



VISION 2016 – 2020

Conservation Ontario will be the leader in engaging Conservation Authorities in matters of common interest and in shaping effective policy related to Conservation Authorities

Conservation Ontario Council Report

From: Leslie Rich, Policy and Planning Liaison

Date: June 5, 2018

Subject: Conservation Ontario's Comments on the federal "Consultation Paper on Approach to Revising the Project List – A Proposed Impact Assessment System" and the "Consultation Paper on Information Requirements and Time Management Regulations – A Proposed Impact Assessment System"

Summary

Further to the introduction of the proposed federal *Impact Assessment Act* the government has produced two consultation papers, as precursors to future regulations. The consultation papers address a criteria-based approach to revising the Project List for Impact Assessments and a proposal to legislate information requirements and timelines moving forward. Conservation Ontario provided comments from a proponent perspective and emphasized "right-sizing" federal Impact Assessment triggers; looking for equivalency between provincial and federal processes where appropriate; and creating timelines based on the scale of the potential impact.

Recommendation

THAT the comments on the "Consultation Paper on Approach to Revising the Project List – A Proposed Impact Assessment System" and the "Consultation Paper on Information Requirements and Time Management Regulations – A Proposed Impact Assessment System" submitted to the Government of Canada on May 31, 2018 be endorsed.

Background

In June, 2016 the government of Canada commenced a comprehensive review of the *Canadian Environmental Assessment Act* as part of a larger review of Canada's environmental and regulatory reviews. In August 2016, a four-person Expert Panel on the *Canadian Environmental Assessment Act* was established and engaged interested parties in person and online. The Expert Panel delivered its report

to the Minister of Environment and Climate Change and the report formed one component of a subsequent “Environmental and Regulatory Reviews: Discussion Paper” that was released in June, 2017.

Conservation Ontario’s response to the Discussion Paper was endorsed at the September, 2017 Council meeting. Conservation Ontario’s comments were supportive in principle of many of the recommendations found within the Discussion Paper however the federal government was encouraged to look at “equivalency” wherever possible in the federal and provincial Environmental Assessment (EA) processes. Caution was urged around the use of federal “triggers” which could bump Class EA projects up to the federal EA process. It was anticipated that bumping up these projects would have a significant impact on the cost and timeliness of the EA process.

Current Status

On February 8th, the Canadian Government introduced Bill C-69, “An Act to enact the Impact Assessment Act and the Canadian Energy Regulatory Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts”. The proposed *Impact Assessment Act (IAA)* would replace the *Canadian Environmental Assessment Act*. The IAA would include an early planning and engagement phase; legislated timelines (300 days for an agency led assessment; 600 days for Panel reviews); strengthened monitoring and enforcement provisions; and have a single government agency lead assessments and coordinate Crown consultations with Indigenous peoples.

Conservation Ontario staff (L. Rich) attended a roundtable discussion with the Honourable Catherine McKenna, Minister of Environment and Climate Change to share views on the proposed IAA on February 28th. At the meeting Conservation Ontario’s position around “right-sizing” the triggers for a federal EA, looking for opportunities for equivalency between federal and provincial EAs and partnering with CAs on the regional climate change assessments was shared. The Bill has now been referred to Committee who is currently reporting their amendments.

Post introduction of the proposed IAA, the federal government released two consultation papers “Consultation Paper on Approach to Revising the Project List” and the “Consultation Paper on Information Requirements and Time Management Regulations”. The Project List identifies the activities associated with a project that may require an impact assessment. Through the consultation paper, the government aims to develop a criteria-based approach to revising the existing project list, which would help to focus on the projects that may have adverse effects in areas of federal jurisdiction. In addition, the government is considering prescribing in regulations the requirement to provide an initial project description to commence the early planning phase of an IA and subsequently a document that includes the proponent’s response to issues raised during the early planning phase and detailed project description. The government was also consulting on proposed legislated timelines for each phase of federal assessments.

Conservation Ontario’s response highlighted the potential for duplication in process between provincial EA and federal IA processes. It was recommended that the federal process should build upon existing provincial processes where applicable. It was also recommended that where CAs were undertaking a provincial Class EA and receiving a federal approval (i.e. a *Fisheries Act* authorization) that these small-scale projects be excluded from the project list under the IAA.

The proposed review timelines seem appropriate for large-scale energy projects or other projects of national significance. Smaller-scale projects, such as the ones that CAs pursue through the CO Class EA would not warrant this length of review. It was recommended that projects should be classified by scale of impact, with a corresponding maximum wait time.

