



Submission to the Standing Committee on General Government

Bill 93: Getting Ontario Connected Act

March 31, 2022

Ontario Road Builders' Association



On behalf of our members, the Ontario Road Builders' Association (ORBA) is pleased to provide a written submission to the Standing Committee on General Government on Bill 93: *Getting Ontario Connected Act, 2022*.

Formed in 1927, the Ontario Road Builders' Association is proud to represent the road building sector in Ontario. Our members build the majority of provincial and municipal roads, bridges and transportation infrastructure across the province. The road building sector directly and indirectly employs approximately 56,000 workers at peak season and impacts all Ontarians.

Comments in this letter have been prepared with consultation from all levels of our membership. Our members have expressed their support for several amendments under Schedule 2 of Bill 93 with regard to the *Ontario Underground Infrastructure Notification Act 2012*, including the delivery of locates, compliance mechanisms, and governance and oversight.

Delivery of Locates

The Ontario road building industry delivers linear infrastructure projects based on a “just-in-time” delivery model. Work environments are large, complex operations, with tight profit margins. Our Association is very supportive of improving underground utility locate delivery across the province. Although the current system legally mandates locate requests be responded to within five business days, as high as 85 per cent of requests are late.¹ Ontario One Call's own data reports that 49 per cent of call tickets took longer than 15 days, with only 14 per cent being completed within the legislated timeline.²

ORBA supports provisions that will eliminate “reasonable attempts” language and set absolute timelines for the delivery of locates. Similarly, allowing contractors on the same dig site to share locate information and allowing a 60-day expiry will help reduce redundancies and red tape. Locate requests can vary significantly in terms of complexity based on the sector (residential vs. linear public infrastructure) and allowing contractors to share locate information helps reduce the already strained resources of locators. Contractors waiting weeks or months for utility locates has a direct impact on project timelines, the movement of goods and people, and road safety caused by impeded

¹ RCCAO (March 8, 2022). “RCCAO Praises Crucial Reforms to Ontario's Utility Locates System”. Accessed: <https://rccao.com/news/files/RCCAO-Press-Release-Mar-08-2022.pdf>

² *ibid*

traffic. Delay penalties, downtime costs and productivity losses when labour and equipment are taken out of production is substantial for contractors, particularly in an industry operating within tight profit margins and with timelines affected by seasonal and weather constraints. By allowing the use of a dedicated locator for certain excavation projects contractors would have a one-window approach to all locate information.

In municipalities that procure project bids utilizing a Vendor Performance Management system (such as the City of Ottawa), contractors are scored based on a number of factors which contribute to the overall bid evaluation. Work that is affected by the late delivery of locates can affect a contractor's rating and therefore, could determine which contractor is awarded work. Contractors have very little control over the delivery of locates and delays at this stage could translate into major project delays.

Costs are also transferred onto public owners by having roads closed or partially blocked for longer than necessary. These project delays and road closures lead to more expensive projects because contractors must build the corresponding risk of extra project costs from delayed locates into their bids. Streamlining the delivery of utility locates will reduce red tape and is a necessary step towards getting Ontario infrastructure projects completed faster.

Compliance Mechanisms

ORBA supports enhanced compliance and enforcement measures that will provide Ontario One Call with the ability to issue administrative penalties against non-compliant utility members. Additionally, publishing this performance data publicly provides transparency and accountability for utilities to deliver locates effectively. Although the proposed amendment will require the publishing of the number of complaints issued against a member, ORBA would also like Ontario One Call to publish the number of delayed locate requests, as well as the average response rates for providers.

ORBA also supports the increased compliance measures allowing contractors to claim compensation against a member for losses, such as failing to provide an accurate locate. Allowing excavators to seek recourse through the Ontario Land Tribunal for various matters such as late or inaccurate locates is one example of an enhanced enforcement measure.



Governance and Oversight

ORBA supports the establishment of a mandatory Memorandum of Understanding between Ontario One Call and the Ministry of Government and Consumer Services (MGCS), as well as providing the Minister with the authority to change the composition and the size of the board of directors. ORBA and our partner associations have been advocating for impartial oversight of Ontario One Call, which can be provided by independent arbitrators or a mixed board (public owners, excavators etc.). Utility companies have been historically over-represented on the One Call board of directors, making accountability and compliance problematic. Changing the composition of the board would help ensure contractors are fairly represented in Ontario One Call Board deliberations.

Recommendations

ORBA highly recommends long term review and planning of the current state of utility work in Ontario by looking at initiatives brought forward in other jurisdictions such as New South Wales in Australia. New South Wales has taken the initiative to digitize all of their utility information which, over time, will allow all contractors working on infrastructure to localize existing and abandoned utilities through GPS records made available to them by organizations such as Ontario One Call. This is a long-term goal as it will require owners of utilities to properly localize all utilities while installing them. In addition to providing physical location information, it will also ensure utility installers are following installation best practices. Over time, this would greatly reduce slowdowns found in the current process and provide a tremendous benefit to Health and Safety.

We would like to thank you for the opportunity to comment, and we look forward to further discussion opportunities regarding road safety matters. Please do not hesitate to contact Brianna Puigmarti, Senior Policy Advisor, Policy and Stakeholder Relations at 905-755-1518 or Brianna.puigmarti@orba.org if you have any questions or concerns.