

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

**Subject: Municipal Engineers Association Comments to ERO 019-6693 - Evaluating Municipal Class Environmental Assessment requirements for infrastructure projects**

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The Municipal Engineers Association (MEA) is pleased to comment on the Province's commitment to modernize the Municipal Class Environmental Assessment Process (MCEA), specifically ERO-019-6693. MEA applauds the Province's commitment to modernizing the EA process.

MEA's comments to the ERO are broken down into three (3) options the MECP may consider:

1. Further improving the current MCEA process;
2. Moving to a regulation to replace the current MCEA process;
3. Revoking the MCEA process.

MEA would be pleased to work with and assist MECP to further develop the above options.

**1) Further Improving the Current MCEA Process:**

MEA expressed its thanks to Minister Piccini, in our letter of March 17, 2023, for approving the MCEA amendment (March 3, 2023). MEA believes the fundamentals of the amended MCEA process are sound; however, the timing uncertainty inherent in the current process limits 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*.

MEA further advised the Minister during a delegation with him during the *Good Roads Conference* on April 19, 2023, that MEA would continue to advocate for further updates to the MCEA and look forward to working with our partners and MECP staff to keep this document up to date and reduce or remove redundancies with other municipal approval processes.

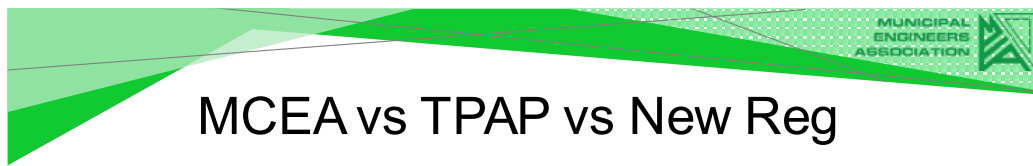
Under the current MCEA process, municipalities can deliver infrastructure if red tape and delays are minimized or eliminated. MEA believes the province can improve the current MCEA process by mandating:

1. Commenting agencies and stakeholders have reasonable, but set, timelines to respond to requests for comments (i.e., 60 days) or lose the opportunity to comment on discretionary points. Any matters covered by law or regulation cannot not be waived by not commenting as the proponent is ultimately responsible for following matters of law.
2. MECP Regional EA Coordinators (REAC) be directed to act as resource for the proponent and engage/monitor the MCEA process through the opportunities included in the MCEA process. REAC should not request to review draft and “approve” EA documentation, for example an Environmental Study Report (ESR), before issuance of the Notice of Completion as this can add considerable time to completing EA’s.
3. MECP only review issues raised in Section 16 Order Requests (S16ORs) 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 ESRs prepared by proponents. Only in egregious circumstances should an MCEA be unwound, but instead the exercise 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 and 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 relevant ADM level. This will keep the level of review at the staff level and speed up resolution of S16ORs.
6. Duplication with the Planning Act be eliminated. For example, a Schedule C EA process for a rural apartment building that has a new well for water supply should not be required if the well/water supply is addressed in the Planning Act approvals. Also, arterial roads (and the bridges associated with collector and arterial roads) that are included in a Planning Act approval should not require an EA process that duplicates the Planning Act work. The Collector Road Screening Process (CSRP) should be expanded to include arterial roads and associated bridges and/or the EA process should encourage acceptance of Planning Act approvals. For example, if a secondary plan is approved that includes the creation of a new arterial road, then this conclusion should be accepted and used as the starting point for the EA process. If the approved secondary plan shows the alignment and describes the general characteristics (4 travel lanes), then the EA process would begin with the Notice of Commencement stating, “Secondary Plan has already determined alignment and characteristics for the arterial road”. The EA process would then build on the Planning Act conclusions, determine the cross-section details, and issue Notice of Completion.

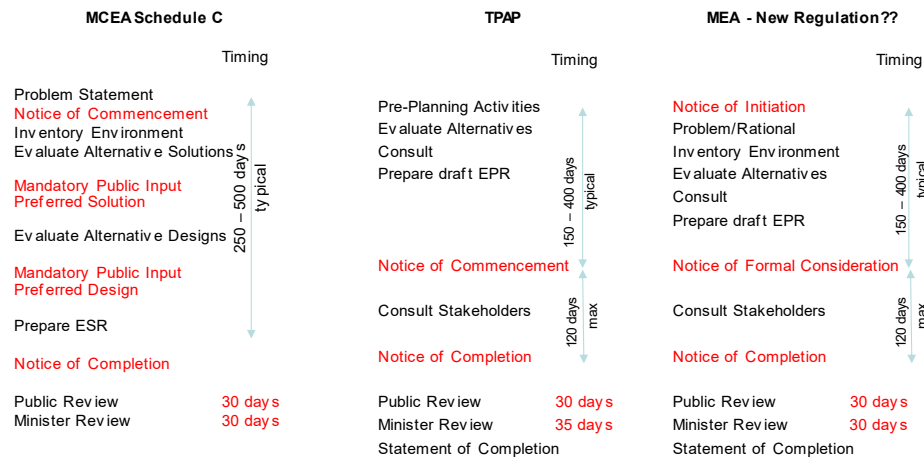
7. Specific metrics be prepared that describes due diligence consultation with Indigenous Communities. The lack of consistency and structure has created varying interpretations and hurdles to undertaking quality consultation. The municipality should be allowed to determine appropriate level of consultation based on the prevailing relationship with the indigenous community in their area.
8. The number, depth, and breadth of supporting studies to be prepared should be reviewed. The obligations have grown through practice and, out of abundance of caution, such that the extent of work necessary to ensure all requirements are met is sometimes unreasonable. The level of effort now required far outstrips 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 rights-of-way and areas that have been previously disturbed. As a further example, it has been demonstrated that Air Quality Impact Assessments do not contribute useful information to EA studies for roads and they should not be required.
9. Whatever the EA process, there should be flexibility to adjust the consultation and documentation to match the complexity of the project. The current Schedule B process (select preferred solution with one engagement opportunity, project file) and Schedule C process (select preferred solution, engagement opportunity, select preferred design, second engagement opportunity, ESR) should be combined and the proponent should have the flexibility to match the level of engagement and documentation to the complexity of the project and community interest. Minimum requirements regarding who should be engaged, what information needs to be presented and what information needs to be documented should be established but a proponent should choose how to proceed.
10. EA requirements recognize Technical Approvals The best example is minor expansions to treatment plants. The MCEA process is all about selecting the best alternative. For minor expansions, the best option is always to expand existing treatment plants whenever possible. The EA process of considering alternatives does not add value if the solution is obvious. The technical approvals should be relied upon to ensure the environment is protected

