

# ENVIRONMENTAL ASSESSMENT: TIME TO HIT THE RESET BUTTON

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OAIA 2016

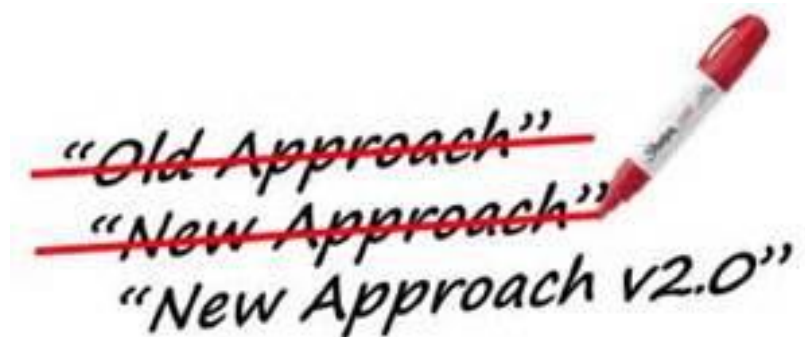
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# How Did We Arrive At Our Conference Theme?

- 2015 OAIA Conference: Ontario Minister of the Environment and Climate Change, challenged OAIA to provide a brief on potential changes to the environmental assessment program that would lead to better social and economic outcomes.
- June 2016: Federal government announced a major review of its environmental assessment process which had been amended in 2012 by the previous Conservative government
  - In the federal Minister of the Environment and Climate Change's mandate letter
  - Implements part of the current Prime Minister's election promise
- Provided opportunity for us as a collective of EA practitioners to reflect on where EA has gone, what it is intended to do, and where we can go from here.

# The Minister's Challenge

- OAIA Board of Directors decided to take up the Minister's challenge
- Struck a working group of experienced EA practitioners to develop a response to the Minister's challenge. Group met regularly to develop response
- Response needed to reflect the membership at large
- Workshop for OAIA members on May 30 ,2016 to obtain input that would be integrated into the response



~~"Old Approach"~~  
~~"New Approach"~~  
"New Approach v2.0"

# What We Heard

- Lack of efficiency and timeliness in EA process (accountability)
- Lack of experienced staff to review EAs and provide strategic guidance
- Lack of creative applications of the EA Act for unique situations
- EA is too complicated: Simplify information required
- Too much duplication
- Different rules for different groups of projects/proponents that have similar effects
- Need to find better ways/new relationships for Indigenous Peoples to participate in EA
- Need to determine how to consider emerging issues that were not contemplated when EA Act came into effect (e.g. sustainability, climate change, cumulative effects, participant funding, strategic EA)

# Working Group Guided By:

- Confirmation that EA program should provide balance between better social and economic outcomes to achieve best outcomes by considering 4 principles:
  - Re-invigorate/re-purpose EA Act – consider original intent to assess the potential environmental impacts of large, complex projects that may affect the environment
  - Reduce duplication of the EA program /other government programs with similar goals
  - Reduce duplication of purpose and process within the EA program
  - Consider consolidation of Class EAs/streamlined processes to reduce/eliminate fragmentation
- 3 main conclusions from the OAIA workshop
  - OAIA members enthusiastically embraced the need for EA reform
  - Members affirmed soundness of EA Act as a basis for EA review/ reform
  - Consensus that how Ontario's EA program is practised - focus of proposed enhancements and improvements

# Opportunities for Change

- With input from the OAlA workshop, the working group identified 5 themes to describe the key opportunities to improve EA program outcomes by addressing perceived concerns with current EA practice and process without making changes to the Act
1. Efficiency of EA Approvals Process
  2. Optimizing Approvals under Several Acts to Reduce Duplication
  3. Clarity in the EA Approvals Process
  4. Indigenous Peoples: Role in EA
  5. Emerging Issues



