



WILDLANDS LEAGUE

A chapter of the Canadian Parks and Wilderness Society

Att: The Honourable Glen R. Murray
Minister of the Environment and Climate Change
Ferguson Block, 11th Floor
77 Wellesley St. W.
Toronto, Ontario
M7A 2T5

Cc: Jim Murphy
Park Planner
Ministry of Natural Resources and Forestry,
Ontario Parks Algonquin Zone
451 Arrowhead Park Road,
Huntsville, Ontario
P1H 2J4

Re: Request for a Part II Order per section 16 of the Environmental Assessment Act (individual environmental assessment) for the MNRF proposal to extend the term of occupation for existing cottage lots in Algonquin Provincial Park from the current expiry of December 31, 2017 to December 31, 2038 (21 years)

Dear Minister Murray,

May 29, 2015

Request:

CPAWS Wildlands League requests that a Part II Order under the Environmental Assessment Act be issued for all of the projects and activities associated with the Ministry of Natural Resources and Forestry proposal to extend the term of occupation for existing cottage lots in Algonquin Provincial Park from the current expiry of December 31, 2017 to December 31, 2038(21 years)

Requester:

CPAWS Wildlands League represents over 5,000 members. Our mission is to protect wilderness through the establishment of protected areas and the promotion of natural resource use that is sustainable for nature, communities, and the economy.

Our organizational history is intricately tied to the history of Algonquin Park. A group of Ontarians concerned about the health of the Park got together in 1968 and formed Algonquin Wildlands League. We've been advocating for wilderness and parks ever since. We joined the Canadian Parks and Wilderness Society in 1980 and have never forgotten our roots or how important Algonquin Park is to Ontarians. We have monitored



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and engaged this specific issue of cottage leases in Algonquin and other incompatible uses for decades.

Project Name:

Renewal of existing disposition: extending the term of occupation for existing cottage lots in Algonquin Provincial Park (the Project).

Proponent:

Ontario Ministry of Natural Resources and Forestry

Details about the Project:

On October 29, 2012, the Ministry of Natural Resources proposed a change in the cottage lease policy with the following description of the policy change:

“Private cottage tenure (e.g. leases) currently exists for 303 parcels of land in Algonquin Provincial Park with a total of 326 cottages. Current private cottage tenure for these parcels contains an expiry date of December 31, 2017, pursuant to the terms of the tenure documents, Ontario Regulation 347/07 under the Provincial Parks and Conservation Reserves Act, 2006 (PPCRA), provincial park policy and the Algonquin Provincial Park Management Plan.

Private cottages are one of many uses of Algonquin Provincial Park and have been for many years. The Ministry is seeking public comment on a policy proposal that would allow that use to continue beyond 2017. The proposal is to give those parties who hold private cottage tenure in Algonquin Provincial Park a time limited opportunity to enter into a lease, subject to eligibility requirements and new lease conditions that would extend the existing private cottage leaseholder's term of occupation until December 31, 2038. The proposed new lease conditions (e.g. limits on development) and eligibility requirements (e.g. fees and taxes paid up to date) would reduce environmental impact of the cottages while making sure that leaseholders are paying their fair share.”

MNRF has undertaken a Category B project evaluation under the Class Environmental Assessment for Provincial Parks and Conservation Reserves (Class EA) and it *‘identified no significant net negative environmental effects associated with’* the project.

Record of Efforts to engage this project:

On December 13, 2012, we submitted a letter (attached) opposing the proposal to extend the cottage leases, on the grounds that it was not compatible with protecting the Ecological Integrity (EI) of the park and that there was no mention of taking this large disposition of land to the Legislature for endorsement, as required by law.



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When the results of MNRF studies on the ecological values and pressures associated with the cottages were released in 2013, we responded with a Blog (attached).

On January 10, 2014, we again submitted comments reiterating our concerns of December 13, 2012 and adding concerns that the Government was deliberating assessing this policy proposal under a Category B Class Environmental Assessment (EA) when it actually requires a Category D or individual EA. The proposal threatens to result in highly negative environmental effects and is of high public concern, among other triggers for a Category D assessment.

We participated with MNRF on a stakeholder conference Call on Sept 4, 2014 related to the Category B Project Evaluation on the Extension to the Term for Existing Private Cottage Tenure. We repeated our contention that this should be a Category D assessment and that any attempt to mitigate the effects of the cottages missed the main point...that cottages are an incompatible use for a public park. The environmental assessment should focus on assessing how or if the Project is compatible with Ecological Integrity rather than how to mitigate its impacts.

