

Qs & As: Transition to Consolidated Linear Infrastructure Environmental Compliance Approvals

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A. Overview: Consolidated Linear Infrastructure Permissions Approach

1. What is a Consolidated Linear Infrastructure Permissions Approach?

- If adopted, the Consolidated Linear Infrastructure Environmental Compliance Approval (ECA) will replace the current Environmental Compliance Approvals framework for portions of municipal sewage collection systems and municipal stormwater collection systems.
- The proposed Consolidated Linear Infrastructure Permissions approach utilizes a risk-based framework to improve service delivery and public transparency, while still maintaining or enhancing strict environmental protection standards.
- Under the proposed approach, municipalities would need to prepare and submit to the ministry applications for Consolidated Linear Infrastructure ECAs that will include a description of all existing sanitary collection and stormwater works within the municipal boundaries that they own. Once issued the Consolidated Linear Infrastructure ECAs would effectively replace the numerous ECAs that had been previously issued to a municipality for its sanitary collection and stormwater works.
- The proposed Consolidated Linear Infrastructure ECA will include authorization for future alterations for works owned by a municipality, including those constructed by a developer under an agreement with a municipality.

- The proposed Consolidated Linear Infrastructure ECA will also include up-to-date terms and conditions that the ministry currently imposes for monitoring, reporting and inspection which will apply to the entire system.

2. What are the outcomes of a transition to a Consolidated Linear Infrastructure Permissions Approach?

- The ministry anticipates that the Consolidated Linear Infrastructure Permissions Approach will:
 - reduce regulatory burden for municipalities and developers by eliminating duplicative approval requirements for low-risk pipe-by-pipe sanitary collection and stormwater works;
 - provide clear, transparent and consistent design criteria that municipalities and developers can follow for future sewage work;
 - improve environmental performance of new sewage works through updating ECA terms and conditions to current standards;
 - consolidate and update ECA terms and conditions that will apply to each municipality's sewage collection system; and
 - consolidate the ECAs for existing linear infrastructure to establish a holistic picture of all routine works owned by a municipality.

3. Who will be eligible to receive a Consolidated Linear Infrastructure ECA?

- Owners of municipal sanitary sewage collection systems and municipal stormwater collection systems will be eligible to obtain a Consolidated Linear Infrastructure ECA.

4. How does a Consolidated Linear Infrastructure Permissions Approach reduce regulatory burden and benefit my municipality?

- Municipalities are expected to experience time and cost savings by using the pre-authorization conditions in the Consolidated Linear Infrastructure ECA as individual applications will no longer be required for works that have a minimal environmental risk and a predictable outcome.
- As the approach involves consolidating thousands of municipal sewage approvals into one document for the sewage collection system and one approval for the stormwater management system, municipalities should expect to see efficiencies when preparing for inspections.
 - For example, a large municipality could have 4000 individual ECAs, each with varying conditions which can make it challenging to prepare for and identify the scope of the inspection. After the transition, a municipality will only need to reference one document when preparing for their inspection.

5. How does a Consolidated Linear Infrastructure Permissions Approach benefit property development in my municipality?

- Once a municipality receives a Consolidated Linear Infrastructure ECA, property developers will no longer require a separate approval and will be able to undertake construction under the authority of the municipality's approval.

- The proposed Consolidated Linear Infrastructure ECA will include updated conditions that will pre-authorize municipalities and prescribed persons (e.g. developers) to make future specified alterations in accordance with the proposed new Design Criteria to ensure quality and consistency in new construction.
- This will eliminate the need for developers to prepare and submit individual ECAs for sewage works that eventually will be owned by the municipality.

6. How will a Consolidated Linear Infrastructure ECA ensure the protection of the natural environment?

- The proposed Consolidated Linear Infrastructure Permissions Approach will save municipalities and developers time and money and allow our ministry to focus our resources on activities which pose the greatest risk to human health and the environment.
- It will also provide a greater understanding of where sewage works are located across the province which in turn will inform and support effective environmental policy and planning decisions at both the municipal and provincial level.
- It will also ensure consistency as the same permission process and design standards would apply to all municipalities in Ontario.

