



November 24, 2022

Rescue Lake Simcoe Charitable Foundation

RE: York Region Citizens' response to Bill 23 and Proposed Amendments to the Greenbelt & Redesignation of the Oak Ridges Moraine

ERO Submission for Greenbelt: <https://ero.ontario.ca/notice/019-6216> "Proposed Amendments to the Greenbelt Plan" and <https://ero.ontario.ca/notice/019-6218> "Proposed Redesignation of land under the Oak Ridges Moraine Conservation Plan" ERO deadline December 4

Bill 23: <https://ero.ontario.ca/notice/019-6192> "Supporting Growth and Housing in York and Durham Regions Act, 2022" ERO deadline November 24, extended November 23 to December 9

Executive Summary

We are deeply troubled by Bill 23 and the proposed amendments to the Greenbelt Plan. Many of the Ontario government's actions can only be described as undemocratic, as there is no mandate for these sweeping reforms. The province is dismissive of stakeholders, ENGO's and NGO's that express concern and/or opposition. The ENGO community has gotten used to this, but the fact that the Ontario Chamber of Commerce and the Association of Municipalities of Ontario's concerns are also being ignored is unprecedented. This head in the sand behaviour reflects an unwillingness to acknowledge the magnitude of public concern and to fairly listen to all experts and stakeholders.

Our High Level Recommendations:

1. **Slow down:** Do not pass Bill 23 or support the Proposed Amendments to the Greenbelt Plan until proper consultation is completed with affected stakeholders, key interest groups including Association of Municipalities of Ontario (AMO), the Ontario Chamber of Commerce, Conservation Authorities (CA), and affordable housing advocates. The housing rationale used for these measures must be demonstrated to be sound; to date the measures proposed are not supported by planners, municipalities or housing advocates.
2. **Allow Conservation Authorities to maintain their current role** in permitting in regulated areas, allow them to conserve land, reduce pollution via land use planning review and permits. Don't further consider land owned by CA's for housing development. Uphold the purpose and rationale for CA's, namely preservation, conservation and stewardship of land with natural hazard risks.
3. **Require a full Environmental Assessment for the Duffins York-Durham Sewage System** servicing northern York Region.
4. **Abandon the abolition of Regional Planning:** There are issues with regional planning, but the only support for the proposal to eliminate the important coordinating role of regional government, particularly for infrastructure planning, is from land speculators and developers. If there's a rationale for the government's proposal that serves the public interest, please provide.
5. **Do not encroach on the Greenbelt and Oak Ridges Moraine:** There's enough land to build the housing that Ontario needs for 30 years. Even BILD has said they don't need Greenbelt. This file stinks; any self-respecting MPP or Councillor should immediately distance themselves from these hand-picked, unjustifiable Greenbelt land removals.
6. **Protect Wetlands, Natural Heritage, Species at Risk and Ontario from the inevitable risks of Climate Change!** It is unfathomable that we even need to say this. Southern Ontario is an "ecoregion in crisis". Removing more natural features here and adding protections to lands elsewhere obviously isn't going to improve our ecoregion. Do not change the OWES wetland evaluation system. Maintain strong prohibitions on alteration of landscape in Ontario's Natural Heritage System (NHS) and its features in the Provincial Policy Statement (PPS). Do not allow offsets, trades, or "compensation" agreements. Capitalize on the free service provided via natural asset management instead of infrastructure and capital intensive engineered solutions.
7. **Allow Members of the Public and CA to appeal Official Plan, Zoning Bylaw Amendments and Sprawl Proposals to the Ontario Lands Tribunal.** Make the playing field level once more by providing the same rights to both project proponents and community players interested in challenging and/or improving planning proposals/Official Plans. Consider threshold levels to reduce appeals abusing the process.
8. **Do not override Official Plans.** For better or worse they are far more democratic than the proposals flowing out of the government of Ontario at this time.
9. **Maintain the PPS & Growth Plan,** its density requirements, and support rational infrastructure phasing policies to make the best use of limited taxpayer and developer dollars.

FULL SUBMISSION

The Canadian Environmental Law Association (CELA) has indicated that Bill 23 is the most extensive and biggest package of legislative changes they have seen in over ten years. We do not offer an analysis as it is impossible to do with our limited resources and time given. We do express our support and agreement from the groups listed in Appendix 1 who have made statements and have or will submit comments on Bill 23 and the various Environmental Registry of Ontario (ERO) postings. We acknowledge there may be good elements in the Bill but we are overwhelmed by the magnitude of regressive changes and fail to see how they are in the public interest in a climate emergency and affordable housing crisis. Some quotes for perspective.