# Efficiency of EA Approvals Process

- Review timelines for EA review (Ontario Regulation 616/98 and each Class EA and streamlined EA regulations), make them more reasonable, so that they can be met with greater certainty.
- Consider creation of frivolous/vexatious provision to reduce or eliminate insincere or unwarranted objections which can hold up valued projects (Class EAs)
- Ensure that MOECC EA review staff have relevant, hands-on EA experience
- Provide adequate budget to run EA program (MOECC staff training, allow MOECC staff to visit project sites and engage with those potentially affected by a project)
- Provide funding for stakeholder participation in the EA process
- Foster senior MOECC Staff who will champion good EA practice and act as an experienced resource for staff

# Optimizing Approvals under Several Acts to Reduce Duplication

- Dedicate MOECC staff to identify opportunities to integrate existing Ontario programs with the EA program
- Work with other Ontario ministries to reduce duplication between different ministry approval regimes through (education, coordination of activities, multi-agency meetings)
- MOECC staff: work with proponents/agencies to establish clear criteria to address the most appropriate level of detail in EA studies and then uniformly and consistently apply the criteria
- EA program training for agency reviewers is needed





# Clarity in the EA Approvals Process

- Re-assess the level of EA that should be undertaken by various proponents to streamline to the most appropriate process or study type
- Reconsider the projects which are subject/not subject to the EA Act and revise based on results of review as noted above
- Apply regional or strategic EA to certain plans /programs so that projects resulting from them could be assessed /screened for potential impacts and recommended impact management prior to implementation
- Review existing Class EAs (at time of renewal/review) and other streamlined EA regulations for consistency of wording and implementation

# Indigenous Peoples: Role in EA



- Assess needs of Indigenous Peoples to participate in the EA program in a comprehensive manner.
- Working with Indigenous Peoples, develop flexibility in the EA process to accommodate Indigenous Peoples' approaches to appropriate timelines, processing information, making decisions etc.
- Provide appropriate support /funding to enable Indigenous Peoples to build capacity and participate meaningfully in the EA process including the incorporation of ITK on a consistent basis
- Provide MOECC staff with support /guidance to enable them to assist proponents in working with Indigenous Peoples so they can participate.

# Emerging Issues

- Sustainability could be incorporated as a goal of the EA program through policy and guidance.
- MOECC should provide direction and guidance on these emerging issues so that appropriate measures may be incorporated into EA practice
- Cumulative effects assessments are better undertaken at the regional level. Additional guidance should be required on how to best address cumulative effects
- MOECC should develop policy and provide consistent guidance on how these emerging issues should be addressed in EA program



# Application of the EA Program

- Based on input from the workshop, the Working Group suggest that the EA Act should apply to:
  - Mining projects
  - Projects with potential for significant environmental effects
  - Where there is significant Indigenous Peoples' interest
  - Where projects do not arise from an approved provincial or municipal objective
  - Where, in most cases, an individual EA is currently required
- EA Act should not apply in cases where there are other approvals that fulfill the purpose of EA and where carrying out an EA study would be duplication

# Conclusions

- Purpose /intent of the EA program is to create a decision-making process to assist proponents to ensure that projects meet environmental goals and improve social and economic outcomes
- EA Act continues to provide a solid base for implementation of the program
- EA program is required and, to be successful, must be rationalized to better reflect a desired degree of certainty for all participants
- There should be a review of what types of projects should be subject to EA Act
- EA program must be modernized to better reflect emerging issue that were not contemplated when the EA Act was first implemented
- Strong need to enhance EA program resources where they are most required
- Need to foster senior MOECC staff who will champion good EA practice and act as an experienced resource for staff to improve the implementation of the EA program

# Recommendations



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- That MOECC direct a comprehensive review of how the Ontario EA program is implemented through the EA Act
- Goal of review: Identify both short and longer term changes that MOECC could implement to ensure better social and economic outcomes and which are more closely aligned with existing and emerging Ontario environmental initiatives
- The review should examine all types of projects that are subject to and exempted from EA Act requirements, all proponents, regulations, processes, procedures and guidelines now in force
- Special attention in the review should be drawn to the role and involvement of Indigenous Peoples in EA, northern Ontario projects and improvements to how the EA Act is administered.