

Comments of The Nature Conservancy in Massachusetts
Stakeholder Session 2
EFSB 2.0 Application Straw Proposal

May 1, 2025

The Nature Conservancy (“TNC”) is pleased to submit these comments as part of the EFSB’s Stakeholder Session process to address the Application Straw Proposal (“Application Proposal”).

As noted in TNC’s prior comments, the Climate Act (the “Act”) required EEA to develop site suitability¹ criteria that would include a *mitigation hierarchy to be applied during the permitting process to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts of siting on the environment, people and goals and objectives of the commonwealth for climate mitigation, carbon storage and sequestration, resilience, biodiversity and protect of natural and working lands to the extent practicable.*²

TNC is pleased that EFSB’s draft proposal highlights that the Act requires EFSB to incorporate EEA’s guidance and establish criteria governing site suitability standards as part of the siting and permitting application process. Application Proposal at 11. The EFSB notes that the Act includes “new standards and criteria” as part of the “applications submitted to the Board.” Application Proposal at 11.

EFSB Draft Proposal

The Act requires a common standard application to be used for large clean energy infrastructure facilities (“LCEIF”), large clean transmission and distribution infrastructure (“LCT&D”) and, under certain circumstances, for small clean energy facilities (“SCEIF”). Application Proposal at 1. The new requirements are set forth clearly in the Act and are referenced in the EFSB’s Application Proposal. For example, with respect to LCT&D, the application shall include a “description of the alternatives to the large clean transmission

¹ EFSB’s Site Suitability Straw Proposal will be the subject to EFSB’s May 5, 2025 Stakeholder Session and TNC will comment on the specifics of that proposal at that time.

² See Section 69T(b) of the Act. See also similar language in that Section (69T(c) and (d)) that also requires as part the application process for large clean energy transmission and distribution projects and large clean generation and storage facilities, a detailed evaluation of alternatives and opportunities to avoid or minimize or mitigate impacts.

and distribution infrastructure facility, including siting and project alternatives to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts.”³ With respect to LCEIF, the application shall include “a description of the project site selection process and alternatives analysis used in choosing the location of the proposed large clean energy generation facility or large clean energy storage facility to avoid or minimize or, if impacts cannot be avoided or minimized, mitigate impacts.”⁴ Significantly, the specific reference in the Act to alternatives and the need to avoid, minimize and mitigate impacts as part of the common application as discussed above echoes the specific language of the Act related to site suitability and underscores the importance of site suitability in the application process.

EFSB recognizes site suitability as part of the application process and states that the “forthcoming site suitability criteria and cumulative impact analysis criteria” would be included as application elements. Application Proposal at 12. The Board noted that the Act directs it to establish criteria governing the siting and permitting of LCEIF and SCEIF that include “a uniform set of baseline health safety, environmental and other standards that apply to the issue of a consolidated permit.” G.L. c. 164, § 69T(b), § 69U(b), § 69V(b). Application Proposal at 11. The Board recognized that the application should include specific and complete information with respect to site suitability criteria. i.e., information required to evaluate the social and environmental impacts of CEIF project sites, that includes a mitigation hierarchy to avoid, minimize, and mitigate impacts of such facilities. G.L. c. 164, § 69T(b). Application Proposal at 11.

TNC’s Comments on the Stakeholder Session

As TNC stated at the Stakeholder Session, the Act clearly prioritizes site suitability as a fundamental criterion to protect the environment and serve as a meaningful element as part of an expedited siting and permitting procedure. Given the Act’s clear provisions as stated above, the application process should require proponents to provide necessary information to assess site suitability and identify, in the application, the specific factors that would need to be assessed, including factors related to the mitigation hierarchy. Accordingly, the application needs to provide definitive standards that serve as a checklist for site suitability. Ultimately, as presumably will be more fully considered in the Stakeholder Session on Site Suitability, these factors, fundamentally required to assess good places to build vs not build at all, need to be included as part of the application. This should not be overly burdensome to proponents who are required under the Act, as discussed in more detail below, to engage in detailed discussions with the community regarding its plans, and specifically, with respect to site suitability.

Given the significance of site suitability in the Act and the need for specific standards, the application should include “site suitability” as a separate section, as part of the designated

³ The Application Proposal discussed these provisions at 2-3. See § 69T(c)(iii) of the Act.

