Canadian Environmental Law Association
EQUITY. JUSTICE. HEALTH.

May 15, 2026 **BY EMAIL & REGISTRY PORTAL**

EA Modernization Project Team
Environmental Assessment Modernization Branch
Ministry of the Environment, Conservation and Parks
135 St Clair Ave West, 4th Floor
Toronto, ON M4V 1P5

Dear Sir/Madam:

**RE: PROPOSED CHANGES TO THE *ENVIRONMENTAL ASSESSMENT ACT***
**ERO NOTICE 026-0415**

On behalf of the Canadian Environmental Law Association (CELA), I am writing to provide comments on the recently proposed amendments to the *Environmental Assessment Act* (*EAA*) which are contained in Schedule 2 of Bill 105 (*Protecting Ontario's Workers and Economic Resilience Act, 2026*).[1]

At the outset, we note that this omnibus Bill was introduced by the Minister of Red Tape Reduction, rather than the Minister of the Environment, Conservation and Parks who actually administers the *EAA*. However, environmental assessment is not "red tape," but is instead a fundamentally important environmental planning process that is intended to safeguard the environment, public health and safety, and the overall public interest.

CELA further notes that the ERO notice[2] claims that the proposed changes "would improve the comprehensive environmental assessment process by removing certain steps while maintaining strong environmental protections and other opportunities for consultation."

However, for the reasons outlined below, CELA submits that this governmental claim is unsubstantiated, and that the proposed changes represent an unjustified and regressive rollback of existing participatory rights under the *EAA* which are available to all Ontario residents.

If enacted, the proposed changes will significantly reduce public participation, transparency, and accountability under the *EAA*.

**Accordingly, CELA recommends that Schedule 2 should be withdrawn or deleted from Bill 105, and that the proposed changes to the *EAA* should not be enacted or implemented by the Ontario government**.

[1] See Bill 105, Protecting Ontario's Workers and Economic Resilience Act, 2026 - Legislative Assembly of Ontario.
[2] See Proposed Environmental Assessment Act amendments to improve the comprehensive environmental assessment process | Environmental Registry of Ontario.

## A. CELA's Background and Experience in Ontario's EA Program

CELA is a specialty legal aid clinic dedicated to environmental equity, justice, and health. Founded in 1970, CELA is one of the oldest advocates for environmental protection in the country. With funding from Legal Aid Ontario, CELA provides free legal services relating to environmental justice in Ontario, including representing low-income and vulnerable or disadvantaged communities in court proceedings and administrative hearings. CELA also works on environmental legal education and reform initiatives.

Our detailed comments on various aspects of the proposed *EAA* changes are set out below. These comments are based on CELA's decades-long experience under the *EAA*, including:

- representing clients in Individual EA [now Comprehensive EA] processes (including public hearings) for major undertakings subject to the *EAA*
- representing clients in Class EA processes, including making requests for Part II.3 orders (formerly known as "elevation" or "bump-up" requests)
- representing clients in judicial review applications, statutory appeals, and administrative hearings in relation to the *EAA*
- filing numerous law reform submissions on the *EAA*, regulations, policies, and administrative matters
- participating in provincial advisory committees considering issues under the *EAA*
- conducting public education/outreach, and providing summary advice, to countless individuals, non-governmental organizations, Indigenous communities, and other persons interested in matters arising under the *EAA*

Accordingly, CELA has carefully considered the EA proposals in the above-noted Registry posting from the public interest perspective of our client communities, and through the lens of ensuring access to environmental justice.

## B. Overview of the Proposed Changes to the *EAA*

The ERO notice summarizes the main changes in Schedule 2 of Bill 105 as follows:

- remove the requirement to publish and consult on a Ministry Review
- remove the opportunity for the public to request a hearing before the Ontario Land Tribunal (OLT or Tribunal) while maintaining the Minister's authority to refer an application or matter related to an application to the Tribunal for a hearing and decision on their own initiative

- remove the requirement for Cabinet approval of the Minister's decision on the application for approval to proceed, while providing the Minister discretion to refer an application to Cabinet for a decision.