7. How will a Consolidated Linear Infrastructure Permissions Approach impact the ministry?

- The proposed Consolidated Linear Infrastructure Permissions Approach will allow our ministry to focus our resources on activities which pose the greatest risk to human health and the environment.
- The ministry will phase out the traditional pipe-by-pipe approvals process for municipal sanitary sewage collection and municipal stormwater management systems and will move to a consolidated permissions program.
- Under this approach, the ministry will issue one approval for a municipality's sanitary sewage collection system and one approval for their stormwater management collection system.
- Any previously issued approvals for these works will be administratively consolidated into the new approval. Once this is complete, the ministry will revoke the existing approvals.
- An integral component of this transition is the phase out of the Transfer of Review Program which uses the pipe-by-pipe approvals model.

8. Why is the ministry moving away from the existing approvals framework for municipal stormwater collection and municipal sanitary systems?

- The ministry issues approximately 700 decisions each year for non-complex sanitary sewage and stormwater collection works serving property developments, and the delays in issuance of ECAs can lead to cost over-runs for developers and municipalities.
- This current pipe-by-pipe piecemeal approach to managing approvals for sewage works has proven to be time-consuming, inefficient, ineffective and does not provide good value for the taxpayer's money.

9. Has the Consolidated Linear Infrastructure Permissions Approach been adopted in other areas of the ministry?

- Consolidation of approvals is not a new concept within the ministry and has been a key component of the Municipal Drinking Water Licensing Program (MDWLP) since 2009. The MDWLP also successfully introduced the concept of pre-authorization of future works which allows system owners to make certain changes without the need to apply to the ministry for each alteration. Pre-authorization conditions under the MDWLP has eliminated approximately 900 applications annually from municipalities and property developers for watermains in property developments and minor modifications that have a minimal environmental risk and a predictable outcome. Feedback shows that this has resulted in significant time and cost-savings for municipalities.
- The concept of pre-authorization is being now extended to municipal sewage collection systems and municipal stormwater management systems within the new Consolidated Linear Infrastructure Permissions framework. This will allow all municipalities in Ontario to benefit from the time and cost savings that have been recognized through similar pre-authorization conditions for municipal drinking water systems. These benefits are also being extended to property developers who will be able to use pre-authorization conditions in the municipality's Consolidated Linear Infrastructure ECA as they undertake new construction.
- The ministry also piloted the concept of a consolidated System-Wide ECA with several municipalities for sewage collection and stormwater management systems. The lessons learned from these pilots are being incorporated into the proposed roll-out for Consolidated Linear Infrastructure ECAs.

10. When does the ministry intend to transition to a Consolidated Linear Infrastructure Permissions Approach?

- As part of the consultation process, the ministry is seeking feedback from municipalities and interested parties on how much time will be necessary to transition to a Consolidated Linear Infrastructure Permissions Approach.

11. What authority does the ministry have to implement a Consolidated Linear Infrastructure Permissions Approach?

- The establishment and alteration of linear infrastructure for the collection of sanitary sewage and stormwater management requires ministry approvals issued under Part II.1 of the Environmental Protection Act.
- Section 20.6 of the Environmental Protection Act allows the Director to authorize future alterations to the system by the owner or by persons prescribed by regulations.
- Regulation 208/19 became effective July 1, 2019, which prescribes certain persons for the purposes of Section 20.6 in the EPA.

12. What authority is the ministry relying upon to allow developers to operate under a municipality's Consolidated Linear Infrastructure ECA?

