



February 3, 2026

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

Re: MECP's Proposed Changes to the MCEA Process

Dear EA Modernization Team,

The City of Hamilton's Environmental Assessment Working Group (EAWG) is pleased to provide input on the province's commitment to modernize the Municipal Class Environmental Assessment Process (MCEA), specifically on the updated [ERO-019-7891](#) posting.

For the original ERO-019-7891 posting, the City of Hamilton, through its EAWG, submitted comments on March 15, 2024, and subsequently resubmitted Council-endorsed comments on September 26, 2024 (see **Attachment A**). Through the review of the updated ERO-019-7891 posting, we conclude that the City's original comments have not been addressed. Notwithstanding, EAWG is providing comments specific to the updated posting below.

Hamilton's EAWG is supportive of the proposal to modernize the MCEA process through the development of a regulation and implementation of additional technical requirements; however, some concerns remain with the updated proposal for the proposed Municipal Project Assessment Process (MPAP) Regulation and the associated archaeological assessment process.

Detailed feedback to the updated ERO posting is broken down into four (4) components reflective of the posting headings:

1. Introduction of an Archaeological Assessment Process
2. Projects Proposed to be Subject to the Archaeological Assessment Process
3. Proposed MPAP Regulation Project List
4. Proposed Changes to the Previously Proposed MPAP Regulation

1. Introduction of an Archaeological Assessment Process

The updated provision related to archaeology is supported; however, there are additional project process gaps that remain. For high-impact projects, such as new roads and road widenings, there are other components that would benefit from structure and direction, such as ecology, and built heritage, etc. Only including requirements for one element of good planning may pose a challenge for consistency, public transparency, and Minister's Orders relating to Section 17.31(7).

Consideration should also be given to the following:

- a. **Renaming “archaeological assessment”**. The term “archaeological assessment” is used widely by practitioners for works that are not exclusively used in the environmental assessment process. Generally, the term “archaeological assessments” is applied to a range of projects within and outside the EA process which follow a different set of requirements than those identified through this proposal and potentially have scope that extends far beyond the scope of this proposal (i.e. Stages 1 through 4).
- b. **Providing clarification** regarding the **legislation** that this process will be integrated with.
- c. **Providing clarification regarding engagement requirements** with Indigenous Nations, such as means of notifying, content of notifications, and any follow up requirements. Forms, templates, and other supports from the province would be appreciated.
- d. **Providing Notice to Indigenous Nations in advance of undertaking Stage 1 Archaeology**, possibly as part of ongoing engagement and relationship building efforts in municipal settings. Early notification and involvement may reduce issues that arise at the review stage if the work is already complete prior to Indigenous involvement. In the webinar on January 23rd, 2026, it was noted that early engagement was recommended, but not a requirement. For consistent application, clear direction on requirements should be provided by the province.
- e. **Providing clarification on the timing of the formal submission of the Stage 1 report to the Ministry** – whether that takes place during the process outlined or following the completion of the process. This should also be reviewed in the context of whether the work completed is Stage 1, Stage 2, or both.
- f. **Providing flexibility for projects with archaeological potential where only Stage 1 is typically completed as part of current Class EA processes** - Stage 2 is typically not practicable until detailed design (when project impacts become fully known). If Stage 2 must be completed as part of the MPAP process, additional work will be required at detailed design, thereby extending scope, schedule and budget. Suggested note: “Archaeology Stage 2 may be postponed until detailed design where appropriate”. In the webinar on January 23rd, 2026, it was noted that the province's view was that the process could overlap with detailed design; however, this provides challenges with municipalities needing to restructure current workflows in the event that a concern is raised by a Nation and the Minister issues an Order that impacts the design work already completed.