The ERO notice then goes on to provide more information on the alleged rationale for, and content of, these proposed reforms, as discussed below in more detail in Part E of this submission.

## C. The Legislative Context of the Proposed Changes

The proposed changes contained in Schedule 2 of Bill 105 should not be considered in isolation. Instead, they should be viewed as the latest attempt by the Ontario government to systematically dismantle the *EAA*, which was once considered to be the "gold standard" of EA legislation when it was first enacted in 1975.

For example, since 2020 the Ontario government has made controversial legislative and regulatory changes which have eviscerated key components of the province's EA program, often with little or no public consultation. These initiatives include:

- abandoning the long-standing trigger for the application of the *EAA* (i.e. all public projects automatically caught unless exempted)

- switching to a designated projects list that omits many types of environmentally significant projects, including those in the private sector (i.e. mines)

- excluding the application of section 21.2 of the *Statutory Powers Procedure Act* to decisions (i.e. power to review) under the *EAA*

- enhancing the Minister's ability to approve or amend Terms of Reference for Comprehensive EAs which require information that is "less than" what is otherwise mandated under the *EAA*

- enabling proponents to undertake certain early activities before obtaining approval to proceed with a Part II.3 project

- laying the groundwork for revoking and replacing approved Class EAs with regulatory "Streamlined EAs"

- eliminating the ability of the public to file bump-up requests (i.e. Part II.3 orders) under Class EAs for environmental or planning reasons

- exempting contentious projects that were (or should have been) subject to Comprehensive EA requirements (i.e. Highway 413 proposal, Dresden landfill project, Eagle's Nest mine in the Ring of Fire, etc.)

Taken together, the overall effect of these and other changes has been to reduce the nature, number, and scope of EAs under the *EAA*, and to significantly erode public trust and confidence in the provincial EA process.

This perspective has been reflected in a leading textbook on environmental law:

> While impact assessment in Canada and elsewhere has evolved gradually towards adoption of more advanced and ambitious components, progress has been uneven, and there have been exceptions. Some jurisdictions, including Ontario, started with many advanced components and have eliminated or narrowed many of them (emphasis added).[3]

Viewed in this light, Schedule 2 of Bill 105 continues the Ontario government's unfortunate trend of taking steps to undermine the integrity and efficacy of the province's EA program, and to limit or eliminate important substantive and procedural protections in the *EAA.*

## D. The Policy Framework for Assessing the Proposed Changes

It is beyond dispute that meaningful public participation throughout all aspects of the Comprehensive EA process is an essential component of information-gathering and decision-making under the *EAA*.

As noted by the Ministry of the Environment, Conservation and Parks (Ministry) in the current (but outdated) code of practice[4] for public consultation under the *EAA*:

> The purpose of the *Environmental Assessment Act* is to provide for the protection, conservation and wise management of Ontario's environment. To achieve this purpose, the *Environmental Assessment Act* promotes responsible environmental decision-making and ensures that interested persons have an opportunity to comment on undertakings that may affect them. In the *Environmental Assessment Act*, environment is broadly defined to include the natural, social, economic, cultural and built environments.
>
> One element of responsible environmental decision-making is ensuring that those with a potential interest in a proposal – such as a new highway, a transmission corridor or a landfill site – are provided with opportunities to contribute to decision-making and to influence decisions where possible. Public consultation protects the public interest and helps ensure that concerns are identified early and addressed where possible (emphasis added).

Similarly, the Ministry's *Statement of Environmental Values* issued under the *Environmental Bill of Rights* commits to public engagement during environmental decision-making:

> The Ministry of the Environment and Climate Change believes that public consultation is vital to sound environmental decision-making. The Ministry will provide opportunities for

[3] P. Muldoon and J. Williams, *An Introduction to Environmental Law and Policy in Canada (4th edition)* (Toronto: Emond Montgomery, 2025), at page 195.
[4] Consultation in Ontario's environmental assessment process | ontario.ca.

an open and consultative process when making decisions that might significantly affect the environment (emphasis added).[5]

More generally, the recitals to the 1998 Aarhus Convention of UNECE (United Nations Economic Commission for Europe) recognize the importance that "the respective roles that individual citizens, non-governmental organizations and the private sector can play in environment protection," and note that "in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns, and enable public authorities to take due account of such concerns."[6]

Accordingly, it is clear that Bill 105's proposed removal of existing public participation rights from the *EAA* is fundamentally inconsistent with long-standing policies and principles (including those endorsed by the Ministry itself) which recognize and affirm that meaningful public engagement is the *sine qua non* of sound EA practice.

