

SUBMISSIONS OF THE  
CANADIAN ENVIRONMENTAL LAW ASSOCIATION  
TO THE MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING  
ON THE *OAK RIDGES MORaine CONSERVATION ACT, 2001*  
(BILL 122)  
EBR REGISTRY NO. AF01E0003

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## TABLE OF CONTENTS

<b>PART I - INTRODUCTION AND OVERVIEW.....</b>	<b>2</b>
<b>PART II - SPECIFIC COMMENTS ON BILL 122 .....</b>	<b>4</b>
1. Designating the Area and Establishing the Plan .....	4
2. Statutory Objectives vs. Plan Objectives .....	5
3. Plan Contents .....	7
4. Plan Reviews, Amendments and Boundary Changes .....	8
5. Ministerial Zoning Orders .....	9
6. Transitional Provisions.....	10
7. Implementation, Monitoring and Enforcement .....	10
<b>PART III - CONCLUSIONS.....</b>	<b>11</b>

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## **PART I - INTRODUCTION AND OVERVIEW**

The Canadian Environmental Law Association (“CELA”) is a public interest law group founded in 1970 for the purpose of using and improving laws to protect the environment and conserve natural resources. Funded as a legal aid clinic specializing in environmental law, CELA lawyers represent individuals and citizens’ groups in the courts and before tribunals on a wide variety of environmental protection and resource management matters.

Over the past decade, CELA has been particularly active in casework involving land use planning, environmental protection, and resource conservation. For example, CELA lawyers represent ratepayers and concerned citizens in hearings before the Ontario Municipal Board (“OMB”) in relation to official plan amendments, zoning by-laws, plans of subdivision, and other statutory approvals. In addition, CELA represented the Coalition on the Niagara Escarpment in the original public hearings on the Niagara Escarpment Plan (“NEP”) in the early 1980s, the public hearings on the Five Year Review of the NEP in the early 1990s, and public hearings (and judicial reviews) arising from site-specific amendments to the NEP. Similarly, CELA represented the Save the Rouge Valley System non-profit group in the Divisional Court in support of Toronto’s attempt to intervene in OMB proceedings regarding the Oak Ridges Moraine.

With respect to law and policy reform, CELA has submitted numerous briefs over the past decade in relation to land use planning matters, including submissions to the Sewell Commission<sup>2</sup> and to various legislative committees, ministries and agencies.<sup>3</sup> In addition, CELA

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<sup>1</sup> Counsel, Canadian Environmental Law Association.

<sup>2</sup> See, for example, K. Cooper, “Submissions of CELA to the Commission on Planning and Development Reform” (March 1993), which is part of a series of CELA submissions to the Sewell Commission in the early 1990s.

<sup>3</sup> See, for example, T. McClenaghan, and K. Cooper, “Provincial Policy Statement Five Year Review: Response by CELA to the Ministry of Municipal Affairs and Housing” (October 2001); R. Lindgren, “Submissions by CELA to the MOEE re Proposed Amendment to Regulation 828 (Development Control in the Niagara Escarpment Area)” (July 1996); K. Cooper, “Submissions of CELA to the Standing Committee on Resource Development regarding Bill 20” (February 1996); K. Cooper, “Submissions of CELA on MOEE Land Use Planning Review” (February 1996); R. Lindgren, “Submissions of CELA to the Environmental Assessment Advisory Committee on Procedures for Identifying Environmental Resources” (July 1992); K. Cooper, “Land Use Planning Reform: Submissions of CELA to the Standing Committee on the Administration of Justice” (September 1994).

has submitted briefs specifically directed at ensuring the long-term protection of the Oak Ridges Moraine.<sup>4</sup>

Based on this experience and background, CELA has reviewed the proposed *Oak Ridges Moraine Conservation Act, 2001* (“Bill 122”) in conjunction with the draft Oak Ridges Moraine Conservation Plan. At the outset, it should be noted that CELA strongly supports statutory protection of the Oak Ridges Moraine environment, and CELA looks forward to the timely passage of Bill 122.

