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Bill 150

An Act to enact the Official Plan Adjustments Act, 2023 and to amend the Planning Act with respect to remedies

The Hon. P. Calandra
Minister of Municipal Affairs and Housing

Government Bill

1st Reading November 16, 2023
2nd Reading November 20, 2023
3rd Reading
Royal Assent

*(Reprinted as amended by the Standing Committee on Heritage, Infrastructure
and Cultural Policy and as reported to the Legislative Assembly November 30, 2023)*

(The provisions in this bill will be renumbered after 3rd Reading)



This reprint of the Bill is marked to indicate the changes that were made in Committee.
The changes are indicated by underlines for new text and a ~~striketrough~~ for deleted text.

EXPLANATORY NOTE

SCHEDULE 1
OFFICIAL PLAN ADJUSTMENTS ACT, 2023

The Schedule enacts the *Official Plan Adjustments Act, 2023*. The Act provides that specified decisions under subsection 17 (34) of the *Planning Act* are deemed never to have been made and that the official plans and amendments to official plans that were the subject of those decisions are approved as of the dates of the respective decisions. A number of the official plans and amendments are modified as indicated in the Act and approved as modified.

Section 3 of the Act outlines the legal effects of the approvals given under the Act, including requiring conformity with the official plans approved under the Act or amended by amendments approved under the Act.

Section 4 provides for various limitations on remedies. Among other things, it provides that no cause of action arises as a result of the enactment of the Act.

SCHEDULE 2
PLANNING ACT

Section 47 of the *Planning Act*, which authorizes the Minister to, by order, exercise various powers conferred upon councils of municipalities, is amended to add several subsections that establish limitations on the availability of remedies. Among other things, these new subsections provide that no cause of action arises as a direct or indirect result of a decision in respect of the exercise of any power under section 47.

**An Act to enact the Official Plan Adjustments Act, 2023
and to amend the Planning Act with respect to remedies**

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His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

Short title

3 The short title of this Act is the *Planning Statute Law Amendment Act, 2023*.

SCHEDULE 1
OFFICIAL PLAN ADJUSTMENTS ACT, 2023

Rescission of decisions

1 (1) Each decision under subsection 17 (34) of the *Planning Act* that relates to the official plan or amendment to an official plan set out in Column 1 of the Table to this section and that was made on the date set out opposite the plan or amendment in Column 2 is deemed to have never been made.

Approvals of official plans and amendments

(2) Each official plan and each amendment to an official plan set out in Column 1 of the Table to this section is,

(a) approved as modified by,

(i) those modifications indicated opposite the plan or amendment in Column 3, as they are set out in the decision referred to in subsection (1) that relates to the plan or amendment and that was made on the date set out opposite the plan or amendment in Column 2, and

(ii) any applicable additional modifications set out in section 2; or

(b) approved as adopted by the relevant municipality, where no modifications are indicated in Column 3 opposite the plan or amendment.

Effective date of approval

(3) Each approval under subsection (2) of an official plan or an amendment to an official plan set out in Column 1 of the Table to this section is deemed to have been given on the same date as the date of the decision referred to in subsection (1) set out opposite in Column 2.

TABLE

Item	Column 1 Official plan or amendment to an official plan	Column 2 Date of decision under subsection 17 (34) of the <i>Planning Act</i>	Column 3 Modifications set out in the decision referred to in subsection 1 (1) that apply to the official plan or amendment to an official plan
1.	Official plan adopted by the City of Barrie pursuant to By-law 2022-016	April 11, 2023	Modification numbered 66
2.	Official plan adopted by the City of Belleville pursuant to By-law 2021-180	April 11, 2023	Modifications numbered 11, 14 and 16
3.	Official plan amendment 80 adopted by the City of Guelph pursuant to By-law 2022-20731	April 11, 2023	Modification numbered 17
4.	Official plan amendment 49 adopted by the Regional Municipality of Halton pursuant to By-law 35-22	November 4, 2022	Modifications numbered 18 to 20 18, 19 and 39
5.	Official plan amendment 34 amending the Rural Hamilton Official Plan and adopted by the City of Hamilton pursuant to By-law 22-146	November 4, 2022	None
6.	Official plan amendment 167 amending the Urban Hamilton Official Plan and adopted by the City of Hamilton pursuant to By-law 22-145	November 4, 2022	Modifications numbered 18, 26 and 36
7.	Official plan adopted by the Regional Municipality of Niagara pursuant to By-law 2022-47	November 4, 2022	Modifications numbered 5, 24, 32, 33, 39 and 44 5, 24, 25, 32, 33, 39, 42 and 44
8.	Official plan adopted by the City of Ottawa pursuant to By-law 2021-386	November 4, 2022	None
9.	Official plan adopted by the Regional Municipality of Peel pursuant to By-law 20-2022	November 4, 2022	Modifications numbered 3, 16 to 18, 21, 30 and 41 to 43
10.	Official plan adopted by the City of Peterborough pursuant to By-law 21-105	April 11, 2023	Modifications numbered 9, 10 and 42
11.	Official plan amendment 6 adopted by the Regional Municipality of Waterloo pursuant to By-law 22-038	April 11, 2023	None
12.	Official plan amendment 119 adopted by the County of Wellington pursuant to By-law 5760-22	April 11, 2023	Modifications numbered 1 and 2

