

GREENBELT FOUNDATION

Response to ERO Posting # 019-9265

**Bill 212 - Reducing Gridlock, Saving You Time Act, 2024
Building Highways Faster Act, 2024**

Ministry of Transportation



Possibility grows here.

Date: November 18, 2024

Edward McDonnell, Chief Executive Officer

www.greenbelt.ca



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November 18, 2024

Ministry of Transportation
Environmental Policy Office
438 University Ave, 12th Floor
Toronto, ON M7A 1N3
Attention: Katerina Downard

Re: Bill 212 – Reducing Gridlock, Saving You Time Act, 2024 – Building Highways Faster Act, 2024

Dear Ministry of Transportation staff,

The Greenbelt Foundation welcomes the opportunity to provide feedback on ERO posting #019-9265 regarding the above referenced proposed legislation

We note that the new Building Highways Faster Act (under Bill 212) and Highway 413 Act would:

- Release the government from adhering to provincial plans including but not limited to the Greenbelt Plan and Provincial Policy Statement (PPS), thereby bypassing important requirements for protection of Greenbelt systems;
- Significantly reduce Environmental Assessment (EA) requirements for many major aspects of new highway construction and related activities as well as eliminate the need for an Agricultural Impact Assessment as normally required for infrastructure development in the Greenbelt;
- Permit accelerated timeframes that are inconsistent with meaningful and effective Indigenous consultation processes and necessary broader community engagement.

Therefore, we would strongly encourage alternative collaborative approaches that allow for a full understanding of the impacts of development on the natural heritage and agricultural systems within the Greenbelt.

Only in properly understanding potential impacts will the government be able to determine how to provide for the transportation needs of a growing province without jeopardizing the clean air and water, access to nature and sustainable local food source that enable successful growth in Ontario.

Importance of Impacted Policies

Policies within the Greenbelt Plans (Greenbelt Plan, Niagara Escarpment Plan and Oak Ridges Moraine Conservation Plan) explicitly value and protect systems that are essential to the health and prosperity of Ontario while enabling growth and strengthening climate resilience in the Greater Golden Horseshoe (GGH) region.

These Plans are intended to protect extensive hydrological systems critical to providing clean drinking water and abundant fresh water supplies to millions of Ontarians. The Greenbelt provides \$3.2 billion annually in ecosystem services, which are of increasing importance to communities under threat of extreme weather events, including flood control and stormwater management, as well as moderation of drought and extreme temperatures.

The Plans also sustain a \$9.6 billion agriculture and rural economy, robust recreational-based tourism industry, and maintain natural heritage connectivity with broader systems in the GGH that are important to the long-term success of the Greenbelt.

The strength of the Greenbelt lies within its permanence and policies. We recommend that the standards of the Greenbelt Plan policies continue to be applied to the planning and development of highways in the Greenbelt.

Scope of Potential Impacts

The proposed route for Highway 413 would cut through thousands of acres of Greenbelt and immediately adjacent lands, and the headwaters of the Credit and Humber Rivers among other water systems. It would cross natural heritage features on the landscape such as significant woodlands, habitat for endangered species and wetlands, and significantly compromise water courses.

According to the Toronto and Region Conservation Authority (TRCA), the highway would impact approximately 220 wetlands covering 130 hectares in and connected to the Greenbelt.¹ These wetlands are critical to the ecological health of the Humber, Etobicoke, and Credit River Watersheds. The highway would also transverse the Nashville Conservation Reserve in Vaughan, which is an area with one of the most intact forested areas in the Greater Toronto Area.

Concerns on surrounding lands immediate to the proposed projects include contamination of groundwater, micro-climate alterations and toxicity of aquatic systems related to road salt.² Regional concerns include reduced water quality downstream and risk of greater flooding throughout the watersheds, degradation and loss of biodiversity and climate resilience, and loss or encroachment on Specialty Crop Areas and prime agricultural lands, loss of biodiversity and overall community resilience.

