

**From:** Kyle Bentley  
Director, City Development & CBO

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**Subject:** Environmental Registry of Ontario Posting 019-7739 and 019-7735  
Proposal to return lands to the Greenbelt – Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, and *New Act regarding the Duffins Rouge Agricultural Preserve Easements and Covenants*  
- File: L-1100-064

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**Recommendation:**

1. That Council endorse the comments contained in Report PLN 39-23 as the City of Pickering comments on the *Greenbelt Statute Amendment Act* and *New Act regarding the Duffins Rouge Agricultural Preserve easements and covenants*; and
  2. That staff be authorized to submit the comments in Report PLN 39-23 and Council's resolution thereon, to the Environmental Registry of Ontario (ERO) postings 019-7739 and 019-7735 as the City of Pickering's comments on the *Greenbelt Statute Amendment Act* and the *New Act regarding the Duffins Rouge Agricultural Preserve Easements and Covenants*.
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**Executive Summary:** The Province of Ontario is seeking comments on proposed legislation that, if passed, would restore to the Greenbelt the 15 parcels/blocks of land that were redesignated or removed in late 2022. The *Greenbelt Statute Law Amendment Act, 2023*, if passed, would also ensure that any future boundary changes to the Greenbelt Plan are made through an open, public, and transparent legislative process.

One of those parcels is the 1,900 hectares Duffins Rouge Agricultural Preserve in Pickering (see Proposed Restoration and Redesignation Map 6 (Pickering), Attachment #1). To align with the return of lands to the Greenbelt, the Province is also proposing to restore the easements and covenant protections applicable to the Duffins Rouge Agricultural Preserve, and repeal the *Duffins Rouge Agricultural Preserve Repeal Act (DRAPRA), 2022*.

The Province has acknowledged that the process to remove lands from the Greenbelt was flawed. The merits of determining the appropriateness of urban boundary expansions should be based on a comprehensive land use planning and public consultation process, such as Envision Durham.

Subject to Council's endorsement, and authorization, staff will submit a copy of Report PLN 39-23, and City of Pickering's Council resolution thereon, to the Environmental Registry of Ontario postings 019-7739 and 019-7735, prior to the November 30, 2023, comment deadline.

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**Financial Implications:** The recommendations in this report do not present direct or immediate costs to the City of Pickering.

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## Discussion

### 1. Purpose

This report provides staff comments, for Council's consideration, as its response to the Province on the proposed legislative changes respecting the Duffins Rouge Agricultural Preserve lands in Pickering.

On October 16, 2023, the Province of Ontario released Bill 136, *Greenbelt Statute Law Amendment Act, 2023*. The proposed legislation, if passed, will restore the 15 parcels/blocks of land, (some of which were more than one property), that were redesignated or removed from the Greenbelt in late 2022. The area affected in Pickering is the Duffins Rouge Agricultural Preserve (see Proposed Restoration and Redesignation Map 6 (Pickering), Map, Attachment #1).

Through another piece of proposed legislation, if passed, the Province also intends to restore the easement and covenant protections applicable to the Duffins Rouge Agricultural Preserve (DRAP). Comments on these proposed changes are requested through two postings on the Environmental Registry of Ontario (ERO).

### 2. Background

In late 2022, the Province proposed to remove various lands from the Greenbelt. Since then, the Province received significant feedback from Indigenous communities, the public, municipalities, stakeholders, and recent reports from the Office of the Auditor General of Ontario, and the Integrity Commissioner of Ontario, into alleged irregularities regarding how changes to the Greenbelt boundaries were made.

Ultimately, the Province concluded that the process used to make changes to the Greenbelt was flawed and did not justify the removal of the 15 blocks/parcels of land from the Greenbelt.

Accordingly, on October 16, 2023, the Province introduced proposed legislative amendments through the following ERO postings, for a 45-day commenting period.

