



March 17, 2024

ERO number: 019-7891

EA Modernization Project Team
Environmental Assessment Modernization Branch
Ministry of Environment, Conservation and Parks
135 St Clair Ave West, 4th Floor
Toronto, ON M4V 1P5

RE: Comments to Proposal: New regulation to focus municipal environmental assessment requirements (ERO 019-7891)

Dear EA Modernization Project Team,

Established in Canada in 1953, LEA Consulting Ltd. (LEA) is a privately-held, Canadian engineering consulting firm providing planning, engineering design, and construction administration services for Canadian and global infrastructure projects. LEA's clients and partners include public sector agencies at all levels of governments across Canada, as well as major developers, architects, contractors, and law firms. LEA is an active and influential member of key engineering, transportation and planning associations, including Professional Engineers Ontario, the Association of Consulting Engineering Companies (Ontario and Canada), the Canadian Security Association (CANASA), and the Transportation Association of Canada.

LEA Consulting Ltd. has reviewed the proposed ERO 019-7891 and appreciates the opportunity to provide comments on the proposal for a new regulation to focus municipal environmental assessment (MCEA) requirements (ERO 019-7891). LEA understands the importance of streamlining and minimizing duplication between the MCEA process and the *Planning Act* process, however, there are a number of areas the MCEA provide a process/direction which is not provided for under the *Planning Act*. LEA would like to submit the following comments:

1. **Planning Act Limitations:** LEA appreciates that it is the intent for the *Planning Act* to replace the *Environmental Assessment Act* and Municipal Class Environmental Assessment (MCEA) planning process as the legislation guiding the planning of infrastructure for private developments. However, in many cases there are limitations to implementation of efficient road networks that require approval outside the authority provided by *Planning Act* (e.g., heritage, natural heritage, provincially significant wetlands). To achieve this efficiency in the road design, it requires the engagement of an appropriate balance of environmental and engineering/technical considerations, in consultation with key authorities having jurisdiction. To this end, LEA requests that clarification be provided on how the proposal accommodates the inclusion achieving these preferred designs where a design approval requires authority beyond that provided by the *Planning Act*.
2. **Rights of Appeal:** Through the process of the *Environmental Assessment Act* and Municipal Class Environmental Assessment process, the rights of appeal with respect to the planned infrastructure is limited to concerns that a project going through a Class EA process may have adverse impacts on constitutionally protected Aboriginal and treaty rights. Under the *Planning Act*, the parties that are able to file an appeal are broader, as are the grounds for such appeals. While removing the planning and design of the roads from one process, they are potentially subject to the OLT or LPAT. LEA is concerned that the proposal through introducing new rights



of appeal will have an opposite effect, slowing the planning and design process of the road networks as opposed to streamlining.

3. **Duty to Consult Indigenous Communities:** The *Planning Act* and site-plan application process have requirements for Indigenous Community engagement and the Crown's duty to consult has typically been completed as part of the engagement undertaken during a MCEA study. The MCEA provided a process to carry out Indigenous Community engagement and receive comments on the planning and design of municipal roads with potential impacts to Indigenous treaty rights (e.g., bridge over water). With the exemption of all developer-led projects from the MCEA, it is unclear who then would be responsible for Crown's duty to consult in the planning/design/implementation of municipal roads. LEA requests clarification be provided on who is responsible for the Crown's duty to consult on municipal transportation facilities that are planned/designed by developers as part of private development.
4. **Long-Range Planning:** The MCEA provided an effective process which ensured private development does not occur in a silo and the overall municipal network is considered during the planning and design of the collector road network within a block development, particularly in a municipality/region without a Transportation Master Plan or within a Block development with multiple ownership. The MCEA process offers a single approved planning process to develop a consistent road network within the Block as well as connected with adjacent Block developments / communities. The process helps facilitate communication between development Blocks, such as requesting changes to where road connections across Blocks should occur (e.g., a shift in a collector street to minimize environmental impacts may mean changing the connection point to the arterial road). The MCEA also provides for a single planning process to facilitate a consist road network within a Block with different ownership who may not necessarily have formed a landowners group. LEA requests clarity be provided on how the process to ensure overall road network planning is considered.
5. **Unknown Timing with No Process:** Exempting all transportation projects from the requirements of the MCEA with the exception of municipal expressways results in a void in the planning process which introduces uncertainty in the future planning process and timing of transportation projects. Presumably an assessment of some description should continue to be undertaken to guide the planning and design of roads. LEA suggests that guidance on this new process be provided to guide practitioners to avoid delays and uncertainty with on-going projects.

In closure, LEA recognizes the importance of streamlining the MCEA, however, there are a number of items LEA suggests clarity be provided to ensure that the planning and design of roads within Ontario continue to be planned in a wholistic and responsible manner.

Yours truly,

LEA CONSULTING LTD.

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