Having said this, however, CELA believes that several aspects of Bill 122 must be amended in order to maximize the Act’s effectiveness and enforceability. In particular, CELA’s major concerns about Bill 122 may be summarized as follows:

- Bill 122 confers upon the Minister of Municipal Affairs and Housing numerous discretionary powers that are framed far too broadly (eg. the Minister’s power to unilaterally revoke the Oak Ridges Moraine Conservation Plan), and that could potentially be utilized to defeat or undermine the Act’s stated objectives of protecting the Oak Ridges Moraine (eg. the Minister’s unilateral ability to amend the objectives of Bill 122);
- Bill 122 empowers the Minister to make orders under the *Planning Act* that do not conform with the Oak Ridges Moraine Conservation Plan or official plans;
- Bill 122 proposes to restrict the ability of municipal councils to pass official plans or zoning by-laws that are more restrictive (eg. more protective) than provisions contained within the Oak Ridges Moraine Conservation Plan;
- Bill 122 proposes a 10 year review of the Oak Ridges Moraine Conservation Plan that, *inter alia*, could include examination of policies to permit new or expanded aggregate operations within Natural Core and Linkage Areas; and
- Bill 122 includes an excessively flexible approach to boundary delineations in the Natural Core and Linkage Areas; and Bill 122 fails to establish an independent agency or commission (like the Niagara Escarpment Commission) to oversee the implementation of the Oak Ridges Moraine Conservation Plan.

Unless these and other significant concerns are addressed by legislative amendments prior to passage of Bill 122, CELA concludes that the proposed legislation (as drafted) cannot secure the long-term protection and conservation of the Oak Ridges Moraine environment. Accordingly, CELA submits that Bill 122 (as drafted) should not be rushed through the Legislative Assembly, and further submits that Bill 122 should be referred to legislative committee for meaningful

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<sup>4</sup> See, for example, R. Lindgren, “Submissions of CELA to the Ministry of Natural Resources re the Draft Oak Ridges Moraine Area Strategy for the GTA” (August 1994); and R. Lindgren and K. Clark, “Property Rights vs. Land Use Regulation: Debunking the Myth of ‘Expropriation without Compensation’ – Notes for an Address to the Oak Ridges Moraine Technical Working Committee” (February 1994).

public hearings and clause-by-clause review. In this way, legislators and interested stakeholders can identify, debate and adopt amendments that strengthen Bill 122 and enhance the level of protection being accorded to the Oak Ridges Moraine environment.

On this point, it is CELA's understanding that the Ontario Government merely intends to hold three hours' worth of public hearings on Bill 122 later this week, followed by a perfunctory clause-by-clause review. If so, then CELA submits that such truncated hearings are virtually meaningless since they do not permit full and complete deliberations on Bill 122 and the numerous amendments that are required to make Bill 122 effective and enforceable, as described below. Given the provincial significance of the Oak Ridges Moraine environment, CELA submits that Bill 122 should not be hastily rammed through the Legislature, but instead should be considered fully and carefully through appropriate public and parliamentary review. Once enacted, Bill 122 (and the Plan) may not be formally reviewed for a considerable period of time, which makes it even more important to ensure up front that Bill 122 is as protective as possible.

**CELA RECOMMENDATION #1: Bill 122 should be referred to legislative committee for meaningful public hearings and clause-by-clause review, with a view to amending the Bill to ensure the long-term protection of the Oak Ridges Moraine environment.**

CELA's specific concerns and recommendations regarding the current text of Bill 122 are set out below. While we have also reviewed the draft Plan, the following comments specifically focus on the legislative framework of Bill 122. Having said this, we generally adopt and agree with the Plan-specific comments submitted by the Federation of Ontario Naturalists, Save the Oak Ridges Moraine, other NGO's, and the City of Toronto.

## **PART II - SPECIFIC COMMENTS ON BILL 122**

### **1. Designating the Area and Establishing the Plan**

CELA has several concerns about Bill 122's enabling provisions in relation to the designation of the Oak Ridges Moraine Area, and the establishment of the Oak Ridges Moraine Conservation Plan.

For example, CELA notes that section 2 provides that the Lieutenant Governor in Council (eg. Cabinet) "may" designate an area of land known as the Oak Ridges Moraine Area. Similarly, section 3 provides that the Minister<sup>5</sup> "may" establish the Oak Ridges Moraine Conservation Plan "for all or part" of the designated Area. In short, these provisions permit – but do not require – the Cabinet and Minister to designate lands and establish the Plan.

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<sup>5</sup> CELA notes that "Minister" is defined under Bill 122 as the Minister of Municipal Affairs and Housing. CELA questions the rationale for not assigning Bill 122 to the Minister of the Environment (or the Minister of Natural Resources), given the MOE's lengthy experience in administering the Niagara Escarpment legislation and Niagara Escarpment Plan. In any event, CELA suggests that the definition of "Minister" under Bill 122 could be amended to read "the member of the Executive Council to whom the administration of this Act is assigned" so as to facilitate future transfers of administrative responsibility for Bill 122 to other Ministers of the Crown without the need for statutory amendments.

In CELA's view, this discretionary language is too equivocal and does not impose a mandatory legal duty to identify and maintain the Area designation, nor to establish and maintain the Plan that covers the entire Oak Ridges Moraine Area. For example, although the Cabinet may opt to designate an Area at the present time, the current wording of section 2 leaves it open for Cabinet to subsequently revise or even revoke the Area designation. Moreover, even if the Area was appropriately designated by Cabinet, subsection 3(1) permits the Minister to unilaterally leave out significant portions of the designated Area for the purposes of the Plan. If this occurred, then the protective policies contained in the Plan would simply be inapplicable to the excluded portions of the Oak Ridges Moraine Area.

More alarmingly, subsections 3(3) and 23(1)(c) specifically authorize the Minister to "revoke" the Plan (presumably in whole or in part), without any substantive criteria or constraints on this revocation power. In CELA's view, the Minister's unfettered discretion to revoke the Plan is unjustifiable and inconsistent with securing the long-term protection of the Oak Ridges Moraine environment. On this point, CELA notes that there is no analogous provision in the *Niagara Escarpment Planning and Development Act* ("NEPDA") that authorizes the Minister of Natural Resources to unilaterally revoke the Niagara Escarpment Plan in his/her absolute discretion.

In CELA's view, Bill 122 must reflect a legislative commitment to the adoption and continuing existence of the Oak Ridges Moraine Conservation Plan. If changing circumstances require alterations to the Plan, then they can be processed via periodic public review of (or amendments to) the Plan, as opposed to simply allowing the Minister to revoke the Plan at the stroke of a pen. In other words, Plan revocation should not be contemplated or contained in Bill 122 itself, but should only occur if the Legislative Assembly decides to repeal Bill 122 following appropriate public and parliamentary debate.

For these reasons, CELA recommends that sections 2 and 3 of Bill 122 be amended so that Cabinet "shall" designate the Oak Ridges Moraine Area, and that the Minister (or Cabinet) "shall" establish and maintain the Oak Ridges Moraine Conservation Plan. Similarly, subsections 3(3) and 23(1)(c) of Bill 122 should be deleted in order to remove the Minister's power to revoke the Plan.

**CELA RECOMMENDATION #2: Bill 122 should be amended so as to:**

- (a) **specify in section 2 that Cabinet "shall" designate an area of land as the Oak Ridges Moraine Area;**
- (b) **specify in section 3 that the Minister "shall" establish the Oak Ridges Moraine Conservation Plan; and**
- (c) **delete subsections 3(3) and 23(1)(c) in order to remove the Minister's power to revoke the Plan.**

**2. Statutory Objectives vs. Plan Objectives**

CELA notes that Bill 122 contains neither a preamble nor a statement of legislative purpose. This situation is to be contrasted with the NEPDA, which contains the following purpose statement:

2. The purpose of this Act is to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with the natural environment.

In CELA's view, a similar purpose statement – which gives primacy to ecological considerations over growth and development interests – should be incorporated into Bill 122. Not only would such a purpose statement provide a clear indication of legislative intent regarding the Oak Ridges Moraine, but it would also provide a useful benchmark or criterion to guide the interpretation and application of Bill 122 and the Plan.

While Bill 122 lacks a purpose statement, CELA notes that section 4 of Bill 122 sets out a number of stated objectives for the Plan, such as protecting the “ecological and hydrological integrity of the Oak Ridges Moraine Area”. While CELA generally supports the ecological objectives set out in subsection 4(a) to (h),<sup>6</sup> it is unclear why the Minister is vaguely empowered to unilaterally prescribe further objectives for the Plan (see subsections 4(i) and 23(1)(b)). In CELA's view, this loophole leaves the door open for the Minister to prescribe non-ecological objectives (eg. facilitating urban growth or creating jobs) that are not necessarily consistent with the long-term protection of the Oak Ridges Moraine environment.

In addition, allowing the Minister to prescribe additional Plan objectives (without placing any constraints on this sweeping power) potentially means that Plan implementation may be required to somehow “balance” the current set of ecological objectives with competing, non-ecological objectives, if prescribed by the Minister in the future. In CELA's view, this is precisely the problem that currently plagues the implementation of the Provincial Policy Statement (“PPS”) issued by Cabinet under the *Planning Act*. In short, the PPS contains a wide variety of ecological and socio-economic policies, but fails to identify how these policies are to be reconciled in cases of conflict, and further fails to specify that environmental protection and resource conservation are paramount considerations. In essence, local planning authorities are left to figure out how these competing provincial policies are to be resolved and implemented on the ground. CELA submits that such an *ad hoc* approach, if adopted under the Plan, would inevitably lead to the conflict, uncertainty and unpredictability in Oak Ridges Moraine decision-making that Bill 122 seeks to eliminate.

Finally, CELA notes that if the Plan is intended to be an expression of provincial policy regarding the Oak Ridges Moraine, then it is unclear why the Minister – not the Cabinet or Legislative Assembly – has the sole ability to prescribe additional objectives for the Plan.

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<sup>6</sup> CELA is unclear why the objectives set out in subsection 4(a) to (c) are limited to hydrology (as opposed to hydrogeology). To ensure that both surface water and groundwater resources are protected by the Plan, CELA submits that it would be useful for section 1 of Bill 122 to include the definition of “water” found in the *Ontario Water Resources Act*. Moreover, consideration should be given to amending section 4 of Bill 122 to include the additional purpose of establishing and maintaining a public parks system (similar to the parks system established under the Niagara Escarpment regime). Similarly, consideration should be given to including objectives such as preserving the natural scenery, and maintaining the rural character and cultural resources, of the Oak Ridges Moraine Area.

Accordingly, CELA recommends that the Minister's power to prescribe additional Plan objectives should be deleted from Bill 122. In the event that it becomes desirable in the future to specify further Plan objectives in the future, then this should be done via amendments to Bill 122 itself, which will trigger opportunities for public and parliamentary debate. Having a clear statement of purpose in Bill 122 (as described above) would also ensure that only ecologically based Plan objectives are possible in the future.

**CELA RECOMMENDATION #3: Bill 122 should be amended so as to:**

- (a) include a statement of legislative purpose that reflects the primacy of protecting the Oak Ridges Moraine's ecological features and functions; and**
- (b) delete subsections 4(i) and 23(1)(b) in order to remove the Minister's power to unilaterally prescribe additional objectives for the Plan.**

### **3. Plan Contents**

CELA has two main concerns about the proposed content of the Plan, as contemplated by section 5 of Bill 122.

First, CELA notes that use of the word "may" (rather than "shall") means that Bill 122 allows but does not require the Plan to set out land use designations, land use prohibitions/restrictions, or land use schedules. In CELA's view, these components, *inter alia*, are the essential elements of the Plan, and they must be mandatory rather than optional under section 5 of Bill 122.

Second, and more importantly, CELA notes that subsections 5(c) and (d) purport to allow the Plan to identify matters for which official plans and zoning by-laws may not be more "restrictive" than the Plan. With respect to conflict resolution, CELA supports the paramountcy provisions found in section 8(1) of Bill 122, which stipulates that the Plan prevails over an official plan, zoning by-law or the PPS in cases of conflict. Similarly, CELA supports the clarification in section 8(2) of Bill 122, which indicates that conflict does not arise merely because an official plan or zoning by-law is more restrictive than the Plan. However, CELA strongly opposes the attempt in subsections 5(c) and (d) of Bill 122 to permit the Plan to identify matters (eg. aggregate operations?) for which official plans and zoning by-laws cannot be more restrictive than the Plan.

If the ultimate objective of Bill 122 is the long-term protection of Oak Ridges Moraine environment, then there is no justification for preventing municipalities from enacting and enforcing planning instruments that are more protective than the Plan. Indeed, no analogous provisions exist in the NEPDA, and it remains open to municipalities in the Niagara Escarpment Plan Area to enact land use policies and provisions that are more restrictive in those found in the Niagara Escarpment Plan.

In CELA's view, the Oak Ridges Moraine Conservation Plan should set out the minimum requirements (eg. the "floor" rather than the "ceiling") for all lands designated as the Oak Ridges Moraine Area. However, Area municipalities should be free (if not actively encouraged) to



establish more stringent requirements where necessary to achieve local planning objectives or priorities. Under the *Planning Act*, it is open to municipalities to go further than the minimal requirements of the PPS, and CELA is unclear why a similar approach is not being proposed under Bill 122 and the Plan.

Accordingly, CELA recommends that subsections 5(c) and (d) be deleted in order to remove any possible constraints on the ability of Oak Ridges Moraine Area municipalities to pass official plans and zoning by-laws that are more restrictive than the Plan.

**CELA RECOMMENDATION #4: Bill 122 should be amended so as to:**

- (a) specify in section 5 that the Plan “shall” contain the land use designations, land use prohibitions/restrictions, and land use schedules; and**
- (b) delete subsections 5(c) and (d) in order to remove any possible constraints on the ability of Area municipalities to pass official plans and zoning by-laws that are more restrictive than the Plan.**

**4. Plan Reviews, Amendments and Boundary Changes**

CELA has a number of concerns in relation to Bill 122’s provisions regarding Plan review, amendments and boundary changes.

First, we note that section 3(4) of Bill 122 requires the Minister to conduct a formal review of the Plan once every ten years. In CELA’s view, the Plan review mechanisms under the *Niagara Escarpment Planning and Development Act* have generally worked well, and we support the inclusion of periodic review provisions in Bill 122. However, given that the Plan is an expression of provincial policy, we question why it is the Minister – not Cabinet – who has carriage of the review process, including any resulting changes to the Plan. We further presume that there will be meaningful public consultation during the 10 Year Review, although Bill 122 appears to be silent on this point.

In addition, CELA further notes that section 3(5) of Bill 122 merely provides that during a Plan Review, there shall be no consideration of reducing the total area devoted to Natural Core Areas and Natural Linkage Areas. While this provision may be well-intentioned, it does leave open the possibility that Plan reviews can decrease a specific Natural Core or Natural Linkage Area for whatever reason, as long as the overall landbase in these protective designations is not reduced (eg. by designating additional lands elsewhere within the Plan Area). In CELA’s view, it is contrary to the public interest to create a system of “floating” Natural Core or Natural Linkage Areas whose boundaries remain in flux and may be up for grabs every ten years (or even earlier via Plan amendments).

Accordingly, CELA recommends that section 3(5) be reworded so as to provide that during the 10 Year Review, the boundaries of each designated Natural Core and Natural Linkage Area shall not be reduced. In our view, such a provision would mean that these critically important areas can only be expanded – not contracted – during the 10 Year Review. In addition, specifying that

Area boundaries cannot be reduced during Plan Review provides a direct incentive to ensure that the Plan boundaries are delineated clearly and accurately from the very outset of the Bill 122 regime.

CELA further notes that section 12(1) of Bill 122 generally empowers the Minister to amend the Plan from time to time. Unlike the Plan Review provisions discussed above, Bill 122 imposes no explicit limits on the number, nature, or timing of the Plan amendments that the Minister could propose between the 10 Year Review periods. Accordingly, CELA is concerned that this amendment power could be used to incrementally whittle away at the Plan (particularly via site-specific amendments), just as some municipalities have undermined their official plans through excessive amendments. Accordingly, CELA recommends that Bill 122 impose some substantive criteria to indicate those types of routine amendments that can be proposed by the Minister (eg. clerical corrections, housekeeping matters, etc), and those significant amendments that should await the formal 10 Year Review (eg. material changes in Plan text or policy, changes to permitted land uses in Natural Core or Natural Linkage Areas, etc.).

Finally, CELA notes that section 12(2) empowers the Minister to “prescribe circumstances under which a prescribed person or public body may apply to the Minister for an amendment to the Plan”. In our view, such a provision could potentially do more harm than good, and could facilitate a floodgate of landowner-sponsored amendments to the Plan. This is particularly true if the Minister only prescribes landowners (not NGO’s) as persons who can apply for amendments. On this point, we are supported by the track record of amendments under the Niagara Escarpment Plan – most amendments are sought by landowners who wish to develop their properties, and the few amendments sought by NGO’s (eg. to upgrade a designation on a particular property) are not successful. Accordingly, CELA recommends that section 12(2) be deleted.

**CELA RECOMMENDATION #5: Bill 122 should be amended so as to:**

- (a) clarify in section 3(4) that there will be meaningful public participation in the 10 Year Review;**
- (b) re-word section 3(5) to specify that the boundaries for *each* designated Natural Core Area and Natural Linkage Area shall not be reduced during the 10 Year Review of the Oak Ridges Moraine Conservation Plan;**
- (c) amend section 12(1) to place substantive limits on the number, nature and timing of Amendments that the Minister may propose between 10 Year Reviews; and**
- (d) delete section 12(2) in order to eliminate the potential floodgate of landowner-sponsored amendments to the Plan.**

## **5. Ministerial Zoning Orders**

CELA notes that section 14(1) of Bill 122 gives the Minister authority to impose zoning orders pursuant to section 47 of the *Planning Act*. Given that the Oak Ridges Moraine Conservation Plan itself represents the provincial perspective on permitted land uses within the Moraine Area,

CELA is unclear why the drafters of Bill 122 wish to preserve the Minister's authority under section 47 of the *Planning Act*.

In any event, CELA is far more concerned about section 14(2) of Bill 122, which purports to provide that Ministerial zoning orders under the *Planning Act* "need not conform with the Oak Ridges Moraine Conservation Plan". In CELA's view, this open-ended discretion would allow the Minister to approve site-specific zoning orders that permit fundamentally incompatible land uses (eg. wayside pits as "temporary uses" in a Natural Core Area). CELA submits that it is contrary to the public interest to allow the Minister to use general zoning powers to successively whittle away at the protections in the Plan. Accordingly, this Ministerial zoning power must be constrained in a manner that ensures compliances with Bill 122 and the Oak Ridges Moraine Conservation Plan.