- ERO 019-7739, proposal to return lands to the Greenbelt – *Greenbelt Statute Law Amendment Act, 2023*; and
- ERO 019-7735, *New Act regarding the Duffins Rouge Agricultural Preserve Easements and Covenants*.

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### **3. Proposed Changes**

The changes proposed by the new legislation include:

1. Returning all 15 parcels of land (including the Duffins Rouge Agricultural Preserve (DRAP) to the Greenbelt that were previously removed;
2. Maintaining the new lands that were previously added to the Greenbelt in late 2022 (13 urban river valleys of and portions of the Paris Gault Moraine);
3. Making the Ontario Legislature, rather than a Minister's regulation, the approval authority for any future changes to the Greenbelt; and
4. Restoring the same protections for easements and covenants on the lands in the Duffins Rouge Agricultural Preserve that they had before the 2022 amendment.

#### **3.1 Returning the Duffins Rouge Agricultural Preserve to the Greenbelt**

The Province has acknowledged that the process to take the lands out of the Greenbelt was flawed. Any urban boundary expansion should be subject to a robust public engagement and land use planning process.

For example, the Regional Municipality of Durham recently completed a comprehensive review of its Official Plan, known as "Envision Durham". As part of that process, Regional Council adopted a new Plan that designated Northeast Pickering as a "2051 Urban Expansion Area" and included Northeast Pickering in the Urban Area Boundary. Although the new Regional Plan is pending approval by the Province, the designation of Northeast Pickering for future development, would enable the City to expand the urban boundary, as needed, to meet development pressures.

Any decision the Province makes regarding urban boundary expansion in Durham, should be informed by Envision Durham, which consisted of a robust growth management study and a public consultation process.

#### **3.2 Maintaining new lands added to the Greenbelt**

In Pickering, portions of the Duffins Creek urban river valley were added to the Greenbelt in 2017. Further additions of urban river valleys to the Greenbelt occurred in 2022, but those additions did not include any lands in Pickering. Although this ERO posting does not affect the Duffins Creek urban river valley, Staff support the maintenance of the Duffins Creek urban river valley as part of the Greenbelt.

#### **3.3 Future Greenbelt changes to be approved by the Ontario Legislature**

Staff support the proposal to make the Ontario Legislature the authority for changing or modifying the Greenbelt Plan in the future. This will better ensure an open, public, and transparent process. This step would further elevate the importance of protecting the Greenbelt and the significance of maintaining its boundaries.

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### **3.4 Restoration of the DRAP easements and covenants**

The repeal of the *Duffins Rouge Agricultural Preserve Repeal Act* reverses the lifting of the easements and covenants, and proposes that any easement or covenant that was ever registered prior to February 28, 2005, is deemed valid and existing, regardless of any intervening action, agreement, or instrument.

There is a history to the easements on the DRAP lands as follows:

#### **3.4.1 The Province imposes agricultural and conservation easements**

In late 1999-2001, the then Ontario Realty Corporation sold the larger parcels of land in its Agricultural Assembly, (which later became known as the Duffins Rouge Agricultural Preserve), to private owners. The lands were sold with either an Agricultural Easement, which the City of Pickering held, or a Conservation Easement, which the Toronto and Region Conservation Authority held.

Between 2002 and 2004, the City conducted a Growth Management Study, and concluded urban development on approximately the southern two-thirds of those lands was desirable and appropriate.

#### **3.4.2 The City lifted agricultural easements on certain lands**

On February 28, 2005, Minutes of Settlement (MOS) were executed between the City and owners of land identified for development, wherein the City lifted the agricultural easements, and replaced them with Restrictions on Transfer, restricting Transfers of title of the properties without the City's consent.

#### **3.4.3 The Province nullifies Pickering's Minutes of Settlement**

Also on February 28, 2005, Bill 97, *The Greenbelt Act, 2005*, was enacted by O. Reg. 59/05, creating The Greenbelt Plan. The Plan included the Duffins Rouge Agricultural Preserve lands. The enactment of Bill 97 nullified the 2005 Minutes of Settlement between the landowners and the City as the MOS contained a provision expressly nullifying them if the lands were included in the greenbelt.

