**Public Comment on ERO 019-7739: Proposal to Return Lands to the Greenbelt - Greenbelt Statute Law Amendment Act, 2023**

**Introduction**

 The authors of this public comment were shocked last autumn when the Ontario government announced their proposal to make sweeping changes to the Greenbelt. While it is clear that we in Ontario are experiencing issues with access to housing and housing affordability, we must not lose focus on our goals of sustainability for future generations. The Greenbelt is at the centre of a debate between the priorities of access to affordable housing and sustainability. While the government of Ontario was in favour of developing the Greenbelt with the purported goal of improving the former situation, such a proposal was certainly to be at the cost of the latter. Mounting public opposition to developing the Greenbelt combined with investigations from multiple organizations ultimately convinced legislators to reverse course as it became clear that the people of Ontario were not willing to look for a solution to housing access and affordability issues at the cost of current and future sustainable land use practices. The authors would like to agree with a provincial slogan that Ontario is indeed a “place to grow,” however this growth should occur responsibly on sites correctly identified by objective standards.

 Generally, the authors of this comment support the government’s proposals to reverse the changes made to the Greenbelt. This reversal is good public policy as it is an acknowledgement that achieving short term goals should not come at the cost of failing to progress long term goals and also demonstrates accountability; words are cheap and governments often apologize, but much less frequently are decisions reversed or altered. Additionally, moving Greenbelt land definitions out of regulations and into statutes will ensure future transparency and accountability by moving such decisions to the legislative assembly, where the process will be significantly more visible to the public. This also provides an opportunity to improve existing legislation so that it is more compatible with sustainable development, particularly by making all legislation governing Greenbelt and associated lands subject to consistency with the United Nations Sustainable Development Goals. Finally, while this government is taking a significant step in the right direction with the Greenbelt it is also proposing to strengthen certain provincial liability protections. We believe that these new liability protections are not necessary for good faith dealings and have the potential to set a dangerous precedent in terms of both the breadth of these shields from liability and the scope of persons protected. Existing provincial liability protections are sufficient and strengthening them has the potential to protect provincial actors from liability for actual wrongdoing as well as to damage public trust as it is being rebuilt.

**Reversing Changes Made to the Greenbelt is Good Public Policy & Demonstrates Accountability to the Public**

 Like many others in the province, we the authors of this public comment were highly critical of the Ontario government’s November 4, 2022 decision to remove 2994 hectares from 15 different areas of the Greenbelt, which came as a shock after their pledge not to allow any kind of development in the Greenbelt.[[1]](#footnote-2) The government’s reasoning was that this would allow the construction of 50,000 homes, which could help to alleviate the dire housing shortage that exists in the Greater Golden Horseshoe; the public consultation process opened on the same day the decision was announced.[[2]](#footnote-3) The authors of this comment disagreed with the decision to remove land from the Greenbelt to build housing and were perplexed with the lack of transparency by the government prior to the announcement regarding the processes and mechanisms by which these lands were selected. Citizens often disagree with decisions made by their government, however in this case we were denied the opportunity to understand *why the decision was made in the first place*. Our trust in the government was further eroded as more information became available. By the end of November 2022 allegations had been made that developers who had purchased the newly available Greenbelt land were linked to members of Doug Ford’s Progressive Conservative Party and the premier himself, and the Ontario Green Party asked the integrity commissioner to investigate whether the premier or housing minister had tipped off developers.[[3]](#footnote-4) By January of 2023 the Ontario Provincial Police were investigating complaints made by Environmental Defence and Democracy Watch, both advocacy groups, who had requested an investigation into Ford's Greenbelt plans,[[4]](#footnote-5) and Ontario’s Integrity Commissioner and Auditor General had both announced that they would launch investigations into the government’s decision to open up Greenbelt lands.[[5]](#footnote-6) In her August 9, 2023 report - after months of public outcry over the decision and suspicion about the process - the Auditor General confirmed long held suspicions that “the lands removed from the Greenbelt in December 2022 were not chosen using an objective and transparent selection process”.[[6]](#footnote-7) Before the Ontario government submitted this proposal to reverse their 2022 decisions, it had become clear that the decision to remove Greenbelt lands was an issue sensitive to Ontarians across the political spectrum, including Ford’s own supporters, as Ford was losing political support because of the issue as recently as September 2023.[[7]](#footnote-8)