⁴ Application Proposal at 2-3. See § 69T(d)(iii) of the Act.

major sections, i.e., “new requirements from the 2024 Climate Act”, identified in the Application Proposal.⁵ Application Proposal at 12-13. Site suitability should similarly be included as a stand-alone section and require detailed information to allow for an evaluation of “social and environmental impacts, that includes a mitigation hierarchy” as required by G.L. c. 164, § 69T(b).⁶

In addition, a separate section (and discussion) in the application would be an essential and appropriate follow-up to the detailed and specific consideration of site suitability as part of Pre-filing Consultation and Engagement Requirements for Siting and Permitting Straw Proposal as discussed on April 24, 2025 (“Prefiling Engagement Proposal”). The Prefiling Engagement Proposal requires full consideration of site suitability criteria as part of Phase 1 and Phase 2 Pre-filing Outreach including a description of “how the project meets site suitability and cumulative impact” requirements. Prefiling Engagement Proposal at 5-8. For example, site suitability in the prefiling process requires separate and detailed consideration of routes/sites that “avoid or minimize impacts and minimize the potential for disproportionate adverse impacts”, of routes/sites that face “insurmountable buildability challenges” and/or of routes/sites that cannot be avoided minimized or mitigated. Prefiling Engagement Proposal at 6-7. Accordingly, its inclusion as a distinct area of inquiry would be consistent with the prefiling engagement process and with the information requirements as set forth in the Act.

The suggestion in the EFSB’s Proposal to incorporate site suitability (and the cumulative impact analysis) into an “improved” route and site selection process is concerning and may diffuse the significance of site suitability (as well as cumulative impact analysis) as a significant element in its overall review. Application Proposal at 12. The existing process which evaluates a myriad of factors and applies a score to each one to identify a route/site almost by definition blends the various factors to a point where no one factor is dispositive. In addition, although traditionally used for utility and gas infrastructure projects, this type of aggregated analysis may be less useful to BESS and solar projects. Moreover, as discussed above, the Act requires a review of site suitability as an important new consideration on its own and not as part of the elements reviewed as part of the currently

⁵ The comprehensive list of new requirements includes site description, pre-filing and community engagement, project need and energy benefits, energy benefits, project alternative, route selection and site selection, environmental impacts, cumulative impact, policies, zoning exemptions, videos and accessibility features. Application Proposal at 12-13. Given the specific references to site suitability and its importance, as noted in the Act, it should be separately included in the application.

⁶ The discussion at the May 5 at the Site Suitability Stakeholder Session will consider EEA’s guidance with respect to site suitability as provided in the Act. The EFSB is required to establish “standards for applying site suitability [] to evaluate the social and environmental impacts of proposed large clean energy infrastructure projects sites and which shall include mitigation hierarchy to be applied during the permitting process to avoid or minimize or if impacts cannot be avoided or minimized, mitigate impacts of siting on the environment, people and goals and objectives of the commonwealth for climate mitigation, carbon storage and sequestration, resilience, biodiversity and protection of natural and working lands to the extent practicable.” See Section 69T(b)(iv) of the Act. TNC believes that these elements, e.g. biodiversity, carbon, and resilience, mandated by the Act, will be defined as part of that process and included as necessary elements in the application.

applied route/site selection process. To ensure that site suitability remains a point of serious consideration, it must be included in the application. Accordingly, the application should include the detailed information necessary to review site suitability as separate distinct element.

TNC's Response to Questions

The EFSB invited comments with respect to whether it was appropriate to use the application development process to prescribe specific health, safety, environmental and other project impact standards or limit itself to existing standards in use. The EFSB also requested feedback on whether the application development process should establish specific analytical procedures, methods, or approaches for determining a proposed project's compliance with health, safety, environmental and other project impact standards and whether these should be required or recommended. Application Proposal 11-12.

TNC believes that it's essential to develop, emphasize and prioritize new standards as part of the community engagement and the application process. Proponents, regulators, municipalities and other stakeholders should understand at the outset specific impact standards and these standards should be developed specifically as they may be required for EFSB 2.0. The application process should include requirements mandated by the Act with defined standards wherever possible.

With respect to site suitability, as set forth in Note 6 above, these new standards will include the mitigation hierarchy, as well as, among other things, biodiversity, carbon storage, and resilience. TNC looks forward to providing comments on these standards and on specific procedures, methods and approaches as part of the Site Suitability Stakeholder Session.

TNC appreciates the opportunity to submit these comments and looks forward to continuing to work with the EFSB as part of this important process.

Respectfully submitted,



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