

# A Class Environmental Assessment for Ontario's Provincial Parks and Conservation Reserves

Dan Paleczny<sup>1</sup> and Steven Rowe<sup>2</sup>

<sup>1</sup> Ontario Parks, Planning & Research Section

<sup>2</sup> Environmental Planner

## Abstract

*Government agencies such as the Ministry of Natural Resources (MNR) must comply with the Environmental Assessment Act, which provides for the protection, conservation and wise management of the environment in Ontario. Under the Act, a defined group or class of projects and activities can be evaluated and implemented without having to fulfill the full requirements of an individual environmental assessment, provided a prescribed planning and consultation process is followed. This paper briefly summarizes the environmental assessment context for provincial parks over the last 20 years, outlines the planning process for developing this Class EA, and describes the features of the Draft Class EA that are intended to protect, conserve and manage Ontario's provincial parks and conservation reserves.*

## Introduction

Ontario's Environmental Assessment Act (EA Act) first came into effect in 1975 with the aim to provide for the protection, conservation and wise management of the province's environment. The Act, last updated in 1997, provides for three principal approaches for planning projects that are subject to the Act. These include:

- *Declaration Orders* (formerly exemption orders) where the Minister of the Environment may exempt an undertaking (project) if he/she is of the opinion that it would be in the public interest to do so. In this case, the Order usually contains a number of conditions that must be complied with when implementing projects.
- *Class Environmental Assessments* that are used for a class of projects and activities can be evaluated using a prescribed evaluation and consultation process.
- *Individual Environmental Assessments* that are used to evaluate a specific project, following a specially designed process.

The Ministry of Natural Resources (MNR) initiated the preparation of a Class EA for Provincial Parks and Conservation Reserves in 1999.

This paper summarizes the environmental assessment context for MNR's protected areas system following since the EA Act was established, introduces the planning process for developing the Class EA, and describes the key features in the Draft Class EA.

## **Environmental Assessment Context**

Since the EA Act first came into effect in 1975, the environmental assessment rules for implementing projects in provincial parks and conservation reserves have been provided for in a series of declaration orders. Between 1976 and 1999, 31 orders or renewals of orders have been issued for the provincial parks and/or conservation reserves program for a variety of projects, including the routine aspects of resource stewardship, development and operations. As early as 1976, reference to preparing a Class EA was made in the conditions of exemption order MNR-5, however it wasn't until 1982 that a legal commitment was established in exemption order MNR-30/2 to prepare a Class EA (MNR, 1991).

In addition, in 1978, the Minister of Natural Resources, Frank Miller, informed the Ministry of the Environment (MOE) of his intention to pursue a class approach. Between 1979 and 1994, five Class EA processes were initiated but subsequently put on hold (MNR, 1991). The key factors for the postponements seem to be associated with other processes that were underway at the same time, such as:

- District land use planning through the late 1970's and early 1980's.
- Cabinet discussions on permitted uses between 1985 and 1988.
- Environmental Assessment Program Improvement Project by MOE initiated in 1988.
- The Timber Class EA between 1988 and 1994.
- Government reorganization in 1993.
- Public review of a proposal to establish a permanent declaration order between 1997 and 1998.

As a result of the latter proposal for a permanent order, MOE and MNR agreed that a Class EA was the appropriate approach. Planning for the current process began soon after.

## **Class Environmental Assessments**

A Class EA is an approved planning process for a specific "class" of projects that would otherwise be subject to the requirements of an individual EA (per Part II of the EA Act), or to a declaration order. Class EAs began to be prepared shortly after the EA Act came into effect in 1975, but they were not fully provided for by legislation until amendments to the Act were proclaimed in 1997.

As illustrated in Figure 1, a Class EA must go through a similar approval process to that required for an individual environmental assessment. Once the Class EA is approved, the requirements in Part II of the Act do not apply to individual projects in the class provided the approved process is followed. More significant projects can be subjected to the Part II requirements for an individual EA, either through a voluntary decision by the proponent or by order of the Minister of the Environment.