 It is easy for citizens to lose trust in their government when any decision is made without a transparent decision making process that allows individuals to see how an idea was conceived, what its benefits and drawbacks might be, and how the government arrived at the conclusion it did. Regarding the sanctioning of public officials, former Federal Ethics Commissioner Mario Dion said that “public shaming is the foundation of the system",[[8]](#footnote-9) but even when there is substantial public outrage, governments often deflect responsibility or offer half-hearted apologies and rarely reverse the decision(s) that produced the outrage in the first place. Thus, the decision of the Ontario government to reverse their actions and restore the Greenbelt is a significant undertaking to restore public trust. The government could have entrenched themselves in their initial position but instead have accepted responsibility, offered an apology, will be reversing the actions taken, *and* are adding additional lands to the Greenbelt. The authors of this public comment acknowledge that this is a step in the right direction to restoring the perception of government accountability to the public, however, we note that it took months of public pressure and the resignation of two ministers before the government reversed its course.[[9]](#footnote-10) While the government's decision to reverse course on the Greenbelt and even strengthen some aspects of protection (for example, through the passage of the *Greenbelt Statute Law Amendment Act, 2023*) is very much welcome, the authors also firmly believe that the Ontario government and/or particular members of the government should be held accountable for having covertly made these decisions in the first place and thus are supportive of whatever penalties may be imposed pending the conclusion of the RCMP’s ongoing investigation.

**Moving Greenbelt Land Definitions from Regulations to Statutes Ensures Transparency and Future Accountability**

 One of the most pressing issues with the Greenbelt that allowed the Ontario government to make the changes they did prior to this proposal was the fact that definitions of Greenbelt lands were largely contained within provincial regulations. For example: the Oak Ridges Moraine Area was designated by Ontario Regulation 1/02.[[10]](#footnote-11) Such a framework allowed changes to the definitions of Greenbelt lands to occur without discussion in the Legislative Assembly of Ontario nor the passage of any legislation, provided there had been “sufficient public consultation” under the *Environmental Bill of Rights, 1993*.[[11]](#footnote-12) This sufficient level of public consultation may not have been reached in this case as the government received 35,000 comments during the 30-day consultation period and only 10 days after its conclusion the housing Ministry filed O. Reg. 567/22 under the *Greenbelt Act, 2005* and O. Reg. 568/22 under the *Oak Ridges Moraine Conservation Act, 2001*, which together implemented the proposed Greenbelt Area boundary amendments for 15 sites.[[12]](#footnote-13) It was clear as early as 2014 that there was no immediate need to designate white belt lands (lands between the edges of approved urban settlement areas and the Greenbelt that are underdeveloped but may be developed in the future)[[13]](#footnote-14) since other land has already been approved to accommodate urban growth until 2041,[[14]](#footnote-15) and the Auditor General’s recommendation that “the consultation process respects public input within a time frame that supports and enables meaningful consultation about significant decisions impacting the environment”[[15]](#footnote-16) makes it abundantly clear that the Ontario government did not effectively consult experts nor the public about the proposals. Thus, we the authors are highly supportive of the government’s proposal to re-enact section 2 of the *Greenbelt Act, 2005* in order to designate Greenbelt lands previously designated by Ontario Regulation 59/05 by legislation, and also of the proposal to re-enact section 2 of the *Oak Ridges Moraine Conservation Act, 2001* which will designate by legislation the Oak Ridges Moraine Area that was previously designated by Ontario Regulation 1/02.[[16]](#footnote-17) Moving the definitions of these lands to statutes instead of regulations provides that any changes made by any future government must occur in the legislative assembly, which ensures that processes will be visible to the public. There is also an opportunity here for the government to further strengthen environmental protections and to establish sustainable land management practices.

