



RECEIVED MAY 27 1974

Department of the City Clerk

City Hall, Toronto, Ontario, Canada M5H 2N2

Address all correspondence
to the City Clerk

Gordon T. Batchelor / City Clerk

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Attention: **Mr. J. Harvey - 367-7033**

May 23, 1974.

Mr, John Low,
Canadian Environmental Law Association,
Suite 303,
1 Spadina Crescent,
Toronto, Ontario,
M5S 2J5.

Dear Sir:

I forward copy of a recommendation contained in Report No. 12 of the Committee on Public Works pertaining to "Green Paper On Environmental Assessment" (Clause No. 22), as amended and adopted by City Council at its meeting held on May 15, 1974.

Yours truly,

G. T. Batchelor

John: May

City Clerk.

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Encl.

*I have this when
you are finished.*

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GREEN PAPER ON ENVIRONMENTAL ASSESSMENT.

Your Committee submits the report (February 21, 1974) from the Commissioner of Public Works, viz.:

"Subject: Green Paper on Environmental Assessment.

"Origin: Ontario Ministry of the Environment.

"Comments: The Ontario Ministry of the Environment distributed their report titled 'Green Paper on Environmental Assessment' to the clerks of municipalities for their review and comments in September, 1973. However, some municipalities did not receive this document at that time; the City of Toronto was amongst these municipalities. On December 4, 1973, this paper reached the Department via the Municipal Engineers Advisory Committee requesting the Department's comments by January 1, 1974.

"The Green Paper was the result of the Ontario Government's concern with the protection of the environment and the need of legislation to ensure that all environmental factors are considered in a comprehensive and co-ordinated fashion prior to the undertaking of projects of potentially significant environmental effects.

"The paper investigates several different approaches for achieving the objectives of Environmental Assessment and seeks the views of the public and private sector before selecting a particular system for implementation. The following alternative systems were presented:

- (a) — Independent hearing agency established
 - Preparation of assessment by Ministry of the Environment.
 - No comprehensive civil service review of environmental assessment document.
 - Hearings held by Agency.
 - Decision made by Hearing Agency, subject to appeal to Cabinet.
- (b) — Independent environmental assessment commission established.
 - Preparation of assessment document by the proponent.
 - Review by staff of environmental assessment commission.
 - Public hearings held at discretion of commission.
 - Decision made by environmental assessment commission. No appeals.
- (c) — Assessment document prepared by project proponent.
 - Review co-ordinated by Ministry of the Environment.
 - Hearings held by Environmental Review Board at discretion of Minister of the Environment.
 - Approvals by Minister of the Environment with consultation where appropriate.
 - Refusals by Cabinet.
- (d) — Commissions of inquiry established for major projects on ad hoc basis.
 - Assessment by consultants retained by commission of inquiry.
 - No comprehensive civil service review of assessments.
 - Hearings held by commission.
 - Decision made by cabinet.

"The four alternative proposed systems have been reviewed and I am of the opinion that System 'C' would be the most desirable one from the City's standpoint.

"A further matter which requires to be discussed is the method by which the 'screening' of projects is carried out in order to separate those projects having little or no environmental impact from those which require a full environmental assessment.

"This problem requires an early solution, for it is an integral part of a workable assessment scheme. To ensure that there is a valid assessment made of all projects, it would seem logical that the 'screening' mechanism should be related to the various levels of government, from Municipal through Provincial, in terms of their various jurisdictions, and take full advantage of existing information channels.

"The direction of the screening process at least requires to be laid down at this time so that when the Environmental Assessment Programme comes into operation the flow of assessment is not delayed while further decisions as to the modus operandi take place.

"For example, it is conceivable that a scheme such as the Scarborough Expressway Project would be subject to an Environmental Assessment prior to its construction. However, if subsequent consideration of temporary environmental impacts due to its construction are required, it is expected that these would be handled by a local Municipal jurisdiction rather than being returned for further Assessment on an appeal basis.

"Recommendation: I recommend that this report be forwarded to the Honourable James A. C. Auld, Minister of the Environment."

The Committee also had before it submissions from the following respecting the foregoing matter, copies of which have been forwarded to each Member of City Council:

- (a) submission dated October 1973 from the Canadian Environmental Law Association respecting the Ministry of the Environment "Green Paper" on Environmental Assessment.
- (b) submission dated April 16, 1974 from the Canadian Environmental Law Association respecting "Are Ontario's Proposals for Environmental Assessment Adequate?"
- (c) brief dated December 1973 from Pollution Probe to The Ministry of the Environment on the Green Paper on Environmental Assessment.
- (d) submission dated April 16, 1974 from the Sierra Club of Ontario respecting the Ministry of the Environment's Green Paper on Environmental Assessment.
- (e) communication dated January 7, 1974 from the Sierra Club of Ontario to the Honourable James Auld, Minister of the Environment, respecting the Green Paper on Environmental Impact assessment.
- (f) submission dated December 20, 1973 from the Sierra Club of Ontario respecting Green Paper on Environmental Assessment.
- (g) motion passed by CORRA at its meeting held on February 28, 1974 respecting the foregoing matter.

