

May 9, 2023

EA Modernization Project Team
Environmental Assessment Modernization branch
Ministry of Environment, Conservation and Parks
135 St. Clair Avenue West, 4th Floor
Toronto, Ontario M4V 1P5

RE: ERO 019-6693 – Request for Comments - Evaluating municipal class environmental assessment requirements for infrastructure projects

The City of Guelph (the “City” or “Guelph”) is pleased to comment on the Province’s commitment to modernize the Municipal Class Environmental Assessment Process. Because Guelph shares the Province’s goal to build more homes faster, we appreciate the Province’s efforts to streamline practices that improve timelines to build critical infrastructure needed to support our growing community. This submission will provide overall comments and recommendations from the City of Guelph.

As a general comment, the City’s experience has found that the fundamentals of the Municipal Class Environmental Assessment (MCEA) Process are sound, but the timing uncertainty inherent in the current process limits a municipalities’ ability to deliver infrastructure to support the goals of their community and matters of provincial importance such as *Bill 23, More Homes Built Faster Act, 2022*.

Schedule predictability is of utmost importance. Municipalities can deliver infrastructure if process/approval delays are minimized or eliminated. The province has an opportunity to make modest improvements to the current MCEA Process without developing a replacement regulation. Regardless of the path forward, the underlying foundation needs to remain evident: community and stakeholder input on the three environmental pillars of the EA Process – natural, social/cultural, and economic.

With respect to measures to modernize the MCEA, in Guelph’s view the Province should consider mandating that:

1. Commenting agencies and stakeholders have reasonable, but set, timeframes to respond to request for comments – e.g., 60 days – or lose the opportunity to comment on discretionary points. Any matters covered by law or regulation could not be waived by not commenting. The proponent is ultimately responsible for following matters of law.
2. MECP EA Coordinators be directed to act as resource for the proponent and to only become involve during the MCEA when requested by the proponent. Some MECP EA Coordinators are requesting to review draft and “approve” MCEA documentation before issuance of the Notice of Completion which has

added considerable time to completing MCEA's and is beyond the scope of service an EA Coordinator should provide.

3. MECP only review issues raised in Section 16 Order Requests (S16OR's) related to matters of provincial importance, and not undertake an independent review. To ensure compliance with the MCEA Process, a procedure should be developed to randomly review / audit MCEA's prepared by proponents. Other than in egregious circumstances should an MCEA be unwound; instead the exercise should be looked upon as a learning opportunity. Municipalities are mature and responsible entities and will do the right thing for their communities and the province. At all times, MCEA proponents must satisfy the requirements of the *Environmental Assessment Act*.
4. A maximum timeline be set for provincial review of a S16OR at 65 days after the issuance of the Notice of Completion. The 65 days consists of 30 days for public consultation plus 35 days for provincial review like the *O.Reg.231/08, Transit Projects and Metrolinx Undertakings*. The province will need to apply any conditions within this 65-day review period, otherwise the S16OR is considered denied and proponent can proceed.
5. S16OR decisions be delegated to Director, Environmental Approvals Branch or ADM Environmental Assessment and Permissions. This should assist the Ministry to speed up resolution of S16OR's.
6. Integration with Planning Act be clarified. This integration as currently described creates duplication of efforts and uncertainty among proponents. If the integration process is fully reciprocal, transparent and seamless, the MCEA requirements will have also been met removing duplication and the possibility of subsequent appeals under the *Environment Assessment Act*.
7. Specific metrics be prepared that describes due diligence consultation with Indigenous Communities. The lack of consistency and structure has created varying interpretations and hurdles to undertaking quality consultation. The province should fund Indigenous Communities to provide a base level of consultation capacity.

The number, depth and breadth of supporting studies to be prepared should be reviewed. The obligations have grown through practice and organically out of abundance of caution such that the extent of work necessary to ensure all requirements are met and the risk of appeals is minimised. The level of effort now required far exceeds the original intent of the MCEA when first envisioned. For example, bridge heritage studies can be streamlined. The criteria to trigger an assessment should be reviewed and a methodology developed to only review bridges that have been previously designated by the municipality and/or the

province as heritage structures. Another example is to remove the requirement for archeological assessments on right-of-ways and areas that have been previously disturbed.

The City applauds the Province's commitment to modernizing the MCEA Process and has outlined some key areas to explore. The City also understands the Province is considering the implications of potentially replacing the MCEA with a regulation similar to *O.Reg. 231/08* or revoking the MCEA and amending the Act and regulations as appropriate. If the Province considers these options further, Guelph recommends a committee of industry stakeholders be brought together to review potential options and impacts to build a robust process. Guelph would be a willing partner, happy to participate in a committee to review options.

Guelph supports the comments expressed in the Municipal Engineers Association's response letter dated May 9, 2023, to ERO 019-6693: Evaluating Municipal Class Environmental Assessment Requirements for Infrastructure Projects. We strongly urge the MECP to consider the MEA's comments and suggestions.

Regardless of the Province's path forward, the City of Guelph remains dedicated to helping the province achieve its goals of delivering more homes faster while building environmentally responsible infrastructure. Guelph is an accountable and mature municipality that will continue community and stakeholder input on the three environment pillars of the EA Process – natural, social/cultural, and economic.

Sincerely,



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