



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	November 14, 2023
<b>SUBJECT/REPORT NO:</b>	<i>Bill 136, Greenbelt Statute Law Amendment Act, 2023 - Reinstatement of Greenbelt Lands (PED23244) (City Wide)</i>
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Charlie Toman (905) 546-2424 Ext. 5863
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the proposed reinstatement of all 15 sites removed from the Greenbelt Area by the Government of Ontario, be supported;
- (b) That Council adopt the submissions and recommendations, as attached in Appendix "A" to Report PED23244, regarding *Bill 136, Greenbelt Statute Law Amendment Act, 2023*;
- (c) That the Acting Director of Planning and Chief Planner and the City Solicitor be authorized to make the submissions and recommendations on *Bill 136, Greenbelt Statute Law Amendment Act, 2023*, as attached in Appendix "A" to Report PED23244.

### EXECUTIVE SUMMARY

On October 16, 2023, the Government of Ontario introduced *Bill 136, Greenbelt Statute Law Amendment Act, 2023* on its Environment Registry of Ontario website (ERO 019-7739), requesting public comments by November 30, 2023. If passed, the legislation would add all 15 sites back to the Greenbelt that were removed in December 2022 by incorporating the description of the Greenbelt Area and Oak Ridges Moraine Area

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

boundaries directly into the proposed legislation. This includes the three sites removed from the Greenbelt Area in Hamilton.

The legislation would also eliminate Provincial authority to remove lands from the Greenbelt Area and Oak Ridges Moraine Area by regulation, meaning that the Government of Ontario would have to pass new legislation to make future amendments to boundaries. The legislation would maintain the 3,804 hectares of land added to the Greenbelt Plan area in 2022 in Wellington County.

In the Environmental Registry of Ontario posting, the Government of Ontario acknowledges that the process for the 2022 Greenbelt removals was too fast and not sufficiently transparent, stating that the legislation is in response to feedback from Indigenous communities, the public, municipalities and stakeholders.

Staff recommends that the City of Hamilton provide comments to the Province supporting the reinstatement of all 15 sites to the Greenbelt Area. Detailed staff comments on the proposed legislation are contained in Appendix "A" attached to Report PED23244. As discussed through Report PED23046(d) which was received by Planning Committee on October 31, 2023, the City's consultation respecting these lands received significant public interest with the majority of residents who provided input opposed the Provincial decision to remove lands from the Greenbelt.

### **Alternatives for Consideration – See Page 5**

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: Bill 136 completed First Reading on October 16, 2023 and debated at Second Reading on October 30, 2023. Legal staff will continue to monitor the status and progression of Bill 136 before the Legislature.

### **HISTORICAL BACKGROUND**

In December 2022, the Government of Ontario made amendments to the Greenbelt Plan which included the removal of three sites within the City of Hamilton totalling 795 hectares of land. The Government of Ontario had stated the lands they removed from the Greenbelt Plan were intended for residential use to support the goal of building 1.5 million homes over the next 10 years.

City Council had previously adopted several motions respecting the December 21, 2022 removal of lands from the Greenbelt Area. On February 8, 2023, Council adopted the motion that:

“That the Minister’s decision to remove 795 hectares of land from the Greenbelt Plan is unnecessary and is not supported by the City of Hamilton.”

On August 18, 2023, Council adopted the motion that:

“That the City of Hamilton requests the Province of Ontario abandon its plan to develop the Greenbelt and that all lands within the City of Hamilton removed from the Greenbelt be reinstated.”

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Greenbelt Plan**

The Greenbelt Plan is a Provincial Plan approved in 2005 that covers approximately 810,000 hectares of land around the Greater Golden Horseshoe area. The Greenbelt Plan is established under the *Greenbelt Act, 2005*. The Greenbelt Plan provides regulatory protection from urban development and establishes policies to:

- Prevent further loss of farmland and natural heritage;
- Restrict urban sprawl; and,
- Work with the Growth Plan to develop vibrant communities where people can live, work, and play.

The Greenbelt Plan includes lands within and builds upon the ecological protections provided by the Niagara Escarpment Plan and the Oak Ridges Moraine Conservation Plan. Within the City of Hamilton, the Greenbelt Plan covers 88,505 hectares of land equaling approximately 78% of the City’s total land mass and approximately 91% of the rural area.

Section 5.5 of the Greenbelt Plan establishes a 10-year review to ensure that the Plan will remain relevant over time and states that “The purpose of the review is to assess the effectiveness of the policies contained in the Plan (using information gathered through the monitoring program and conducted through a public process) and make amendments, if appropriate, to update or include new information or improve the effectiveness and relevance of the policies”.

