



# SUBMISSION TO THE ONTARIO GOVERNMENT

Regarding the changes to the Endangered Species Act. Submitted via the Environmental Registry of Ontario

## ABSTRACT

The Brampton Environmental Alliance (BEA) opposes the proposed Changes to the Endangered Species Act as we believe it will cause irreversible damage to Ontario's ecosystems

Submitted with BEA Board Approval to the Ontario Government

# Brampton Environmental Alliance Commentary on the changes to the Endangered Species Act, 2007 and a proposal for the Species Conservation Act, 2025

## Overview

The Brampton Environmental Alliance (BEA) believes that nature should be protected first, as it is difficult to remediate an ecosystem once ruined. Destruction is often irreversible. Endangered species are a first sign of an ecosystem at risk. The goal is not just to protect a single species, but to ensure a strong habitat is available for multiple species.

We believe that Provincial policy should encourage and support sustainable development where reasonable steps must be taken to minimize environmental damage and where whatever damage is caused is remediated by those who have caused it with the costs being absorbed by the proponent not the public purse.

In our opinion, the following changes to the Endangered Species Act add a high degree of risk to Ontario's environment:

- 1. The ability of the government to override the scientific classification of endangered species.**

It is the equivalent of an unqualified cabinet arbitrarily modifying a list of OHIP covered medical treatments, overriding established medical practice in the interests of saving money rather than lives. Under this legislation, the government could simply state "There are no endangered species in Ontario", in contravention of scientific fact.

- 2. The removal of the term "harassment" from protections.**

The Ontario website states, "An activity that harasses a living member of a protected species is one that disrupts its normal behaviour in a manner that adversely affects the ability of the member to carry out one or more of its life processes." By removing this term, the legislation is no longer able to protect species from harassment, potentially subjecting them to conditions where they can no longer carry out their life processes and dooming them to extinction.

- 3. There is no legal requirement for proponents to have a remediation plan for damages caused.**

Currently, if environmental damage is forecasted from the actions of a private developer, the proponent is required to repair it and plans for reparations must be included as part of their proposal. Removing the legal requirement for a remediation plan means there can be no enforcement in the event of environmental damage. This puts Ontarians at risk for either a ruined environment, or to assume remediation costs.

- 4. The ability of a proponent to begin work prior to permitting in ALL cases**

This would allow high risk projects to start prior to any understanding of the risks to habitat.

A Registration model should only be permitted in the most common and well understood projects.

**5. The elimination of any payment to a remediation fund**

This goes against the principle of a proponent having a responsibility for any damages. If there is an area with endangered species a proponent has an obligation to cover remediation costs.

## General comments for the Government

The BEA would like to know why these changes are being proposed.

The government states that the process to obtain a permit under the current Endangered Species Act (ESA) is “slow and complex, causing unnecessary delays”. Can the government please provide details on the length of time for a process to proceed. For example, what percentage of projects have been delayed, and by how long? If the intent is to speed the process, we need to show which projects are delayed, by how much, and why. This data is needed to show improvement. We would also like to know how many projects are rejected. Please provide this information for our review.

Since 95% of the projects are done under the existing registration process, there must be something special about the other 5%. It seems that those projects would have significant impact on habitat and must require more scrutiny. If only 5% of the projects require additional scrutiny, almost no “unnecessary delays” are happening.

Under this registration program, if a proponent proceeds before a permit is granted, what monitoring and enforcement can be done, particularly on irreversible actions. What penalties will be part of the new legislation?

## Comments on Specific Sections of the Changes

### **Species Classification and Listing:**

The government is proposing that they can override the experts on the Committee on the Status of Species at Risk in Ontario (COSSARO). The purpose of the committee is to provide independent advice to the government. Overriding this committee would open this and future governments to political influences and corruption. The list of endangered species should only be made by qualified biologists.

If the government wants a project to proceed, they should state that it will proceed even though there is endangered species at risk and let the public decide if this is in their interest. They shouldn't monkey about with the actual list, where they have no qualifications. It would be the equivalent of modifying a list of what medical treatments are effective, so they wouldn't have to pay for them. In this case, medical doctors should maintain the list and the government would determine which treatments they would pay for. The same should apply to endangered species.

### **Redefining Protections:**

The government wants to remove the term “harass” from protections. From the Ontario Website: Harass is “An activity that harasses a living member of a protected species is one that disrupts its normal behaviour in a manner that adversely affects the ability of the member to carry out one or more of its life processes.”

If an animal or plant cannot carry out one or more of its living processes it becomes extinct. How would removing Harassment protect species?

Also, the restricted definition of habitat is problematic. Ecosystems require an extended environment to function properly and limiting the definition to the immediate area may not protect the habitat required for sustaining the species.

**Reduced Duplication with Federal Legislation:**

Having a single process for animals under the Federal Species At Risk Act (SARA) is fine, but what process would be in place if the federal government allows a permit that the province disagrees with?

**Recovery Plans and Documents:**

The government claims the current process for Recovery Plans and documents are “too rigid and often result in duplication”. Can the government please describe where these processes are too rigid and what duplication is being eliminated?