## E. CELA's Comments on the Proposed Changes

The following comments by CELA primarily focus on three objectionable and unwarranted changes to the *EAA*: eliminating public comment on Ministry reviews of Comprehensive EAs; eliminating the public's right to request Tribunal hearings under the *EAA*; and eliminating the requirement for the Minister to obtain Cabinet concurrence for an *EAA* decision to approve the project.

CELA notes that Schedule 2 of Bill 105 contains a number of other amendments to the *EAA*, including:

- allowing for references to approved Class EAs to be set out in the regulations instead of in the Act
- providing that only one proponent needs to apply for approval
- providing discretion for the Minister to change the deadline for deciding an application or referring an application to Cabinet or the Tribunal for a decision
- providing that a streamlined EA can be limited to specified environmental impacts, such as impacts on archaeological resources
- removing exemptions for certain Class EAs, since they relate to specific Class EAs that are expected to be revoked over time
- updating outdated references

[5] Statement of Environmental Values : Ministry of the Environment and Climate Change | Environmental Registry of Ontario.
[6] Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

In our view, these proposals are less significant than the three changes addressed in this submission, but CELA's lack of comment on the foregoing items should not be construed as our support for, or non-objection to, these amendments. For example, these diverse amendments appear largely unrelated to the Ontario government's objective of speeding up the EA process.

However, before addressing the three key proposals, it is first necessary for CELA to respond to the Ontario government's dubious rationale for proceeding with these specific changes to the *EAA*.

*(i) The Rationale for EAA Reform is Misleading, Incomplete, and Unsubstantiated*

The ERO notice readily acknowledges that the main impetus for the proposed changes is simply to speed up *EAA* approvals:

> Ontario is taking this opportunity to update the EA process so that approvals can happen faster.
>
> Comprehensive EAs usually take 4 to 6 years to complete, which can delay important infrastructure projects.

If this is the rationale being advanced for Schedule 2 of Bill 105, then CELA concludes that it is wholly inadequate and does not provide a persuasive or compelling basis for the three key changes to the *EAA*.

For example, the alleged "4 to 6 year" timeline, in and of itself, is meaningless without any further detail or information. The ERO notice attaches no cogent evidence or statistical analysis to substantiate this figure. In addition, it is unclear whether this is an average timeline for all projects and all sectors (or just some sectors such as waste), or whether this timeline is historic in nature (or more recent despite the sweeping changes to the *EAA* passed in 2020 in Bill 197).

On this latter point, it appears to CELA that very few new designated projects have entered (or even completed) the Comprehensive EA process under Part II.3 of the *EAA*, which only came into force after the project list regulation[7] was promulgated in 2024. Accordingly, it is difficult to understand whether or how the "4 to 6 year" timeline actually applies to the Comprehensive EA process in the post-Bill 197 era.

Conversely, if the Comprehensive EA process really does take "4 to 6 years" to complete, then that result seems to be an implicit admission that the much-hyped overhaul of the *EAA* in Bill 197 is not working, and that it is time for the Ontario government to head back to the drawing board to develop, with public and Indigenous input, appropriate *EAA* reforms that are effective, enforceable, and equitable.

[7] O. Reg. 50/24 PART II.3 PROJECTS - DESIGNATIONS AND EXEMPTIONS | ontario.ca.

Moreover, in CELA's experience, any alleged "delay" in the EA process is generally attributable to dilatory steps (or missteps) by the proponent itself. While the deadlines regulation[8] prescribes timeframes (measured in weeks, not months or years) for various government decisions and activities under the *EAA* (i.e. approval of Terms of Reference, completion of the Ministry review, decision on the Comprehensive EA application, etc.), there are virtually no deadlines imposed upon the proponent for completing and submitting the Comprehensive EA and its supporting documentation.

