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EA Modernization Project Team
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**RE: City of Toronto Comments to ERO 190 – 7891 – New Regulation to Focus
Municipal Environmental Assessment Requirements**

Thank you for this opportunity to provide comments on the proposed changes as outlined in ERO 019-7891 for new regulations to focus municipal environmental assessment requirements. The City of Toronto appreciates the Province's work to modernize and streamline Environmental Assessment processes, and supports improved timelines to build critical infrastructure needed to support the rapidly growing population of Toronto.

An important aspect of the Environmental Assessment process has been about protecting the environment and ensuring open and transparent decision making with respect to municipal infrastructure, particularly as it relates to more complex projects. Many of the City's comments relate to ensuring timelines are reduced, while still ensuring environmental protections and an open and transparent process for the public, Indigenous communities, landowners and public agencies for complex municipal infrastructure projects.

There are also many other provincial policy documents and plans that currently refer to Environmental Assessments that are important policies that protect the public interest that will require revisions if the Province proceeds with the changes as currently proposed and with a streamlined project list.

Our comments and recommendations are organized into five (5) themes:

1. Proposed Municipal Project Assessment Process (MPAP);
2. Proposed project list;
3. Transition from the Municipal Class Environmental Assessment (MCEA) to the Municipal Project Assessment Process (MPAP);
4. Interaction and recommended revisions to other provincial documents; and
5. Additional Suggested Improvements to the MPAP process.

Please be advised that due to the timing of the release of the proposed changes and review period, there has been insufficient time for City Council to consider these comments. These comments do reflect a cross-divisional review by City of Toronto staff including Transportation Services, Toronto Water, Engineering and Construction Services, Parks, Forestry and Recreation, and City Planning. The City of Toronto requested an extension to the review period with no such extension provided by the Province as of March 15, 2024. As such, these comments are considered preliminary comments and we request the Province to continue to consult with the City of Toronto as it continues to advance EA modernization associated with the MCEA.

1. Proposed Municipal Project Assessment Process (MPAP)

While the City of Toronto supports a reform to the Environmental Assessment Act (EAA) and the Municipal Class Environmental Assessment (MCEA), the City's preference would be to retain a streamlined MCEA that gives the City more discretion process wise. Improvements to this process could include, among others:

- Only requiring the MCEA for certain projects (see the City's comments below on the proposed Project List which likewise would apply to a streamlined MCEA);
- Reducing requirements for certain studies/evaluation criteria for certain types of projects (e.g. air quality and noise studies where projects will generate typical noise and air quality impacts associated with an urban environment);
- Combining Phases 2 and 3 of the MCEA into a single phase of alternative exploration that gives discretion to municipalities on how they approach alternative development and consultation given the specific project context, and subject to documenting the outcomes of this process in a final report, similar to an Environmental Study Report; and
- Retaining the current approach for Notices of Commencement and Completions, as well as Section 16 requests that limit such requests to adverse impacts associated with existing aboriginal and treaty rights of the aboriginal peoples of Canada.

These improvements would reduce timelines significantly for MCEAs while maintaining the 30-day public review of Environmental Study Reports, followed by the Ministerial 30-day review period (for a total approval period of 60-days or 2 months).

Based on the City's experience with Transit Project Assessment Process (TPAP) projects over close to the last two decades, the proposed MPAP is unlikely to improve project timelines. Projects undertaken through the TPAP still require extensive technical studies, development and review of alternatives, public and Indigenous community engagement, and drafting of the Environmental Project Report (EPR) prior to initiating the formal 6-month project assessment process identified in the proposed MPAP. Further, municipalities will need to ensure all major issues are resolved prior the 120-day regulated consultation period as 120-days (with a total of a 30-day time-out) may not be sufficient time to address concerns raised and to revise the EPR accordingly. Should a municipality be required to stop the process because of concerns raised that cannot be fully resolved in that timeframe, this would only add time to a project as the process would be required to begin anew. Municipalities could more simply be required to provide notice to interested persons and Indigenous communities where a project is put on hold to address concerns raised during an EA process.

As an alternative to retaining the MCEA, the Province could craft a regulation for the MPAP that mirrors a streamlined MCEA as suggested above that maintains the 2-month approval process, as opposed to 6-months (plus) in the MPAP process, while ensuring all impacts, including considerations for all the applicable regulations, other Acts, Official Plan matters, and other pertinent considerations, are taken into account.

2. Proposed Project List

From a drinking water facilities, sewage treatment facilities, stormwater management systems and shoreline/in-water works perspective, the City of Toronto supports the proposed projects, (as outlined in Table 1: Proposed Part 11.4 Project List in the Province's document '*Environmental Assessment Modernization, For Discussion – Summary of Proposed Requirements Proposed Municipal Project Assessment Process Regulation*') with the following recommended revisions.

