

Patricia Becker (principal with P Becker Consulting) has over 30 years of experience working with municipalities and private sector proponents on completing Environmental Assessment (EA) projects in Ontario, including individual and Class EAs. Based on this extensive experience and familiarity with the MCEA process Pat has reviewed the proposed revocation of the Municipal Engineers Association's Municipal Class EA Process (specifically ERO-019-7891) and offers the following comments and questions.

1. While the Environmental Assessment Act has been around for 50 years the MCEA has only been in place for approximately 30 years. It most certainly needed to be updated but revoking it is a drastic step that will have consequences in the future that will be difficult to turn back around. For example, it is worrisome that anything to do with roads (except for expressways which very few municipalities propose) and bridges will no longer require any environmental review when those are projects that the public, stakeholders and Indigenous communities often have key comments about since the road can be adjusted based on the environment present but it leads to where watermains and sewers will potentially be located.
2. Another overall main concern is that the proposed regulation would appear to download the responsibility for consideration of environmental issues and possible alternatives to the municipality. Many municipalities may see this as uncertainty in how to deal with this and will they now need to develop their own process? What will be the mechanism for ensuring consistent application of environmental requirements in the planning application process?
3. To date Municipalities have completed Master Plans for water, wastewater and road infrastructure following the MCEA process and the approaches outlined. These Master Plans provide a good opportunity for Municipalities to look at the larger picture and to plan for infrastructure needs over longer time frames, e.g., 20 years. Master Plans would no longer be part of a specific process since they are not on the Project List and most of the projects in Master Plans would also be exempt. What will be the incentive and process for Municipalities to follow to develop Master Plans and to keep them updated? Will Municipalities just use Official Plans to determine their infrastructure needs in the future? By following the Planning Act this will remove the need to look at or to evaluate alternatives and to take into consideration potential impacts on the environment.
4. Since private sector developers would no longer be automatically subject to the EA Act process for development related projects (water, wastewater or roads) will municipalities now require the need for an Environmental Impact Statement and other environmental studies be undertaken for all development projects throughout the Province? Will there be any consistency within the Province as to how this will be addressed?
5. Previously the applicable municipality tended to follow the MCEA to ensure that the appropriate alternative was being selected as preferred and that appropriate studies (e.g., natural heritage, archaeological assessments, cultural heritage) were completed. Since there is no longer a requirement to consider alternatives for any project not on the Project List will municipalities see the Provincial Policy Statement has been met to permit roads, sewers and watermains to cross sensitive features even though no consideration was given to alternatives or protection of the environment? If not, it would seem that the municipality would now be looking at the alternatives considered and studies undertaken and determining

if they were satisfied. The concern is that most municipalities do not have the staff or the expertise to determine this and will this potentially slow down the approval process under the Planning Act. If staff or a municipality are not in favour of a development can they slowdown the process or include additional Conditions of Approval on a planning application resulting in more time required to clear these conditions?

6. The transition process indicates that any project not on the Project List as well as any project being undertaken by a private sector development may complete the MCEA process or withdraw from the process. We recognize that most municipalities and developers would choose to withdraw from the process when there are no section 16 Order requests associated with the project. The proposal states that “direct notice”; would need to be provided but what happens if an Indigenous community has concerns or raises issues with this process? It is not clear as to who would have the responsibility, if anyone, for resolving these concerns.
7. There are no requirements under the Planning Act for consultation with Indigenous communities. Some municipalities have arrangements with Indigenous communities but many do not. Who will be responsible for working with Indigenous communities will these communities expect the municipality to undertake this for any project, regardless of the Project List? Could this potentially increase the concern over projects by communities potentially delaying the planning application approval process?

For projects on the Project List, in particular water and wastewater treatment plants, is there the potential for more section 16 Order requests by Indigenous communities that are not satisfied with how the MPAP was undertaken?

8. For Ancillary Activities it is proposed that a new access road to a water or wastewater treatment plant would be considered as part of the MPAP for the plant. If the access road is part of a proposed development will the MPAP required for the road result in a delay for part of the development? Can the access road be split apart so that the portion servicing the development could proceed and the remainder would be captured by the MPAP?
9. If a private sector developer wants to undertake planning and construction of the water or wastewater treatment plant the proposal is that this would not require completion of the MPAP? The concern is that municipalities may not agree with this and would not permit the private sector developer to complete the project, which would cause delays to the associated development.
10. Our experience is that the TPAP process does not reduce the timelines for completing the project and it typically results in just as onerous and costly a process as a Schedule C completed for a project. What typically happens is that the work is done upfront and this often takes an extended period of time. The regulated timelines only start when the Notice of Commencement is issued but does not consider that pre-planning is undertaken, which is the key to slowdowns and costs. Projects under MPAP will be similar to the existing TPAP and they won't formally start until pre-planning is done and proponents know they are ready and can proceed. Under TPAP this has also resulted in the process starting when decisions have already been made without any input from public, stakeholders and Indigenous communities.
11. For Shoreline/In-Water Works item #15 it is proposed that “construction of a diversion channel or sewer for the purpose of diverting flows from one watercourse to another” would

be subject to MPAP. This is the same wording that currently exists for Schedule C projects and it requires some interpretation which should be addressed. This has the potential to capture stormwater management projects where the overflow is being re-directed for flood control issues. As well, if you have a drain (not a watercourse) then it is caught in-between. Sometimes it is interpreted to fall under Item #15 when in fact there may be some diversion but this is for flood control / stormwater management.

It was difficult when legislation removed the opportunity for the public to raise concerns (previously Part II Order requests) and they felt they didn't have a voice in the process. This proposed regulation of revoking the MCEA will remove them from the process and move us to just building homes and associated infrastructure. We will no longer take into consideration the potential impacts on all aspects of the environment, as defined in the Environmental Assessment Act. More consideration should be given as to how to address consideration of alternatives and potential environmental impacts since once they occur and infrastructure is constructed we remove the opportunity to step back in time and correct it back to the previous state.

Sincerely,

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