In this regard, it is theoretically open to the proponent to conduct its assessment work at its own pace and in accordance with its own priorities. In reality, however, CELA and our clients have encountered EA-related work from the proponent (or its consultants) that is deficient and incomplete, or that requires further revision, field work, analysis, studies and reports, all of which tends to lengthen the assessment process. In some cases, proponents have chosen to prepare and consult upon "draft" EAs before submitting the actual EAs to the Ministry, which again prolongs the EA process due to the proponent's own actions. In other cases, proponents have delayed responding to information requests, undertaken flawed consultation programs, or have otherwise failed to move the EA process along in a timely manner. In our view, these proponent-related factors are responsible for most of the time spent in the Comprehensive EA process.

Finally, even assuming that there is a demonstrable "4 to 6 year" timeline for completing Comprehensive EAs under the current *EAA*, it strains credulity for the Ontario government to suggest that most of this extra time is attributable to allowing the public a few weeks to comment on the Ministry review, or enabling the public to file hearing requests with the Minister. As discussed below, this is particularly true since virtually all Tribunal referrals requested by our clients and other persons have been refused by Minister since the late 1990s. This persistent "no EA hearing" trend means that hearing referrals have effectively resulted in zero delay in the EA process in recent decades.

In these circumstances, CELA concludes that there is a serious disconnect between the alleged problem (i.e. years-long EA processes) and the proposed solution (i.e. eliminating relatively short periods of time for the public to comment on Ministry reviews or to request referral to the Tribunal for a hearing and decision).

*(ii) Ministry Reviews should Remain Subject to Public Comment*

The ERO notice briefly describes the proposed changes to the Ministry review stage of the Comprehensive EA process as follows:

> Under the current provisions of the EAA, after a proponent submits an EA and the public comment period ends, the ministry is required to prepare a Ministry Review and post it for public comment.

[8] O. Reg. 616/98 DEADLINES | ontario.ca.

> The Ministry Review document summarizes the assessment, and includes an assessment of the EA's alignment with the approved terms of reference, and an evaluation of how concerns have been addressed…
>
> The proposal is to remove the requirement to prepare, publish and consult on the Ministry Review, as well as related provisions.

The ERO notice purports to rationalize this change on the following grounds:

> The ministry's experience is that publishing the Ministry Review and holding a subsequent comment period rarely generates new feedback beyond what was provided to the ministry after EA submission…
>
> The ministry and Government Review Team (GRT) would still review the EA document that the proponent submits to the ministry, including information related to consultations by the proponent and their consideration of comments received from Indigenous communities, the public, and stakeholders during the preparation of the EA.
>
> The ministry and GRT would also continue to review the comments provided during the comment period on the final EA and confirm whether the EA document complies with the EAA requirements and whether it was prepared in accordance with the approved terms of reference.

CELA opposes this significant change for various reasons.

First, it has been our experience over the decades that publication of the Ministry review, and making it available for public inspection and comment, has been valuable for persons interested in, or potentially affected by, the project being assessed in the EA process. For example, the Ministry review typically compiles and discusses technical comments or concerns raised by staff in the Ministry as well as other ministries or agencies, particularly if there are identified errors, omissions, ambiguities, inconsistencies or other gaps in the proponent's work. The provision of this information can greatly assist the public in providing informed comments to the Minister about the adequacy of the EA documentation, the sufficiency of public consultation by the proponent, and the overall acceptability of the project.

Second, requiring publication of the Ministry review provides an important safeguard against superficial governmental reviews that may ignore, gloss over, or discount public concerns about the direct, indirect and cumulative effects of the proposed project, or about the effectiveness of the mitigation, monitoring, or reporting measures proposed by the proponent.

Third, the ERO notice confirms that the Ministry review will continue in any event to assess the EA documentation and the extent to which it satisfies the approved Terms of Reference. Presumably, this exercise will still result in a written record prepared by review participants, not just verbal commentary among the participants. For the purposes of ensuring transparency, traceability, and accountability under the *EAA*, the Ministry review process and its outcome should

not be a closed-door exercise shrouded in secrecy, but should instead remain open and accessible to the public.