The government also states they want to eliminate the need for recovery plans and strategies from legislation. A project should have some plan for recovery if there is a risk of damage to a habitat. The environment is a provincial responsibility and must have legal enforcement measures. If there is no legal requirement for preparing a recovery plan, a proponent won’t do it, and the province would be left with the bill for habitat restoration. Remediation plans (including costs) must be part of a proponent’s request; otherwise, future generations will be responsible for these costs.

**New Species Conservation Program:**

The government is planning to replace the existing Species At Risk Stewardship program with a Species Conservation program. It claims that it will “improve” the existing program. There are no projects or programs listed, nor are there any mandates given for the new program. What are the improvements of this new program?

**Wind Down of the Species Conservation Action Agency:**

The government is eliminating the need for proponents to contribute to a fund for species conservation. The proponent will have no obligation to the protection of species. This is a subsidy to the proponents and should be clearly tracked by the Auditor General. The Auditor General should show how much of a subsidy is being given to proponents that ruin ecosystems that belong to the citizens of Ontario.

**Advisory Committees:**

The government wants to disband the Standing Advisory Committee for Species at risk. This is short sited. The government should maintain a standing advisory committee to have a cohesive body of expertise on the topic available. Building ad hoc advisory groups is not a substitute and will result in delays or poor guidance when the government does require advice.

**Updated Compliance and Enforcement:**

There are no details on the compliance and enforcement measures the government is recommending. What are the investigation and inspection powers being proposed?

The BEA recommends that inspectors be able to arrive at a project site unannounced and with the power to stop a project immediately if there are violations of the rules for species at risk. A proponent would then need to remediate the issue before being able to proceed as they have worked in bad faith by not abiding by existing rules.

#### **Registration-first Approach:**

Below (**in Bold**) are sections taken from the governments own site. The BEA has comments on each of the points in this section (our comments in *Italics*)

**These are the changes to the ESA that would take effect immediately if the Bill is passed:**

- **the purpose of the ESA will be updated to drive species protection and conservation while taking into account social and economic considerations, including the need for sustainable economic growth in Ontario**

*This is a laudable goal, but it is contradicted by your approach SUSTAINABLE GROWTH, by definition always includes a preservation of the environment. Eliminating protection is NOT sustainable.*

- **updated compliance and enforcement model including two new compliance orders**

*If the list of endangered species is determined at the whim of a particular government, the government can avoid enforcement by claiming that it isn't needed.*

- **the government will have discretion to add species to or remove from the Species at Risk in Ontario (SARO) List**
  - **science-based assessments by COSSARO will continue**
  - **ESA authorizations for aquatic and migratory birds that are protected under SARA continue to be required until the new SCA is enacted**

*This is extremely problematic. What is stopping the government from removing all species from the list? The government should not have discretion on what species are endangered. If the government want to destroy a species, it should have to face the public, not hide by saying "Nothing is at risk". As noted earlier, the list must be managed by biologists.*

- **the new habitat definition will replace the current definition in the ESA and "harass" will be removed from the prohibitions regarding harms to species**
  - **for clarity, proponents of activities may need to reconsider the magnitude of impacts according to the updated definitions and consider whether a permit or registration is required**

*If "harass" is removed as a criterion for harm, it will prevent species from being able to propagate, thus speeding extinction.*

- **the requirement for the government to develop recovery products for species will be removed from legislation enabling a more flexible approach**

*Eliminating recovery programs from legislation will mean that no proponent will develop a recovery plan. It must be legislated and enforced*

- **the Species Conservation Program is created and expanded**

*The previous Species Conservation Agency didn't spend their money on conservation. What is the mandate of the Species Conservation Program? What will the Species Conservation Program do?*

- **the Species at Risk Conservation Fund will no longer accept funds and there will no longer be an option for proponents to pay a charge., The government will begin the process to wind down the SCAA under wind down provisions.**

*How will the Species Conservation Program be funded if the proponents don't pay into any fund? This would effectively be a subsidy by the government to the proponents and should be tracked by the auditor general under a value for money review.*

- **registration for activities authorized under current conditional exemptions will continue using the current registry system**
  - **for clarity, existing registrations and associated conditions continue to apply; however, the option to pay into the Fund in place of on in-the-ground beneficial actions will not be available. To shelter under a conditional exemption, the beneficial action conditions must be fulfilled**
- **permits issued and associated conditions, as well as agreements entered into, and their requirements before the legislation is amended will generally continue to apply**
- **the current definition of "habitat" will apply to existing permits, agreements, and their requirements. New permits and amendments to existing permits continue to be available. For those seeking a permit, there are no longer specific permit types and permits will follow a simplified, streamlined process**

*What elements will be eliminated from the streamlined process? If the existing process has protections for endangered species, the government must ensure that they are not removed by oversimplifying the process.*

# About the Brampton Environmental Alliance

The Brampton Environmental Alliance will advocate for, develop and support, collective actions including public engagement and education programs to make Brampton a more sustainable community.

## **What does the BEA DO?**

**Advocacy** – The BEA advocates on behalf of issues and priorities that affect Brampton's environmental sustainability

**Events** – The BEA organizes and supports events that enhance environmental awareness and engagement

**Education and Resources** – The BEA develops and shares information and resources amongst BEA members, both organizations and individuals

**Collaboration and Networking** – The BEA facilitates cooperation, communication and exchange of knowledge amongst BEA members, both organizations and individuals

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