

Ministry of Municipal Affairs and Housing
Provincial Land Use Plans Branch
By email to: greenbeltconsultation@ontario.ca

November 21, 2023

Submission by the Canadian Environmental Law Association Re: Proposal to return lands to the Greenbelt – Greenbelt Statute Law Amendment Act, 2023

ERO # 019-7739

We write to express the support of Canadian Environmental Law Association in respect of the above noted proposal for legislation (now introduced as Bill 136 in the current sitting), titled the *Greenbelt Statute Law Amendment Act, 2023*.

CELA is an Ontario legal aid specialty clinic, providing services to people across the province. CELA works toward protecting public health and the environment by seeking justice for those harmed by pollution or poor decision-making and by changing policies to prevent problems in the first place.

CELA has a long history of providing input on land use planning policy to governments in Ontario. This has included sitting on advisory committees ranging from establishment of the development permit system in Ontario; committees working toward protection of sources of drinking water; and multiple generations of committees advising on changes to the Planning Act and the Provincial Policy Statement over the years.

CELA provides advice based on the impact that we observe to the Ontario public; and in the interests of the broader public interest particularly in respect of issues of equity. Our role also includes advocating for laws that allow for public participation, and working to assist the public with providing input into government environmental decision making; including land use planning.

We note that the Ontario government conducted consultations in 2021 regarding potential addition of areas to the Greenbelt “Growing the Greenbelt.” CELA participated in those consultations and led workshops enabling the public to participate in that process. As we had done with previous Ontario government consultations, we supported the addition of greenbelt lands to the Paris Galt moraine and urban river valleys. In our 2021 submission, CELA stated:

“In expanding and enhancing the Greenbelt, CELA recommends that the Ontario government focus on protecting drinking water, food production and natural heritage systems. CELA believes that there is an urgent need to protect these resources due to increasing urbanization and rural development, and fluctuating weather patterns caused

by climate change, which will have serious negative impacts particularly on water quality and quantity in Ontario.”

Similarly, for these reasons, CELA reiterated that the Greenbelt boundaries need to be expanded, not shrunk, in response to the government of Ontario’s consultation in the fall of 2022:

<https://cela.ca/submission-on-proposed-amendment-to-the-greenbelt-plan-and-boundary-regulation-and-the-oak-ridges-moraine-conservation-plan/>

We are supportive of the outcome of Bill 136 in that that once land is added to the Greenbelt; the default planning rule will be that it must remain designated as Greenbelt with all of the relevant land use restrictions. As a result any removal will be onerous by design. Among other reasons, this avoids the temptation of land-owners to seek land removal; and avoids needless land speculation with the accompanying pressure on land prices, including essential agricultural lands in southern Ontario. High land prices are themselves a threat to the continued viability of agricultural land to remain in food production. They are also hugely detrimental to Ontario’s goal of increasing affordable housing.

The proposal in the Greenbelt Statute Law Amendment Act, 2023, by amendment in Schedule 2, providing amendments to the Greenbelt Act, specifies the boundaries of the Greenbelt in legislation, and includes the restoration of the lands to the Greenbelt that were removed by regulation on December 14, 2022.

CELA supports the Bill in its specification that the Greenbelt boundaries will now be set in legislation, and that it will not be possible to change them by mere regulation. This will make the Greenbelt boundaries much more permanent. While change will still be possible, it would have to be done through legislative proposals, with the added protection of scrutiny by the legislature and the public. CELA is supportive of section 14.1 whereby the GreenBelt Plan is deemed to designate the 2022 protected country-side removals as Protected Countryside; and those lands that were part of the Natural Heritage System of the Greenbelt Plan back to that designation.

CELA also supports schedule 1 to Bill 136, which restores the Duffins Rouge Agriculture Preserve (“repeals the repeal”) which had occurred in December 2022.

Similarly CELA supports schedule 4 to Bill 136, which re-enacts section 2 of the Oak Ridges Moraine Conservation Act to set out the area that had been designated in 2002, but now protected by designation in that legislation, and is deemed to apply as though the amendments made by Ontario Regulation 568/22 had not been made.

CELA supports retention of the provision that the total land area of the Greenbelt cannot be reduced, as well as the retention (and inclusion in statute) of the additional lands that had been added to the Greenbelt in December 2002, namely in the Paris-Galt moraine, and in certain Urban River Valleys.

CELA agrees with the return of certain areas in the Niagara Escarpment Plan back to Niagara Peninsula Tender Fruit and Grape Area, including some that had been (but now are not) identified as “Towns / Villages” in that plan area.

CELA takes no position in respect of Schedule 3, which deals with extending liability protection to the provincial Facilitators.

As noted in our earlier submission, among the vital functions of the Greenbelt is the provision and protection of natural heritage, not only in its own terms; but also the essential services and functions to the large population of southern Ontario including protection and filtration of ground and surface water; protection of drinking water resources; removal of contaminants from the environment; cooling of the land surface and surrounding communities; and much else. Accordingly, making Greenbelt boundaries more permanent through legislative enactment is an important mechanism to protect these critical functions of the Greenbelt.

As we wrote to the Premier and to Minister Calandra recently, in light of findings of the Auditor General of Ontario in her report dated August 9, 2023, titled *Special Report on Changes to the Greenbelt*, and of the Integrity Commissioner J. David Wake, K.C. in his report of August 30, 2023, it is our opinion that public trust in Ontario’s land use planning process has been badly eroded. A top priority of the government of Ontario must be to restore trust and confidence in that process and the changes proposed by Bill 136 can be part of that process. Members of the public must be advised that they can trust the enacted laws and the codified processes; that there is a level playing field for input; and that decisions will be rational and supported with cogent reasons.

While CELA absolutely agrees with the urgent need for housing, we also note that the government’s advisory committee advised in February 2022 that there is sufficient land for housing within designated urban boundaries (see memo by CELA lawyer Castrilli, J. November 11, 2023 <https://cela.ca/bill-23-and-the-question-of-need/> citing report of the Report of the Ontario Housing Affordability Task Force, (February 8, 2022) at 10).

We are also concerned to avoid patterns of development that establish needless footprints of urban infrastructure with the massive additional costs, as well as disruption of the continuity of agricultural and natural heritage lands. These patterns of land development increase costs of urban development and the associated housing, as opposed to building within the current urban boundaries. To that end, CELA supported the “densification” provisions of the recent Bill 97; and associated changes to the provincial policy statement that the government consulted on this past spring, which would aim at ending single family zoning; and allow a reasonable amount of “as of right” additional units of housing in established built residential and urban form.

These and other changes and policies must be further explored in order to truly accelerate the provision of housing in the province, and to address the current affordability crisis. Accordingly, the reversal of the Greenbelt land removals and associated designation changes all made in December 2022 are welcome so that the focus can be on better utilizing existing urban boundaries, and existing infrastructure, and keeping new infrastructure tightly focussed to

increase its efficient use, decrease its costs, and utilizing land use patterns that take advantage of natural green solutions and compact form so as to make transportation less costly.

We trust these comments are of assistance, and appreciate the opportunity to provide our views in respect of this proposal.

Yours very truly,

Theresa A. McClenaghan

Theresa A. McClenaghan
Executive Director and Counsel
Canadian Environmental Law Association

Cc: Environmental Commissioner of Ontario Tyler Schultz Office of the Auditor General of Ontario