“The proposed changes in Bill 23 will create a number of unintended consequences which roll back 70 years of successful conservation authority watershed management at a time when we need this work more than ever in order to address the growing impacts of climate change¹.” Conservation Ontario.

“Preliminary analysis of the Bill indicates the transfer of up to \$1 billion a year in costs from private sector developers to property taxpayers without any likelihood of improved housing affordability. Similarly, the bill’s provisions designed to reduce environmental protection will benefit developers in the short term, with costs to the public and homeowners that cannot be calculated².”

Members of the Committee and all Members of the Provincial Parliament will need to consider in whose interest they govern. Bill 23, as drafted, benefits private interests at the expense of public interests – at the expense of property taxpayers and Ontario’s natural environment.” AMO.

TIMING IS ANTI DEMOCRATIC AND HOSTILE TO STAKEHOLDERS

Recommendation: Slow down the process.

On October 25th, 2022 the day after municipal elections were held across Ontario’s 444 municipalities, the current government introduced Bill 23, *More Homes Built Faster Act* and posted numerous notices for public consultation on the ERO. Additional notices were posted on November 4th approving York Region³ and other municipal Official Plans as well as proposed amendments to the *Greenbelt Act* and redesignation of land under the *Oak Ridges Moraine Conservation Act*⁴. Then 2 weeks later, on the day before the inaugural Council meetings of Niagara, Peel and York Regions, Bill 39 was introduced⁵.

New Councils have not yet been formed, and have not been able to meet to approve or formulate responses to the Province. The Association of Municipalities of Ontario (AMO), representing Ontario’s municipalities, was not provided an opportunity to present to the Legislature’s Standing Committee on

¹ <https://www.mvca.on.ca/conservation-ontario-watershed-views-blog-bill-23/>

² https://www.amo.on.ca/sites/default/files/assets/DOCUMENTS/Submissions/SC_HICP-LTR_AP_AMO_Submission_Bill%2023_More_Homes_Built_Faster_Act_20221116.pdf

³ <https://prod-environmental-registry.s3.amazonaws.com/2022-11/York%20OP%20-%20Decision%20-%20Signed%20November%204%202022.pdf>

⁴ List of ERO Postings resulting from Bill 23 and proposed Greenbelt Plan & Oak Ridges Moraine Conservation Plan changes: <https://cela.ca/wp-content/uploads/2022/11/Bill-23-updated-chart.pdf>

⁵ <https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-39>

Heritage and Culture at the Bill 23 hearings. The official opposition did invite them to present their submission and it was shared with all MPPs⁶.

Voters, especially those in two tier - regional governments, had no indication that the responsibilities of regional governance would fundamentally change or that the province would be appointing Chairs⁷, likely extending Strong Mayor Powers to unelected Chairs of their choosing or initiate an 'assessment' of regional governance⁸. It is unfortunate that the public went to the polls and elected a regional council without the knowledge that the province was going to fundamentally change regional governance. The province conducted a 2019 Regional Governance Review, which was never acted upon and the recommendations remain confidential advice to cabinet⁹. The public does not know if what your government is proposing is consistent with the advice provided in that review. Thus there is no evidence, available to the public, to support the need for the aggressive changes to regional governance.

GREENBELT REMOVALS IN YORK REGION

Recommendation: Keep your promise; do not remove lands from the Greenbelt and be transparent about the downgrading that has already commenced.

Why are so many Greenbelt removals being proposed now outside of the ten-year review period, especially when a Greenbelt review and land removals were completed in 2017? The Ontario Government has quite simply lied to the people of Ontario by proposing to remove portions of the Greenbelt. Seven of the fifteen Greenbelt land removals and the only Oak Ridges Moraine land-use redesignation¹⁰ are located in York Region.

King Township lands:

The Greenbelt removal in King Township has received significant media attention due to the timing of land transactions and a motion by King Council in support of the Greenbelt removal to facilitate a new Southlake hospital. It is unclear if the province is aware or supportive of the hospital proposal, if this is Southlake's preferred site or even a candidate site. There is also much concern about who knew what and when? The removal of Greenbelt protection and subsequent re-zoning would increase land value above the purchase price of \$80M last September¹¹.