Exemption from Greenbelt Plan and other Provincial Policies

Bill 212 would exempt the “Highway 413 Project” from all provincial policies as per Schedule 3, subsection 12 of Bill 212 (p.20):

¹ TRCA, Staff Report: GTA West Transportation Corridor Individual EA – Stage 2 Update (January 24, 2020) <https://pub-trca.escribemeetings.com/filestream.ashx?DocumentId=5418>, p.7.

² Lloyd Swail, S. (2021). The Impacts of Linear Infrastructure Development on the Greenbelt. Greenbelt Foundation. Retrieved from https://www.greenbelt.ca/linear_infrastructure_report

Non-application of *Planning Act* provisions

12 (1) Clause 3 (5) (a) of the *Planning Act* does not apply to a decision of a minister of the Crown or a ministry, board, commission or agency of the Government of Ontario in respect of the Highway 413 Project, including any change to the Highway 413 Project, or the Highway 413 early works projects.

Same

(2) Subsection 3 (6) of the *Planning Act* does not apply in respect of the Highway 413 Project, including any change to the Highway 413 Project, or the Highway 413 early works projects.

In simple terms, Subsection 3(5) and 3(6) of the *Planning Act* provide that municipal and provincial decisions should reflect provincial policies and plans established under the *Planning Act* in order to promote sustainable development and protect resources of provincial interest.

The scope of this exemption can be found in the definition of the “Highway 413 Project” in Bill 212 which includes “constructing Highway 413” defined as follows:

“Highway 413” means a highway that connects Highway 400 in the Regional Municipality of York to Highway 401 and Highway 407 in the Regional Municipality of Halton and the Regional Municipality of Peel and includes related facilities and structures such as parking facilities, stormwater management ponds, commercial vehicle inspection facilities and maintenance yards; (“autoroute 413”).

Other provisions and terms in Bill 212 and its schedules indicate to us that the legislation does not just exempt so-called Early Works projects from the Greenbelt Plan and other Provincial Plans but the entire Highway 413 route and all ancillary facilities and infrastructure as currently anticipated or as may be modified in the future.

Greenbelt Plan Requirements

The Ontario Greenbelt Plan establishes policies to protect agricultural lands, water resources, and natural areas within the Greater Golden Horseshoe region. While the Plan generally restricts development to preserve these areas, it does permit certain infrastructure projects, including linear infrastructure like highways, under specific conditions.

Permitted Infrastructure

The Greenbelt Plan allows for the development of infrastructure that supports the social and economic objectives of the Plan and until recently the Growth Plan for the Greater Golden Horseshoe. This includes transportation, water, sewage, and energy infrastructure. Such projects are permitted if they:

- Serve a significant public interest.
- Cannot be reasonably located outside the Greenbelt.

- Minimize negative impacts on the environment and agriculture.

Conditions for Linear Infrastructure

When planning and constructing linear infrastructure within the Greenbelt, proponents must:

- Avoid key natural heritage and hydrologic features unless there is no reasonable alternative.
- Implement best practices to minimize environmental impacts.
- Restore disturbed areas to their natural state or an equivalent condition.
- Consider the cumulative effects of multiple infrastructure projects.

In summary, while the Greenbelt Plan permits the development of linear infrastructure such as highways, it imposes strict but reasonable conditions to protect the region's environmental and agricultural integrity. These projects must demonstrate a significant public need, lack of reasonable alternatives outside the Greenbelt, and adherence to best practices for minimizing environmental impacts.

Environmental and Agricultural Impact Assessment Requirements

In addition to the above, our understanding of the Highway 413 Act is that it would exempt the development of Highway 413 from normal environmental assessment (EA) processes. The Act would accelerate and streamline the EA process for Highway 413 resulting in narrow, if any, assessment of impacts on the Greenbelt and require fewer studies.

