

Greenspace Alliance of Canada's Capital
Alliance pour les espaces verts dans la capitale du Canada

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2 March 2014

To: The Honourable Jim Bradley,
Minister of the Environment, Ontario
77 Wellesley Street West
11th floor, Ferguson Block
Toronto, ON M7A 2T5

By E-mail: minister.moe@ontario.ca

Dear Minister,

Subject: Part II Order Request
Hope Side Road-Old Richmond-West Hunt Club Corridor ESR

In accord with section 16(5) of the *Environmental Assessment Act* we write to request a Part II Order following the Notice of Completion of the Environmental Study Report (ESR) for the referenced project. In brief, our objections are as follows:

1. The terms of reference for this project were not subjected to public consultations.
2. Directing traffic headed for Highway 416 via Fallowfield Road is a far more benign option.
3. Should you decide to allow the study's preferred option, then far more comprehensive mitigation measures are required.

We elaborate on each of these points below and conclude with the requested remedy.

1. The terms of reference for this project were not subjected to public consultations

Nowhere in the documentation can we find any reference to the terms of reference for this study having been subjected to public consultation. This violates sections 13.1 and 13.2 of the *Act*. The question about consultation on the terms of reference was raised during the second round of consultation and was not responded to (Table 11).

Had the City consulted on the terms of reference, it might have avoided the erroneous definition of the Primary Study Area, which does not include Fallowfield Road. In fact, the document trail of this project shows that, until the question was raised at the first Agency Consultation Group meeting (16 April 2013), there had been no intent to examine use of Fallowfield Road as an option. In 2007 (at Transportation Committee on 21 November), the favoured solution to a capacity problem was to extend Hope Side Road to Highway 416; an alternative would be to widen Old Richmond and West Hunt Club Roads. A Secondary Study Area, which did extend to Fallowfield was defined and "included in the

scope of the study to ensure that any potential impacts (i.e. noise, vibration, air quality, drainage) are fully considered in the development and evaluation of alternatives." The study was put on hold to allow the National Capital Commission to complete its Greenbelt Master Plan review; as well the City and the NCC commissioned a "Joint Study to Assess Cumulative Effects of Transportation Infrastructures on the National Capital Greenbelt" (November 2012). As a result, the extension of Hope Side Road was vetoed. Instead, Old Richmond Road and West Hunt Club widening, which was not considered in the Joint Study, became the preferred option. For this and other reasons, Transportation Committee amended the Statement of Work (5 December 2012). The Primary Study Area now included the existing Hope Side Road. The Secondary Study Area was still shown as in 2007, now characterized as "identified to allow for the examination of other alternative solutions in accordance with the Environmental Assessment (EA) Study process."

Despite this, as noted, it was not until comments were made at the Agency meeting of April 2013 that some effort was devoted to an examination of the Fallowfield option. The points raised by agencies were that the City needed to "Consider a broader study area for the EA to include other routes including Fallowfield Road. Need more analysis to confirm that the current proposed route is the best alternative to carry forward. Other alternatives need to be considered"; and: "Need to justify that no other alternative road corridor solutions are available. Don't assume Old Richmond/West Hunt Club is the solution" (Table 2).

At the first Open House (25 April 2013), the question was raised: "Can you clarify how recently the Fallowfield Corridor came forward as an alternative?" to which the answer was: "As part of the EA Study, we adjust our work as we go along. In this case, at our recent meeting with the Agency Consultation Group, they expressed a desire to see Fallowfield more explicitly considered" (Table 7).

Adjusting the study parameters "as we go along" on a matter as fundamental as alternative routing solutions reflects poor methodology and a bias against any option other than the preferred one.

As requested, the City did then compare its preferred solution with one using Fallowfield Road and reported on it at the second Agency meeting and at the second Open House (meetings of 9 and 16 September 2013 respectively; the subject of 1 slide and 1 display board). Subsequently, the Greenspace Alliance requested and received a more detailed analysis and commented on the inadequacy and errors in the comparison (ref. <http://www.greenspace-alliance.ca/node/621>). In the ESR, the comparison table has been slightly amended and we comment on it below.

