

November 20, 2024

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Re. Bill 212, *Reducing Gridlock, Saving You Time Act, 2024* – *Building Highways Faster Act, 2024* ([ERO #019-9265](#))

We, the eight undersigned organizations, are writing to express our strong opposition to the proposed *Building Highways Faster Act*, under Bill 212, *Reducing Gridlock, Saving You Time Act* (RGSYTA).

If passed, designated “priority highway projects,” including Highway 413 and the Bradford Bypass, would be able to move forward at the expense Ontario’s prime agricultural lands, natural spaces and at-risk wildlife while seriously undermining democratic processes. Rather than living up to the name of the proposed RGSYTA, these highways would cause the same level of gridlock along the proposed highway routes within the next few years. They would also lock surrounding communities into car-dependency, undermine public and active transit systems and re-open protected Greenbelt lands up to sprawl – something this government promised it would not do again. Further, the government’s lack of meaningful consultation with Indigenous communities that would be affected by these highways is a violation of their inherent rights.

Expediting Highways at the Cost of Democratic Principles and Consultation Obligations

Proposals to remove landowner rights from appealing expropriation timelines in court would serve the interest of developers who stand to benefit from these major highways, not the people living along their path. Those who stand in the way of construction would also be subject to significant fines, further limiting the opportunity for people to express opposition to these unnecessary, costly and environmentally destructive projects. The government is making it clear that the court of public opinion

holds no weight in decision making, despite 2023 polling finding that 74 percent of Ontarians do not support construction of highways in the Greenbelt.¹

The government is setting a dangerous precedent for freedom of information relating to priority highways. The proposed statute would exonerate the Minister from disclosing information to individuals or third parties on matters relating to priority highway projects if the information is “given in confidence to the Minister.” As stated in sec. 8(5), schedule 2 of Bill 212, any information could be given in confidence to the Minister and would thus be subject to sec. 17 of the *Freedom of Information and Right to Privacy Act*, 1990. Under sec. 17, the Minister can deny disclosure of information relating to Highway 413 and the Bradford Bypass that could reasonably be expected to “result in undue loss or gain to any person, group, committee or financial institution or agency.” Despite exceptions to this rule, such as in the case of court orders and other legal requirements (sec. 8(4)), this is a clear indicator that the government is attempting to hide from the public any knowledge about these highways.

Furthermore, despite plans to consult with affected Indigenous communities and First Nations in schedule 3 of Bill 212 (concerns outlined in a complementary submission to ERO 019-9213), consultation for priority highways to date has been inadequate. Calls from Indigenous communities, nations and chief and council have been made to the government on priority highways, with major critiques on violations to inherent and constitutionally protected rights.² The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), to which Canada has committed, clearly establishes Indigenous Peoples’ right to free, prior and informed consent. Per UNDRIP, consent is to be gained prior to legislative or administrative measures that may affect Indigenous Peoples are adopted or implemented (Article 19) and before any activities are undertaken on their traditional territories (Article 28). With early works projects already taking place across several treaty territories, the government is failing to uphold Indigenous constitutional rights and the tenants of UNDRIP.

In the case of the Bradford Bypass, the sole mention of the Ministry of Transportation’s (MTO) intent to engage Indigenous interests on the highway is reflected in one

¹ David Suzuki Foundation, “Eighty-one per cent of Ontarians agree with farmers’ opposition to Highway 413,” December 15, 2023, <https://davidsuzuki.org/press/eighty-one-per-cent-of-ontarians-agree-with-farmers-opposition-to-highway-413/>

² Lane Harrison, “Highway 413 work could start before Indigenous consultations end, prompting concerns”, CBC News, November 9, 2024, <https://www.cbc.ca/news/canada/toronto/413-indigenous-consultation-1.7378223#:~:text=Toronto-,Highway%20413%20work%20could%20start%20before%20Indigenous%20consultations%20end%2C%20prompting.an%20Indigenous%20consultation%20is%20completed.>

