



**Ontario**  
Home Builders'  
Association

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November 5<sup>th</sup>, 2021

Public Input Coordinator  
Species at Risk Branch  
300 Water Street, 5<sup>th</sup> Floor, North Tower  
Peterborough, ON, K9J 8M5

**RE: ERO Posting # 019-4278 – Temporary Suspension of Protection upon the Listing of Black Ash under the Endangered Species Act**

The Ontario Home Builders' Association (OHBA) appreciates the opportunity to provide comments regarding the *Environmental Registry (ERO) posting # 019-4278* proposal from the *Ministry of Environment Conservation and Parks (MECP)* pertaining to the suspension of protection of the listing of Black Ash under the *Endangered Species Act (ESA)*.

OHBA continues to be supportive of the significant provincial actions taken to make housing supply and choice available to current and future residents of Ontario. In so doing, OHBA monitors the initiatives of the government to ensure that our mutual interests are complementary and concomitant. As such, OHBA is aware of the work of the Committee on the Status of Species at Risk in Ontario (COSSARO) and its work related to the Species at Risk in Ontario (SARO) list regulation. We note that this particular species has raised the concern of our members regarding its impact on areas for development.

OHBA supports the proposal of a Minister's regulation to temporarily pause the protections for Black Ash under the *ESA* for a two-year period from the time it is added to the SARO list regulation. It is understood that this would allow the *MECP* time to develop an approach to deal with this species. However, OHBA recommends that the approach and compilation of scientific information recognizes the key points compiled and outlined below by our team of experts.

OHBA understands that the Black Ash (*Fraxinus nigra*) is native to, and occurs throughout, most of Ontario except for the far north. In recent years, its numbers have declined rapidly in many parts of the province due to the invasive Emerald Ash Borer (EAB) beetle, although still commonly observed across the landscape. Due to its decline, COSSARO listed the species as

"Endangered" in January 2021. The COSSARO listing would typically translate to the species being protected under the *ESA* within one year (i.e., by January 2022).



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Protection under the *ESA* will prohibit directly harming individual ash trees and/or their habitat, with the goal of reducing the species' decline. However, as the decline in the abundance of this species is due to the presence of EAB, an invasive beetle, rather than habitat loss or other ecosystem pressures, prohibitions such as this may not prevent the population decline of this species in Ontario. As the species still occurs commonly across the landscape, blanket prohibitions have the potential to limit opportunities for future housing supply across the province, while having limited impact on the decline of Black Ash, as long as the EAB is still present across the province.

OHBA recommends that a scientifically sound approach, or combination of approaches, to both directly target the EAB issue and to aid in the propagation of the species is required to reduce the decline in Black Ash. One such approach could include utilizing the recently established Species at Risk Conservation Fund, which operates under the *ESA*, as contributions from proponents removing Black Ash would go directly to coordinated recovery efforts for this species (e.g., research). The *ESA* simply cannot provide this contribution to research as it is currently written.

As the government plans to delay the automatic protections for Black Ash under the *ESA* for a two-year period, a species management strategy should be developed and released for public review and comment during this time. One element of species at risk management planning that is expected to occur through the two-year period is the development of a formal habitat description for the species. Prior to development of a formal habitat description, species are typically granted 'general habitat' protection under the *ESA*, with project reviews being conducted on a somewhat ad hoc basis. The two-year suspension will help ensure clarity in development planning processes if the formal habitat description is drafted during that period, an approach that OHBA supports.

OHBA would also like to note that the listing of Black Ash under the *ESA* will have ramifications with respect to the evaluation of wetlands under the Ontario Wetland Evaluation System (OWES). Development within a Provincially Significant Wetland (PSW) is prohibited by the Provincial Policy Statement, with PSW status being based on an OWES evaluation and subsequent approval from the Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNRF). The OWES system assigns points for various "wetland values" in four different categories. Generally, if the cumulative score among all four categories is over 600 points, the wetland is deemed to be a PSW. However, if either the "Biological" or "Special Features" Components score over 200 points, the wetland is deemed to be a PSW regardless of the overall score. Under the "Special Features" Component, the presence of habitat for each endangered or threatened species generates 250 points. Thus, the presence of Black Ash in a wetland would cause the wetland to be considered a PSW under the OWES.



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In Southern Ontario, wetlands (i.e., potential habitat for Black Ash) are limited and as a result, most are protected from development by local conservation authorities and/or other agencies, regardless of their significance status. However, Eastern Ontario and other areas that are still predominantly natural have extensive areas of wetland across the landscape. As a result, areas of wetland that are not listed as PSWs may still be subject to some development so long as appropriate mitigation and compensation measures can effectively ensure the balance of a net improvement to wetland functioning and ecology in the vicinity. Classifying wetlands as PSW under OWES due to the presence of Black Ash would not significantly advance protection or recovery of the species since, as noted, habitat loss or ecosystem pressures are not driving factors in this species decline but would have negative implications for development projects.

With Black Ash still very prevalent across the landscape, the lack of detailed habitat description for the species may severely limit development options in areas that otherwise would have allowed development to proceed in a manner beneficial to the broader ecology of the region. The two-year delay in the protections under the ESA will allow time for the development of an appropriate management strategy for Black Ash from the perspective of permitting process under the Act (i.e., Species at Risk Conservation Fund vs. permitting), and for special consideration of this species under the OWES.

There should be a concerted push for the development and release of the specific habitat description for the species as soon as possible, to gain clarity on potential impacts to development; and an exemption or special considerations for Black Ash under the OWES scoring system should be considered by the MNDMNRF in light of the fact that habitat loss is not a driving factor in the decline of Black Ash and that other, more targeted, and beneficial recovery efforts that may be enacted by the Species at Risk Conservation Fund for this species.

OHBA appreciates the opportunity to provide input at this time and looks forward to further discussions and consultations with MECP staff regarding this matter.