Conclusion

The government has committed to engaging the public in the fall on the regulatory proposals discussed in these consultation papers. Conservation Ontario will continue to monitor the development of the *Impact Assessment Act* particularly as it relates to the implementation of the CO Class Environmental Assessment for Remedial Flood and Erosion Control.



May 31, 2018

Government of Canada

Re: **Conservation Ontario's Comments on the "Consultation Paper on Approach to Revising the Project List" and the "Consultation Paper on Information Requirements and Time Management Regulations"**

Thank you for the opportunity to provide feedback on the "Consultation Paper on Approach to Revising the Project List" and the "Consultation Paper on Information Requirements and Time Management Regulations". Conservation Ontario (CO) is the network of Ontario's 36 Conservation Authorities (CAs), which are community-based watershed management agencies dedicated to conserving, restoring and managing Ontario's natural resources on a watershed basis. Conservation Ontario would like to express appreciation for the opportunity to discuss the proposed *Impact Assessment Act (IA)* with Minister McKenna on February 28th, 2018.

Conservation Authorities bring an important perspective to this review; as proponents of Class Environmental Assessments (Class EAs) and as members of the provincial Government Review Team (GRT) which provides feedback on Terms of References and environmental assessments in Ontario. As a major landowner and resource management agency in the most densely populated areas in Ontario (90% of Ontario's residents live in a CA watershed), CAs are the proponent or co-proponent of a number of environmental assessments (EA), both Individual EAs and through the provincial Class EA process. Conservation Ontario has managed the *Class Environmental Assessment for Remedial Flood and Erosion Control Projects* (Class EA) since 1993. The Class EA establishes a planning and approval process for a variety of remedial flood and erosion control projects that may be carried out by CAs. The Class EA sets out procedures and environmental planning principles for CAs to follow to plan, design, evaluate, implement and monitor a remedial flood and erosion control project so that environmental effects are considered as required through the Ontario *Environmental Assessment Act*. Class EAs in Ontario set out a streamlined self-assessment process that applies to routine projects having predictable environmental effects with manageable impacts. Although a Class EA represents a scoped approach, CAs take a collaborative and comprehensive approach which is reflective of the goals of the proposed *Impact Assessment Act*, including: early, inclusive and meaningful public engagement; partnerships with Indigenous peoples; timely decisions based on the best available science and Indigenous traditional knowledge; and sustainability for present and future generations.

CAs support a comprehensive and robust EA review and approval process in our dual role as a reviewer of EAs affecting Conservation Authority interests, and as a proponent/co-proponent of EAs. It is recommended that the federal process should build upon provincial assessments (where they exist) to ensure that duplication and delay are avoided, while still ensuring that the environmental effects of the project are understood and addressed.

Conservation Ontario is supportive of the development of a "criteria-based approach to revising the project list that would focus federal impact assessment on projects that have the most potential for adverse environmental effects in areas of federal jurisdiction". Moreover, it is recommended that "[p]rojects with potential for smaller effects in areas of federal jurisdiction would continue to be subject

to other ...protections found under other legislation (e.g. *Fisheries Act, Parks Canada Act* and the *Canadian Environmental Protection Act, 1999*) may appropriately be excluded, providing they are not triggering other federal concerns. For example, the projects that CAs undertake using the Class EA process are all adjacent to water. In this case, CAs are undertaking the Class EA process under the *Environmental Assessment Act* in Ontario and consulting with Fisheries and Oceans Canada (DFO), where required. It is therefore recommended that these small-scale projects be excluded from the project list under the IAA, in spite of the federal government's interest in fish and fish habitat.

Furthermore, Conservation Ontario has concerns with respect to the review timelines that are proposed under the new process. The Impact Assessment Timelines flow chart includes up to a 2-year wait time once the initial phase of work is completed. This length of time for review is not warranted for the scale of CA projects, particularly since it is assumed that the project would have been reviewed by DFO by this juncture. It is recommended that projects should be classified by scale with a corresponding maximum wait time.

Conservation Ontario would welcome the opportunity for further dialogue with the federal government regarding the applicability of the new federal IA processes to Conservation Authority projects. It is recommended that this dialogue should also be extended to municipalities through the Association of Municipalities of Ontario or through the managers of the Municipal Class Environmental Assessment.

Thank you for the opportunity to provide comments on the "Consultation Paper on Approach to Revising the Project List" and the "Consultation Paper on Information Requirements and Time Management Regulations". Should this letter require any clarification, please contact me directly at extension 226.

Sincerely,



Leslie Rich, RPP

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c.c. Conservation Authority GMs

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