sentence on the Bradford Bypass website. The webpage states the MTO's commitment to "consult and engage with Indigenous communities and consider their interests in the Project."³ However, a consideration of interests does not indicate that the government plans to address Indigenous Peoples' concerns. This raises significant concerns, especially considering the bypass would cross known Indigenous burial grounds and sacred sites, acknowledged in the Final Environmental Impact Assessment Report (EIAR).⁴ The final EIAR results regarding Archaeological Assessment Reports reveal numerous areas spanning the route of the bypass that contain Indigenous artifacts and "multi-component" Indigenous sites.⁵ Indigenous Peoples are calling on the government to leave sacred sites undisturbed,⁶ yet the EIAR states that these sites "will be excavated as they would be subject to construction."⁷ This goes against sec. 97 of the *Funeral, Burial and Cremation Services Act, 2002*, which prohibits disturbance of remains or artifacts "from a burial ground or an Indigenous peoples burial ground without the consent of a representative of a person whose remains are interred in that site."⁸ If the government of Ontario does not receive consent from affected Indigenous communities to excavate sites along the path of the bypass, an arbitration process is required under the FBCSA, 2002. If construction of the Bradford Bypass proceeds, it would risk the destruction of sites of archaeological importance to Indigenous Peoples without proper consultation and consent from affected communities and would not comply with other provincial legislation.

Through schedule 2 of Bill 212, the government commits to unravelling democratic processes and legal obligations by limiting public participation in environmental decision making, infringing upon Indigenous rights to protecting culturally significant archaeological sites and relieving the government itself of the obligation to disclose potentially significant information relating to the highway projects.

³ Ministry of Transportation, "Bradford Bypass: Consultation/Engagement", AECOM, n.d., <https://bradfordbypass.ca/consultation/>.

⁴ Ministry of Transportation, "Final Environmental Impact Assessment Report: Highway 400 to Highway 404 Link (Bradford Bypass)", AECOM Canada Ltd., November, 2023, https://www.bradfordbypass.ca/wp-content/uploads/2023/11/RPT_2022-11-16_BBP_FinalEIAR_60636190_AODA_secured_web_resized-compressed.pdf.

⁵ Ibid.

⁶ Kim Zarzour, "From kidnappings to cannon-sinking, what lies beneath the Bradford Bypass route?", *YorkRegion.com*, May 1, 2023, https://www.yorkregion.com/news/from-kidnappings-to-cannon-sinking-what-lies-beneath-the-bradford-bypass-route/article_278f682a-96ae-5a8e-997f-7043af8f08cc.html.

⁷ Ministry of Transportation, "Final Environmental Impact Assessment Report: Highway 400 to Highway 404 Link".

⁸ Ministry of Public and Business Service Delivery, "Burial Site Discovery: Frequently Asked Questions (FAQs) for Archaeologists (2021)", 2021, <https://forms.mgcs.gov.on.ca/dataset/c2c5fa10-ce8f-4b8b-b90d-7901e5b3e384/resource/3e233252-8e2e-400e-8846-c0edd2dedf23/download/on00431e.pdf>.

Misleading Environmental Protection Claims

Through Bill 212, the Government of Ontario claims it will “continue to maintain existing environmental processes to mitigate environmental impacts” during construction of Highway 413 and the Bradford Bypass. However, maintaining “existing environmental processes” rings hollow considering numerous provincial protections for species at risk, wetlands and natural heritage systems have been significantly eroded for the purpose of fast-tracking major infrastructure projects. For instance, several regulatory amendments in recent years have weakened the *Endangered Species Act, 2007* (ESA, 2007) for species at risk whose habitat, coincidentally, falls along the path of these “priority” highway projects:

- **Limited habitat protection for black ash:** O. Reg. [6/24](#) and [7/24](#) diminished habitat protections for the endangered black ash under sec. 9 and 10 of the ESA, 2007 and prescribes weakened guidelines for assessments;
- **Incentives to destroy habitat through “pay-to-slay” fund:** O. Reg. [829/21](#), offers proponents the option to “pay-to-slay” (i.e., Species at Risk Conservation Fund) under the ESA, 2007, incentivizing destruction of habitat for six of Ontario’s most at-risk species;
- **A trend of downlisting endangered species:** Downlisting endangered species, for example, in the case of American ginseng, jeopardizes the recovery of species most at risk of extinction while forgoing science-based decision making and undermining the ESA, 2007;
- **Attempt to reduce habitat protections and Minister oversight for other listed species:** The recently overturned proposal outlined in [ERO 019-8016](#) represents another attempt to diminish habitat protections, in this case for the endangered redbreasted dace, under the ESA, 2007. The few remaining watercourses the endangered minnow relies upon coincide with proposed routes of both priority highways. Despite overturning the proposed regulatory amendments for redbreasted dace, the government is still considering changes to the 30-day waiting period for Butternut Expert Health Reports before construction occurs, which would eliminate Ministerial accountability and consistent reporting for this endangered species.

