



17 March 2024

**ACO COMMENTS ON THE PROPOSED NEW REGULATION UNDER THE
ENVIRONMENTAL ASSESSMENT ACT, R.S.O. 1990**

ERO 019 - 7891

Architectural Conservancy Ontario (ACO) is the largest heritage advocacy organization in Ontario with 16 branches across the province. Our objective is to promote the identification, conservation and reuse of buildings, structures, districts, and landscapes of cultural heritage significance. Under our Keep, Fix and Reuse slogan, we advocate for socially and environmentally sustainable solutions for Ontario's older building stock.

ACO welcomes the opportunity to comment on the Province's proposed new regulation under the Environmental Assessment Act, R.S.O. 1990, to focus municipal environmental assessment requirements ERO no.019-789 which would, in the words of the ERO, "revoke the Municipal Class EA (MCEA) and make a streamlined EA regulation for municipal infrastructure for higher-risk projects".

Under the MCEA process, cultural heritage and archaeology are considered as part of the Socio-cultural considerations. As part of the MCEA process, municipalities are required to carry out heritage and archaeology studies to ensure that these cultural heritage resources have been satisfactorily and fairly considered within the overall proposed infrastructure project implementation.

ACO recognizes the need to streamline and remove unnecessary barriers to provide needed infrastructure, but we urge the Province of Ontario to not ignore built heritage resources, cultural heritage landscapes, and archaeological resources in this endeavour.

ACO has concerns with the proposed changes, including in the following areas:

1. Consideration of heritage and archaeological resources:

ACO echoes the concerns raised by the Ontario Archaeological Society (OAS) that this proposed change to the EA process does not provide sufficient protection for cultural heritage and archaeological resources including ancestor burials. Removal of the current regulations that require heritage and archaeological assessments in advance of impactful infrastructure projects could leave known and potential cultural heritage resources and archaeological resources,

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including ancestor burials, vulnerable to disturbance and destruction which would result in irreparable harm to their heritage value.

2. Lack of municipal process triggering in place:

The ERO listing notes: “Depending on the project and location, there may be other legislative, regulatory and/ or municipal requirements outside of the EA Act.” This essentially states that the responsibility and onus for requiring any studies for most infrastructure projects will be on the municipalities. The ERO statement notes that the proposed process will “reduce duplicative requirements,” even though there is no duplicate system for cultural heritage resources. Most municipal legislative frameworks do not currently have any process triggers for heritage or archaeological assessments in infrastructure projects as this has always been part of the MCEA system. Municipal heritage planners would not have the authority, capacity or ability to identify and address impacts to cultural heritage resources as a result of the gaps left by the proposed legislation if the current MCEA process trigger were to be removed.

3. Creates inconsistency and risk:

By turning over the process triggers for cultural heritage and archaeological assessments to individual municipalities, there will be inconsistency across the Province. This inconsistency will create significant uncertainty. Furthermore, without the consideration of cultural heritage resources early in the process, there is a risk that key information regarding cultural heritage resources will not be obtained by the project team until late in the process, which will cause project delays and increased costs.

4. Heritage bridges

Ontario has one of the most important collections of heritage bridges in Canada, if not in North America and the world. For example: The Emergency Swing Dam bridge structure at Sault Ste. Marie has global outstanding significance as the last remaining structure of its kind in the world. It is the last of nine ever built: other examples include the structures (demolished) in Sault Ste. Marie, Michigan USA, and the Panama Canal. However, it is not designated under the Ontario Heritage Act and as such the only legal protection it has is under the MCEA process. The majority of heritage bridges across the Province are in a similar position, having no legal protection under the OHA. If the MCEA process trigger was removed, these valuable cultural heritage resources would be left vulnerable to demolition.

ACO asks that further consultation be undertaken on this proposal to understand the implications for the cultural heritage and archaeological resources across the Province.

ACO notes that the Municipal Engineers Association in consultation with the Ministry of Citizenship and Multiculturalism (MCM) has worked to develop a new checklist Municipal Bridges Criteria for Evaluating Potential for Cultural Heritage Resources (revised April 27, 2023), which both streamlines the process and considers cultural heritage resources. This

exemplifies how careful thought-out processes developed in consultation with professional organisations can balance both the desire to streamline processes and consider cultural heritage resources.

ACO is happy to engage with the government by participating in stakeholder consultation, working groups and/ or advisory bodies. We would also be pleased to assist with identifying potential barriers and issues with proposed legislation and regulations from a practical, solutions-based approach.

Sincerely,

Deb Crawford
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Architectural Conservancy Ontario