Fourth, the ERO notice provides no evidence to substantiate the inference that merely requiring publication of the Ministry review unduly adds months or years to the EA process. As noted above, it appears that the Ministry review will still be undertaken even if the proposed *EAA* amendment is made, and it does not appear be onerous, unreasonable, or time-consuming to ensure that the results of the Ministry review are publicly available.

*(iii) The Public should Retain the Right to Request Referral to a Tribunal Hearing*

The ERO notice proposes the wholesale removal of long-standing *EAA* provisions which enable members of the public to request that a Comprehensive EA be referred by the Minister, in whole or in part, to the Ontario Land Tribunal for a hearing and decision:

> Under current provisions of the EAA, any person can request that an EA be referred to the OLT for a hearing and decision. These requests have been rare, and only one request has resulted in a hearing, since the EAA came into force in 1976.
>
> If the proposed amendments are made, the provisions for a person to make a request to the Minister for an application to be referred to the Tribunal would be removed.
>
> The existing authority for the Minister to refer an application or a matter related to an application to the Tribunal would continue if the Act is amended as proposed.

CELA strongly objects to this significant change (i.e. the proposed repeal of section 17.18 of the *EAA*) for several reasons.

First, having frequently appeared as counsel for parties in EA hearings, it has been our experience that hearings under the *EAA* are the highest and best form of public participation in EA decision-making. For example, the EA hearing is publicly conducted by an independent and specialized administrative tribunal that has well-established rules of practice which ensure fair and efficient proceedings. Similarly, the hearing parties have an opportunity to test the evidence of the proponent (and the Ontario government) by cross-examining witnesses and presenting opinion evidence from independent experts. These important safeguards are wholly absent when final decisions are made behind closed-doors under the *EAA* by the Minister with the concurrence of the Cabinet.

Second, the ERO notice claims that public hearing requests have been "rare" over the past 50 years, but does not otherwise explain or quantify the actual number of hearing requests received by the Minister. On behalf of our clients, CELA has filed well-founded hearing requests which were nevertheless refused by the Minister, often for specious reasons. Thus, it comes as little surprise that the ERO notice reports that only a single request since 1976 ever resulted in a referral to a public hearing.

Third, the hearing track record under the *EAA* from the late 1990s to date amply demonstrates that successive Ministers have steadfastly refused to refer EAs to a public hearing, either on their own initiative or upon request by the public. This is despite the fact that the *EAA* was amended in 1996 to allow the Minister to refer the whole EA, or just parts of the EA, to a public hearing for adjudication, but these provisions have inexplicably fallen into disuse. In these circumstances, we see no reason to believe that the Minister will abruptly change this long-standing practice if the proposed *EAA* amendment is enacted. Accordingly, we draw no comfort from the ERO notice's insistence that Ministers will still have discretion to refer an EA to the Ontario Land Tribunal.

Fourth, we note that the "no EA hearing" trend was of considerable concern to the Minister's expert advisory panel over 20 years ago, especially in light of the benefits of the public hearing process:

> Public hearings under the EA Act are important mechanisms for gathering information, testing evidence, weighing competing interests, and making informed decisions about particularly significant or controversial undertakings. Since the EA Act came into force, public hearings have been held on a wide variety of high-profile undertakings, including landfills, incinerators, highways, transmission lines and timber management on Crown lands. More often than not, these EA hearings have resulted in approval of the proposed undertakings, subject to terms and conditions that are intended to prevent, mitigate and monitor the environmental effects associated with the proposals (emphasis added, footnote omitted)…
>
> Despite having the power under the revised EA Act to impose hearing deadlines and circumscribe hearing issues, since 1996 only two undertakings have been referred by the Minister to public hearings under the EA Act…
>
> In fact, aside from these two cases, virtually all other individual EA approval decisions under the EA Act have been made by the Minister without the benefit of public hearings. In addition, it appears that EA hearing requests from the public are being routinely refused by the Minister despite concerns about the adequacy of the proponent's EA work or the acceptability of the proposed undertaking. Indeed, given that the EA Act was specifically amended in 1996 to allow the Minister to, in effect, "tailor" the hearing to fit the undertaking, it is unclear why the Minister has consistently refused to refer matters to ERT hearings at all (emphasis added).[9]