Further, maintaining existing environmental processes has yet to be put into practice by this government, as priority highways are proceeding without adhering to existing legislation to protect sensitive natural features. Specifically, the Bradford Bypass project is subject to policies of the Lake Simcoe Protection Plan (LSPP), 2009, under the *Lake Simcoe Protection Act, 2008*, as the proposed route would cross protected key natural heritage and key hydrologic features in this watershed. Policies in Chapter

6. of the LSPP prohibit infrastructure projects that would impact key natural heritage features unless proponents provide evidence of no reasonable alternatives.⁹ Not only is the bypass anticipated to impact key natural heritage and key hydrologic features of Lake Simcoe watersheds, including 22.1 hectares of high-quality woodlands, 17.2 hectares of the Holland Marsh, 9.5 hectares of designated provincially significant wetlands and 32.7 hectares of significant wildlife habitat, the government fails to offer proof that there are no alternatives to the highway.¹⁰ Furthermore, with identified impacts to key natural heritage and hydrologic features, sec. 6.26(a) requires proponents to carry out a natural heritage evaluation demonstrating that there would be “no adverse effects on the key natural heritage feature, key hydrologic feature, Lake Simcoe and its associated vegetation protection zone, or on the related ecological functions.”¹¹ The Final Environmental Impact Assessment Report (EIAR) for the bypass fails to mention impacts to Lake Simcoe or its ecological function. The lake is expected to reach critical sodium (i.e., road salt) loads in 37 years, which would be exacerbated by the proposed multi-lane bypass.¹² Undermining provincial requirements to conform with environmental protection plans does not indicate that the government is “maintaining existing environmental processes”.

Further, claims that the government will “mitigate environmental impacts” resulting from priority highways are unfounded, with no mitigation plans yet established. This is particularly concerning as Bill 212 proposes to exempt major highways from requirements under the *Environmental Assessment Act* (EAA), which would instead be subject to an “accelerated” version. An accelerated environmental assessment would require a more limited review of environmental impacts. Given that early works have already commenced for both highways and 24-hour construction is already being planned for Highway 413 in 2025, the government cannot claim to fully understand what mitigation measures are required. Additional concerns related to Highway 413 are outlined in a complementary submission to ERO 019-9213.

⁹ Ministry of Environment, Conservation and Parks, “Lake Simcoe Protection Plan”, Chapter 6: Shorelines and Natural Heritage, sec. 6.1(f) (2009). <https://www.ontario.ca/document/lake-simcoe-protection-plan/shorelines-and-natural-heritage>.

¹⁰ Rescue Lake Simcoe Coalition, “Fact Sheet: Bradford Bypass (aka The Holland Marsh Highway)”, 2023, <https://rescuelakesimcoe.org/wp-content/uploads/2023/11/Fact-Sheet-Bradford-Bypass.pdf>.

¹¹ Ministry of Environment, Conservation and Parks, “Lake Simcoe Protection Plan”.

¹² Bill Foster, “Bradford Bypass is a Blatant Misuse of Public Funds”, *The Pointer*, May 18, 2024, <https://thepointer.com/article/2024-05-18/bradford-bypass-is-a-blatant-misuse-of-public-funds>.

Building Costly Highways Under False Economic Pretenses

Under the proposed *Building Highways Faster Act*, the government claims that priority highway projects will “save drivers and businesses time and money,” while purporting that the highways will provide a boost to the economy. However, the government fails to acknowledge the true costs of building these highways, which have inflated far beyond initial estimates. This blatant lack of transparency jeopardizes public trust in these projects.