- Regulation 208/19, *Environmental Compliance Approval With Respect to Sewage Works* came into force on July 1, 2019 and prescribes persons for the purposes of Section 20.6 of the *Environmental Protection Act* as those with whom a municipality has an agreement under the *Planning Act* or the *Development Charges Act* to undertake alterations or additions to sewage works, where those works will be transferred to the municipality.
- If a municipality has a consolidated permission which authorizes future alterations to be carried out for works it owns or works constructed by persons prescribed by regulations, then neither the municipality or the property developer would require a separate permission from the ministry to construct the infrastructure.
- If the sanitary sewage collection and stormwater management works are associated with property development, ownership of the linear infrastructure is transferred to the municipality under an agreement pursuant to the *Planning Act* or the *Development Charges Act*.

13. Are there any changes to the appeal process with the transition to Consolidated Linear Infrastructure ECAs?

- The Appeal process as defined under Section 139 of the *Environmental Protection Act* will not be impacted with the transition to Consolidated Linear Infrastructure ECAs.

B. Features of a Consolidated Linear Infrastructure ECA:

14. What aspects of my sewage works will be covered by a Consolidated Linear Infrastructure ECA?

- A Consolidated Linear Infrastructure ECA will cover the following:
 - Linear infrastructure in sewage works refers to sanitary sewage collection systems, including pumping stations and pipes.
 - Stormwater management systems refer to pipes, stormwater management facilities, and Low Impact Development.

15. What aspects of my sewage works will not be covered by a Consolidated Linear Infrastructure ECA?

- A Consolidated Linear Infrastructure ECA will not cover any works for which the municipality is not the legal or beneficial owner. In the case of a Consolidated Linear Infrastructure ECA for sanitary sewage collection systems, treatment of sanitary sewage will not be covered. A Consolidated Linear Infrastructure ECA for stormwater management systems will not cover regional flood ponds.

16. Do Consolidated Linear Infrastructure ECAs expire?

- No. The Consolidated Linear Infrastructure ECAs will not expire; however, they will include a renewal date that will require the owner to apply to renew the Consolidated Linear Infrastructure ECA at regular intervals.

17. How often will Consolidated Linear Infrastructure ECAs need to be renewed?

- The ministry is proposing a 5 year renewal cycle for all Consolidated Linear Infrastructure ECAs.
- The ministry is seeking feedback from municipalities on the timing of the proposed renewal cycle as part of this consultation.

18. Will the terms and conditions in a Consolidated Linear Infrastructure ECA be different from the terms and conditions in my municipality's existing ECA?

- The approval would include many of the same conditions and requirements; however, they would now apply to the entire system, instead of individual works.
- The new templates would also include conditions related to pre-authorization of alterations and additions with predictable environmental impacts carried out by municipalities or persons prescribed by regulations.
- To prepare for the transition to Consolidated Linear Infrastructure Permissions Approach, the ministry developed a new template to provide clear and consistent requirements for all systems within Ontario.
- The templates which are included with this consultation outline the critical components and set out the conditions related to operations, performance requirements, monitoring, reporting and conditions which authorize specified future alterations to the system.
- The ministry seeks your comments and feedback on the proposed templates.

19. What steps will my municipality need to take to satisfy the pre-authorization conditions within the Consolidated Linear Infrastructure ECA?

- Where works are pre-authorized, they will need to be undertaken in accordance with conditions in the Consolidated Linear Infrastructure ECA. One of the conditions within the Consolidated Linear Infrastructure ECA will require alterations to be documented and retained onsite. This form will not need to be submitted to the ministry, but it will need to be made available during an inspection.
- Pre-authorized works must meet the requirements outlined in the Design Criteria.
- If the alteration changes the description of works included in the Consolidated Linear Infrastructure ECA, the owner will be required to notify the ministry of the change. An amended Consolidated Linear Infrastructure ECA will be issued that includes this change. There is no fee associated with notifying the ministry of this alteration.

- If the alteration is not included within the pre-authorization conditions in the Consolidated Linear Infrastructure ECA, an application to the ministry is required.

20. Will pre-authorization conditions in the Consolidated Linear Infrastructure ECA apply to all of the sanitary sewage collection and stormwater management works in my municipality?

