

Planning Consultation
Provincial Planning Policy Branch
777 Bay Street, 13th floor
Toronto, ON
M5G 2E5

April 19, 2021

RE: Consultation on growing the size of the Greenbelt, ERO number 019-3136

The Shared Path Consultation Initiative (Shared Path) is a charitable organization that is addressing the challenges and opportunities that emerge where land use change and Aboriginal and treaty rights intersect. Shared Path works towards a future in which Indigenous voices and rights form a sustained and integral part of how we share land, particularly with respect to land use planning law, policy, and governance in Ontario. The Greenbelt is an excellent opportunity for planners to connect and collaborate with Indigenous communities - who have stewarded the land for thousands of years - to make important land and water management decisions. As stated in the Greenbelt Plan: S. 1.2.1 "The successful realization of this vision for the Greenbelt centres on effective collaboration among the Province, other levels of government, First Nations and Métis communities, residents, private and non-profit sectors across all industries and other stakeholders"

We are excited by the prospect of expanding the Greenbelt and support, in principle, efforts to protect our shared environment. Our comments centre on s.5.1 of the Greenbelt Plan, which states: "This Plan must be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights under section 35 of the Constitution Act, 1982. The Ontario government shall consult with First Nations and Métis communities on decisions concerning the use of Crown land and resources that may affect Aboriginal and treaty rights within the area of the Greenbelt Plan."

We are in support of expanding the Greenbelt, though we believe that some areas of the proposal need further clarification, particularly as it relates to Indigenous land and treaty rights.

- We would like assurance that Indigenous rights holding nations were involved in the decision to prioritize the Paris Galt Moraine and add Urban River Valleys.
- While we are supportive of adding Urban River Valleys, we would like to emphasize the need for further protections. The Urban River Valley designation is largely

symbolic as it does not protect these lands from infrastructure developments that could disrupt Indigenous archaeology resources as well as important ecosystems.

- We would like assurance that Indigenous rights holding nations are being adequately consulted and accommodated throughout this and any future endeavour involving Greenbelt lands. We would like to note that meaningful consultation does not simply involve notification but requires repeated efforts to inform and discuss proposed changes with these nations and provide resources necessary for the communities to be able to engage.

Below, we respond to the set of questions posted on the ERO. We specifically focus on Question 1, Question 3, Question 5, and Question 6.

Question 1: What are your thoughts on the initial focus area of the Study Area of the Paris Galt Moraine?

We would like assurance that Indigenous rights holding nations were involved in the decision to prioritize the Paris Galt Moraine for Greenbelt expansion.

The Greenbelt expansion discussion offers an opportunity for Ontario to practice meaningful reconciliation with Indigenous nations in good faith and in accordance with the Truth and Reconciliation Commission's Calls to Action and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including Free, Prior and Informed Consent (FPIC).

The Province must meaningfully consult with Indigenous nations about expanding the Greenbelt within their traditional territories. The duty to consult and accommodate is a constitutional obligation that arises from s.35 of the Constitution Act, 1982, which recognizes and affirms Aboriginal and treaty rights.

Indigenous traditional practices, responsibilities and knowledge systems must be honoured by ensuring Indigenous voices are key to any discussions involving expanding the Greenbelt, as is reflected in multiple portions of the Greenbelt Plan. With this in mind, we would like to ensure that Indigenous nations are adequately consulted and accommodated as it relates to the study area of the Paris Galt Moraine, adding Urban River Valleys, and indeed all future decisions regarding the Greenbelt.

Question 3: What are your thoughts on the initial focus area of adding, expanding and further protecting Urban River Valleys?

While we are supportive of expanding urban river valleys, we would like to emphasize the need for further protections, for which details have not been outlined publicly. We recognize that in policy and process, the Urban River Valley designation is largely symbolic as it does not protect these lands from infrastructure developments that could disrupt Indigenous archaeology resources and ecosystems.

Infrastructure development, whether replacement or new, in ravine systems and valleys, represent profound risks to Indigenous archaeological resources. Of the over 18,000 Indigenous archaeological resources in the province, well over 95% are situated within 300 metres of water. Moreover, the density of Indigenous archaeological sites equals, if not exceeds, that of the balance of land where development is permitted. All of this means that the government also has an important obligation to discuss with individual rights-holding Indigenous communities about impacts not only to their Treaty Rights but also in relation to their cultural heritage records, including archaeological resources and traditional use sites, within their jurisdictions.

We request that the Province clarify what is meant by protecting Urban River Valleys, and to consider stricter protections regarding infrastructure developments.

Question 5: How should we balance or prioritize any potential Greenbelt expansion with the other provincial priorities mentioned above?

As referenced in our previous comment submission, refrain from using Minister's Zoning Orders (MZOs) to fast-track development on natural areas and farmland. Many First Nations, Conservation and agricultural organizations are united in their opposition to this misuse of MZOs which sidestep the duty to consult and accommodate, community consultation, and local planning processes. At risk are the many benefits provided by Ontario's farmland and natural heritage features and areas, including flood control, local food, water purification, carbon sequestration, biodiversity conservation, recreational opportunities and more.

Question 6: Are there other priorities that should be considered?

The Province has a constitutional duty to consult and accommodate First Nations and Métis about their Aboriginal and Treaty rights with regard to any contemplated conduct that might adversely affect those rights. The Supreme Court has made this clear on multiple occasions. This includes planning decisions about land and resource uses, even if there may be no immediate physical impacts.

S. 5.1 of the Greenbelt Plan references this obligation and states that the "Ontario government shall consult with First Nations and Métis communities on decisions concerning the use of Crown land and resources that may affect Aboriginal and treaty rights within the area of the Greenbelt Plan."

Our concern is whether adequate consultation of First Nations and Métis communities has taken place in relation to the proposed changes to the Greenbelt. In keeping with the principles of FPIC, we respectfully request that Ontario immediately initiate meaningful consultation with all Indigenous rights holders whose jurisdiction coincides with the Greenbelt area.

The government's relationships with Indigenous nations should be viewed on a government to government basis. Consulting with organisations such as Chiefs of Ontario, which play very important roles for organising and delivering programs for communities in Ontario, cannot be equated with consultation with individual nations who are treaty rights holders. As such, we encourage the Province to persist in reaching out to individual rights bearing nations to fulfill the duty to consult and accommodate.

Moreover, the posting of a notice on the ERO or the sending of an email do not constitute "consultation" in accordance with S. 35 Aboriginal rights in the Constitution Act, 1982, and individual Nations' Consultation Protocols. Nor does a failure to respond constitute consent. The legal protocol of "qui tacet consentire" or "silence gives consent" is inappropriate here according to the principle of "free, prior, and informed consent" outlined in UNDRIP. We believe it is inappropriate for Ontario to invite communities to consult without providing the resources to do so. A community's failure to respond may, in some cases indicate a lack of capacity to respond within the government's timeline. As such, we invite you to uphold your obligations to engage with all of the rights-holding communities with jurisdictions that intersect with the Greenbelt. As the potential agency responsible for affecting those rights, we would advise you to make repeated efforts to inform and discuss with these communities the proposed changes.

We are pleased to see that, over the years, amendments have been made to the Greenbelt Plan and to the Provincial Policy Statement that both recognize and affirm the unique rights and responsibilities Indigenous peoples hold due to their relationships with the land since time immemorial. With the use of early and frequent consultation with rights bearing nations, we see the proposed changes to the boundaries of the Greenbelt as an opportunity for the Province to work with Indigenous communities in good faith towards reconciliation.

Respectfully submitted,



Carolyn King
Co-Founder, President and Chair of the Board



Morgan Peters
Executive Director