

December 17, 2004

The Hon.D.Caplan  
Minister of Public Infrastructure Renewal  
Mowat Block 6th Floor  
900 Bay St  
Toronto ON M7A 1C2

**Re: Bill 136 – The Places to Grow Act (EBR Registry No XA04E0018)**

Dear Minister,

I am writing to you regarding Bill 136, the Ministry of Public Infrastructure Renewal's proposed *Places to Grow Act*.

The Pembina Institute has followed the province's growth management planning initiatives over the past few years, making submissions in relation to the previous government's Central Region Smart Growth Panel, and the government's July 2004 proposed growth management plan for the greater golden horseshoe region.

The Pembina Institute welcomes the introduction of the proposed *Places to Grow Act*. The Institute believes the growth management planning initiative is an important component of the government's overall efforts to reform Ontario's land-use planning system to curb urban sprawl, protect key natural heritage, prime agricultural and source water lands, and promote more sustainable urban development patterns.

The Pembina Institute supports the overall direction of Bill 136. Our specific comments and recommendations relate to the Preamble and Purposes of the bill, the areas to be covered by plans, the role of advisory councils, the contents of plans, the role of hearing officers, the process for amending plans, the timeframe for official plan conformity with plans, and the effect of plans with respect to municipally and provincially initiated infrastructure projects and other physical undertakings.

## **Preamble and Purposes (Section 1)**

The Preamble and Purposes sections of Bill 136 highlight the centrality of the concept of "growth" to the goals of the legislation. Bill 136 appears to take inevitability of 'growth' and the need to manage it as givens, as opposed to employing a wider vision of community sustainability, well-being and quality of life as its starting point.

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The focus on “growth” per se seems inconsistent with direction of recent discussions regarding urban and community development in Canada. Recent work by the National Round Table on Environment and Economy,<sup>1</sup> Federation of Canadian Municipalities,<sup>2</sup> Smart Growth BC,<sup>3</sup> and others have emphasized the need for a broader range of environmental, economic and social endpoints to guide community development.

### **Recommendation**

1. *Bill 136’s purposes should focus on the promotion of economic prosperity, environmental sustainability, and social well-being in community development, particularly with respect to land-use and infrastructure, as opposed to simply “growth” and its management.*

### **Designation of Areas to be Covered by Plan (Section 3)**

Section 3 of Bill 136 would permit the Lieutenant-Governor in Council to designate areas to be covered by plans made under the Act. Bill 136 provides no guidance in the designation of the areas to be covered by plans.

### **Recommendation**

2. *Bill 136 should be amended to require that the areas designated under plans made under the Act be ecologically and functionally coherent, considering such factors as watershed boundaries, and the boundaries of municipalities and planning authorities.*

### **Advisory Councils (Section 5)**

Bill 136 would permit the minister to appoint advisory councils (e.g. smart growth panels) on plans to be made under the Act.

### **Recommendation**

3. *Advisory Councils appointed under section 5 of Bill 136 should include individuals with expertise, as appropriate in the areas of agriculture, conservation, environmental protection, municipal affairs, natural resources management, and development.*

### **Contents of plans (section 6)**

Section 6 of Bill 136 outlines the potential contents of growth plans.

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<sup>1</sup> See, for example, National Round Table on Environment and Economy, *Environmental Quality in Canadian Cities: The Federal Role* (Ottawa: National Round Table on Environment and Economy, 2003).

<sup>2</sup> See the Federation of Canadian Municipalities Quality of Life Reporting System, <http://www.fcm.ca/qol3/>.

<sup>3</sup> See, D.Alexander, R.Tomalty, and M.Anielski, *BC Sprawl Report: Economic Vitality and Livable Communities 2004* (Vancouver: Smart Growth BC, 2004)

Surprisingly, there are no references to the protection of key natural heritage features, key hydrologic features, or the maintenance of the ecological and hydrologic functions of these features, or the maintenance or improvement connectivity between these features.

#### Recommendation

4. *Section 6(d)(v) of Bill 136 should be amended to require that growth management plans include policies, goals, and criteria related to the protection of key natural heritage and hydrologic features, the maintenance of the ecological and hydrologic functions of these features, and the maintenance or improvement connectivity between these features.*

Section 6 of bill 136 also makes no reference to policies, goals and criteria related to energy conservation or renewable resources. This is despite the government's interest in the promotion of conservation and renewable energy sources.