- No, the pre-authorization conditions within a Consolidated Linear Infrastructure ECA will not apply to all municipal sanitary sewage collection and stormwater management works.
- The conditions will apply to modifications and alterations that have a minimal environmental risk and a predictable outcome.
- If the proposed work is not included within the pre-authorization conditions, then the municipality will need to make an application to the ministry for review and approval before the alterations can take place.

21. As a property developer, what steps will I need to take to take advantage of the pre-authorization conditions within the Consolidated Linear Infrastructure ECA?

- Property developers enter into agreements with municipalities under the *Planning Act* or the *Development Charges Act* to undertake alterations or additions to sewage works, where those works will be transferred to the municipality.
- After the Consolidated Linear Infrastructure ECA is issued to the municipality, property developers will no longer be required to submit separate applications for their projects to the ministry. Instead, they will follow the pre-authorization process to be established by the ministry and retain such records that are needed to document compliance with the pre-authorization conditions. This work will also need to be done in accordance with the agreement between the municipality and the property developer.
- This is identical to the current process for watermains associated with property development under the Municipal Drinking Water Licensing Program.

C. Application Process:

22. What steps does my municipality need to take to apply for a Consolidated Linear Infrastructure ECA?

- A complete application would be required from each municipality to obtain a Consolidated Linear Infrastructure ECA.
- As part of the consultation process, the ministry is seeking feedback from municipalities on the application process, draft ECA templates, and proposed

Design Criteria, including the amount of time that will be needed to make a smooth transition to the new approvals approach.

23. What information will a municipality be required to provide as part of a complete application for a Consolidated Linear Infrastructure ECA?

- As part of the approval application, municipalities would need to complete an ECA application form which will require an inventory of works that are currently in operation, including a map of the collection system.

24. What if my municipality doesn't have the required information available to make a complete application for a Consolidated Linear Infrastructure ECA?

- Although municipalities will need to submit maps of the collection system as part of their application, this type of information is already required through other legislation, such as Ontario Regulation 588/17: *Asset Management Planning for Municipal Infrastructure*.
- The ministry anticipates that the existing documentation can be used for the application for a Consolidated Linear Infrastructure ECA but would like to hear feedback from municipalities as part of this consultation.
- The ministry will work with municipalities that do not have an inventory of existing works immediately available at the time of application or that may require additional time to prepare the information.

25. Is there a fee for making an application for a Consolidated Linear Infrastructure ECA, and if so, how much will it be?

- A Consolidated Linear Infrastructure ECA will be issued based on an administrative consolidation of the permissions for the existing infrastructure and the application received by the ministry. Since a technical review is not required, the one-time cost for applying for a Consolidated Linear Infrastructure ECA will be \$100.

26. What support will the ministry provide to help municipalities transition to a Consolidated Linear Infrastructure Permissions Approach?

- The ministry wishes to hear from municipalities to better understand the type of guidance and support that is required to move to this approach. The ministry will consolidate comments it receives through the consultation process to inform the implementation of the Consolidated Linear Infrastructure Permissions Approach, including the development of guidance materials and the types of ongoing support municipalities may need during implementation.

27. What will happen to existing ECAs for my municipal sewage collection system and municipal stormwater management system after making an application for a Consolidated Linear Infrastructure ECA?

- The Consolidated Linear Infrastructure ECA will incorporate each municipality's individual ECAs for existing, installed works into one approval (one approval for sanitary and one for stormwater).
- The Consolidated Linear Infrastructure ECA will revoke all previously issued ECAs for the sanitary sewage collection system or stormwater management system, which will then cease to have effect as individual permissions.
- As an outcome, all municipalities will have one approval that incorporates all terms and conditions into one document which would then apply to all of the works described within.

28. What will happen to existing applications from a municipality that are already in process after making an application for a Consolidated Linear Infrastructure ECA?

- The ministry will work with all municipalities and property developers who have applications in process to ensure that there is a smooth transition to the Consolidated Linear Infrastructure ECA so that projects are not delayed.
- Once the ministry has reviewed all of the comments received through this consultation, an implementation plan will be developed and shared with stakeholders. The plan will include a transition strategy for applications that are in the queue at the time of transition.