The Highway 413 Act would exempt all activities by or on behalf of the Minister of Transportation that are for or related to Highway 413 from the Environmental Assessment Act. The accelerated EA process (i.e., an Environmental Impact Assessment Report (EIAR)) proposed for Highway 413 construction would have a limited review of the project's environmental impacts including only considering local conditions. An accelerated EA would also exclude analysis of the impact of the highway on multiple key issues such as public health, climate change, land use planning and fiscal implications. This narrowing of focus ignores the very real potential for impacts on broader Greenbelt agricultural, water resource and natural systems, and ultimately, the region.

There would also be no process for a formal external review and approval of the EIAR. As a result, there would be no process to uphold standards for the study of potential negative impacts or to stop or alter development based on the EIAR's results.

In addition, so-called Early Works projects for Highway 413 (e.g., bridges and embankments) would not be subject to an accelerated EA process. As a result, the project would already be started before the full extent of the environmental impacts have been assessed. We need to take the necessary time to complete impact studies that will allow us to assess the true potential impact of the highway on Greenbelt systems.

Given the timeline for highway development, we must avail ourselves of the time available to properly assess and understand the risks so that we can work with the Province to mitigate where possible.

The risk to Ontario's water systems, natural infrastructure and agricultural system is too great not to ensure that decisions are being made with a full understanding of the impact to Ontarians.

Agricultural impact assessments are required for infrastructure operations located within prime agricultural areas, and speciality crop areas within the Greenbelt as part of the environmental assessment process (see policy 4.2.1.2g). These Greenbelt Plan policies, however, defer mainly to the Growth Plan and Environmental Assessment Act to mitigate any negative impacts caused by infrastructure projects. Given the proposed weakened EA process outlined in this legislation, it is even more important that the requirements outlined in the Greenbelt Plan are met.

Importance of Indigenous Consultations

An accelerated EA process would also undermine the opportunity for the meaningful participation of Indigenous Peoples and Communities, including Rights holders. Indigenous Peoples have the right to inform a consultation plan for the infrastructure projects proposed and for the projects to require their consent.³ As reported, there is concern that consultations to date have been inadequate. An accelerated project timeline will not allow for necessary meaningful Indigenous consultations that would allow for a collaborative and respectful approach moving forward.

Recommendations:

We have concerns that this proposed legislation will have potential significant and long-term consequences on the Greenbelt, its critical systems and the larger agricultural, natural heritage and water resource systems it connects to within Ontario. Our comments and recommendations are based on supporting the provincial government's goal to protect the Greenbelt as a critical resource to enable successful growth within the province and to support adequate and meaningful consultation with Indigenous Peoples and Communities.

1. Highway construction that transects and includes lands within the Greenbelt needs to adhere to Greenbelt Plan policies and should not be subject to the proposed accelerated EA process.
2. Agricultural impact assessments should still be required for infrastructure projects located in prime agricultural areas within the Greenbelt.
3. Issues related to federal species at risk and measures to minimize environmental impacts in areas of federal environmental jurisdiction need to be included in the accelerated EA process. This action would support the Province's commitment made to the federal government to protect the environment while advancing development of Highway 413.⁴

³ The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) establishes that Indigenous Peoples's rights to free, prior and informed consent, and Canada has committed to this declaration. United Nations, *United Nations Declaration on the Rights of Indigenous Peoples* (2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

⁴ Government of Ontario. (April 15, 2024). Governments of Canada and Ontario Working Together on Environmental Protections and Greater Regulatory Certainty for the Advancement of Highway 413. <https://news.ontario.ca/en/release/1004412/governments-of-canada-and-ontario-working-together-on-environmental-protections-and-greater-regulatory-certainty-for-the-advancement-of-highway-413>

4. There needs to be a robust public comment period of the accelerated EA process to allow stakeholders adequate time to review and provide feedback to the Ministry.
5. Indigenous Peoples and Communities must be given an opportunity to participate in the development of a consultation plan for Highway 413 and be given an opportunity to provide consent for this project.
6. Areas of interest to Indigenous Peoples and Communities need to be included in an EA process for early works projects.

Conclusion

Thank you for consideration of this submission. We welcome further engagement on these matters.

Sincerely,



Edward McDonnell
Chief Executive Officer