The failure to properly consult at the start of the project is matched by poor consultation practice at the end. Puzzled by the absence of any mention of the need for permits from the Rideau Valley Conservation Authority under Ontario Regulation 174/06 (Interference with Wetlands), we contacted the Authority and learned that the agency had not been given an opportunity to comment on a draft report. Like the general public, it may be compelled to request a Part II Order within the 30-day period following the Notice of Completion, should it see the need for any changes. This is unacceptable practice. The general public, as well, would have appreciated an opportunity to comment on a draft ESR.

2. Directing traffic headed for Highway 416 via Fallowfield Road is a far more benign option

The comparative analysis between the Fallowfield and Old Richmond Road/West Hunt Club options (Table 39) contains numerous weaknesses, including clear bias against the Fallowfield option.

Re: Does it address the identified needs

1. Under "level of service capacity" the Fallowfield option is said not to increase capacity across the Greenbelt. Crossing the Greenbelt is not and should not be an objective. The NCC Greenbelt is already highly fragmented and any increase in fragmentation, including road widenings, reduces its capacity to preserve its biodiversity and further limits the free-flow of fauna, especially large animals such as deer. The Fallowfield option avoids the Greenbelt until it links up with Highway 416. In any case, the comparison concluded that both alternatives meet the desired service capacity.
2. Under "vehicle origin and destination" the statements about traffic in the Fallowfield option simply follow the pattern embedded in the TRANS model under existing conditions. This type of analysis yields little useful information when alternative conditions would be presented to the road user. In any case, existing patterns show that Fallowfield Road serves Kanata-Stitsville residents for a variety of destinations, which may make this route more, not less, attractive for new residents in that area.
3. Likewise, under "Out of way travel," the claim that the Fallowfield option offers capacity away from the "major desire line for traffic flow" is untested and doubtful given that the slightly longer route would require not more than 4 extra minutes of commuter time. Such a small difference (under free-flow conditions) can hardly be considered significant as a factor in most people's calculation of the optimal route and total travel time from origin to destination. Other areas in the city demonstrate that users gladly travel in the "wrong" direction to reach their destination. In any case, the analysis is overly simplistic and flawed: It should not be assumed that Highway 416 at West Hunt Club is the interim point the vast majority of users need to reach.

Re: What are the preliminary identified impacts

1. Under "Existing and future land use," the comparison is limited to self-serving assertions in contrasting the two options. The 2008 Transportation Master Plan proposed an option which has now been abandoned. As noted above, both Fallowfield and the ESR's preferred option meet the capacity requirement; the revised TMP (adopted by Council on November 26, 2013) conveniently includes the preferred option. The claim that the Fallowfield option may put pressure on the urban boundary is gratuitous: That pressure may arise regardless of whether Fallowfield becomes a 4-lane road or not. Meanwhile, there is nothing unusual about a major road going through rural land. Regarding the preferred option's consistency with the NCC's newly revised Greenbelt Master Plan, that only reflects the fact that, in this case, the Commission caved in to the City's demands for more road capacity through the Greenbelt. This does not "prove" that Fallowfield is the inferior option.
2. Under "Property acquisition," it is noted that the preferred option will require a land exchange with the NCC within Stony Swamp. In a consultation following the January 30 Notice of Completion, staff informed us that the land offered would consist of road allowances. Clearly, such land would not be

equivalent to lost wetland.

3. The comparison completely fails in providing any analysis of the respective costs of each option. The Fallowfield option may well come out cheaper, even if a cost is assigned to the slightly longer commute, and even without counting the benefit of not impacting the ecological integrity of Stony Swamp. In any case, the public should have the opportunity to see the cost of each option. The fact that no comparative costs were provided is a major failure in public consultation.

Re: Natural Environment

1. The tables in the report reflecting consultation with agencies make it clear that the project should result in "no net loss of ecological function of wetlands" and the preferred option acknowledges this, along with noting that Stony Swamp has "excellent biodiversity." It is quite plain that the wetland area will be reduced. How "no net loss" can be achieved therefore remains unresolved. It does not do to shunt this matter off to the detailed design stage: A solution "in principle" ought to be identified now. We suggest there is none. The Fallowfield option does not impact any wetlands.

2. No mention is made of the inevitable peat loss as a result of the road widening, nor of what the loss of wetland would mean as a loss of carbon sink storage.