- g. **Providing transition provisions for ongoing projects**, where Archaeology Stage 1 was already completed during the MCEA process, and Stage 2 was identified for detailed design. It is unclear if the current expectation is that the Stage 2 work is now subject to the proposed process in ERO-019-7891.
- h. **Providing detailed Terms of Reference and requirements** for the newly proposed “summary report, containing Archaeology Reports and engagement with Indigenous Treaty Nations.
- i. **Providing clarification on waiting periods for summary reports** if no need for changes to the report have been identified.
- j. **Providing clarification regarding the following:**
 - The updated proposal notes that “...*the minister would have the ability to intervene by making an order under Section 17.31 of the Act...*” and specifically notes Section 17.31 (7) which covers any aspects that “...*may prevent, mitigate or remedy adverse impacts on the existing Aboriginal and Treaty rights...*” This section of the Act is broad in nature; it does not focus exclusively on archaeology. This creates a potential challenge if a project is only subject to the proposed archaeological assessment process but receives feedback on topics outside of archaeology that a proponent does not have technical information in support of and/or may have scheduled to complete in a future project phase (e.g. detailed design). If a project, through screening, only needs to comply with the archaeology assessment process, then the Minister’s order and associated issues should only relate to archaeology. If there is a risk that the Minister’s order and associated issues can extend beyond archaeology, then the proposed process could have significant gaps that would be detrimental to the Proponent.
 - In the webinar on January 23rd, 2026, it was confirmed that the Minister could issue an Order on matters outside of archaeology and it is the expectation that municipalities would have completed all other technical work outside of archaeology regardless. This poses a challenge due to unclear and undefined requirements; if other technical works are still required it should be clearly stated as an expectation of projects and a specific process with guidelines should still be maintained.

2. Projects Proposed to be Subject to the Archaeological Assessment Process

- a. It is advised that the Project List be reviewed for consistency. Several of the projects identified as “not applicable” to the private sector are projects that may be carried out by the private sector (albeit not frequently). This includes, but is not limited to, #5, #8, #10, #12, #14, and #16. Consideration should be given to excluding projects that are typically subject to Planning Act requirements and including them if they fall outside of it.
- b. The Project List needs to better acknowledge cultural project context i.e. if a planned project is or on a property with archaeological potential, it is recommended that archaeology screening be completed regardless of length of impacted area. Consideration should also be given to other forms of environmentally sensitive areas.

3. Proposed MPAP Regulation Project List

- a. The update to include the private sector being subject to the proposed process is supported. Consistent and predictable application is beneficial to proponents, stakeholders, and community members.

4. Proposed Additional Changes to MPAP Regulation

- a. The updates to the proposed process to publicly release completed technical documents in advance of engagement requirements adds complexity to the process. It is better to develop technical documents as the project progresses so that any new information gleaned from the engagement process can be incorporated as the work is completed. Otherwise, proponents may be subject to significantly more work and expenditures due to having to revisit completed documents after receiving feedback. This approach may also limit public, stakeholder, and Indigenous feedback from being properly incorporated. With the proposed format, feedback becomes more subjective as it is not able to be simply factored in as a project develops, reducing transparency and trust-building opportunities.
- b. The updated proposal states that upon consulting with Indigenous Nations, “where any comment raises a concern, a written response must be provided at least 30 days prior to publishing the final report”. Additional clarifications should be made regarding what constitutes a “concern”. A broad definition, or lack of definition, may lead to significant project delays. This timing should also be considered in relation to the 120-day, or maximum 150-day process. Concerns or comments raised near the end of the period will extend the project beyond the mandatory timelines imposed through the proposed process.
- c. In the webinar on January 23rd, 2026, it was confirmed that Master Plans would not be included in the proposed MPAP regulation. The province noted that master planning activities would be encouraged but would not be required and guidance would not be provided. Accordingly, municipalities would then have to create their own process or continue to follow the last edition of the MCEA guidance document, understanding that there would be no supported provincial process. It would be beneficial to include some master plan guidance in the proposed regulation as consistent planning tools should remain available.

The above comments should be reviewed in tandem with **Attachment A** as they have not been addressed to date. We would also like to request a meeting to discuss how EA Reform will address our concerns. We look forward to future communications and opportunities to provide input.

Thank you,

City of Hamilton Environmental Assessment Working Group (Co-Chairs)

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