29. What will happen to ECAs that have been issued to property developers for works that have not yet been assumed by a municipality?

- Conditions in the Consolidated Linear Infrastructure ECA will incorporate all previously issued permissions by the ministry to municipalities or to developers who have agreements with municipalities.
- The legal authority to construct and alter works that are part of the Consolidated Linear Infrastructure ECA will continue, and therefore the works that have been previously approved by the ministry will not require any additional permissions.

D. Changes to the Design Guideline and Transfer of Review Program:

30. Will there be any impacts to my municipality's participation in the Transfer of Review Program?

- Under the proposed approach, municipalities would no longer be required to carry out a duplicative engineering review of the proposed works. The design engineering professional of record for this project will attest to compliance with the Design Criteria. Municipalities would need to attest that the proposed sewage works meet

municipal requirements, and the conditions of the Consolidated Linear Infrastructure ECA.

- Municipalities will continue to have the option to conduct their own engineering review or retain a third-party engineer to conduct the review on their behalf, but this is not a requirement of pre-authorization. Municipalities may wish to conduct an engineering review to ensure that works are constructed to municipal standards for reliability and maintenance and for compliance with other aspects of the development agreement with the property developer.
- The ministry would work with Transfer of Review municipalities to ensure a smooth transition. This would include discussions around when municipalities should cease submitting Transfer of Review applications to the ministry.

31. Why is the ministry introducing a Design Criteria?

- Currently, the design of sanitary sewage collection systems and stormwater management systems are guided by the recommendations included in the ministry's 2003 Stormwater Management and Planning Design Manual and 2008 Design Guidelines for Sewage Works.
- These documents do not set out design requirements for approval, instead they were intended as a set of recommendations to be used with professional judgment and experience in the design of sewage works and in the engineering review of applications for approval of such systems. The proposed Design Criteria creates transparency and easy to understand requirements that every municipality and developer would need to meet to use the pre-authorization conditions of the Consolidated Linear Infrastructure ECA.
- The proposed Design Criteria set out the minimum requirements for sewage collection and stormwater works and reflect current technologies or issues like inflow and infiltration. They were developed in consultation through a working group with municipal and industry representatives. The ministry seeks your comments on the proposed Design Criteria document.

32. What are the key features of the new Design Criteria?

- The new Design Criteria contains clear and consistent requirements which the design of sanitary sewers, stormwater sewers and forcemains must meet to be pre-authorized.
- It includes design requirements for the diameter, material, cover of sewer pipes, flow rates and velocity, as well as other requirements for protection of water supplies.
- The proposed Design Criteria was developed in consultation through a working group with municipal and industry representatives. The ministry seeks your comments on the proposed Design Criteria.

33. How will the new Design Criteria impact property development in my municipality?

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- Meeting the new Design Criteria and conditions within the Consolidated Linear Infrastructure ECA would provide assurance that the proposed works are properly designed.
- Although developers will no longer receive a separate approval, municipalities will be able to assure that the developer is making changes in accordance with provincial requirements.
- As part of the pre-authorization conditions, the developer's Engineer will be required to attest that the works comply with the Design Criteria, and with the conditions in the municipality's Consolidated Linear Infrastructure ECA.
- The municipality can then check the work of the design Engineer by using internal resources or by hiring a 3rd party Engineer to do a peer review, if necessary.
- Construction of the works cannot begin until the municipality signs off on compliance with the Design Criteria and pre-authorization conditions, and thus there will be ample time for the municipality to determine that the compliance conditions within the Consolidated Linear Infrastructure ECA have been met.
- If sewage works are not designed in accordance with the Design Criteria or do not satisfy the conditions of the Consolidated Linear Infrastructure ECA, then separate approvals, i.e. an amendment would be required.

34. If my municipality's existing system does not meet the new Design Criteria, will I have to make updates to my existing infrastructure?

- No. The new Design Criteria will not apply retroactively to works that are already constructed and will only apply to future alterations to the existing municipal systems.