3. Apart from wetlands, there is no apparent assessment of the impact of the preferred option on Stony Swamp, one of the prime core areas of the Greenbelt. There is no apparent recognition of the order of magnitude difference between a 2-lane road and a 4-lane divided highway as a barrier to the movement of wildlife. More comment on negative impacts of the preferred option follows below. The point here is that these negative impacts were given short shrift in this comparison. Again, the Fallowfield option avoids creating a significantly thickened barrier through the core of this prime natural area.

4. The report fails to take into account the full range of cumulative effects of creating a significantly thicker barrier through a prime environmental area. The types of measurements that were quantified in the City's and NCC's November 2012 Joint Study have not been applied here. Although the Joint Study envisaged and assessed a solution to the capacity problem that is now abandoned (extending Hope Side Road), the methodologies employed should be applied to the route proposed in the preferred solution. Again, these issues are avoided in the Fallowfield option.

Re: Physical environment

1. Out of the blue, the Fallowfield option brings up the potential requirement of widening Eagelson and Old Richmond Roads south of Hope Side Road. There is no evidence put forward toward this claim so it is purely speculative. Again, this suggests that the Fallowfield option has not been properly and fairly assessed.

Summary

The comparison between alternative solutions to the required additional capacity is inadequate and biased against the Fallowfield option, especially by not giving proper weight to the preferred option's impact on Stony Swamp, even though protection of natural areas is high on the list of objectives of the City's Official Plan. The ESR fails to acknowledge the importance of directing traffic away from natural areas rather than through them. The Fallowfield option avoids the impacts on Stony Swamp which the preferred option is required to mitigate against.

3. Should you nonetheless decide to allow the study's preferred option, then far more comprehensive mitigation measures are required

Most of the attention in Section 10 of the report (Impacts and Proposed Mitigation Measures) goes to precautionary measures during the construction of the widened road through Stony Swamp. Less attention is paid to permanent effects. An assertion on page 72 that "Based on findings during the 2012 and 2013 field investigations and the nature of the proposed activities, no permanent negative impacts on wildlife or wildlife habitat are anticipated in the area as a result of the project" is not supported by evidence in the main report or in Appendix G, the Natural Resource Inventory and Assessment Report.

The section on Wetlands meekly states that "It is anticipated that the proposed activities will result in the loss of some wetland area adjacent to the existing ROW" (page 73). Surely, there is no uncertainty here. Worse, as noted above, there is no indication how "no net loss" of wetland functions could be achieved. The assertion on page 71 that "During detail design a compensation plan will be negotiated with the NCC to result in no net loss of wetland area and no net loss of ecological function" is -- we fear -- an empty promise because it cannot be achieved. At this stage, one should at least have criteria for assessing what constitutes functionally equivalent parcels of land.

Should you nonetheless decide it is acceptable to sacrifice portions of Stony Swamp's wetlands and create a significantly thicker barrier through this area, then the mitigation measures against the project's permanent damage should go further than proposed:

1. The report makes note of a 2009 technical memo from the City that concluded "that there is no ecological reason to install culverts under Old Richmond Road and that the installation of such culverts would create potential adverse impacts on the hydrology and ecology of both Stony Swamp and Stillwater Creek" (page 73). However, the study does not explicitly rule out the creation of such culverts. Our consultation with staff after January 30 yielded the information that only dry culverts, for the passage of wildlife, would be part of the project. Prohibition against creating "wet" culverts should be an explicit condition of the project's approval.

2. The report devotes some attention to mitigation against adverse impacts on species at risk but virtually none to wildlife in general, except during construction. (The exception is its proposals about lighting.) During our post-January 30 consultation, staff asserted to us that mitigation for other than species at risk is not required. Still, in a written response, certain measures to avoid fatalities with deer were put forward. The word "deer" does not appear in the report.

Overall, as a response to proposed intrusion in the Stony Swamp Conservation Area, the ESR is vague and not at all on the level of multiple detailed drawings about the design of the widened roads. Appendix G describes Stony Swamp as "the most floristically diverse site known in Site District 6E-12. Over 745 species of vascular plants, including 560 native species have been recorded in this LS-ANSI (NHIC 2010)." Old Richmond Road cuts through shallow marsh, swamp thicket and deciduous swamp in the middle of the Provincially Significant Wetland; West Hunt Club Road interferes with the wetland as well.