Rationale for request

A. There is a lack of consideration for Ecological Integrity in the Category B Assessment

Ontario's Provincial Parks and Conservation Reserves Act (2006)ⁱ states that

3. The following principles shall guide all aspects of the planning and management of Ontario's system of provincial parks and conservation reserves:

- 1. Maintenance of Ecological Integrity shall be the first priority and the restoration of Ecological Integrity shall be considered ...*

We believe the policy proposal to extend cottage leases on ecologically sensitive shorelines in a provincial park contradicts this primary principle. There are simply too many values along a shoreline and in water bodies that are impacted by private cottages: water quality, habitat for aquatic, terrestrial and riparian wildlife.

MNRF's own research into the impacts of the cottages states that, "*Since headwater protection is a significant value and purpose of Algonquin Provincial Park, it is critical that pressure that degrade water quality are mitigated to protect a supply of clean water for downstream communities and ecosystems. Headwater protection may be detrimentally affected by the intensity of cottage and other development in quaternary watersheds...*"ⁱⁱ

Another publication in this research states that, "*There is growing evidence that lakeshore development has a negative impact on water quality [with] lakes on the*



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Canadian Shield ... very sensitive to increased phosphorous.” While, “vegetated buffer strips have long been proposed and implemented as a method for mitigating the impacts of shoreline development” ...the size of the buffer strips needed, “ to achieve acceptable reductions in anthropogenic impacts is actively debated. Determining appropriate buffer sizes is difficult because the function of buffers is directly related to variables that are highly site specific.”ⁱⁱⁱ

In other words, MNRs own research acknowledges the significant impacts of the cottage leases, but is unable to determine if these impacts can, in fact be mitigated. The current Category B assessment does nothing to reassure on the mitigation front. Nor does it clarify the reason for the Project or provide any enlightenment on how the proposal supports Ecological Integrity.

The Record of screening process provides no rationale for the extension of cottage leases, even under the Purpose and Rationale section^{iv}, continuing a pattern of avoiding the question of why this Project is being proposed in the first place. The Record of screening merely provides extensive context and background. Nor is there any mention in the Record of Screening how the screening process considered Ecological Integrity.

B. There is a lack of transparency into the rigour of the Category B Assessment

The Screening criteria table^v does mention that cottages and their use would have a net negative impact on Ecological Integrity but that conditions in the project description plus others would, “mitigate, **to the extent possible, the net negative effects...on Ecological Integrity.**” According to the Screening criteria table, most values that may be affected would sustain a medium or low negative net effect. These values include:

- Values for which the provincial park was established.
- Air quality
- Water quality
- Species at risk
- Fish or Aquatic species, communities or their habitat
- Ecological Integrity
- Terrestrial Wildlife
- Natural vegetation
- Soils and sediment
- Drainage or flooding
- Sedimentation or erosion
- Release of contaminants
- Natural heritage features and areas
- Remoteness
- Public or private recreation



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- Noise levels
- Views or aesthetics

There is no indication that the cumulative and interacting effects might be more than the sum of individual impacts. Further, Ecological Integrity appears to be assessed in isolation, as just another value, rather than what it is: a summation or expression of many ecosystem components.

“Ecological Integrity refers to a condition in which biotic and abiotic components of ecosystems and the composition and abundance of native species and biological communities are characteristic of their natural regions and rates of change and ecosystem processes are unimpeded.”^{vi}

There is also no discussion of how the severity of these impacts were determined. For example, the table states that species at risk may be impacted by cottages ‘subsidizing’ predators like raccoons and foxes through enhanced food and shelter availability and by avoidance of cottage areas by species at risk^{vii}. However, there is no rationale provided that explains why the net negative impact is potentially low.

The table indicates that net negative impact to ‘fish or aquatic species...’ is medium to low. It also says that, “Further studies would be required to determine the level of impact that can be attributed to cottages and their associated uses specifically.”^{viii} If further studies are needed to assess the impact on fish, it is impossible to be confident that the negative impact is medium to low. Given that native brook and lake trout populations is a key feature that makes Algonquin unique, this is a key question to answer.

When recreation was assessed, both public and private interests were considered. Not surprisingly, private interests (those of the cottagers) were assessed to be effected very positively and those of the public (every other visitor) were assessed as being negatively affected. In a public park that has over a million public visits a year, the private interests of 305 cottage owners and associates should not be evaluated on the same scale as those of the public.

There is therefore little evidence that the screening criteria were properly assessed. We hypothesize that if they were properly assessed and the cumulative impacts determined through an Ecological Integrity lens, the negative impacts would be much more severe.

C. The Project mitigation measures are inadequate

Furthermore, the negative impacts that are acknowledged rely on conditions under the ‘project description’ to mitigate. These conditions are actually found in the Mitigation Features in the Record of Screening^{ix} and reproduced below.