Class EAs enable the evaluation of projects to be tailored to their potential environmental effects and level of concern. Routine projects that have insignificant effects can proceed without further EA planning requirements, while other projects can be subject to greater levels of consultation and evaluation. These concepts have been incorporated into the design of this Class EA for provincial parks and conservation reserves with the use of a screening process and prescribed evaluation and consultation processes (Figure 2).

The Ministry of Natural Resources has extensive experience in implementing projects under its Class EA for Small Scale MNR Projects, and its Class EA for Timber Management. There are also Class EAs for Ministry of Transportation highway projects, municipal road and water projects, minor electricity transmission facilities, modifications to hydroelectric facilities, remedial flood and erosion control projects by conservation authorities, and Ontario Realty Corporation projects.

### **Planning Process for Preparing the Class EA**

The preparation of the Class EA for Provincial Parks and Conservation Reserves is being conducted in three phases (Figure 1). Phase I was completed with the approval of the Terms of Reference by the Minister of the Environment in April 2000. Phase II-a consisted of a review of the Annotated Table of Contents report that discussed the issues that would be addressed in the Class EA. Response to that proposal, mainly from interest groups and affected government agencies, was used by the MNR project team to prepare the Draft Class EA, which comprised Phase II-b. Phase III involves a government and public review of the Proposed Class EA, conducted by the Ministry of the Environment. This is expected to result in an Approved Class EA for implementation in 2002. The process includes an opportunity for interested parties to request a hearing by the Environmental Tribunal.

In response to public interest group and government agency input on proposals, the Draft Class EA incorporates the following features:

- Consider potential effects in a holistic context and on a project by project basis.
- Match the required planning and consultation process to the potential environmental effects and the level of concern raised by the project.
- Provide an appropriate level of public notification or involvement.
- Provide opportunities for appeal.
- Provide for environmental monitoring of projects.
- Ensure accountability for decisions.
- Ensure protection for the environment while providing the necessary flexibility to implement the protected areas program in an efficient and effective manner.

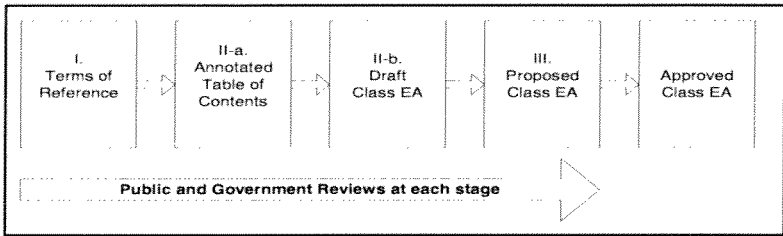


Figure 1. Phases in Planning the Class EA For Provincial Parks and Conservation Reserves

## Projects Covered by the Class EA

The Class EA for Provincial Parks and Conservation Reserves is designed to cover three groups of projects and activities in support of the protected areas program, as follows:

- Establishing, amending and rescinding boundary regulations for an existing or recommended provincial park.
- Acquiring land for a new or existing provincial park or conservation reserve.
- Managing existing and recommended provincial parks or conservation reserves, including resource stewardship, development, and operations projects.

Importantly, the class of undertakings does not include the preparation of management plans, as these are policy documents that are developed through separate public planning processes. It is the projects arising out of management plans that are the subject of the Class EA.

In addition to the types of projects that fall within the class, a number of other types of projects sometimes are proposed to be developed in protected areas that are not intended to meet system objectives (e.g., transmission corridors, pipelines, highways). These have been addressed in order to provide direction for evaluating potential effects on protected area values.

## The Screening Process

In this Class EA, “screening” refers to a preliminary review of the project in order to determine the appropriate evaluation and consultation process (Figure 2). Screening begins with identification of the project and its review against a project list. This determines whether the project is subject to the Class EA, and if so, whether it is required to undergo further screening.

Routine projects with potential for low environmental effects and public concern are assigned to Category A. These can proceed without further process requirements under the Class EA, provided they comply with legislative requirements, policies, procedures, and guidelines. Some projects only fall into Category A if they are supported by the appropriate type of management direction, such as a park management plan.