The NCC's 2013 Greenbelt Master Plan describes Stony Swamp as "a large complex of wetlands and forests that forms the headwaters of five streams" and that "has the largest forest in the Greenbelt" (page 101). The ESR recommends that "Drainage within the project limits should be designed so as to maintain the existing hydrological regime of the area" (page 73) but there is no evidence that the impact of the widening on the hydrological regime has been assessed and how that could be countered and make the recommendation credible.

Appendix G, while following several established protocols for its limited investigation and making fair use of the voluminous existing information about the area, is nonetheless more expansive on birds and endangered species than on other forms of wildlife. Its Possible Impacts and Mitigation recommendations (section 5) are extensive about the construction period but have little to say about permanent and cumulative effects and how they could be mitigated.

Worst of all, Appendix G completely fails to recognize -- other than for SAR turtles -- the permanent impact on connectivity and the increased road kill that must be expected by turning a 2-lane road into a 4-lane highway.

One of the few recommendations for the post-construction period in Appendix G is that "compensation be provided through restoration or enhancement of drained or altered naturally occurring wetlands within the NCC's Stony Swamp Conservation Area. Restoration would involve reestablishing a wetland where it previously occurred" (page 37). This was not carried forward to the main report, nor was the suggestion that "removal of glossy buckthorn should be considered as an enhancement technique."

This failure to present a mitigation plan against the permanent adverse impact on wildlife other than endangered species not only flies in the face of the objectives and policies of the City's Official Plan but also is not in compliance with the Statement of Environmental Values to which the Ministry of the Environment is to adhere in its decisions. Principles include adopting an ecosystem approach to environmental protection, consideration of cumulative impacts, effects of its decisions on current and future generations, a precautionary, science-based approach and placing priority on prevention. Application of these principles is not limited to species at risk.

Development and implementation of a comprehensive mitigation plan against the adverse impact of turning a 2-lane road into a 4-lane divided highway should be a condition for allowing this project to proceed. In particular, special emphasis should be given to the free movement of animals, especially large mammals, such as deer. The plan should make full use of available expertise such as from the

Ontario Road Ecology Group (OREG --
<http://www.torontozoo.com/conservation/RoadEcologyGroup.asp>).

3. The mitigation measures should be designed in light of findings on adverse effects based on measures explored in the City's and NCC's 2012 "Joint Study to Assess Cumulative Effects of Transportation Infrastructures on the National Capital Greenbelt."

4. Specifically, the Joint Study suggests a measure of air quality/carbon sink that could be applied here. On benzene concentrations, the ESR excuses the proponent from mitigation because existing conditions already exceed the provincial threshold and saying that a 4% share does not warrant action. Such an approach should be rejected as irresponsible and contrary to the public interest.

Our requested remedy

In conclusion, we request that you:

1. Order the City to comply with Part II of the Act, under terms of reference that include a proper and comprehensive assessment of the option of widening Fallowfield Road. Specifically, the terms of reference should include a full assessment of the negative impact on Stony Swamp under the Old Richmond Road/West Hunt Club Road option and the feasibility of mitigation that would achieve "no net loss" of ecological functions.

2. In the alternative, should you agree to discard the Fallowfield option, order that the project be allowed on condition that:

a - a study be completed to your satisfaction which uses the cumulative effects methodology applied in the November 2012 "Joint Study to Assess Cumulative Effects of Transportation Infrastructures on the National Capital Greenbelt."

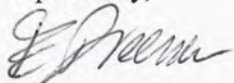
b- based on that study, a comprehensive mitigation plan be developed and implemented against the adverse impact of all wildlife, in addition to mitigation against adverse impact on species at risk. Before finalizing the plan, it should be subjected to peer review and public consultation.

c- it estimate the impact on peat and carbon sink loss, air quality, including benzene concentrations, and greenhouse gas emissions and identify appropriate mitigation measures;

d- it not include "wet" culverts under Old Richmond Road.

We look forward your decision.

Respectfully,



Erwin Dreessen
Co-chair

Cc: Angela Taylor, City of Ottawa (by E-mail, Angela.Taylor@ottawa.ca)