13.	Official plan adopted by the Regional Municipality of York pursuant to By-law 2022-40	November 4, 2022	Modifications numbered 8, 18, 25, 30, 40 to 45, 47, 48, 58 to 61 40, 41, 42, 44, 45, 47, 48, 58, 59, 60 i), 61, 78, 79 ii) and 80
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Additional modifications

2 The following are the additional modifications mentioned in subclause (a) (ii) of subsection 1 (2):

1. The official plan adopted by the Regional Municipality of York pursuant to By-law 2022-40 is modified as follows:

~~i. Map 1B, Urban System Overlays, is modified by deleting the Gormley GO Major Transit Station Area symbol.~~

i. Map 1B, Urban System Overlays, is modified by,

A. deleting the Gormley GO Major Transit Station Area symbol, and

B. removing from Designated Greenfield Area the lands underlying the overlay that is noted in Modification 60 i) referred to Column 3 of item 13 of the Table to section 1.

ii. OP policy 4.4.43 is deleted in its entirety.

2. Official plan amendment 80 adopted by the City of Guelph pursuant to By-law 2022-20731 is modified as follows:

i. Schedule D: Downtown Secondary Plan Minimum and Maximum Building Heights is modified to replace the building heights only for properties located in the Special Policy Area, as designated on Schedule C: Downtown Secondary Plan Land Use Plan of the City of Guelph Official Plan, February 2022 consolidation with the building heights from Schedule D: Downtown Secondary Plan Minimum and Maximum Heights from the City of Guelph Official Plan, February 2022 consolidation.

3. Official plan amendment 119 adopted by the County of Wellington pursuant to By-law 5760-22 is modified as follows:

i. Schedules A-1, A-3, A-4 and A-8 to Official Plan Amendment 119 are modified to reflect the Greenbelt Boundaries of the Greenbelt Area, as defined in the *Greenbelt Act, 2005*.

ii. Schedules A-1 and A-3 to Official Plan Amendment 119 are modified to identify the community of Brisbane, Town of Erin as a hamlet in the Greenbelt Plan, 2017, as amended.

iii. Schedules A-1, A-8, and A-16 to Official Plan Amendment 119 are modified to remove parts of the Regionally Significant Economic Development Study Area that are located in the Greenbelt Boundaries of the Greenbelt Area, as defined in the *Greenbelt Act, 2005*.

iv. Schedules A-1 and A-8 are modified to delete the hamlet of Puslinch from being identified as a hamlet within the Greenbelt Plan, 2017, as amended. Schedule A-17 is deleted in its entirety.

Effect of approval

Subsequent changes to official plans

3 (1) For greater certainty, an official plan approved under subsection 1 (2), an amendment to an official plan approved under that subsection or an official plan as amended by an amendment approved under that subsection may be subsequently amended or repealed in accordance with the *Planning Act*.

Conformity with official plan as approved

(2) Any decision of a municipality or the Ontario Land Tribunal made under the *Planning Act*, as well as any by-law passed or public work undertaken by a municipality, on or after the date on which the approval of an official plan or an amendment to an official plan is deemed to have been given under subsection 1 (3) must conform with the official plan, as approved or amended, while that approval is in effect.

Building permits

(3) Nothing done by operation of this Act has the effect of invalidating a permit referred to in section 8 of the *Building Code Act, 1992*, nor does it provide a ground under subsection 8 (10) of that Act for revoking such a permit.