#### Recommendation

5. *Section 6(d) of Bill 136 should be amended to require that plans include policies, goals and criteria related to energy conservation and the development of low-impact renewable energy sources.*

### **Approval of Plans – Hearing Officers (Section 7)**

Section 7(3) of Bill 136 would permit the appointment of hearing officers to conduct hearings in relation to proposed plans or proposed amendments to plans. The affiliations or qualifications (e.g. absence of conflict of interest) of hearings officers for these purposes are not specified.

#### Recommendation

6. *Bill 136 should specify the affiliations and qualifications of hearing officers for the purposes of section 7(3).*

Section 11 (2) of Bill 136 would permit hearing officers to set the rules of procedure for hearings. The Bill contains no provisions to facilitate the participation of bona fide public and community interest organizations in hearings. Hearings in relation to plans made under the Act are likely to involve complex technical matters, and public and community interest participants may require expert advice (e.g. planning) to be able to participate effectively.

#### Recommendation

7. *Bill 136 should be amended to permit hearing officers to award reasonable costs to persons participating in a hearing, prior to the commencement of proceedings.*

### **Amendments to Growth Plans (Section 10)**

Section 7 of Bill 136 requires that the Minister ensure that notice and opportunities for written submissions provided to the public, affected municipalities, planning authorities and planning boards, prior to the finalization of plans under the Act. Bill 136 also provides that the ten-year review of plans include consultations with affected ministries and municipalities, and that

members of the public be given opportunities to participate in the review. However, Bill 136 would not require that members of the public be given notice and invited to make submissions in relation to proposed amendments to plans made under the Act.

#### Recommendation

8. *Section 10 of Bill 136 should be amended to require that members of the public be given notice and invited to make submissions on proposed amendments to plans made under the Act.*

### **Official Plan Conformity with Growth Plans (Section 12)**

Section 12 of Bill 136 would require that municipalities and municipal planning authorities amend their official plans to conform with growth plans made under the Act. Municipalities would be required to bring their official plans into conformity at the time that they make decisions regarding the review of their official plans under section 26 of the *Planning Act*. The provisions would effectively provide municipalities with up to five years to bring their official plans into conformity with plans made under Bill 136.

Five years is an excessive period of time for conformity, as it may permit extensive changes in official plans, and major infrastructure projects to be initiated before conformity is required. A five year timeframe is also inconsistent with the approach taken in other recent provincial planning legislation, notably the *Oak Ridges Moraine Conservation Act* (section 9), which provided for between one year and eighteen months for official plans to be brought into conformity with the provincial Oak Ridges Moraine Conservation Plan.

#### Recommendation

9. *Bill 136 should be amended to require that municipalities and municipal planning authorities bring their official plans into conformity with provincial plans made under the Act within two years of the approval of the relevant provincial plan.*

### **The Effect of Growth Plans (s.14)**

Section 14 of Bill 136 would require that decisions by municipalities and provincial agencies under the *Planning Act*, *Ontario Planning and Development Act*, and the *Condominium Act* conform with plans made under Bill 136, and that the provisions of the plans prevail in the event of conflict with official plans, zoning by-laws or the Provincial Policy Statement made under the *Planning Act*.

Surprisingly, given the focus of Bill 136 on infrastructure planning, Bill 136 contains no provision requiring that municipal works, structural improvements and other undertakings conform with plans made under the Act. The province's parallel greenbelt legislation (Bill 135) does include such a provision (Section 7(3)).

#### Recommendation

10. *Bill 136 should be amended to include a provision requiring that municipal public works, improvements of a structural nature, or other undertakings conform with plans made under the Act.*

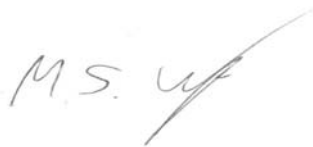
Provincially initiated or financed undertakings, as well as municipal projects, may have significant implications for the effectiveness of Bill 136 plans as well. In fact, one of the primary purposes of the plans made under Bill 136 would be to give direction to provincial infrastructure investments. Bill 136 should be amended to reflect this goal.

### **Recommendation**

11. *Section 14 of Bill 136 should be amended to require that provincially initiated or financed undertakings (as defined by section 1 of the Environmental Assessment Act) conform with plans made under the Act.*

The Pembina Institute looks forward to the enactment of Bill 136. I would be pleased to respond to any questions that you, your staff or your officials may have regarding our views on this matter.

Yours sincerely,



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Renewal