#### **3.4.4 Province re-instates easements**

In October 2005, the Minister of Municipal Affairs introduced Bill 16, the *Duffins Rouge Agricultural Preserve Act*. This Bill received Royal Assent on December 15, 2005. The Act had the effect of overriding any agreement or court order that invalidated an easement or covenant given or entered into, under the *Conservation Land Act*, on or before February 28, 2005. Further, it allowed an easement or covenant under the Act to be for conservation, preservation or protection of land for agricultural purposes.

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### **3.4.5 The Province repeals easements and covenants**

As part of a set of changes affecting the Greenbelt and the Duffins Rouge Agricultural Preserve, the Province passed, the *Duffins Rouge Agricultural Preserve Repeal Act, 2022*. This Act repealed the agricultural and conservation easements established by Bill 16 in 2005.

### **3.4.6 The Province proposes to re-instate the agricultural easements and covenants**

As part of a new set of changes affecting the Greenbelt Plan area, and the Duffins Rouge Agricultural Preserve, the Province now seeks to reverse previous legislative changes. Bill 136, *Greenbelt Statute Law Amendment Act, 2023*, and *New Act regarding the Duffins Rouge Agricultural Preserve Easements and Covenants Act* propose to restore easements and covenants on the Duffins Rouge Agricultural Preserve.

Should the Province return the Duffins Rouge Agricultural Preserve lands to the Greenbelt, the re-instatement of the agricultural easements and covenants would be an appropriate consideration. Staff also note that the City-imposed Restrictions on Transfer on certain lands in the Preserve appear to serve no purpose at this point in time, since they were originally registered to replace agricultural easements, which are now deemed to exist again.

## **4. Conclusion**

The Province has proposed to return 15 parcels/blocks of land, inclusive of the Duffins Rouge Agricultural Preserve (DRAP) lands, to the Greenbelt. In addition, the Province has proposed a number of additional changes intended to restore the previous protections for the DRAP lands, and ensure that any future boundary changes to the Greenbelt Plan are made through an open, public, and transparent legislative process. Staff support the proposed changes.

Staff request Council's consideration and endorsement of Report PLN 39-23, to be submitted as the City's formal comments to the two ERO postings by November 30, 2023.

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### **Attachment:**

1. Proposed Restoration and Redesignation Map 6 (Pickering)

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**Prepared By:**

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PW:ld

Recommended for the consideration  
of Pickering City Council














Marisa Carpino, M.A.  
Chief Administrative Officer


**Greenbelt Plan, Oak Ridges Moraine Conservation Plan**

Maps are for Consultation Purposes Only

Proposed Restoration and Redesignation Map 6

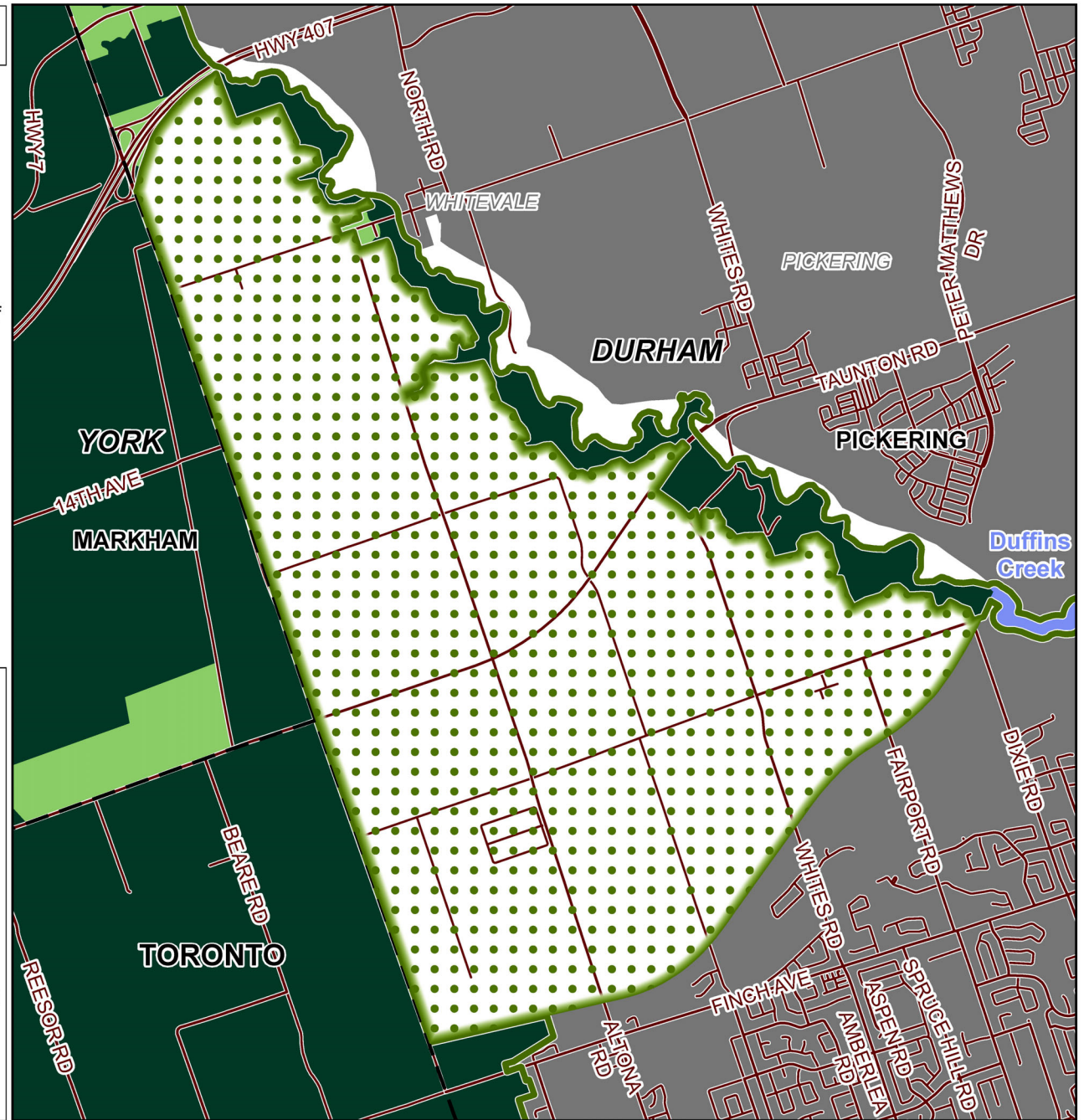
**LEGEND**

 Greenbelt Area*	Proposed Restorations and Redesignations
 Protected Countryside	 Greenbelt Restoration
 Natural Heritage System	 Greenbelt Redesignation
 Towns/Villages	 ORM Redesignation
 Urban River Valleys	
 Settlement Areas Outside the Greenbelt	NOTE: Lands within the Greenbelt Restorations and Redesignations that had been identified as NHS and/or Niagara Peninsula Tender Fruit and Grape Area as of Dec 13, 2022 would revert back to NHS and/or Niagara Grape and Tender Fruit and Grape Area.
 Municipal Boundary	
 Road or Highway	

Ontario 

0 0.33 0.65 1.3 Km  
1 cm equals 394 m

Map North: 0°



Note: While every effort has been made to accurately depict the information, this map should not be relied on as being a precise indicator of locations of features or roads. For precise boundaries and locations of Settlement Areas, including Towns/Villages and Hamlets, the appropriate municipalities should be consulted.

Produced by and using data sources from the: Ministry of Municipal Affairs and Housing; Ministry of Northern Development, Mines, Natural Resources and Forestry; Ministry of the Environment, Conservation and Parks; and, the Ministry of Agriculture, Food and Rural Affairs.

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