The last 10-year review of the Greenbelt Plan began in 2015 with amendments to the Greenbelt Plan coming into effect in 2017. At this time the Government of Ontario has not confirmed the specific timing and scope of the next 10-year review.

## **RELEVANT CONSULTATION**

Staff from Legal Services were consulted in the drafting of this report, recommendations and appendices.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Detailed staff comments on the proposed *Bill 136, Greenbelt Statute Law Amendment Act, 2023* are attached in Appendix "A" to Report PED23244.

### **Reinstatement of Greenbelt Lands**

If passed, the proposed legislation would result in the 15 sites removed from the Greenbelt Area by the Government of Ontario on December 21, 2022 being reinstated. This includes the 795 hectares of land removed from the Greenbelt Area by the Province in the City of Hamilton within three sites.

Staff fully support the reinstatement of these lands to the Greenbelt Area. There was no supporting information or justification provided that the lands are needed to accommodate Hamilton's future housing needs. As detailed in Report PED22213, Staff also had significant concerns with the removals related to, among other matters, natural heritage preservation, agricultural land preservation, climate change, land use compatibility, infrastructure and financial sustainability associated with development of these lands.

### **Amendments to the *Greenbelt Act, 2005* Impacting Future Modifications to the Greenbelt Area Boundary**

The Province is proposing that future amendments to the Greenbelt Area would require legislation to be passed to amend the *Greenbelt Act, 2005*. Currently the *Act* allows the Government of Ontario to make modifications to the boundaries through regulations provided that the minimum consultation requirements under the *Act* are undertaken and the modification will not have the effect of reducing the total land area within the Greenbelt Plan.

Staff support any amendments to legislation that has the effect of increasing transparency and consultation respecting amendments to the Greenbelt Plan. However, it is not clear from this legislation if this amendment would remove the requirements under Sections 11, 12 and 13 of the *Greenbelt Act, 2005* respecting minimum consultation prior to the Minister considering amendments to the Greenbelt Area. While specifying lands within the Greenbelt Area would require new legislation to be enacted to make future boundary amendments, the legislative process does not necessarily result in increased transparency or consultation.

As an alternative, staff recommends that the *Greenbelt Act, 2005* be amended to legislate increased requirements for consultation prior to considering future boundary adjustments, including acknowledging the Province's "duty to consult and accommodate" with Indigenous communities. It is staff's opinion that this approach would ensure that increased public, stakeholder and Indigenous consultation requirements related to changes to the Greenbelt Plan are clarified and adhered to moving forward.

### **Limitation of Legal Action and Remedies**

The legislation proposes amendments to the *Greenbelt Act, 2005*, and the *Ministry of Municipal Affairs and Housing Act*, that, if passed, would significantly limit legal action from being pursued in relation to lands being added to or removed from the Greenbelt Area.

In particular, the proposed amendments to Section 19 of the *Greenbelt Act, 2005*, expand on the type of legal proceedings and remedies that are barred from being pursued in relation to the Greenbelt. This list includes, but is not limited to, any claim related to the enactment, amendment or repeal of any provisions of the *Greenbelt Act*; any representations or other conduct by current or former employees of the Crown or Executive Council; any acquisition, disposal or development of lands; and any potential or actual issuance of an approval, permit, order or other instrument in respect of any land removed from the Greenbelt Area under Ontario Regulation 567/22. The legislation clarifies that applications for Judicial Review are not barred.

The amendments to limit legal action apply retroactively, meaning that any cause of action listed under Section 19(1) that arose prior to and after the passing of Bill 136 would be barred.

Staff note that the Bill proposes limitations with respect to legal action and remedies and requests that clarification be provided that these protections extend to municipalities, and that there is clear language in the legislation that reflects that that this protection applies to municipalities. Staff also recommend that an exception be provided to Section 19(2) that would permit municipalities to request compensation from the Province to account for costs incurred in relation to the removal of lands from the Greenbelt and engagement with the Office of the Provincial Land and Development Facilitator.

### **ALTERNATIVES FOR CONSIDERATION**

Council may direct staff to not submit comments to the Province however Staff do not recommend this option as Council has passed previous motions supporting a reinstatement of the Greenbelt lands.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED23244 – City of Hamilton Staff Submission on *Bill 136, Greenbelt Statute Law Amendment Act, 2023*

CT:sd