Upper York has no servicing capacity to give, existing 2010 growth can't be fully serviced and the Upper York Sewage System, now abandoned, was supposed to be the solution for this growth. It is implausible that the lands in King Township would be an eligible candidate for new housing development; northern York Region doesn't have a servicing capacity solution for what was just approved in the new Official

⁶ AMO Bill 23 Submission: <https://www.amo.on.ca/advocacy/health-human-services/amo-submission-bill-23-more-homes-built-faster-act-2022>

⁷ The option to elect York Region's Chair publicly for the first time was eliminated at the 11th hour by the Ontario PC Government in 2018: <https://www.theglobeandmail.com/canada/toronto/article-scrapping-regional-chair-elections-comes-as-guardedly-pleasant/>

⁸ Bill 39, Schedule 3: <https://yorkpublishing.escribemeetings.com/filestream.ashx?DocumentId=37452>

⁹ CBC News Article on Regional Governance Review, Completed 2019: <https://www.cbc.ca/news/canada/kitchener-waterloo/ken-seiling-regional-government-review-reaction-1.5343150>

¹⁰ <https://ero.ontario.ca/notice/019-6216>

¹¹ <https://thenarwhal.ca/ford-ontario-greenbelt-cuts-developers/>

Plan. Why do Minister Clark and the Mayor of King believe these lands meet the eligibility criteria for Greenbelt removal and that servicing capacity could be prioritized and feasible, ahead of all other development projects awaiting servicing allocation?

Markham and Vaughan Greenbelt Removals Plus Downgrading Greenbelt NHS:

The Greenbelt removals in Vaughan and Markham are adjacent to, or contain Greenbelt 'fingers' that are part of Ontario's NHS and had land use designations downgraded from prime agriculture to rural to allow active parkland uses when Minister Clark approved York Region's Official Plan¹². These removals combined with Minister Clark's recent decision in the Official Plan are not consistent with the Greenbelt Plan and do not uphold previous tribunal decisions that clearly identify that expansion of urban boundaries is not permitted into the Greenbelt NHS¹³. Are accessory uses such as parks that support adjacent developments a settlement expansion in the Greenbelt NHS?

The Ontario government appears to have little regard for compliance with its own policies. The current government's defense for inaction on Climate Change¹⁴ is, in part, because it is a policy that can't be enforced. We are fearful that this attitude is percolating into land use planning, resulting in the destruction of Ontario's NHS; a policy, not a land use designation protected by regulation¹⁵. The combination of the multitude of legislative changes that reduce natural heritage protection - ie. redefining wetlands could permit the dumping of soil of questionable quality, combined with a reduction in resources and legislated authority of independent government-paid subject matters to comment and approve land use decisions, appears to leave little oversight or protection. This leaves us extremely fearful that even the portions of the Greenbelt that remain intact will fail to be protected due to multiple threats, undermining the purpose and intent of the Greenbelt Plan.

The general public does not yet understand that this government has already downgraded Greenbelt protection in York and Peel Regions Official Plan Approvals by downgrading land use designations. This is not a removal but it is a lowering of protection that does not require a change to provincial regulations. York Region's Official Plan also concerns several alarming changes that indicate the Oak Ridges Moraine Conservation Act regulations will be changed to allow future urban development in Vaughan and Stouffville. There's also reference that some existing developments which meet certain criteria may not need to comply with certain requirements of the ORM Conservation Plan¹⁶. The government has failed to analyze the cumulative impacts of localized and province wide decisions and legislative changes.

¹² This downgrading of protection was done against the recommendations of Vaughan, Markham, York Region, TRCA staff, the York Region Federation of Agriculture, the Greenbelt Foundation and in the face of significant public opposition. <https://thenarwhal.ca/greenbelt-york-region-tacc-vote/>

¹³ Refer to the preamble of tribunal decisions that approved York Region's ROPA2 and ROPA3 as well as Section 3.2.5 (b) of the Greenbelt Plan.

¹⁴ Refer to Mathur et. al. heard by the Ontario Superior Court Sept 12-14, 2022 awaiting decision. <https://ecojustice.ca/case/genclimateaction-mathur-et-al-v-her-majesty-in-right-of-ontario/>

¹⁵ Except where specialized and specific legislation with supporting regulations has been enacted such as the Oak Ridges Moraine Conservation Act, the Niagara Escarpment Act or the Lake Simcoe Protection Plan.

¹⁶ Refer to Items 14 (4.2.34), 20 (4.4.43 b), 25 (5.3.4), 56 here: <https://prod-environmental-registry.s3.amazonaws.com/2022-11/York%20OP%20-%20Decision%20-%20Signed%20November%204%202022.pdf>

PROVINCIAL POLICY IN DISARRAY, DISREGARDED, DISRESPECTED

Recommendation: Provide evidence-based rationale for policy changes & clean up your own house first

The changes, even simple administrative matters, do not appear well thought out. It seems implausible that the Ministry of Municipal Affairs and Housing (the Ministry) has or will have the capacity, staff and administrative processes in place to be the approval authority for lower tier Official Plans and Amendments. The Ministry hasn't provided basic data on whether the Growth Plan is effective or ineffective, if municipalities are meeting greenfield density targets or have adequate housing supply approved in the pipe-line¹⁷. This Ontario government has failed to provide reasonable evidence supported by data, facts or figures province-wide to justify such broad sweeping legislative changes.