Fifth, the current wording of section 17.18 of the *EAA* states that "if referral of the application is requested, the Minister shall refer the application to the Tribunal under section 17.16" (emphasis added), unless the Minister opines that the request is frivolous and vexatious, that a hearing is unnecessary, or that the hearing may cause undue delay. In other words, it is mandatory for the Minister to grant a referral request made by the public, except in the limited and exceptional circumstances prescribed in section 17.18. Nevertheless, Ministers have consistently denied all

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[9] Minister's EA Advisory Panel – Executive Group, *Improving Environmental Assessment in Ontario: A Framework for Reform* (Vol. I, March 2005), pages 81-82. CELA was appointed as a member of the Executive Group.

hearing requests, which prompted the following commentary from the Minister's expert advisory group in 2005:

> More fundamentally, the lack of EA hearings appears to be inconsistent with the language of the EA Act, which provides that upon the request of any person, the Minister "shall" refer the EA application, in whole or in part, to ERT, unless the Minister opines that the request is "frivolous or vexatious", or that a hearing is "unnecessary" or may cause "undue delay" (see section 9.3 of the EA Act). However, there appear to be no explicit MOE criteria in the public domain that clearly explain how these vague grounds are to be interpreted or applied in refusing hearing requests. Unless and until this ambiguity is resolved, the public and proponents alike will have little or no certainty as to when an EA hearing may be ordered, and there will be little or no accountability for Ministerial refusals to grant the hearing rights entrenched in the EA Act.[10]

We concur with the above-noted comments, and CELA submits that the public right to request referral of a Comprehensive EA to the Tribunal should remain in the *EAA*. CELA further submits that the current exceptions which allow the Minister to refuse a hearing request should be amended and limited to situations where the preponderance of the evidence demonstrates that the hearing request is clearly frivolous and vexatious.

*(iv) The Minister should be Required to Request Cabinet Concurrence*

The ERO notice offers a sparse description of the proposed change in final decision-making under Part II.3 of the *EAA*:

> The Minister's decision on a comprehensive EA currently requires Cabinet approval. We propose to remove this step to help speed up the process. Under the proposed approach, the Minister would be able to give or refuse approval to proceed with a project without the need for Cabinet approval. The proposed amendments would also include a provision giving the minister authority to refer the approval decision to Cabinet if they choose to do so.

CELA submits that this proposal should not proceed for several reasons.

First, it must be recalled that Comprehensive EAs are only required for the most significant projects that may cause adverse biophysical, ecological, social, cultural, or economic impacts, or that may adversely affect Indigenous peoples, lands, or rights. Accordingly, the approval of such projects under the *EAA* (despite their environmental risks and adverse effects) necessarily involves polycentric decision-making and requires the careful weighing of public and private interests, all of which is better suited to Cabinet-level deliberations rather than closed-door decision-making by a single Minister of the Crown.

Second, *EAA* approval decisions may transcend the institutional expertise of the Minister of the Environment, Conservation and Parks, and will often engage the mandate and interests of other

[10] *Ibid*., pages 82-83.

Cabinet ministers whose portfolios may be relevant to the project and its broad range of actual or potential impacts. This is particularly true if the approval decision involves the imposition of terms and conditions which are intended to prevent, minimize, or mitigate adverse effects upon the environment, as broadly defined by the *EAA*.

Third, while the ERO notice claims that removing the need for Cabinet concurrence will "speed up the process," there is no attempt to explain or quantify how much time is typically required (or would be saved) in obtaining an order-in-council affirming the Minister's decision under the *EAA*. In any event, CELA suspects that removing this step will not shave years off the alleged "4 to 6 year" timeline for EA process. If securing Cabinet concurrence is, in fact, a time-consuming task, then it may be preferable to update Cabinet's internal procedures rather than amend the *EAA*.