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Mitigation features that will apply to the design of the project

Potential negative environmental effects associated with the proposed project would be mitigated, to the extent possible, through conditions imposed through the tenure instrument, including some new conditions that would limit certain activities carried out on the cottage lots. The conditions would be imposed on every tenure instrument equally (i.e., all tenure instruments would have the same conditions). These include, but are not limited to, conditions that:

- restrict the size, type, number and location of structures that may be built on or on the water in front of the lots,
- require periodic inspections of septic systems, including remediation where necessary,
- prohibit the expansion of lawns and gardens,
- prohibit the use of pesticides/fertilizers,
- limit species of vegetation that may be planted on the lots, and removal of targeted invasive species,
- limit the amount of shoreline alteration/disturbance and hardened surfaces (e.g., walkways, patios),
- control the disposal of garbage, recycling and organic wastes,
- restrict the use of generators, and
- require further cultural heritage assessments (e.g., archaeological assessments), where a cottager proposes to carry out an activity on a cottage lot that has the potential to, or would result in significant ground disturbance and/or disturb, alter or damage cultural heritage resources.

The negative impacts acknowledged in the Screening Criteria table depend utterly on these measures to mitigate them. The success of these measures is admittedly unknown by MNRF and the negative impacts of the Project are theoretically higher than currently assessed. Given these realities, this is a paltry list. They seem to be common-sense concessions for allowing the cottages to remain as long as they have been, not a defensible rationale for allowing another 21 years of cottage impacts under an EI mandate. There is no attempt to explain how these mitigation strategies will maintain or consider how to restore EI as required under the Act. If these are the best mitigation efforts that can be achieved, it reinforces our contention that mitigation is not be sufficient to achieve Ontario Parks Ecological Integrity mandate. Cottage removal and restoration may be the only option.

D. The Project constitutes a new direction for MNRF policy.

The Project is a new direction for MNRF management policy on many fronts. The proposed extension of the leases contradicts the 1998 Management Plan. The Plan states that,

There are 305 cottage properties held under lease, licence, or land use permit in the Park (as of January 1998).

- All cottage leases will be terminated on or before December 31, 2017.
- There is no provision for renewal.^x

In addition, the Ontario Parks Board of Directors unanimously approved the termination of cottage leases by December 31, 2017 after a thorough review of the matter. There have been no change to the issues at play since this decision and despite our repeated requests, it is still unclear why OMNR would recommend reversing the unanimous decision of the Ontario Parks Board of Directors and long-standing policy.

E. The Category B Assessment does not consider the cumulative impacts of the Project and other development within the park.

The proposal to extend cottage leases beyond 2017 seems to be in isolation from and does not take into account that they have additional impacts to the continuing logging and other development within the Park. The cumulative impacts of all activities in Algonquin need to be considered and reduced in meeting the stated goal for the park.

F. There is no information that the MNRF intends to take the Project to the legislature for endorsement.

We have uncovered that the proposed approach by Ontario might be in violation of the PPCRA. There are over 300 cottages in Algonquin on approximately 120 hectares of land. We're worried that Ontario might be about to break its own laws to renew the leases because there is no mention in the government's proposal that they may have to take this decision to the Legislature for endorsement. We have received a legal opinion to this effect (see attached) and it is in regard to Subsection 9(4) of the Act.

Subsection 9(4) of the PPCRA requires the following three conditions be met when Cabinet is contemplating an order to dispose of 50 hectares (or 1 percent of the total protected area) or more:

- (a) the Minister first reports on the proposed disposition to the Assembly;
- (b) the Minister tables the proposed new boundaries of the provincial park or conservation reserve with the Assembly; and
- (c) the Assembly endorses the proposed new boundaries of the provincial park or conservation reserve.

The policy proposal may therefore be a reversal of both policy and law.



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Based on these rationale, we believe the proposal is most appropriately assessed using Category D Assessment.

Category D has multiple considerations^{xi} which are applicable to the Algonquin lease proposal. These considerations follow, accompanied by a summary of our rationale for each.

- ***Several inter-related aspects that have high potential for either net positive or negative environmental effects that may conflict, suggesting a complex situation.***

The Project has multiple cumulative impacts spanning decades with uncertain data and untested mitigation measures threatening some of the most sensitive, high profile and popular natural areas of the Province. Not only are there acknowledged negative impacts to Ecological Integrity, but the rationale for the Project and the level of rigour around the assessment are inadequate. Specific impacts will interact cumulatively in unknown ways with high potential for net negative environmental effects. The Project may also contravene legal requirements to submit it to the legislature. This is a complex situation.