The City of Toronto is recommending the following revisions to the listed proposed projects:

Provincial Proposed Project	City of Toronto Comments
Sewage Treatment Facilities 8. Expand existing sewage treatment plant by 25% or more of existing rated capacity	The City supports Municipal Engineers Association's recommended clause to increase the 25% to 50%: "Expand existing sewage treatment plant by 50% or more of existing rated capacity"
Stormwater Management Systems 14. Construct new or modify, retrofit, or improve existing retention/detention facility or infiltration system for the purpose of stormwater quality control where active chemical or biological treatment or disinfection is included, including outfall to receiving water body	The City recommends combined sewer overflow (CSO) detention facilities not be included. The City recommends that "modify, retrofit, or improve" not trigger an EA/MPAP unless the existing facility capacity increases by 50% or more of existing rated capacity as a result.

In addition, the City of Toronto is recommending that the following transportation projects be added either to the MPAP streamlined project list or be subject to another streamlined provincially-mandated process (i.e. MCEA or revisions to other regulations) with reasoning provided below for each:

- Construction of new or realigned collector or arterial roads and new grade separations, and where the new road and/or grade separation extends beyond a single development site;
- Widening of an existing road or grade separation to add motor vehicle lanes where additional property is required; and
- Construction of a new road with a dedicated transit right-of-way in the road, or widening of an existing road to accommodate a dedicated transit right-of-way.

New or Realigned Collector or Arterial Roads and New Grade Separations Beyond a Single Development Site:

In a complex, built-up environment, like the City of Toronto, property impacts or other significant environmental impacts are often triggered when connecting new roads to the existing network or in reconfiguring/realigning existing road infrastructure through numerous sites. This can involve multiple landowners that may or may not have active development applications.

Maintaining these types of projects as an EA required project, with municipalities as the proponent, would be greatly beneficial given the need to assess and confirm the road infrastructure connections particularly when dealing with multiple landowners and development proponents. The EA process affords municipalities with a provincially mandated process to confirm and verify required infrastructure in an open and transparent manner. Typically, the City of Toronto takes these studies to a preliminary level of design detail to confirm horizontal and vertical alignments. This also provides surety to development and landowner proponents. This level of detail is not typically done at an Official Plan or Secondary Plan level due to the scale of these exercises, and required road infrastructure can also extend beyond Secondary Plan boundaries.

Widening of an Existing Road/Grade-separation to Add Motor Vehicle Lanes

Like the above for new roads, widening a road to add motor vehicle lanes beyond the City's existing right-of-way can have significant environmental and property impacts. These types of projects are often outside of Secondary Plan exercises and development applications and can apply to long sections of a corridor.

Roads with a Dedicated Transit Right-of-Way

The City notes that O.Reg 50/24 defines a “linear component of a transit system” to include a “road”. However, the definition only includes transit and human powered transportation. It excludes motor vehicles. We recommend that new roads with motor vehicular travel lanes and a dedicated transit right-of-way be included in the Project List as an MCEA or that the Transit and Rail project list in O.Reg 50/24 be amended. These types of projects have the same if not greater impact than those types of projects currently defined in the Regulation.

Further, a TPAP is required in situations where a “road” is proposed to be widened to include a new or extended transit system. It is the City’s opinion this would not apply in situations where a road that includes motor vehicle lanes is proposed to be widened to accommodate dedicated transit. We believe the original language in the TPAP regulation relates to the original MCEA amendments made in 2007 for transit projects and the initial introduction of the TPAP process. Transit projects involving motor vehicular lanes were to be dealt within an MCEA, not a TPAP.

The proposal seems to place a higher onus on linear transit projects for completing Environmental Assessments when project impacts would be similar for a new or widened road with or without motor vehicular lanes. As such, we recommend revising the definition of linear component of a transit system in O.Reg 50/24 to reflect motor vehicles, or preferably, these types of projects be subject to a streamlined MCEA.

Additionally, many of the projects in O.Reg 50/24 (e.g. culverts) would no longer trigger an EA with the revocation of the MCEA under the current proposal and should likewise be removed as there would be similar impacts.

3. Transition from the MCEA to the MPAP

If the current MCEA is revoked and a new regulation is made in its place, the City of Toronto supports the Province’s transition items as outlined in the Summary of Requirements, under 'Additional changes required to ensure a smooth transition to the proposed new process', and recommends the following additional transition items be considered:

- The City of Toronto recommends any MCEAs completed prior to the enactment of the new regulation, and where implementation has not yet commenced, that the MCEA should still apply regarding commitments made and the addendum process. If a completed MCEA project determines a significant change is required following approval, this may change the impacts and thus commitments made in the EA. In the absence of an addendum there is no provincially mandated mechanism for the project to adhere to the new commitments, rather only the previous commitments made;
- The Province should provide a transition period of at least one (1) year following the enactment of the regulation in which the current MCEA remains active. For projects removed from Schedule B and C MCEA requirements, the transition period will provide the City of Toronto with the necessary time to develop our own set of project frameworks and processes; and amend our Official Plan to address projects where EAs are no longer required and where further study is required for new, reconfigured or widened roads or other infrastructure (i.e. any such Official Plan amendment will not set alignments for roads where a Secondary Plan currently indicates an EA would be required for such a matter); and
- The Province should provide transition direction on approved MCEAs in the regulation if commitments made in the MCEA are still applicable given the MCEA is proposed to be revoked, along with whether municipalities need to adhere to the addendum process.
- The Province should provide a formal guidance document for the MPAP that addresses both direction and information on the transition period/process along with a detailed guide for the MPAP. The guidance document should be made available prior to changes coming into effect and include information on when the transition period is set to begin.

4. Interaction and Recommended Revisions to Other Provincial Documents

The City of Toronto requests consequential amendments be made to other provincial documents (i.e. Provincial Policy Statement, Growth Plan, Greenbelt Plan and/or Planning Act) to ensure infrastructure requirements to support growth align with policy and legislative requirements. The City of Toronto should be consulted on consequential amendments, and a comprehensive review is required by the Province.

For example, the following policies/definitions in the Provincial Policy Statement (PPS) 2020 (and similar policies in the Growth Plan), will need to be addressed at a minimum:

- Policy 1.6.8.3 in the PPS: Planning authorities are not to permit development in *planned corridors* that could preclude or negatively affect the use of the corridor for the purpose(s) for which it was identified. *Planned corridors* is defined in the PPS to include a preferred alignment identified in an Environmental Assessment and does not refer to Official Plans. This policy has existed since at least the 1997 PPS and affords public bodies, such as municipalities and the Province for its projects, protection from development precluding needed infrastructure, and was recently strengthened by the Province for such purposes. Under the Planning Act and City of Toronto Act, the City can only require development to convey land for roads if it's a widening of an existing road, has a dedicated transit right-of-way or the development proposes to subdivide/sever land.
- Section 6 Definitions, 'Development', and related policies. The definition of *development* currently excludes infrastructure identified in an Environmental Assessment. Many policies in the PPS restricts *development* within certain areas (e.g., Section 2.1 of the PPS Natural Heritage) where it may be necessary for municipal infrastructure, such as roads, to be located. This definition will need to be amended to reflect infrastructure identified in an Official Plan, and where an EA is no longer triggered, may be permitted in certain areas.

The concurrent amendments to other provincial documents should also reflect the importance of master plans (and Official Plans) as previously regulated in the MCEA process. Mandating master planning processes in provincial policy documents and plans should be strongly encouraged with other provincial ministries.

The City of Toronto recommends the Province consider making amendments to the Expropriations Act to exempt municipalities from Hearings of Necessities, similar to exemptions made under Bill 197 (COVID-19 Economic Recovery Act, 2020) under the Public Transportation and Highway Improvement Act (Schedule 19) and Transit Oriented Communities Act, 2020 (Schedule 20). Considering the intent to improve timelines for critical infrastructure projects, and that the inquiry officer's reports from a Hearing of Necessity is non-binding (with approval authorities only obligated to consider the report), these hearings can add significant time (and cost) to infrastructure projects.

City staff would like to work with the relevant ministries to provide commentary to the concurrent amendments to other provincial documents in support of the proposed EA Act changes to ensure municipalities can continue to secure appropriate infrastructure to support planned growth and so that development does not preclude preferred alignments determined in an Official Plan.

5. Additional Suggested Improvements to the MPAP Process

Should the Province proceed with the MPAP process, the City would also suggest the following improvements in addition to the suggestions in #1 above:

- An increased time-out period to give municipalities realistic timelines for advancing additional or more detailed studies and to make revisions to EPRs (e.g., at least 90 days to address technical requirements, revise the EPR and make documents AODA compliant); and
- A requirement in the regulation that EPRs document the pre-planning process to provide an open and transparent process similar to what is currently required in the MCEA. This could assist in resolving issues when the Notice of Commencement is issued and ensure openness and transparency with projects across the Province.

Conclusion

Thank you for considering these comments and recommendations. We hope these can be incorporated into the proposed changes to the proposed regulation/EA modernization. We look forward to continuing to work with the Province to explore any consequential changes to other provincial documents and continued efforts for streamlining the EA Act. Should you have any questions regarding the City of Toronto's submission or for more information please contact Cassidy Ritz at Cassidy.Ritz@toronto.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley Curtis', followed by a long horizontal line that loops back under the signature.

Ashley Curtis, Deputy General Manager
Transportation Services