business members and local landowners can attest to the fact that, even after reviewing the posted proposals, we had no idea of the impacts the Growth Plan policies would have on local businesses, ongoing applications, and the economic viability of Rural areas within its jurisdiction. We are, therefore, of the opinion that the above-noted principles, particularly those dealing with transparency, accessibility, and providing a regulatory impact assessment, were not followed in the establishment of the Growth Plan policies.

To elaborate, at no point was the impact this regulation would have on the businesses and municipalities in the area explained in clear language. No impact assessments were posted (e.g., the impact of defining “key hydrologic features” as all wetlands and watercourses regardless of their significance which has resulted in effectively halting various ongoing and future plans and developments located in the area). At no point was the implications of the widespread and restrictive the natural heritage and prime agricultural mapping explained in an easy to understand format. Nowhere was it explained how the transition policies would have a significant impact on ongoing planning applications, such as the example we provide in this letter. In short, we and the communities affected by these policies had no idea what was coming, and therefore, we find it challenging to believe that adequate consultation on these policies was conducted.

As a final note, the very first principle included in the Ontario Regulatory Policy states regulations are to respond to a clearly identified need and should avoid duplication. As we have stated earlier in this letter, we are of the opinion that there was no need for these Growth Plan policies to extend to the Outer Ring. Furthermore, we continue to believe that the Provincial Policy Statement provided adequate protection for the natural heritage features of the area while providing the flexibility to rural communities to survive.

2. Summary and Recommendations

Based on our review, the Ministry of Municipal Affairs has made some significant strides in revising the overall policy direction of the 2017 Growth Plan. We are very appreciative of the proposed changes. Despite these welcome changes, there are still many policies which will continue to negatively impact rural municipalities east and north of the GTA. In short, the 2017 GPGGH is insensitive to the geographic setting and economic realities of rural Ontario. We respectfully request that the Minister consider



additional changes to the Growth Plan that would allow these communities to thrive and thereby to contribute in a positive manner to the future of the Province overall.

Respectfully Submitted,

ECOVUE CONSULTING SERVICES INC.

A handwritten signature in blue ink, reading "Heather Sadler", is written over a horizontal line.

Heather Sadler. MCIP RPP
Principal