 In September 2015, Canada adopted the United Nations 2030 Agenda for Sustainable Development—a 15-year global framework centered on 17 sustainable development goals.[[17]](#footnote-18) The authors of this comment believe that the Ontario government could strengthen environmental protections and establish sustainable land management practices at the same time as rebuilding public trust if they were to make future legislation applicable to the Greenbelt, Duffins Rouge Agriculture Preserve, Oak Ridges Moraine, and associated areas consistent with *all 17* of the UN Sustainable Development Goals (UN SDGs). In the short term, Ontario should focus on making the legislative changes in Bill 136 and all those that may be made in the future regarding land use planning consistent with the following UN SDGs: 6, clean water and sanitation; 11, sustainable cities and communities; 12, responsible consumption and production; 13, climate action; and, 15, life on land.[[18]](#footnote-19) This suggestion is predicated on the authors’ view that the proliferation of “green infrastructure”—the delivery of nature-based solutions to “build back better, support sustainable development, and address the impacts of climate change”[[19]](#footnote-20) - will be crucial in reaching the UN SDGs and that the Greenbelt and associated lands such as the Duffins Rouge Agricultural Preserve and Oak Ridges Moraine are the most important piece of green infrastructure in the province. UN SDG 6 is as much about protecting sensitive watersheds and the species that depend on them as it is providing safe drinking water for humans,[[20]](#footnote-21) which preserving or expanding the Greenbelt helps to accomplish. Goal 11 requires commitments to reducing air pollution and the availability of public green spaces in proximity to urban centres,[[21]](#footnote-22) to which the preservation of the Greenbelt does not necessarily contribute forward progress (as the land and features comprising it existed in nature prior to being designated by the *Greenbelt Act, 2005*), however, the destruction and/or development of these lands would significantly harm these goals if this were allowed to take place. Furthermore, Goal 12 emphasizes responsible consumption and production practices with the goal of reducing food wastes and carbon footprint, and an effective way to do this is to increase efficiency in production.[[22]](#footnote-23) Besides the ecological advantages of maintaining or expanding the Greenbelt, there are also significant agricultural benefits as the Greenbelt accounts for 53% of Ontario’s fruit acreage and 11% of Ontario’s vegetable acres on just 6.1% of Ontario’s total farmland while also being located within the immediate vicinity of 60% of Ontario’s food processing capacity.[[23]](#footnote-24) The efficient agricultural productivity of the Greenbelt should be preserved alongside its ecological benefits for future generations. Finally, preservation of the Greenbelt would also help to achieve UN SDGs 13 and 15 in terms of reducing the impacts of climate change in Ontario by maintaining green spaces and also preserving habitats and biodiversity.

 The authors of this comment welcome Ontario’s proposal to move definitions of Greenbelt lands out of regulations and into statutes as this will make the process more transparent to the public but are also urging that an additional section be added to the *Greenbelt Act, 2005* requiring that any decision made pertaining the Greenbelt must be consistent with (preferably) all 17 United Nations Sustainable Development Goals, with particular emphasis on Goals 6, 11, 12, 13, and 15. This addition would make any proposed land development in or removal of land from the Greenbelt more difficult but not impossible, and would ensure that any changes are made in an environmentally conscious manner. We are asking for legislative changes because moral suasion through Official Plans such as the Ontario Climate Change Action Plan, Greenbelt Plan, Provincial Policy Statement and others is the least coercive instrument used to effect green infrastructure public policy,[[24]](#footnote-25) whereas legislation can create and implement mandatory compliance requirements that lower level instruments cannot.

**Added Provincial Liability Protections are Unnecessary for Good Faith Dealings and Set a Dangerous Precedent in Breadth of Subject Matter & Persons Protected**

Under the Ontario *Crown Liability and Proceedings Act, 2019*,

the Crown is subject to all the liabilities in tort to which it would be liable if it were a person,

(a) in respect of a tort committed by an officer, employee or agent of the Crown;

(b) in respect of a breach of duty attaching to the ownership, occupation, possession or control of property;

(c) in respect of a breach of an employment-related obligation owed to an officer or employee of the Crown; and

(d) under any Act, or under any regulation or by-law made or passed under any Act.[[25]](#footnote-26)