**CELA RECOMMENDATION # 6: Bill 122 should be amended by deleting section 14(2), or in the alternative, by rewording section 14(2) to specify that Ministerial zoning orders "shall be consistent with" Bill 122 and the Oak Ridges Moraine Conservation Plan.**

## **6. Transitional Provisions**

CELA has reviewed the complex and highly discretionary nature of the transitional provisions found in sections 15 to 18 and 23 of Bill 122. We have no particular recommendations on these provisions, except to say that rather than leaving the public to guess which provisions apply to which applications (based on the day of "commencement" of an undecided application), it would be helpful for the Ministry of Municipal Affairs and Housing to compile a master list of all undecided applications, with an indication of whether these will be resolved under the "old" or "new" rules.

**CELA RECOMMENDATION #7: The Ministry of Municipal Affairs and Housing should commit to the expeditious development of a master list identifying all pending development applications within the Moraine Area as of November 17, 2001, and indicating whether these applications will (or will not) be processed in conformity with the provisions of the Oak Ridges Moraine Conservation Plan.**

## **7. Implementation, Monitoring and Enforcement**

As currently proposed, Bill 122 and the Oak Ridges Moraine Conservation Plan are promulgated by the province, but the critical task of implementation is largely left to local officials through official plan/zoning by-law conformity exercises and development decisions that must "conform" with the Plan. Given the differences in planning approaches, in-house resources, and political priorities among Moraine municipalities, CELA believes that a single, independent provincial agency or commission is required to oversee and implement the provisions of the Oak Ridges Moraine Conservation Plan. This is precisely what Cabinet found to be necessary to protect the Niagara Escarpment Plan environment (eg. the development control system administered by the Niagara Escarpment Commission), and this administrative arrangement has

proven to be very effective in protecting the Escarpment environment. CELA strongly submits that a similar regime is required for the successful, long-term protection of the Oak Ridges Moraine environment. Our preference is for the establishment of a Moraine-specific agency, but as an alternative, we would support using the Niagara Escarpment Commission for these purposes.

CELA further notes that Bill 122, as drafted, does not impose any mandatory monitoring or reporting duties upon the Minister. For example, the Bill does not specify that the Minister shall fund or cause research into the direct, indirect and cumulative effects of development decisions on the sustainability of the Moraine's ecological features and functions. Similarly, the Bill does not require the Minister to periodically table "State of the Moraine" reports with the Legislature for the purposes of assessing how well (or how poorly) the Plan is working to protect the Moraine environment. In CELA's view, such monitoring/reporting requirements should be built into Bill 122 for the purposes of accountability, but also to ensure that sufficient empirical data is gathered in order to justify improvements to the Plan during the 10 Year Review or the Plan amendment process.

Finally, for the purposes of enhancing public involvement in monitoring and enforcement issues, CELA submits that Bill 122 should be prescribed under the *Environmental Bill of Rights* (especially Parts II, IV, V, and VI of the EBR).

**CELA RECOMMENDATION #8: Bill 122 should be amended so as to:**

- (a) **establish an single, independent provincial agency or commission to oversee and implement the Oak Ridges Moraine Conservation Plan, or in the alternative, expand the jurisdiction of the Niagara Escarpment Commission to include the Oak Ridges Moraine;**
- (b) **impose mandatory monitoring/reporting duties upon the Minister to assess how well (or how poorly) the Oak Ridges Moraine Conservation Plan is protecting ecological features and functions; and**
- (c) **prescribe Bill 122 for the purposes of the *Environmental Bill of Rights*.**

**PART III – CONCLUSIONS**

Taken together, Bill 122 and the draft Oak Ridges Moraine Conservation Plan represent a significant step forward in securing the long-term protection of the Oak Ridges Moraine environment.

As described above, however, there are a number of provisions in Bill 122 that are inconsistent (or directly conflict) with protecting the integrity and sustainability of the Moraine's ecological features and functions. In CELA's view, unless Bill 122 is amended to satisfactorily address the foregoing concerns, then the long-term protection of the Oak Ridges Moraine environment will not be achieved by either the Bill or the accompanying Plan.

December 3, 2001