For instance, the province’s Office of the Auditor General found in an audit of Ministry of Transportation data, 2022, that it would cost more than \$4 billion to construct Highway 413,¹³ with critics estimating the true cost would be closer to \$8 - 10 billion.¹⁴ Similarly, for the Bradford Bypass, the original cost estimate provided by the former Transportation Minister was \$800 million, prior to inflation caused by COVID-19.¹⁵ However, in the same 2022 report, Ontario's Office of the Auditor General estimated the bypass will cost upwards of \$2 - \$4 billion.¹⁶ The government of Ontario has yet to update its cost projections and fails to acknowledge what the true economic impacts would be if the highways are to proceed.

Also absent from Bill 212 is any projected cost of food production values that would be lost by paving farmlands along the proposed paths of these two major highways. Agricultural lands in the Lake Simcoe watershed and protected countryside of the Greenbelt, which would be affected by the Bradford Bypass, are some of the most productive farmlands in Canada. Using the Minister of Environment, Conservation and Parks’s own figures on Lake Simcoe’s agriculture production values, Lake Simcoe farmlands, including those in the Holland Marsh, contributes an estimated \$450 million per year to local food economies.¹⁷ The report also estimated a total economic impact of over \$1 billion each year between the farm-gate value of the vegetables, packaging, processing, and transportation from this region.¹⁸ Similarly, economic projections for

¹³ Office of the Auditor General of Ontario, “Value-for-Money Audit: Highway Planning and Management”, November 2022,

https://www.auditor.on.ca/en/content/annualreports/arreports/en22/AR_ProvHighways_en22.pdf

¹⁴ Emma MacIntosh, “Ontario has “no commitment to a timeline” for finishing Highway 413, document shows”, *The Narwhal*, July 4, 2024, <https://thenarwhal.ca/ontario-highway-413-construction-timeline-commitment/>

¹⁵ Charlie Pinkerton, “Bradford Bypass “will cost more than original estimate” of 800M, Transport minister”, *Cambridge Today*, April 29, 2023, <https://www.cambridgetoday.ca/local-news/bradford-bypass-will-cost-more-than-original-estimate-of-800m-transport-minister-6926036>

¹⁶ Office of the Auditor General of Ontario, “Value-for-Money Audit: Highway Planning and Management”.

¹⁷ Ministry of Environment Conservation and Parks, “Minister’s Annual Report on Lake Simcoe, 2017”, July 15, 2021 [updated], <https://www.ontario.ca/page/ministers-annual-report-lake-simcoe-2017>.

¹⁸ Ibid.

Highway 413 neglect to acknowledge agricultural values that would be lost by paving over thousands of acres of precious farmland as well as protected countryside of the Greenbelt. With the proposed path of Highway 413 crossing the regional municipalities of York, Peel and Halton, the government would be threatening the economic prosperity of the agricultural sector in this region of the Greater Golden Horseshoe. For instance, a 2017 report on York Region's gross agricultural revenue, including sales of crops, livestock products and program payments, was valued at an estimated \$2,789 per acre, which is over \$1000 greater than the provincial average.¹⁹ Additionally, the agri-food industry in York Region contributes "between 9 per cent and 19 per cent of the jobs in each municipality", approximately 3,578 jobs, with the number of jobs growing steadily over time.²⁰ The same report indicated Peel Region's agricultural revenue per acre totaled \$1,396, with Halton Region's agricultural revenue totaling \$2,734 per acre.²¹ The report acknowledges a decline in the average number of farms across most Ontario municipalities, with "rapid urban growth" and "whitebelt urbanization" listed as the top threats to the future viability of the agricultural sector.²² The president of the National Farmers Union Ontario, Max Hansgen, speaks to public opposition into building highways over farmland, stating that "a large majority of residents agree with our farmers: paving the Greenbelt and destroying the land that feeds us makes no sense."²³

Continuing to destroy natural heritage will have long-term impacts on the provincial economy, the health of Ontarians and exacerbate climate impacts. For instance, Highway 413 is projected to emit 17.5 million tonnes of greenhouse gases by 2050, estimated to cost \$1.1 – 1.4 billion in air quality damages, despite whether electrification targets are met by 2050.²⁴ In the same breath, this is the same year Canada is set to reach net-zero emissions. Impacts to environmental services are also outlined in the final Environmental Impact Assessment Report (EIAR) (2023) for the Bradford Bypass, required by O. Reg 697/21. Key impacts to the Lake Simcoe watershed would include damage to water quality in wells and groundwater, increased