## **2) Replace the MCEA with a Regulation:**

In response to the MECP's 2021 posting on the ERO, MEA had suggested that any new Regulation that replaces the MCEA should utilize the most effective parts of the current MCEA and ON Reg 231/08 as illustrated below.



## MCEA vs TPAP vs New Reg



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This above is more fully discussed in the MEA's 2021 submission. If MECP pursues developing a new regulation to replace the current MCEA, this regulation should address the ten (10) issues identified above. MEA would be pleased to work closely with MECP to address these issues and to assist in developing a new regulation.

### 3) Revoking the MCEA:

Revoking the MCEA would be considered a notable change to the current process that has been in place for approximately 45 years.

One of the original objectives of the current MCEA process was to provide a standard for municipalities to undergo when investing in large capital programs to ensure that tax dollars were being spent in a manner consistent with the local environment, community needs and to ensure it involved the appropriate resources to achieve that understanding.

In our preliminary review of moving in this direction, we would point to the following as an example:

Under the current process, a municipality is planning a new wastewater treatment plant, the municipality would follow the steps in the MCEA process, which include:

- Defining the problem
- Considering alternative solutions/locations
- Considering alternative designs

- Guided by a Master Plan
- Determine a solution and mitigation measures
- Complete design and comply with technical requirements

If the MCEA is revoked, how would a municipality implement the project? To answer this question, we would compare this to how the same municipality would plan for a new recreation complex, as there is no Class EA or other provincially mandated process for constructing such a facility. In this example, the municipality would most likely:

- Work with local recreational groups to identify needs. (Define the problem)
- Consider alternative solutions/locations
- Consider alternative designs
- Be guided by a Recreation Master Plan
- Determine a solution and mitigation measures
- Complete design and comply with technical requirements

There are other examples where municipalities assume considerable responsibility with no direct provincial direction. Section 270(1) of the Municipal Act requires municipalities to adopt and maintain policies for the internal regulation of actions like the disposition of land and approval of the municipality's annual budget. The province requires the municipality to have a policy, but the province is not involved in the approval or operation of that policy.

Recently municipalities have been licenced to operate and expand water and wastewater systems. This replaces direct approval by the Province with local approval authority.

In principle, if municipalities can construct a new recreational complex without a Class EA, municipalities could also construct the projects currently included in the MCEA without a Class EA process. MEA is not fundamentally opposed to moving in this direction but there remains the question of consistency and standardization in consultation practices, and construction methods province wide.

For example, to assist municipalities to standardize construction methods across the province, MEA, in cooperation with the Ministry of Transportation, has developed a set of construction standards (Ontario Provincial Standards - OPS) that municipalities can use for their infrastructure projects. OPS has been in place for many years. If the MCEA was revoked most municipalities would generally rely on these standards for provincial uniformity/consistency.

Should the MECP consider moving forward to revoke the current MCEA process, MEA suggests MECP consider the following:

- That MECP organize a workshop with MEA to discuss the idea of revoking the MCEA and relying on municipalities to adopt their own individual policies. MEA would suggest involving other partner associations (Good Roads, AMO, RPWCO, OPWA, OWWA, ACEC-Ontario). At this workshop, the stakeholders could discuss how;
  - MEA could form a committee of municipal representatives/practitioners with the purpose of preparing a municipal standard or best practice document for municipalities

to use as a template when undertaking municipal infrastructure projects currently addressed under the MCEA. We believe the document would be a simpler version of the current MCEA that includes the 10 changes outlined in 1. Using the document would not be a mandatory process but would promote consistency and standardization province wide.

- How municipalities may or may not adopt the municipal standard document;
- MEA would maintain a committee that would oversee the application of such municipal standard/ best practice document, update it, and provide training to practitioners.
- That MECF implement the modest changes proposed to the MCEA as outlined under our comments in 1 above) as an interim measure to transition from the current MCEA to the revocation date. This will allow additional time to sufficiently review the impacts of revoking the MCEA, while not constraining municipal infrastructure projects subject to the current MCEA process.

Sincerely,



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