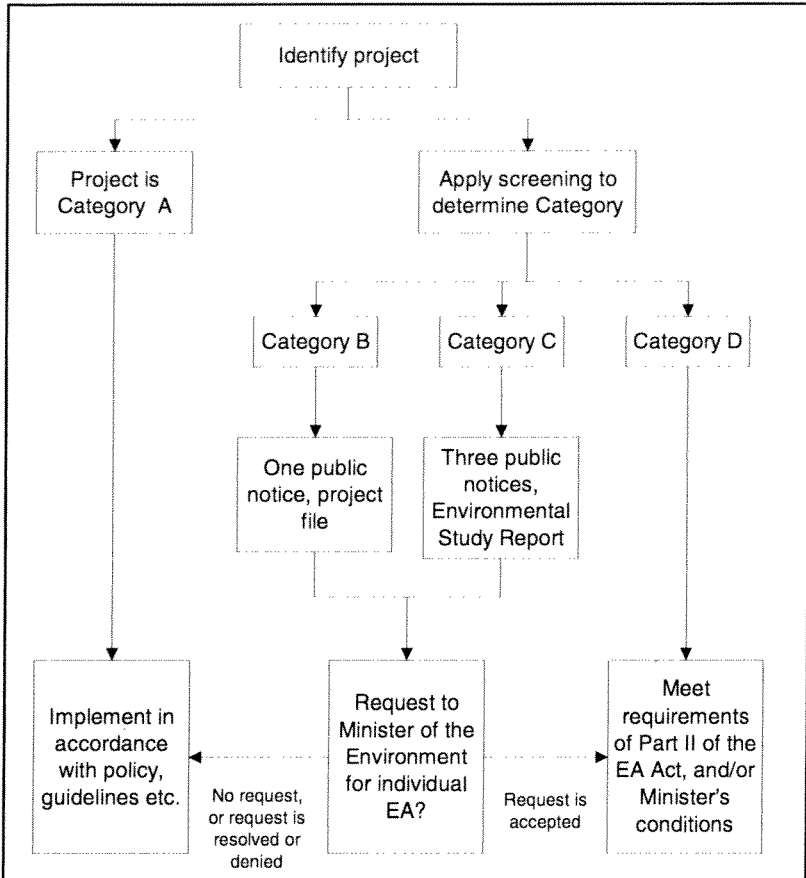


Figure 2. Generalized Process for the Class EA for Provincial Parks and Conservation Reserves

Other listed projects that are subject to the Class EA are assessed against a list of screening criteria that reflects the broad definition of the environment under the EA Act. Where potential effects are identified, these are flagged for further attention. The Draft Class EA provides guidance in assigning the project to Category B, C or D based on the potential for environmental effects and public concern. Projects that are not listed in Appendix 2 are also screened, and may also be assigned to Category A. The category determines the minimum level of consultation and documentation to be conducted during the project evaluation.

Category B projects are similar to Category A projects in their potential for low negative environmental effects, but there may be issues that require that the public and agencies are informed and have an opportunity to provide input. Minor repairs to a water control dam requiring drawdown of water might fall into this category as a result of screening.

Category C projects have potential for greater negative environmental effects and public and agency concern. They require more detailed studies, and a higher level of public and agency consultation. It may be necessary to tailor mitigation measures to the project, rather than relying on standard approaches.

Projects that have the potential for significant environmental effects and controversy among agencies and the public may be assigned to Category D. The Class EA does not provide a planning process for these projects since they would be required to meet the requirements of an individual EA, as described in Part II of the EA Act.

### **Project Evaluation as Proposed in the Draft Class EA**

The Draft Class EA is intended to allow for flexibility in matching the evaluation and consultation process to the environmental effects, the level and types of concern and the complexity of the project. The Category B and C requirements described below are a minimum. The scope of the project evaluation and the amount of consultation can be expanded in response to the unique aspects of any individual project. MNR will consider elevating a project to a higher category if this is requested by stakeholders.