¹⁹ York Region, "Agri-Food and Agricultural Sector Strategy", September 2017, <https://www.yorklink.ca/wp-content/uploads/2022/05/YorkRegionAgri-FoodStrategyFINALJuly2019-1.pdf>.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ David Suzuki Foundation, "Eighty-one per cent of Ontarians agree with farmers' opposition to Highway 413," December 15, 2023, <https://davidsuzuki.org/press/eighty-one-per-cent-of-ontarians-agree-with-farmers-opposition-to-highway-413/>

²⁴ Environmental Defence, "Paving Paradise: The impact of Highway 413 on greenhouse gas emissions, air pollution & urban sprawl", 2021, https://environmentaldefence.ca/wp-content/uploads/2021/04/Highway-413-Paving-Paradise-Report_Environmental-Defence.pdf.

air pollution and loss of endangered species habitat.²⁵ A 2017 report by the Lake Simcoe Region Conservation Authority (LSRCA) valued natural ecosystem services in the Lake Simcoe watershed at \$922 million annually, measured by the benefits provided to human well-being.²⁶ The two subwatersheds that the Bradford Bypass would cross, the East and West Holland, are valued at a combined total of \$37,791,140.²⁷ Such services include recreation, water supply, pollination, clean air, flood control, habitat and carbon sequestration.²⁸ Losses incurred by fragmenting these sensitive areas would disrupt their ecological function and ability to sustain our growing needs.

Impacts to the environment will not just impact people's well-being, but the species that rely on these places to survive. For instance, Highway 413 would cross about 132 rivers and streams, and threaten the ecological integrity of the Credit, Etobicoke and Humber River watersheds.²⁹ The proposed route would also destroy or partially destroy a total of 75 wetlands, 28 of which are considered provincially significant,³⁰ impact at least 29 species at risk and hundreds of other species of conservation concern.³¹ The Bradford Bypass route would cross two subwatersheds, 30 waterways, including the Holland River,³² three provincially significant wetland complexes and species at risk habitat.

Beyond these measurable benefits, the intrinsic value of nature, that is, the right for nature to exist without direct benefit to humans,³³ is a vital consideration given the

²⁵ Ontario Ministry of Transportation, “Final Environmental Impact Assessment Report: Highway 400 to Highway 404 Link (Bradford Bypass)”, AECOM Canada Ltd., November 16, 2023, https://www.bradfordbypass.ca/wp-content/uploads/2023/11/RPT_2022-11-16_BB_P_FinalEIAR_60636190_AODA_secured_web_resized-compressed.pdf?_gl=1*p5yq5y*_ga*NDUzNDY4MTUxLjE3MzMzA4MjE0Mzl.*_ga_7CC7FDEHJS*MTczMDQyMTQzMjMi4xLjAuMTczMDQyMTQzMjMi42MC4wLjA.

²⁶ Lake Simcoe Region Conservation Authority, “Valuing Natural Capital in the Lake Simcoe Watershed”, December 8, 2017, <https://lsrca.on.ca/wp-content/uploads/2023/07/Ecosystem-Service-Values.pdf>.

²⁷ Ibid, Appendix 1 (p.40-43)

28 Ibid

²⁹ Environmental Defence, *Concrete Consequences: How Highway 413 would put GTA watersheds at risk* (Environmental Defence, 2024), https://environmentaldefence.ca/wp-content/uploads/2024/09/Environmental-Defence_Concrete-Consequences_2024.pdf

³⁰ Dr. Scott Wallace et al. to The Honourable Jonathan Wilkinson, Minister of the Environment and Climate Change, April 23, 2021, Scientists call for federal environmental assessment of Highway 413, <https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-81381/comment-54310/Scientists'%20letter%20on%20Hwy%20413.pdf>.

³¹ Environmental Defence, *Concrete Consequences*.

