

ENVIRONMENTAL ASSESSMENT ACT

NOTICE OF AMENDMENTS

Class Environmental Assessment for Provincial Transportation Facilities (renamed Class Environmental Assessment for Provincial Transportation Facilities and Municipal Expressways)

RE: Amendments to the Class Environmental Assessment for Provincial Transportation Facilities (renamed Class Environmental Assessment for Provincial Transportation Facilities and Municipal Expressways)

EA File No.: EA-02-10-02-02

The Ministry of the Environment, Conservation and Parks (ministry) as part of its environmental assessment modernization initiative to move to a project list approach for projects that will require a comprehensive environmental assessment, proposed amendments to the Class Environmental Assessment for Provincial Transportation Facilities (the Class EA) to facilitate this move. A class environmental assessment sets out the undertakings (projects) to which it applies and the streamlined process to be followed to proceed with the projects.

Section 15.4 of the *Environmental Assessment Act* (EAA) establishes the authority and process for making amendments to a class environmental assessment, including amendments made on the Minister's own initiative. To amend a class environmental assessment, the Minister must be satisfied that the amendments are consistent with the purpose of the EAA and the public interest. The Minister must ensure that adequate public notice of a proposed amendment is provided and that members of the public have an opportunity to comment on it.

As part of its proposals to move toward a project-list approach for projects that will require a comprehensive environmental assessment under the EAA, the ministry consulted on the proposed amendments with Indigenous communities, members of the public, government agencies, and stakeholders, including proponents. Consultation was carried out during the original and revised proposals regarding the move toward a project-list approach. Information on the original and revised proposals was posted on the Environmental Registry of Ontario (ERO) and Ontario.ca for 60-day comment periods from November 26, 2021 to January 26, 2022 (original proposal) and March 10, 2023 to May 9, 2023 (revised proposal). Indigenous communities, government agencies and stakeholders were directly notified and provided with information on the proposed amendments.

Having considered the consultation and feedback received, the ministry is recommending amendments to the Class EA to facilitate the move to a project list approach, including:

- Expanding the class of projects to which the Class EA applies to include,
 - i. establishing new provincial freeways; and
 - ii. municipal expressway projects;
- Categorizing establishing of a freeway or expressway as a Group A project;
- Categorizing changes to a municipal expressway as Group A, B or C projects, depending on the change being made;

- Clarifying the application of the transportation needs assessment requirements in section 4.4 of the Class EA to municipalities, to provide that municipalities could, instead of completing a transportation needs assessment, refer to approved transportation studies to support preplanning work or information requirements in the Class EA;
- Updating terminology and references to provisions in the EAA and other adjustments to align with the proposed regulation designating projects subject to comprehensive environmental assessment requirements (“comprehensive environmental assessment projects regulation”);
- Clarifying that the Ministry of Transportation is not responsible for ensuring municipal compliance with the Class EA requirements;
- Transition provisions to clarify when certain municipal expressway projects that benefited from an exemption before the move to a project list approach would become subject to the Class EA process;
- Deleting references to new provincial freeways requiring an individual EA;
- Requiring that non-MTO proponents contact MECP for a list of Indigenous communities for consultation, requiring consultation with those communities, and requiring that MECP be notified if impacts to rights are raised by Indigenous communities; and
- Renaming the Class EA as “Class Environmental Assessment for Provincial Transportation Facilities and Municipal Expressways.”

Having considered the comments and submissions received on the proposed amendments, consultation with Indigenous communities and organizations, the amending procedures set out in section 15.4 of the EAA, and the recommended amendments to the Class EA, I am satisfied that the amendments are consistent with the purpose of the EAA and the public interest and have decided to amend the Class EA. The amendments are incorporated in the February 2024 Class Environmental Assessment for Provincial Transportation Facilities and Municipal Expressways, to which this notice is attached.

REASONS

My reasons for amending the Class EA are as follows:

- (1) Adequate public notice of the amendments has been provided and members of the public have had an opportunity to comment on the proposed amendments. Public notice and opportunities to comment were provided through the ERO and Ontario.ca postings described above.
- (2) Adequate consultation with proponents of projects that will proceed in accordance with the amended Class EA, has occurred, with appropriate opportunity provided to proponents to review the amendments and to provide their comments.
- (3) Adequate consultation with Indigenous communities and organizations has occurred. The ministry directly engaged Indigenous communities and organizations on the amendments. Specifically, the ministry provided communities and organizations with:
 - a. information about what projects would be subject to the Class EA; and
 - b. opportunities to attend webinar sessions or individual meetings with the ministry to comment on and raise any concerns about the amendments.

The ministry has considered all comments and concerns raised with respect to the amendments to the Class EA and has responded to Indigenous communities and organizations.

- (4) The amendments establish environmental assessment requirements for projects which are not included in the comprehensive environmental assessment projects regulation. The amendments will provide appropriate environmental oversight for and opportunities for consultation on these projects and will allow these projects to proceed in an efficient manner. The Class EA includes requirements for consultation, including consultation with Indigenous communities, and assessment and mitigation of environmental impacts before a project is authorized to proceed. Additionally, the ministry will remain involved in the Class EA process by among other things, identifying Indigenous communities that municipalities following the Class EA process must consult with, reviewing draft environmental study reports and identifying outstanding issues for the proponent before reports are finalized, and the Minister will consider any requests for an order under Section 16 of the EAA made in accordance with that provision of the Act or may make such an order on their own initiative within the timelines set out in the EAA.
- (5) The amendments aligning the Class EA with changes to the EAA and new regulations made under the EAA are necessary to provide clarity, consistency and coherency within the environmental assessment regime. The amendments better align assessment requirements with a project's potential for environmental impacts. The evaluation and consultation processes under the Class EA are designed to be flexible and scalable to the scope of a project and its potential impacts and provide for appropriate evaluation and consultation for projects being added to the Class EA.

For the foregoing reasons, the amendments are consistent with the purpose of the EAA and the public interest.

Notice of my decision to amend the Class EA will be posted in the ERO to bring the amendments into effect, as required by the EAA, and to provide public notice of the changes made to the Class EA. That notice will be posted in the ERO on the day that the EAA amendments and regulations moving to a project list approach for projects that will require a comprehensive environmental assessment come into force.

Dated the 16 day of February 2024 at TORONTO.



Minister of the Environment, Conservation and
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