Fourth, CELA draws no comfort from the Ontario government's assurance that the Minister will still have discretion to refer the final decision to Cabinet. Just as successive Ministers have consistently exercised their discretion against referring EAs to the Tribunal, CELA reasonably anticipates that the Minister will similarly exercise discretion against referring final decisions to the full Cabinet (except perhaps in relation to the most contentious mega-projects). This concern is compounded by the lack of any express criteria in the *EAA* amendment (i.e. proposed section 17.15.1) to structure this discretion for transparency and accountability purposes. In our view, this lack of statutory criteria makes the Ministerial discretion uncertain and unpredictable.

## F. Conclusions and Recommendations

For the foregoing reasons, CELA calls upon the provincial government to withdraw and abandon the fundamentally flawed proposals to amend the *EAA* via Schedule 2 of Bill 105.

CELA concludes that the proposed changes are highly problematic, unsupported by persuasive evidence, and contrary to the public interest purpose of the *EAA*, namely the betterment of Ontarians by providing for the protection, conservation, and wise management of the environment.

In our view, if Ontario is serious about implementing credible, robust, efficient, evidence-based, and participatory EA processes under the *EAA*, then these proposals are unacceptable and cannot proceed in their current form.

Accordingly, CELA strongly recommends that the Ontario government should re-focus its *EAA* modernization program away from attempting to make EA processes faster, easier, less robust, or inapplicable to environmentally significant projects.

Instead, the province must develop, with meaningful public and Indigenous consultation, the necessary *EAA* reforms that have been advocated over the years by civil society, the Auditor General of Ontario, the former Environmental Commissioner of Ontario, and various stakeholders, academics, and practitioners. These long overdue reforms include:

- updating and improving the purposes and principles of the *EAA* to reflect a sustainability focus and a commitment to ensuring access to environmental justice

- ensuring meaningful opportunities for public participation in Comprehensive EAs and Class EAs/Streamlined EAs

- establishing an accessible, comprehensive, and user-friendly online registry to contain all notices, records, information, decisions, and other documentation arising from Comprehensive EAs and Class EAs/Streamlined EAs

- enhancing consultation requirements for engaging Indigenous communities in a manner that is consistent with the United Nations Declaration on the Rights of Indigenous Peoples, including the requirement for free, prior and informed consent by Indigenous communities

- reinstating "proponent pays" intervenor funding legislation to facilitate public participation and Indigenous engagement, particularly in Comprehensive EAs and public hearings held by the Tribunal under the *EAA*

- restoring the public's ability to request Part II.3 orders on environmental planning and protection grounds

- entrenching a statutory climate change test to help *EAA* decision-makers to determine whether a project should be approved or rejected due to its greenhouse gas emissions, carbon storage implications, and other climate change considerations (e.g., increased wildfires, floods, extreme weather, heat islands, etc.)

- curtailing the ability of the Minister to approve Terms of Reference that narrow or exclude the consideration of a project's purpose, need, alternatives or other key factors in Comprehensive EAs

- extending the application of the *EAA* to environmentally significant projects within the private sector (e.g., mines)

- requiring mandatory and robust assessment of cumulative effects under the *EAA*

- facilitating regional assessments under the *EAA* for sensitive, significant, or largely undeveloped geographic areas in the province

- ensuring strategic assessments of governmental plans, policies, and programs under the *EAA*

- referring Comprehensive EA applications to the Ontario Land Tribunal for a hearing and decision upon request by members of the public or Indigenous communities, unless the request is clearly frivolous and vexatious

- reducing the lengthy list of environmentally significant undertakings that have been exempted from the *EAA* by regulation, declaration orders, or legislative means

- removing section 32 of the *Environmental Bill of Rights* (*EBR*), which currently exempts from the *EBR*'s public participation regime any licenses, permits or approvals that implement undertakings that have been approved or exempted under the *EAA*.

We trust that the foregoing comments and recommendations will be duly considered and acted upon by the Ontario government as it contemplates next steps in relation to amending the *EAA*.

Please contact the undersigned if you have any questions or comments arising from this submission.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

Richard D. Lindgren
Counsel

cc. Standing Committee on Finance and Economic Affairs
Dr. Tyler Schulz, Commissioner of the Environment