Limitations on remedies

4 (1) No cause of action arises as a direct or indirect result of,

- the enactment of this Act or the amendment or repeal of any provision of this Act, including the rescission of any decision under subsection 17 (34) of the *Planning Act* or the approval of any official plan or amendment to an official plan that results from the application of this Act;
- the making of any decisions under subsection 17 (34) of the *Planning Act* that are referred to in subsection 1 (1);
- anything done or not done in accordance with this Act or any decision under subsection 17 (34) of the *Planning Act* referred to in subsection 1 (1); or

- (d) any representation or other conduct by current or former employees, officers or agents of the Crown in right of Ontario or current or former members of the Executive Council that is related, directly or indirectly, to,
- (i) the actual or potential making of any decision under subsection 17 (34) of the *Planning Act* that is referred to in subsection 1 (1),
 - (ii) the actual or potential acquisition, disposal, use or development of any land subject to any decision under subsection 17 (34) of the *Planning Act* that is referred to in subsection 1 (1), or
 - (iii) the actual or potential granting or issuance of any approval, permit, order, by-law or other instrument in respect of any land subject to a decision under subsection 17 (34) of the *Planning Act* that is referred to in subsection 1 (1).

No remedy

(2) No costs, compensation or damages, including for loss of revenues or loss of profit, are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort, misfeasance, bad faith, trust or fiduciary obligation, any equitable remedy or any remedy under any statute, is available to any person in connection with anything referred to in subsection (1).

Proceedings barred

(3) No proceeding that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against any person.

Application

(4) Subsection (3) does not apply with respect to an application for judicial review, but does apply with respect to any other court, administrative or arbitral proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief or the enforcement of a judgment, order or award made outside Ontario.

Retrospective effect

(5) Subsections (1), (2) and (3) apply regardless of whether a cause of action on which a proceeding is purportedly based arose before, on or after the day on which the *Planning Statute Law Amendment Act, 2023* receives Royal Assent.

No costs award

(6) No costs shall be awarded against any person in respect of a proceeding that cannot be brought or maintained under subsection (3).

No expropriation or injurious affection

(7) Nothing referred to in subsection (1) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Proceedings by Crown not prevented

(8) This section does not apply with respect to proceedings brought by the Crown in right of Ontario.

Person defined

(9) In this section,

“person” includes the Crown in right of Ontario and its current and former employees, officers and agents, current and former members of the Executive Council and municipalities and their current and former employees, officers and agents.

Commencement

5 The Act set out in this Schedule comes into force on the day the *Planning Statute Law Amendment Act, 2023* receives Royal Assent.

Short title

6 The short title of the Act set out in this Schedule is the *Official Plan Adjustments Act, 2023*.

**SCHEDULE 2
PLANNING ACT**

1 Section 47 of the *Planning Act* is amended by adding the following subsections:

Limitations on remedies

- (20) No cause of action arises as a direct or indirect result of,
- (a) the enactment, amendment or repeal of any provision of this section;
 - (b) a decision in respect of the exercise of any power under this section, including but not limited to the making, amendment or revocation of orders under this section;
 - (c) anything done or not done in accordance with this section; or
 - (d) any representation or other conduct by current or former employees, officers or agents of the Crown in right of Ontario or current or former members of the Executive Council that is related, directly or indirectly, to
 - (i) the actual or potential making of any decision under this section,
 - (ii) the actual or potential acquisition, disposal, use or development of any land subject to any decision under this section, or
 - (iii) the actual or potential granting or issuance of any approval, permit, order, by-law or other instrument in respect of any order under this section.

No remedy

(21) No costs, compensation or damages, including for loss of revenues or loss of profit, are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort, misfeasance, bad faith, trust or fiduciary obligation, any equitable remedy or any remedy under any statute, is available to any person in connection with anything referred to in subsection (20).

Proceedings barred

(22) No proceeding that is directly or indirectly based on or related to anything referred to in subsection (20) may be brought or maintained against any person.

Application

(23) Subsection (22) does not apply with respect to an application for judicial review, but does apply with respect to any other court, administrative or arbitral proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief or the enforcement of a judgment, order or award made outside of Ontario.

Retrospective effect

(24) Subsections (20), (21) and (22) apply regardless of whether a cause of action on which a proceeding is purportedly based arose before, on or after the day section 1 of Schedule 2 to the *Planning Statute Law Amendment Act, 2023* comes into force.

No costs award

(25) No costs shall be awarded against any person in respect of a proceeding that cannot be brought or maintained under subsection (22).

No expropriation or injurious affection

(26) Nothing referred to in subsection (20) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Proceedings by Crown not prevented

(27) Subsections (20) to (26) and this subsection do not apply with respect to proceedings brought by the Crown in right of Ontario.

Person defined

(28) In subsections (20) to (27),

“person” includes the Crown in right of Ontario and its current and former employees, officers and agents and current and former members of the Executive Council and municipalities and their current and former employees, officers and agents.

Commencement

2 This Schedule comes into force on the day the *Planning Statute Law Amendment Act, 2023* receives Royal Assent.