³² Emma MacIntosh, “Ontario is poised to double the size of the Bradford Bypass, documents suggest”, *The Narwhal*, December 15, 2022, <https://thenarwhal.ca/ontario-bradford-bypass-lanes/>.

³³ Austin Himes, et. al., “Why nature matters: A systematic review of intrinsic, instrumental, and relational values”, *BioScience*, Volume 74, Issue 1, January 2024, <https://academic.oup.com/bioscience/article/74/1/25/7499505>.

interrelated crises of biodiversity loss and climate change. Bill 212 represents a “business-as-usual” approach, which will lead to significant consequences for future generations.

Causing More Gridlock, Saving No Time

Despite claims that building more highways will result in less congestion, the government’s own forecasting on priority highways shows gridlock will remain an issue. For instance, gridlock will be unsolved across 400-series highways, regardless of whether Highway 413 has four, six or eight lanes and whether other priority highways are built.³⁴ Further, assuming a scenario where Highway 413 is built, projected commute speeds fail to consider the impact of induced demand, the concept whereby new highways will attract additional drivers to the road and new developments along their route, inevitably increasing congestion. Transportation modelling and planning experts told The Trillium that, “not only will 413 fail to end the gridlock, it will also enable the kind of development that makes it worse.”³⁵ Additional concerns related to Highway 413 gridlock are outlined in a complementary submission to ERO 019-9213.

In addition, the government is using planned local growth as the catalyst for the Bradford Bypass, yet no evidence is provided as to time-savings for local drivers.³⁵ The project is specifically posed as a solution to “prepare for the massive population growth expected in the next 30 years” in Simcoe County and the Regional Municipality of York.³⁶ However, even if the bypass is built, “local solutions will still be needed to address local traffic congestion.”³⁷ If the issue is to target local planned growth and anticipated congestion, this should be a project undertaken by the affected regional municipalities.

Stronger alternatives exist for both priority highways that would represent efficient land use planning while providing sustainable, cost-effective solutions to gridlock. For

³⁴ Jessica Cross, “Internal Ontario government traffic forecast shows crushing gridlock ahead – even with the 413”, *The Trillium*, August 16, 2024, <https://www.thetrillium.ca/news/municipalities-transit-and-infrastructure/internal-ontario-government-traffic-forecast-shows-crushing-gridlock-ahead-even-with-the-413-9356033>.

³⁵ Rob Paul, “Environmentalists say local roads, not bypass, would solve traffic woes”, *BarrieToday*, June 21, 2023, <https://www.barrietoday.com/local-news/environmentalists-say-local-roads-not-bypass-would-solve-traffic-woes-7178214>.

³⁶ AECOM, “The Bradford Bypass”, n.d., <https://bradfordbypass.ca/>

³⁷ Rob Paul, “Environmentalists say local roads, not bypass, would solve traffic woes”, *BarrieToday*, June 21, 2023, <https://www.barrietoday.com/local-news/environmentalists-say-local-roads-not-bypass-would-solve-traffic-woes-7178214>.

instance, local solutions for the Bradford Bypass, such as regional road enhancements, are viable alternatives to the \$4 billion, 16km multi-lane bypass, and would represent a tenth of the cost.³⁸ Additionally, numerous alternatives exist for the Highway 413, including subsidizing Highway 407 for transport trucks, investing in public transportation and supporting active transportation (addressed further in complementary submission to ERO #019-9213).

Conclusion

Bill 212 and schedule 2, *Building Highways Faster Act*, are setting a dangerous precedent for major infrastructure projects in Ontario. The Government of Ontario is prepared to move forward with designating priority highways, including Highway 413 and the Bradford Bypass, without consent from affected Indigenous communities, without public participation, without upholding due democratic processes, without disclosing information, without acknowledging true economic, social or environmental impacts and without addressing cheaper, more sustainable alternatives. Far too many critical pieces of evidence are absent from Bill 212 to proceed with construction. More highways and lanes do not alleviate congestion (i.e., induced demand) and simply reinforce car dependency and inefficient land use planning. The undersigned organizations formally request the Government of Ontario abandon Bill 212, in favour of more cost-effective, environmentally sustainable and socially responsible solutions to traffic congestion.

Sincerely,

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³⁸ Ibid.

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