November 14, 2023

**Electronic** **Submission only**

**ATTENTION**:

Honourable Paul Calandra, Minister of Municipal Affairs and Housing

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# RE: Proposal to return lands to the Greenbelt – Bill 136, Greenbelt Statute Law Amendment Act, 2023.

**ERO Posting 019-7739**

**Background:**

On October 16, 2023 the Ministry of Municipal Affairs and Housing (MMAH) published ERO Posting [019-7739](https://ero.ontario.ca/notice/019-7739) that is seeking feedback on a proposal to introduce legislation that would restore the fifteen (15) parcels of land that were redesignated or removed from the Greenbelt in late 2022. In addition, the following policy and legislative changes are proposed with the stated intention to fulfill the province’s obligation to protect Greenbelt lands moving forward:

* Eliminate the authority to add or remove lands to/from the Greenbelt Area and Oak Ridges Moraine Area by regulation so that any future amendments to these Areas would require legislative change to the *Greenbelt Act* or *the Oak Ridges Moraine Conservation Act.*
* Revoke the existing *Greenbelt Area boundary regulation* (*Ontario Regulation 59/05*) and the existing regulation that designates the Oak Ridges Moraine Area (*Ontario Regulation 1/02*).
* Undo the redesignation of lands to Settlement Area in the Oak Ridges Moraine Conservation Plan.
* Provide for a concurrent amendment to the Greenbelt Plan's land use schedules to restore the same protections to lands that they had before the 2022 amendment.
* Continue to provide that no Plan amendments can be made that would reduce the total area in the Greenbelt Plan.
* Reverse the repeal of the *Duffins Rouge Agricultural Preserve Act, 2005.*
* Restore the same protections for easements and covenants on the lands in the Duffins Rouge Agricultural Preserve that they had before the 2022 amendment, and
* Strengthen immunity provisions.

**Previous Provincial engagement.**

As part of Community Planning Department report [PL-82-22](https://burlingtonpublishing.escribemeetings.com/filestream.ashx?DocumentId=65104) titled City of Burlington submissions as of November 25 on Ontario’s Housing Supply Action Plan and Bill 23 that was considered by Community Planning, Regulation & Mobility Committee (CPRM) on December 6, 2022, and by Council on December 13, 2022 the City provided comments on the Province of Ontario’s engagement regarding proposed amendments to the Greenbelt Plan ([ERO 019-6216](https://ero.ontario.ca/notice/019-6216)). The suggested amendments to the Greenbelt Plan resulted in the removal/redesignation of fifteen (15) tracts of land totaling approximately 7,400 ac. across multiple municipalities. The same engagement process sought to garner feedback on proposed additions to the Greenbelt Plan in the form of the Paris-Galt Moraine and a number of Urban River Valley (URV) systems totaling approximately 9,400 ac. These URVs were identified through a separate engagement process as part of ERO Posting [019-4803](https://ero.ontario.ca/notice/019-4803) – *Ideas for adding more Urban River Valleys* for which staff prepared a CIP memo. Although the City of Burlington was not directly impacted by the proposed removals or additions to the Greenbelt Plan, City Staff outlined a number of concerns regarding the proposal focused primarily on the following issues:

* Loss of agricultural lands and overall signaling that the agricultural system is considered a lesser priority for protection compared with the natural heritage systems and aggregate resource areas.
* Disproportionate valuation of the lands added when compared to the overall value of the lands removed.
* Lack of technical analysis and planning justification for the lands proposed to be removed; and
* Lack of transparency and engagement in the assessment framework used in the land selection process.

As the City of Burlington is bound by Greenbelt lands at its northern and western limits, understanding what seemed to be a new selection framework was the primary concern of staff. Staff highlighted at that time that a transparent and equitable selection framework is important in order to properly plan for any future occurrences or opportunities that may be directed to Burlington. Staff did not outright object to any of the removals or additions, as they were outside of Burlington’s geographic boundaries.

ERO Posting [019-6216](https://ero.ontario.ca/notice/019-6216) garnered significant feedback from the public and various stakeholders resulting in 11,207 responses through the ERO and an additional 18,040 received by general email. The summary of comments contained within the posting outlined that directly impacted municipalities had a mixed response to the removals, but most were aligned on requesting additional information on the process used, funding and future development, and affordable housing requirements. Conservation authorities and indigenous communities were unsupportive of the removals while the development industry was generally supportive. Specific concerns of the public and other stakeholders focused on negative impacts to the environment, the importance of permanent protection of agricultural lands, the complexity and lack of transparency in the process, and lack of justification regarding land needs and provision of affordable housing.