The statutory liability exists because of the common law principle that “the king can do no wrong, nor authorize any wrongdoing.”[[26]](#footnote-27) The *Crown Liability and Proceedings Act* creates Crown Liability but maintains the ability of Parliament to provide for immunity from liability in tort through statute: the Crown is subject to liability “[e]xcept as otherwise provided under this Act or any other Act”.[[27]](#footnote-28)

The existing *Greenbelt Act*, as of June 1, 2021, absolutely insulates the Crown from liability in section 19, stating in no uncertain terms at subsection (1) that

No cause of action arises as a direct or indirect result of,

(a) the enactment or repeal of any provision of this Act;

(b) the making or revocation of any provision of the regulations made under this Act;

(c) the making of a plan or an amendment to a plan under the *Ontario Planning and Development Act, 1994* in relation to lands to which the Greenbelt Plan applies; or

(d) anything done or not done in accordance with this Act or the regulations made under it.[[28]](#footnote-29)

Section 19 further prevents the award of any remedy from a non-exhaustive list of “contract, restitution, tort or trust” and bars all proceedings “directly or indirectly based on or related to anything referred to in subsection (1)”.[[29]](#footnote-30) Section 19 of the *Greenbelt Act* in its current form already protects the province of Ontario from any action that could potentially be brought regarding

the making of, amendments to and revocation of Ontario Regulation 59/05 (Designation of Greenbelt Area) made under this Act, including,

(i) the inclusion in paragraph 3 of subsection 1 (1) of that Regulation, on December 16, 2004, of the area of land designated as Part 32 on a plan entitled “Plan of the Boundary of the Protected Countryside” dated February 23, 2005 and filed on that date with the Office of the Surveyor General of Ontario, and

(ii) the amendments made to that Regulation by Ontario Regulation 567/22 made under this Act.[[30]](#footnote-31)

These enhanced protections proposed to be added to the *Greenbelt Act* in Bill 136 are thus not necessary to shield the Ontario government from liability in relation to actions taken regarding the Greenbelt land swap.

Likewise the limitations on remedies existing in the *Oak Ridges Moraine Conservation Act*[[31]](#footnote-32) as of June 1, 2021 and the limitations on remedies that existed in the *Duffins Rouge Agricultural Preserve Act*[[32]](#footnote-33) from December 8, 2022 to December 14, 2022 fully protect the government from any potential cause of action contemplated in Bill 136’s proposed replacement of section 3 of the *Duffins Rouge Agricultural Preserve Act*[[33]](#footnote-34) and section 20 of the *Oak Ridges Moraine Act*.[[34]](#footnote-35)

The proposal to expand protections from liability and “ensure the province has no legal liability for matters related to the *Greenbelt Act*” and likewise the *Duffins Rouge Agricultural Preserve Act* and *Oak Ridges Moraine Conservation Act* are likely unnecessary provisions of the Proposal to return lands to the Greenbelt, but the choice to include greater detail could have been a simple clarification of the existing law. In the case of the proposed amendment to the *Ministry of Municipal Affairs and Housing Act*,[[35]](#footnote-36) the choice to expand the protected classes of people to include “the Facilitator [and] any Deputy Facilitators appointed”[[36]](#footnote-37) is a strong policy choice to make the protections from liability apply equally to all public servants working for the Ministry of Municipal Affairs and Housing. However, the expanded protection for the *Ministry of Municipal Affairs and Housing Act* would retain the caveat that the protected Acts be “done in good faith in the execution or intended execution of the person’s duty, or for any alleged neglect or default in the execution in good faith of the person’s duty.”[[37]](#footnote-38) This good faith provision is conspicuously absent from the other statutes to be modified by Bill 136. In conjunction with this lack of specificity regarding actions taken in good faith, the breadth of the proposed expansions to the immunity provisions in the *Duffin Rouge Agricultural Preserve Act*, *Greenbelt Act*, and *Oak Ridges Moraine Conservation Act* could have more far-reaching consequences.

Bill 136 would introduce additional paragraphs (e) and (f) to subsection 19(1), which add protections for “any review or reconsideration … or any purported failure to review or reconsider the Greenbelt Area and the Greenbelt Plan”[[38]](#footnote-39) and a massive insulation from liability for

(f) any representation or other conduct by current or former employees, officers or agents of the Crown in right of Ontario or current or former members of the Executive Council that is related, directly or indirectly, to,

(i) the actual or potential enactment of any Act or actual or potential making of any regulation made under this Act or other instrument concerning,

 (A) the removal of land from the Greenbelt Area, including under Ontario Regulation 567/22 made under this Act, or

 (B) the identification of any land, including by Greenbelt Plan Amendment No. 3,

 (ii) the actual or potential acquisition, disposal, use or development of any land removed from the Greenbelt Area pursuant to Ontario Regulation 567/22 made under this Act or redesignated by Greenbelt Plan Amendment No. 3,

 (iii) the actual or potential granting or issuance of any approval, permit, order or other instrument in respect of any land removed from the Greenbelt Area under Ontario Regulation 567/22 made under this Act or redesignated by Greenbelt Plan Amendment No. 3,

 (iv) any actual or potential agreement under section 49.2 of the *Planning Act* in respect of any land referred to in clause 14.1 (a) of this Act, including any negotiations respecting any such actual or potential agreement,

 (v) the addition of land that is identified as “Featureless Lands” in the Statement of Claim filed in the Superior Court of Justice proceeding commenced at Newmarket and identified as Court File number CV-17-131956-00 to the Greenbelt Area under Ontario Regulation 59/05 made under this Act and the designation of that land as Protected Countryside by the Greenbelt Plan, any review or reconsideration of that addition and designation or any purported failure to review or reconsider that addition and designation, or

 (vi) the settlement of the Superior Court of Justice proceeding commenced at Newmarket and identified as Court File number CV-17-131956-00, including the disclosure of any information relating to that settlement, regardless of whether such information is privileged or confidential, or any purported breach of that settlement.[[39]](#footnote-40)

The expansion of immunities from liability to any representation or conduct by current or former Crown agents or employees related directly or indirectly to any actual or potential agreements or enactments related to the *Greenbelt Act* is a significant and sweeping expansion from the existing protection from liability for the province and its agents. The provisions in paragraph (f) appear to be attempting to insulate provincial agents and employees from actions in tort for misfeasance in public office.

The tort of misfeasance in public office exists to remedy abuses of public power with knowing malice and intent to cause injury.[[40]](#footnote-41) The test for misfeasance in public office is already strict; the *mens rea* requirement must establish an act with malicious intent, “such as to gain a private collateral advantage.”[[41]](#footnote-42) An act other than of targeted malice may also be grounds for an action in misfeasance in public office if the public officer engages in a knowing excess of power likely to injure the plaintiff.[[42]](#footnote-43) Given that such a high standard exists for this tort, passing the measures proposed for the *Greenbelt Act*, s. 19(1)(f)into law is unnecessary to protect any employees, officers, or agents of the Crown from actions taken in good faith related to the matters listed in subparagraphs i-vi. We are in agreement with the CBC news report that Bill 136 “explicitly rules out damages for bad faith or misfeasance in public office.”[[43]](#footnote-44) In the above article, Mike Crawley’s interviews with Dean Trevor Farrow of Osgoode Hall Law School and associate dean of research Cherie Metcalf of Queen’s University faculty of law support our position that the Proposal seeks to prevent legal challenges against Crown agents and employees for misfeasance.

Passing Bill 136 in its current form and so preventing members of the public from holding abuses of public power accountable could erode public trust in the Ontario legislature. The matter of public trust in the Ontario legislature is paramount in the Proposal to return lands to the Greenbelt. This proposal and the related Bill 136 have been brought about by clear public dissatisfaction with the removed Greenbelt land in December 2022. The Auditor General’s *Special Report on Changes to the Greenbelt* of August 2023 was clear that the above land swap was not transparent, objective, or fully informed and that the public and municipalities were not adequately consulted.[[44]](#footnote-45) The comment of the Honourable Paul Calandra, Minister for Municipal Affairs and Housing during the sitting of parliament on November 20th that the government of Ontario “made a public-policy decision that wasn’t supported by the people of the province of Ontario”[[45]](#footnote-46) would demonstrate awareness and a desire to take accountability informing the actions of the government in this proposal, but this is undermined by Premier Ford’s assertion moments later that the public “don’t give two hoots”[[46]](#footnote-47) about the *Greenbelt Statute Law Amendment Act*. The availability of the period for public comment here on the ERO belies the difficulty and inadequacy of public consultation available on this issue. The Auditor General’s findings that the public was not adequately consulted on the Greenbelt boundary changes in 2022[[47]](#footnote-48) are not being addressed with the seriousness that they deserve if the Premier is downplaying the importance of public input on the Proposal to return lands to the Greenbelt.

**Conclusion**

We find a conflict between the stated goal of creating “an open, public and transparent legislative process”[[48]](#footnote-49) for any future changes to the Greenbelt and the Premier’s cavalier attitude toward the public’s supposed lack of interest in this Proposal. Furthermore, the introduction of expanded immunity provisions into the *Duffins Rouge Agricultural Preserve Act*, *Greenbelt Act*, and *Oak Ridges Moraine Conservation Act* would serve to shield any action of the government related in any way to one of these Acts from accountability to the public and thus make the movement of land designations from regulation to statute offer no meaningful protection for the public’s interest in Greenbelt lands. The praise afforded to the Government in the first half of this comment can only be given if it does not enact immunity provisions that threaten to undermine the process of rebuilding public trust and to insulate Government decision makers from responsibility from *actual* wrongdoing. It is imperative that the Premier and his government are conscious of the public outcry that has led to these proposals in the first place. Additionally, if the Government wants to be taken seriously about its commitments to transparency and public trust there is an excellent opportunity to sway Ontarians by strengthening Greenbelt protections to make them consistent with the United Nations Sustainable Development Goals. By doing this, Ontario’s Government would demonstrate their commitment to sustainable development in the present and for future generations.

1. N.A., “A timeline of key events in Ontario’s Greenbelt controversy”, *Canadian Press* (21 September 2023, last modified 10 October 2023), online: <cbc.ca> [<https://www.cbc.ca/news/canada/toronto/ont-greenbelt-timeline-1.6974715>]. [↑](#footnote-ref-2)
2. “Proposed Amendments to the Greenbelt Plan, ERO 019-6216” (4 November, 2022, last modified 21 December 2022), online (Environmental Registry of Ontario Website): <<https://ero.ontario.ca/notice/019-6216>>. [↑](#footnote-ref-3)
3. Oliver Moore & Jill Mahoney, “Developers who bought Ontario Greenbelt linked to Ford government”, *The Globe and Mail* (28 November, 2022, last modified 9 January 2023), online: <theglobeandmail.com> [<https://www.theglobeandmail.com/canada/article-sales-of-greenbelt-land-raise-questions-for-ford/>] **;** Katherine DeClerq, “Ontario Green Party asks integrity commissioner to investigate Greenbelt development”, *CTV News Toronto* (29 November, 2022), online: <toronto.ctvnew.ca> [<https://toronto.ctvnews.ca/ontario-green-party-asks-integrity-commissioner-to-investigate-greenbelt-development-1.6173546>]. [↑](#footnote-ref-4)
4. Katherine DeClerq, “OPP looking into complaints made against Ford government over Greenbelt development”, *CTV News* (6 January 2023), online: <toronto.ctvnews.ca> [<https://toronto.ctvnews.ca/opp-looking-into-complaints-made-against-ford-government-over-greenbelt-development-1.6220617>]. [↑](#footnote-ref-5)
5. Allison Jones, “Ontario’s integrity commissioner, auditor general launching Greenbelt investigations”, *Canadian Press* (18 January 2023), online: <cbc.ca> [<https://www.cbc.ca/news/canada/toronto/ontario-integrity-commissioner-investigation-1.6718018>]. [↑](#footnote-ref-6)
6. Auditor General of Ontario, *Special Report on Changes to the Greenbelt*, (Toronto, Office of the Auditor General of Ontario, 2023) at 14. [↑](#footnote-ref-7)
7. Mike Crawley, “2 polls suggest Ontario Greenbelt saga eroding Doug Ford’s political support”, *CBC News* (8 September 2023), online: <cbc.ca> [<https://www.cbc.ca/news/canada/toronto/ontario-greenbelt-doug-ford-polling-1.6960508>]. [↑](#footnote-ref-8)
8. Christopher Nardi, “Ethics commissioner frustrated by Liberals’ lapses: ‘Act has been there for 17 years, for God’s sake’”, *National Post* (16 February 2023), online: <nationalpost.com> [<https://nationalpost.com/news/politics/ethics-commissioner-trudeau-liberals-lapses>]. [↑](#footnote-ref-9)
9. Sara Jabakhanji, “RCMP investigating Ontario government’s plan to open Greenbelt land for development”, *CBC News* (10 October 2023), online: <cbc.ca> [<https://www.cbc.ca/news/canada/toronto/rcmp-criminal-investigation-ford-greenbelt-1.6991595>]. [↑](#footnote-ref-10)
10. *Designation of Oak Ridges Moraine Area*, O Reg 1/02, s. 1(1). [↑](#footnote-ref-11)
11. Auditor General of Ontario, *Special Report on Changes to the Greenbelt*, (Toronto, Office of the Auditor General of Ontario, 2023) at 13 & 14. [↑](#footnote-ref-12)
12. *Ibid* at 25. [↑](#footnote-ref-13)
13. Neptis Foundation, “Whitebelt” (N.D.), online: <<https://neptis.org/geoweb/data-catalogue/whitebelt>> . [↑](#footnote-ref-14)
14. Sara Macdonald, Jochen Mondstadt & Abigail Friendly, “Towards smart regional growth: institutional complexities and the regional governance of Southern Ontario’s Greenbelt” (2020) 11:8 Territory, Politics, Governance 1727 at 1738. [↑](#footnote-ref-15)
15. Auditor General of Ontario, *Special Report on Changes to the Greenbelt*, (Toronto, Office of the Auditor General of Ontario, 2023) at 92. [↑](#footnote-ref-16)
16. Bill 136, *An Act to amend the Greenbelt Act, 2005 and certain other Acts, to enact the Duffins Rouge Agricultural Preserve Act, 2023, to repeal an Act and to revoke various regulations*, 1st sess, 43rd Leg, Ontario, 2023 schedule 2 cls 2(1)1-6 & schedule 4 cl 2(1)1 (First reading 16 October 2023). [↑](#footnote-ref-17)
17. N.A., “The 2030 Agenda for Sustainable Development” (last modified 13 January 2023), online (official government website): <<https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/priorities-priorites/agenda-programme.aspx?lang=eng> . [↑](#footnote-ref-18)
18. N.A., “The 2030 Agenda for Sustainable Development” (last modified 13 January 2023.), online (official government website): <<https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/priorities-priorites/agenda-programme.aspx?lang=eng> . [↑](#footnote-ref-19)
19. Vidya Anderson & William A Gough, “Enabling Nature-Based Solutions to Build Back Better—An Environmental Regulatory Impact Analysis of Green Infrastructure in Ontario, Canada” (2022) 12:61 Buildings at 1 <<https://doi.org/10.3390/buildings12010061>>. [↑](#footnote-ref-20)
20. United Nations, *The Sustainable Development Goals Report 2023: Special Edition*, (New York: United Nations Publications, 2023) at 25. [↑](#footnote-ref-21)
21. United Nations, *The Sustainable Development Goals Report 2023: Special Edition*, (New York: United Nations Publications, 2023) at 35. [↑](#footnote-ref-22)
22. United Nations, *The Sustainable Development Goals Report 2023: Special Edition*, (New York: United Nations Publications, 2023) at 36 & 37. [↑](#footnote-ref-23)
23. N.A., “Agriculture Trends and Updates: Understanding the Greenbelt’s Unique Advantages” (15 February 2019), online (charitable organization website): <<https://www.greenbelt.ca/ag_report_feb19>>. [↑](#footnote-ref-24)
24. Vidya Anderson & William A Gough, “Enabling Nature-Based Solutions to Build Back Better—An Environmental Regulatory Impact Analysis of Green Infrastructure in Ontario, Canada” (2022) 12:61 Buildings at 8 & 9 <<https://doi.org/10.3390/buildings12010061>>. [↑](#footnote-ref-25)
25. *Crown Liability and Proceedings Act, 2019*, SO 2019, c 7, sched 17, s 8(1). [↑](#footnote-ref-26)
26. *Tobin v The Queen*, [1864] CBNS 310, 143 ER 1148. See also *Feather v The Queen*, [1865] QB 6 B & S 294, 122 ER 1191, and *The Queen v MacFarlane*, [1882] 7 SCR 216. [↑](#footnote-ref-27)
27. *Crown Liability and Proceedings Act, 2019*, s 8(1). [↑](#footnote-ref-28)
28. *Greenbelt Act, 2005*, SO 2005, c 1, s 19(1) as it appeared on 30 November 2023. [↑](#footnote-ref-29)
29. *Ibid*, s 19(3). [↑](#footnote-ref-30)
30. Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, 1st Sess, 43rd leg, 2023 at sched 2, s 4 (first reading October 16 2023). [↑](#footnote-ref-31)
31. *Oak Ridges Moraine Conservation Act, 2001*, SO 2001, c 31, s 20 as it appeared on 30 November 2023. [↑](#footnote-ref-32)
32. *Duffins Rouge Agricultural Preserve Act, 2005*, SO 2005, c 30, s 3 as it appeared on 30 November 2023. [↑](#footnote-ref-33)
33. Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, 1st Sess, 43rd leg, 2023 at sched 1, s 1. [↑](#footnote-ref-34)
34. *Ibid.* at sched 4, s 2. [↑](#footnote-ref-35)
35. *Ministry of Municipal Affairs and Housing Act*, RSO 1990, c M 30. [↑](#footnote-ref-36)
36. Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, 1st Sess, 43rd leg, 2023 at sched 2, s 1. [↑](#footnote-ref-37)
37. *Ministry of Municipal Affairs and Housing Act*, s 7(1). [↑](#footnote-ref-38)
38. Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, 1st Sess, 43rd leg, 2023 at sched 2, s 4. [↑](#footnote-ref-39)
39. *Ibid*. [↑](#footnote-ref-40)
40. *Government Liability: Law and Practice*, 2nd ed by Karen Horsman & Gareth Morley (Aurora: Canada Law Book, 2007) at 8:2. [↑](#footnote-ref-41)
41. *Nelles v Ontario*, [1989] 2 SCR 170 at para 39, citing JG Fleming, *The Law of Torts*, 5th ed (Pyrmont, NSW, Australia: Law Book Company, 1977), at p. 609. [↑](#footnote-ref-42)
42. *Odhavji Estate v Woodhouse*, [2003] 3 SCR 263 at para 22. [↑](#footnote-ref-43)
43. Mike Crawley, “How the Doug Ford government's Greenbelt bill aims to quash $120M lawsuit”, *CBC News* (23 October 2023), online: <https://www.cbc.ca/news/canada/toronto/ontario-doug-ford-greenbelt-lawsuit-minotar-holdings-land-1.7002875>. [↑](#footnote-ref-44)
44. Auditor General of Ontario, *Special Report on Changes to the Greenbelt* at 32-39, 58-61. See also 61-63 for the province’s failure to adequately consult with Indigenous communities and leaders. [↑](#footnote-ref-45)
45. Ontario, Legislative Assembly, *Official Report of Debates (Hansard)*, 43-1, No 111A, (20 November 2023) at 6269 (Hon. Paul Calandra). online: <https://www.ola.org/en/legislative-business/house-documents/parliament-43/session-1/2023-11-20/hansard>. [↑](#footnote-ref-46)
46. *Ibid.* at 6270 (Hon. Doug Ford). [↑](#footnote-ref-47)
47. Auditor General of Ontario, *Special Report on Changes to the Greenbelt* at 58-61. [↑](#footnote-ref-48)
48. Environmental Registry of Ontario, “Proposal to return lands to the Greenbelt”, ERO number 019-7739 (16 October, 2023), Proposal details. online: <https://ero.ontario.ca/notice/019-7739#comment> [↑](#footnote-ref-49)