One of the more challenging aspects in preparing the Class EA is to find ways to enable it to mesh with other MNR planning processes. Many of the projects subject to the Class EA have already undergone extensive planning and consultation under other processes such as that used to prepare park management plans. This prior planning will be taken into consideration in determining the scope of each project evaluation. Project evaluations can also be harmonized with other MNR planning processes. For example, a timber access road that passes through a waterway provincial park would be planned under the Timber Management Class EA, with the addition of other requirements that reflect park values.

In most cases, MNR will conduct project evaluations as the proponent. Where a project is undertaken by a partner, the partner may undertake the project evaluation under MNR supervision.

#### *Evaluation Process for Category B and C Projects*

The Category B and C processes would be “self directed”, that is, they would be conducted by MNR (or its partner) and the project would be considered to be approved once the process has been successfully completed. There is an opportunity to request the Minister of the Environment to review the process, as described below.

Category B projects require one public notice at the beginning of the process, and a second notice if public concern has not been resolved. The required documentation takes the form of a “project file”. An appendix to the Class EA provides a suggested format for a Category B project evaluation.

Category C projects require three public notices, and the evaluation and consultation that is carried out is documented in an Environmental Study Report. This process will normally require the consideration of alternatives to and alternative methods of carrying out the project, unless alternatives have already been considered in a previous process. The project evaluation would generally be more detailed and there would be more intensive public consultation than for a Category B project. Requirements for monitoring would likely be more stringent. The public and agencies would be invited to review a draft of the ESR.

For both Category B and C projects, the final notice takes the form of a “notice of completion” of the project evaluation, which would include an invitation to review the project file or the final ESR. This will be placed on the public record for at least 30 days. Agencies and the public would have an opportunity to submit a “bump-up” request to the Minister of the Environment during this period if they are not satisfied with the process conducted or if their concerns have not been resolved through discussions with MNR. If such a request was approved, the project would have to be planned to meet the requirements of Part II of the EA Act, or meet other conditions imposed by the Minister’s decision. If the notice period expires with no bump-up request, or if any requests are successfully resolved, a “Statement of Completion” is prepared and implementation of the project can proceed.

### *Monitoring*

Monitoring and follow-up during both the construction and operation phases of projects are important to the achievement of the purpose of this Class EA as described in Section 1. Monitoring enables MNR to assess whether predictions of environmental effects are valid, and to confirm the effectiveness of mitigation measures. Where unintended effects occur, further action can be taken to reverse or minimize them wherever possible. Monitoring and follow-up enable a learning process to occur, so that lessons learned can be applied in the planning of future projects, thereby improving the efficiency and effectiveness of the Class EA process.

Category B project files and Category C Environmental Study Reports would include a statement that the need for monitoring was considered in the evaluation. Where monitoring is required, a form is provided to assist field staff with planning a monitoring program. Considerations include:

- *Purpose*: why monitoring is being done, the potential effect(s).
- *Acceptable Outcomes*: the effects predicted and the range of acceptable outcomes.
- *Monitoring Methods*: the protocols to be used (e.g., techniques, equipment, measurements, duration, frequency, etc.).
- *Results*: a description and assessment of the results with respect to the acceptable outcomes
- *Remedial Action*: additional actions that may be required to mitigate a problem, including any related monitoring.

There are also provisions for monitoring the implementation of the Class EA. Procedures for amendments to the Class EA are also specified in order to ensure that it remains effective and efficient.

### **Summary**

The new Class EA for Provincial Park and Conservation Reserves, once approved, will provide the rules for implementing projects and activities related to changing protected area boundaries, acquiring lands, and managing existing and recommending provincial parks and conservation reserves. The screening process and the prescribed project evaluation and consultation process are intended to provide an effective and efficient approach to managing and protecting Ontario's protected areas.

If these principles can be achieved, the aims of the Environmental Assessment Act—the protection, conservation and wise management of the province's environment—will have been advanced through the Class EA framework.

### **References**

- Ministry of Natural Resources, 1991. *Provincial Parks Class Environmental Assessment: A Project History*. Provincial Parks and Recreational Areas Branch, unpublished report, Aurora, Ontario. 27pp
- Ministry of Natural Resources, 2001. *A Draft Class Environmental Assessment for Provincial Parks and Conservation Reserves*. Peterborough, Ontario, 108 pp