**Current engagement (ERO 019-7739) – Bill 136 Greenbelt Statute Law Amendment Act, 2023.**

The current proposal under Bill 136 seeks to make amendments to three (3) acts: *The Greenbelt Act, 2005, the Ministry of Municipal Affairs and Housing Act,* and *The Oak Ridges Moraine Conservation Act, 2001.* The centerpiece of the proposed legislative changes suggests returning those lands removed from the Greenbelt Plan area and Oak Ridges Moraine Plan area in December of 2022 while retaining the lands that were also added at that time. Additionally, it is proposed that Section 2 of both the Greenbelt Act and the Oak Ridges Moraine Conservation Act will be “re-enacted” to describe the Greenbelt Plan area and Oak Ridges Moraine Plan area respectively. Currently, these areas are described through regulation (O.Regs. 59/05 & 1/02) and as such may be amended through a decision of the Lieutenant Governor in Council. Repealing the regulations, as proposed, and describing the extent of lands within Section 2 of the respective Acts would remove the authority of the Lieutenant Governor and Council to make amendments. Any future additions/removals to the Greenbelt Plan area or the Oak Ridges Moraine area would require the approval of the Ontario Legislature.

Other changes proposed to the *Greenbelt Act*, *the Oak Ridges Moraine Conservation Act*, and *the Municipal Affairs and Housing Act* seek to limit liability resulting from amendments to the Acts or Regulations for employees, officers, or agents of the Crown in right of Ontario or current or former members of the Executive Council related to the specified actions.

Finally, the *Duffins Rouge Agricultural Preserve Repeal Act, 2022* (DRAPA)is proposed to be repealed, and the *Duffins Rouge Agricultural Preserve Act, 2023* is to be enacted in its place. This Act pertains specifically to lands in north Pickering that were removed from the Greenbelt Plan area in December of 2022. This Act applies a number of covenants and easements for conservation purposes to lands within its area of applicability. Similar to other proposed changes, the DRAPA will include similar language limiting the liability of Crown employees, officers and agents regarding specified actions.

**Discussion.**

Similar to the 2022 consultation on removing lands from the Greenbelt Plan area, this proposed reversal has limited direct impact to lands within the City of Burlington. No lands were originally suggested to be removed or added from the Greenbelt Plan area within Burlington, which is primarily comprised of lands subject to the Niagara Escarpment Plan. Adding the lands back into the Greenbelt Plan area, including the Protected Countryside lands, as well as the re-enactment of DRAPA responds to the a significant amount of comments from the original consultation that were critical of the province’s direction regarding Greenbelt removals. Adding the previously removed lands back into the Greenbelt Plan area, as well as retaining those lands added, is a direction that is supported by City of Burlington planning staff.

Concerns remain regarding the framework used to undertake the original assessment that led to the removal of selected Greenbelt lands. The proposal to make future additions or removals an act of the Legislature may ensure a more robust engagement process is carried out, but it does not guarantee that the future technical assessment and justification of removals/additions will be appropriately carried out. It is noted that the same body that appoints the Lieutenant Governor in Council will now be the decision maker. This does not fundamentally ensure a fair and equitable process, nor does it remove potential political interference from future decisions. Furthermore, the proposed language being introduced for indemnifying employees, agents, or officers of the Crown in such decisions removes a crucial component of any decision-making process: accountability. The addition of the proposed language seeking to limit liability does not demonstrate a commitment to a transparent and fair process in the future. Limiting the liability of the decision-making entity(ies) in the manner proposed is not supported by City of Burlington planning staff.

The original ERO Posting ([019-6216](https://ero.ontario.ca/notice/019-6216)) received a total of 29,247 comments many of which contained valuable and constructive responses from multiple stakeholders within various disciplines. These responses not only represent the keen interest in the protection of the Greenbelt, but also provides invaluable information from which MMAH could construct a future assessment framework. Consideration should also be given to amending the relevant Acts such that removals or additions to the Greenbelt Plan area may only occur at the time of a coordinated review of the Provincial Plans. This would ensure a more robust and transparent process led by the respective Provincial agencies, while also ensuring the overlapping nature of the policies of the Provincial Plans are properly assessed and justified.

**Conclusion**

City of Burlington Planning Staff support the return of the previously removed lands to the Greenbelt Plan area. Staff are concerned that the proposed indemnification language has the potential to undermine the objective of a transparent and accountable process. A commitment to future engagement on the development of a transparent and technically based assessment framework would also be well received, and is a process that City of Burlington staff would gladly participate in. Such a direction would represent a proactive approach to land use and environmental planning, and one which the City could rely on for land use planning decisions moving forward.

Staff will be submitting this memo in response to MMAH’s request for comments through ERO Posting [019-7739](https://ero.ontario.ca/notice/019-7739).

If you have any questions, please contact me.

Sincerely,

A close-up of a letter

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Jamie Tellier, MCIP, RPP

Director of Community Planning

Community Planning Department