- ***Potential for serious negative effects on species at risk.***

There are several species at risk that will be impacted by this project in potentially serious ways that have not been adequately assessed. The proposed mitigations options are unproven and set a very low bar.

- ***Effects require mitigation techniques tailored to the Project.***

The mitigation techniques proposed under the Category B Assessment are untested and not particularly specific to various degrees of impacts that may be encountered in the Project. Effects are likely highly variable, depending on the cottage situation and mitigation needs to be very site specific.



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- ***Potential to reduce negative effects or increase public understanding by examining other alternatives.***

There is ample scope to pursuing other alternatives to reduce negative impacts or increase public understanding and confidence. There has been no apparent attempt to examine other alternatives. The province could, for example, examine the cost and benefits of removing all the cottages, versus those associated with the Project as well as variations between these two options.

- ***Involves a new or contentious interpretation of management direction or other MNR(F) policy***

This project is a profound new direction that contradicts the current Park Management Plan and long-standing Provincial policy to phase out the cottage leases.

- ***There is likely to be a very adverse reaction***

This project has already provoked very strong negative reaction. There have been numerous newspaper articles and radio pieces devoted to it that do not reflect favourably on the government. Environmental groups continue to oppose this project as incompatible with managing for Ecological Integrity as mandated by law. The Category B assessment does nothing to allay these concerns.

- ***May be high negative and positive concerns that may be at odds, suggesting a highly polarized and complex situation.***

The high volume of comments that MNR(F) have received on this project, both for and against the proposal indicate a highly complex and polarizing subject that needs a more thorough examination.

- ***Other project categories would not adequately address concerns.***

Only a Category D assessment would have the scope to address the complexity and details necessary to adequately determine the impacts of this project involving long time frames and multiple values, complex interactions, legal questions and profound policy changes.



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IMPORTANT NOTE: The above comments reflect the observations from a limited review of the available documentation. A full review here is not the intent of this request, and likely exceeds the expertise and resources of the requestor. Instead, this review has readily identified sufficient critical gaps and concerns as to reasonably justify a more comprehensive review under a Part II environmental assessment.

Summary

It has been our consistent contention that the province should:

- NOT reverse the current policy and reaffirm their commitment to terminate all cottage leases in Algonquin by 2017.
- Establish a public trust fund through the collection of a new 'conservation fee' for all leaseholders. The fund will be used to offset the costs to restore the entire site to original conditions at the conclusion of all leases. This will ensure the public lands are returned to their original state.
- Require the leaseholders at the end of their original leases to remove all buildings and return the site to original vegetative cover.

However, the government appears intent on pursuing the Project under a Category B Class Environmental Assessment, which we feel is inadequate.

If Ontario persists in pursuing the Project, the government should:

- Submit the Project to a Category D Assessment through a Part II order per Section 16 of the Environmental Assessment Act.
- Building on this assessment, formulate a comprehensive plan to improve Ecological Integrity within the park that will include all park uses and their impacts, including the cottage leases.

There are no other actions other than a Part II Order that will resolve our concerns. The Project would be better assessed under a Category D/Individual EA particularly because this is a departure from policy that was confirmed after broad public debate. It therefore needs to be subject to a rigorous assessment of the need to change policy direction and considerations of alternatives.

If you have any questions or comments please feel free to contact me directly at extension 39.

Sincerely,



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Janet Sumner
Executive Director

cc:

ⁱ Ontario Provincial Parks and Conservation Reserves Act, 2006, c.12, s.3.

ⁱⁱ Ontario Ministry of Natural Resources, 2013. A Summary of ecological values and pressures associated with cottage lot leases in Algonquin Provincial Park. p25.

ⁱⁱⁱ Riverstone Environmental Solutions INC., 2013. Algonquin cottage lease background report literature review, Ontario ministry of natural resources. p17.

^{iv} OMNR, 2013. Algonquin-Record of Screening Process-Cat B Project.

^v OMNR, 2013. Algonquin_Cat B Project_Screening Criteria_Table 41.p5.

^{vi} Ontario Provincial Parks and Conservation Reserves Act, 2006, c. 12, s. 5 (2).

^{vii} OMNR, 2013. Algonquin_Cat B Project_Screening Criteria_Table 41.p3.

^{viii} OMNR, 2013. Algonquin_Cat B Project_Screening Criteria_Table 41.p5.

^{ix} OMNR, 2013. Algonquin-Record of Screening Process-Cat B Project, p6.

^x OMNR 1998. Algonquin Provincial Park Management Plan. Section 5.2, p11.

^{xi} A Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects.