

Submission in Response to ERO Number 019-7891 March 15, 2024

On behalf of the Regional Public Works Commissioners of Ontario (RPWCO), I thank you for the opportunity to provide comments on the proposed changes to the Environmental Assessment (EA) requirements for municipal infrastructure as outlined in Environmental Registry of Ontario posting #019-7891. RPWCO welcomes the opportunity to modernize and streamline the environmental assessment process, in particular to enable the acceleration of infrastructure to support our members' Municipal Housing Pledges and growth priorities.

Our comments cover the following aspects of the proposed changes:

- Project exemptions and the MPAP process
- Private sector projects
- Interconnections with other approval processes
- Transition to the new approach

Project Exemptions and the MPAP Process

- Our members are moving rapidly to deliver infrastructure required to support housing in Ontario and recommend the Province implement the streamlined EA process as soon as possible to expedite infrastructure delivery and bring certainty to the process for project approvals.
- To achieve the Province's target of 1.5 million homes by 2031, timely delivery of municipal infrastructure is crucial. Clear regulatory requirements for project approvals, including Ministry guidance will be required to support effective and timely delivery of infrastructure. We recommend the proposed regulation and any supporting Ministry guidance provide clarity on the MPAP process, specifically on the Environmental Project Report and addendum process.
- To avoid confusion and delays, municipalities need clear guidance on what constitutes an emergency project that would be exempt from MPAP. The criteria for emergency exemption should be well-defined and consistent.
- The proposal aims to apply EA requirements to expedite the process. While a typical Schedule C Class EA can take 18-24 months, more complex projects may take years due to detailed investigations. The proposal outlines a 6-month timeline for documentation and consultation, assuming prior technical assessments. However, without specific guidance on pre-consultation activities, it does not appear likely that this process will result in noticeably faster delivery of infrastructure projects.
- Additional guidance on pre-consultation activities is required, and the Ministry is requested to clarify that the intention of the MPAP is that background studies and key consultation will be conducted in advance of the Notice of Commencement.

- Through the MPAP, all concerns raised by impacted stakeholders, the public, regulatory agencies and First Nations will be required to be addressed and any technical studies and work completed in advance of the Notice of Commencement will need to be updated accordingly in the Environmental Project Report. This could create substantial re-work if issues are observed with the preferred strategy following completion of all technical work. Alternatively, a certain level of engagement, and consultation will be required prior to the Notice of Commencement being issued. Clarity around how this pre-MPAP consultation should be conducted and documented is requested.
- Additional clarity is requested from the Ministry on what would be considered as sufficient public and agency consultation and engagement during the 120-day consultation period under the MPAP. The Ministry is requested to provide guidance on what is required in the consultation record within the Environmental Project Report to ensure expectations can be met and consistency is achieved.
- Regarding the Environmental Project Report, we recommend the regulation include specific requirements for the Report and more flexible measures for public notification to allow municipalities to leverage changing forms of media use and availability.
- Clarity is required on the Addendum process under the MPAP. There is a risk of conflicts on requirements for Addenda in the absence of further guidance regarding this process and which projects would be subject to these requirements.

Private Sector Projects

- Private sector projects should be subject to MPAP if they meet MPAP project list criteria. RPWCO is concerned that the private sector is being held to a lesser environmental standard than municipalities. We request that exemptions for works undertaken by the private sector should not apply to works to be assumed by a municipality. Additionally, if a developer is undertaking works to be assumed by a municipality and these works fall under MPAP, the developer must complete the MPAP as if a municipality were undertaking the works.
- If it is the intention that a developer can undertake works to be assumed by the municipality without being subject to the same level of MPAP oversight as municipalities, we ask that the Province ensures that municipalities have the appropriate tools and guiderails available within the Provincial permitting processes to ensure quality infrastructure is constructed in the collective environmental, technical, social and economic best interests of a municipality's current and future residents.

Other Considerations and Interconnections with Other Processes

- Completion of a Class EA traditionally involves a structured planning and consensus-building process, supported by detailed technical reports. Its effect helped to streamline downstream permit and approval procedures with various regulating agencies, including Conservation Authorities, utilities, and Provincial Ministries. The proposal is unclear about how regulated requirements (Permits to Take Water, Archaeological, etc.) will be coordinated given that other Ministries rely on information from the EA process. The proposed exclusion of most infrastructure projects from the Class EA process means that municipalities will need to develop their own engagement processes to interact effectively with stakeholders.
- It is essential that new processes are developed in coordination with regulatory agencies so as to achieve a similar or improved streamlining of the processing of permits and approval requirements to avoid delay in project delivery. It is anticipated that the new process would contain similar guiding principles to those founded within the Class EA process with respect to transparent and responsible decision-making, however, development and approval of a new program by each municipality, including consulting with affected agencies, will take time and effort that would have been focused on advancing critical projects to support achieving Housing Pledges.

Transition to the New Approach

- For hundreds of active projects across our municipalities, our members are currently applying the terms of the current Class EA process which promotes a structured and predictable framework for public, First Nations and agency consultation in the engineering planning phases of water, wastewater and transportation infrastructure. We are also undertaking numerous new projects in the coming months in order to accelerate the municipal infrastructure required to support the Housing Pledges. Given the significant number of ongoing and planned projects, detailed clarification and guidance on a potential transition is required, in order to maintain effective engagement with stakeholders.
- RPWCO would welcome additional clarity regarding the impacts of the changes on the expropriation process.

As mentioned above, RPWCO welcomes the opportunity to modernize and streamline the Environmental Assessment process, in particular to enable the acceleration of infrastructure to support our members' Municipal Housing Pledges and growth priorities. However, additional information is needed to understand how this acceleration of key infrastructure projects will be maintained with the proposed changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Farr".

Andrew J. Farr, P.Eng.
Chair, Regional Public Works Commissioners of Ontario