Provincial ministries with conservation, preservation, endangered species protection remain critically underfunded. The province has failed to address recommendations and shortcomings brought forward by the former Environmental Commissioner and now the Auditor General¹⁸. Illegal land use is rampant on prime agricultural land, trees are being felled illegally¹⁹. Our bylaws and penalties are ineffective, the province is absent or worse giving approvals in the absence of approved zoning and then expecting by-law officers to enforce nuisance and traffic impacts. The changes to CA's will leave Ontario's Natural Heritage vulnerable and exposed because there will be no publicly funded institutions with sufficient resources left to speak, and act to protect our natural heritage. It is reckless to make these changes in the absence of any real and meaningful attempts to address the already identified shortcomings that have forced CA's to take on the very roles the province seeks to or has already eliminated.

MASSIVE FINANCIAL IMPLICATIONS FOR MUNICIPALITIES

Recommendation: Consult with AMO and municipalities to ensure these changes do not bankrupt municipalities and do not affect the levels of services and park land that Ontarians have come to expect.

Municipal staff are warning of staggering losses as a result of reduction in development fees; the City of Markham estimates that property taxes would have to increase by 50 to 80 percent just to maintain existing services²⁰. It is foolish to believe that smaller municipalities with less resources will have or be able to obtain specialized staff with the expertise to adhere to specialized specific provincial policy plans and the knowledge to protect residents from natural hazards. Contracting out these services opens up a whole other set of administrative, financial and accountability issues that again do not appear well thought out. Reducing parkland requirements is the exact opposite of what we learn that we need most for our communities during the pandemic.

¹⁷ https://www.auditor.on.ca/en/content/annualreports/arreports/en21/AR_LandUse_en21.pdf

¹⁸ <https://www.auditor.on.ca/en/content/reporttopics/environment.html>

¹⁹ Vaughan, MZO 643/20 illegally felled a 1.3Ha significant woodlot in Eco-Region 7E, the MZO nor local governments gave permission for tree removal. The landowner will be required to pay \$2M. The land should never have been developed half the trees went down in the mid-2000s there is no deterrent significant enough to protect Ontario's natural heritage, development pressure and ability to profit is immense: <https://pub-vaughan.escribemeetings.com/filestream.ashx?DocumentId=123135>

²⁰ <https://globalnews.ca/news/9292260/ontario-cities-protest-ford-government-housing-bill/>

CONSERVATION AUTHORITIES

Recommendation: Allow Conservation Authorities to maintain their current role in permitting in regulated areas and allow them to conserve land and reduce pollution via land use planning review and permits.

Ontario residents trust CA's because they have demonstrated they have the staff, expertise and resources to comment on complex planning applications with environmental and natural hazard risks. Further, they have been responsible stewards for the conservation and preservation of the lands entrusted to them. To direct CA's to put a list of land together suitable for development is nonsensical. Land comes into their ownership because it has been donated with expectations of having conservation status in perpetuity, or the lands contain environmentally significant features and natural hazards that require protection.

UPPER YORK SEWAGE SYSTEM

Recommendation: We support the Williams Treaties First Nations in their comment that a full Environmental Assessment of the southbound Duffins Creek route is needed.

We are pleased that the Upper York Sewage Treatment Plant is not proceeding, that the government recognizes the sensitive health of Lake Simcoe, the need to proceed expeditiously with the phosphorus reduction plant and the necessity of compliance with the *Lake Simcoe Protection Act* and Plan. However, it is frustrating that \$100M has been spent on the Upper York Sewage System Environmental Assessment with little to show. It is unreasonable to transfer this growth to Durham residents in the absence of a full Environmental Assessment and to suggest that York Region staff will be able to accomplish anything to approve and achieve the old or new growth targets set by the Province in the near future. Staff has been told to start over, develop a solution to deliver a third expansion of the York-Durham Duffins Creek Treatment Plant and pump water against elevations of 100m (twice the height of Niagara Falls). We are no further ahead to achieving growth in upper York.