Your Committee also submits the communication (April 29, 1974) from Alderman Vaughan, viz.:

"Having reviewed the material submitted by the Canadian Environmental Law Association, Pollution Probe, the Sierra Club and the Confederation of Resident and Ratepayer Associations and, following a meeting between representatives of the groups and Alderman Goldrick and myself, I submit the following motion for consideration of the Committee on Public Works.

1. That Proposal 'B' of the Commissioner of Public Works be adopted as the assessment procedure favoured by the City of Toronto, with the exception of the normal recourse before the Courts, that a decision of the Environmental Assessment Commission may be varied only by the introduction of a Bill before the Legislature and not by way of a decision of the Cabinet.
2. That the City of Toronto endorses the October 1973 white paper of the Canadian Environmental Law Association and in particular supports the following recommendations and fundamental principles for an Environmental Assessment Procedure as set out in the White Paper.
 - (1) The law must require social and environmental assessment studies and cost-benefit analyses prior to project development approval for projects likely to have significant environmental impact.
 - (2) The creation of an independent, powerful environmental review board is a prerequisite to public confidence in the new procedures.
 - (3) Any person should be able to require the Board to consider whether a proposed project needs an environmental assessment or (if an assessment has been filed) whether it adequately explains expected environmental effects.
 - (4) Public access to all information about proposed projects must be guaranteed.
 - (5) A firm timetable must be established for implementation of the legislation in both the public and private sectors.
 - (6) Public or private funds should be available to objectors acting in the public interest.
 - (7) The environmental assessment document must contain all responsible contentions of interested or affected persons, outside experts, organizations and Governmental agencies on the possible environmental and social impacts of a proposed project.
 - (8) The originator or proponent of an undertaking should prepare and pay for its assessment.
 - (9) The Review Board, working with the Ministry of the Environment staff, should assure that all stages of the assessment process follow proper procedures.
 - (10) Early notice of a proposed project must reach all those interested and likely to be affected.

"The precedent suggested by CELA for the procedure for variation of an Environmental Assessment Commission decision by way of an Act of the Legislature is that following in dissolving an injunction by way of a special Act in the case of a polluting pulp and paper mill on the Espanola River. In this case an Ontario Supreme Court injunction was issued to restrain the discharge of pollutants and the injunction was dissolved by special Act. (McKie vs. KVP Co. (1948) 3 D.L.R. p. 201 and an Act Respecting VVP Co. Ltd., Statutes of Ontario, 1950 Chapter 33, Environment on Trial pps. 108-109).

"This procedure is recommended as it provides a public procedure for varying decisions and further provides for debate prior to, rather than following a decision by the Cabinet."

On April 16, 1974, the following persons appeared respecting the foregoing matter:

- Mr. John Low on behalf of the Canadian Environmental Law Association.
- Mr. James T. Lemon on behalf of CORRA.
- Mr. Philip Lind, Chairman of the Sierra Club of Ontario.
- Mr. M. Hummel on behalf of Pollution Probe.

Your Committee recommends:

1. That Proposal 'B' of the Commissioner of Public Works be adopted, and the balance of the report be adopted as the assessment procedure favoured by the City of Toronto, except that appeals should be to the Cabinet with the Cabinet decision being reported to and subject to debate in the Legislature on the merits of a case.
2. That the City of Toronto endorse the October 1973 White Paper of the Canadian Environmental Law Association and in particular support the following recommendations and fundamental principles for an Environmental Assessment Procedure as set out in the White Paper:
 - (1) The law must require social and environmental assessment studies and cost-benefit analyses prior to project development approval for projects likely to have significant environmental impact.
 - (2) The creation of an independent, powerful environmental review board is a prerequisite to public confidence in the new procedures.
 - (3) Any person should be able to require the Board to consider whether a proposed project needs an environmental assessment or (if an assessment has been filed) whether it adequately explains expected environmental effects.
 - (4) Public access to all information about proposed projects must be guaranteed.
 - (5) A firm timetable must be established for implementation of the legislation in both the public and private sectors.
 - (6) The environmental assessment document must contain all responsible contentions of interested or affected persons, outside experts, organizations and Governmental agencies on the possible environmental and social impacts of a proposed project.
 - (7) The originator or proponent of an undertaking should prepare and pay for its assessment.
 - (8) The Review Board, working with the Ministry of the Environment staff, should assure that all stages of the assessment process follow proper procedures.
 - (9) Early notice of a proposed project must reach all those interested and likely to be affected.
3. The procedure to be used should be one contemplating a delegation of authority to local municipalities on the details of controls during the implementation of a project.

On May 15, 1974 City Council amended the foregoing Clause as follows:

- (1) that Alternative "B" be amended by adding after the words "Public hearings held at discretion of commission" the following:

"but in every case, public notice be given prior to a decision being reached by the Commission of the proposal and resulting environmental assessment"

and that Recommendation No. 1 of the Committee on Public Works be amended accordingly.

- (2) Adding the following to recommendation No. 2 of the Committee on Public Works:

"(10) Public or private funds should be available to objectors acting in the public interest."