Upper York Region is a case study in what not to do in infrastructure planning with stranded assets and unrealized growth creating burdens on capital budgets because development fees can't be collected²¹. This is a direct result of provincial inaction and inadequate, non-existent provincial support and resources provided to municipalities but still demanding growth targets be met²². It is setting municipalities up to fail and Bill 23 will formally shift the blame for not achieving growth targets onto a

²¹ <https://thenarwhal.ca/york-region-wastewater-plant/>
https://www.thestar.com/news/gta/2012/07/06/york_region_putting_development_money_ahead_of_good_planning_critics_say.html

²² "...the cost estimate for the recommended servicing option did not include costs for treatment at the Duffin Creek plant...did not acknowledge...the total cost of the recommended panel solution is likely to be much higher... the Region would be required to assess and engineer a viable York Durham Sewage System solution including pumping, conveyance and treatment elements, and provide realistic cost estimates... The province should be providing even more cost and schedule certainty given the profound delays attributable to their inaction."
<https://yorkpublishing.escrimemeetings.com/filestream.ashx?DocumentId=37379>

lower level of government with no recourse to respond because they are 'creatures of the province' not recognized in the Canadian Constitution. It is unfair.

CONCLUSION

If Bill 23 is passed in its current form then the Ontario government will have failed to listen to professionals, subject matter experts, and ignored science and established best practices. It will have failed to protect land that will be critically important to reducing the impacts and adapting to climate change - CA regulated land, the Greenbelt and Oak Ridges Moraine. They will have failed to provide the type and diversity of housing needed by Ontario's most vulnerable communities. The implications of Bill 23 place unacceptable fiscal and legal risk upon the Government of Ontario, municipalities and taxpayers - it is short-sighted and reckless.

We urge you to slow down. Do not pass Bill 23 or the proposed Greenbelt removals . Consult properly, and do the job that only the government can do: protect the public interest.

Sincerely,

Executive Director
Rescue Lake Simcoe Coalition

Community Advocate and Member of Stop The 413, Stop Sprawl York Region, Stop Sprawl Ontario

ABOUT US:

Stop Sprawl York Region is a project of the Rescue Lake Simcoe Coalition, set up to coordinate public input and responses to York Region's Official Plan development in 2022. We are a collective of community leaders, organizations, and people who care about the future of York Region.

The Rescue Lake Simcoe Coalition is a lake-wide member-based organization, representing 29 groups in the Lake Simcoe watershed, that provides leadership and inspires people to take action to protect Lake Simcoe. www.rescuelakesimcoe.org

CC:

Lake Simcoe watershed MPPs
York Region MPPs outside of the Lake Simcoe watershed
Ministers
York Region Council Clerks

Appendix 1: Organization Whose Comments and Statements Are Supported Regarding Bill 23 and the Proposed Amendments to the Greenbelt Act and Oak Ridges Moraine Conservation Authorities Act

- York Region Government: <https://www.york.ca/newsroom/york-regional-council-calls-provincial-government-halt-bill-23>
- Canadian Environmental Law Association: <https://cela.ca/reviewing-bill-23-more-homes-built-faster-act-2022/>
- Ontario Greenbelt Allies Statement: The problems with Bill 23 and the Proposal to Remove Lands from the Greenbelt: <https://yourstoprotect.ca/wp-content/uploads/sites/3/2022/11/Big-Tent-Statement-on-Bill-23-and-Greebelt-Land-Removal.pdf>
- Ontario Soil Regulation Task Force comments as submitted by them on ERO 019-6240
- Association of Ontario Municipalities statement and submissions: <https://www.amo.on.ca/advocacy/health-human-services/consultation-postings-under-more-homes-built-faster-act-2022>
- Ontario Nature: <https://view.publitas.com/on-nature/bill-23-standing-committee-submission-ontario-nature/page/1>
- Conservation Ontario: https://conservationontario.ca/fileadmin/pdf/policy-priorities_section/CA_Act_2022/Bill_23_Standing_Committee_Submission_Conservation_Ontario_Angela_Coleman_FINAL.pdf
- Ontario Federation of Agriculture: <https://ofa.on.ca/ofa-presents-to-ontario-standing-committee-on-bill-23/>
- Comments and testimony provided by York Region residents Irene Ford and Peter Miasek who are Community Members associated with Stop Sprawl York Region. Irene Ford and Peter Miasek spoke at the November 9, 2022 Bill 23 Hearings: https://www.ola.org/en/legislative-business/committees/heritage-infrastructure-cultural-policy/parliament-43/transcripts/committee-transcript-2022-nov-09#P643_179326
- We share concerns with the multitude of ENGOs, NGOs surrounding the inability of Bill 23 to deliver affordable housing, rental housing and the diversity of housing Ontario desperately needs