

RCCAO and MEA's 2017 Environmental Bill of Rights Application re MCEAs

March 12, 2018 UPDATE BULLETIN

Introduction

This summary is intended to provide a status and information update for the organizations that supported the joint application by the Residential and Civil Construction Alliance of Ontario (“RCCAO”) and the Municipal Engineers Association (“MEA”) to the Ministry of the Environment and Climate Change (“MOECC”). That application was made pursuant to section 61 of the Environmental Bill of Rights Act for a review and improvements of the Environmental Assessment Act and the regulations and policies associated with the Municipal Class Environmental Assessment (“MCEA”) process.

What Happened?

On February 3, 2017 a joint application by RCCAO and MEA was hand delivered to the Environmental Commissioner of Ontario. The application, under section 61 of the *Environmental Bill of Rights Act*, calls for a review of and changes to the *Environmental Assessment Act*, various regulations under that statute; and all policies and guidance documents, published or in use by the MOECC related to the MCEA process. The review and changes are required to identify and implement reforms that are urgently needed and allow municipal proponents to complete the MCEA process in a reasonably timely, efficient and effective manner.

The application included the reasons why it is in the public interest to review and revise the statute, regulations and policies associated with the MCEA process. The application included endorsements and letters of support from 13 other organizations, including the Region of Peel, the Ontario Good Roads Association (OGRA), the Ontario Construction Secretariat, the Surety Association of Canada and the Ontario Society of Professional Engineers.

What Are the Requested Changes?

There are many opportunities for improvement to the MCEA process, but the application focuses on the following:

- a. Expediting the response process for Part II Orders or Bump Up requests by confirming that Schedule A and Schedule A+ projects are exempt and by delegating the Minister’s authority to personally respond to senior staff such as directors;
- b. Supporting changes to better integrate and harmonize the MCEA process with processes under the *Planning Act*;
- c. Reducing the scope of MCEA reports and studies to reduce duplication with existing public processes and decisions made under municipal Official Plans and

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provincial legislation such as the *Places to Grow Act, 2005*;

- d. Acknowledging that climate change impacts on MCEA projects can and should be addressed through competent design and engineering without unduly increasing the scope of MCEA reports; and
- e. Ensuring the MOECC provides more timely responses to amendments put forward by the MEA.

Where Are We Now and What Happens Next?

The Environmental Commissioner of Ontario promptly reviewed the application and appendices, determined that the application merited consideration by the MOECC and forwarded the application to the Ministry on February 8, 2017.

On February 13, 2017, MOECC formally acknowledged receipt of the application and said that it would carefully consider it and contact the applicants by April 14, 2017 if a review was to proceed.

In a letter dated April 13, 2017, the Ministry confirmed that it would proceed with a full review of the *Environmental Assessment Act* and the MCEA process and that the review will be completed by the end of December 2018.

RCCAO and MEA waited patiently through the spring and early summer of 2017 for a MOECC announcement on a consultation plan to fulfill its April 13, 2017 commitment for a full review of the legislation and MCEA process. The departure of former Minister Glen Murray and the appointment of Chris Ballard likely disrupted any Ministry plans. Although RCCAO and MEA representatives had a face to face meeting with Minister Ballard on September 28, 2017 and the Ministry appeared committed to comply with the original deadline, the Ministry did not have a draft consultation plan ready and was unable to say when one would be available.

As a result of the delay in initiating a consultation process, RCCAO and MEA, together with the OGRA, decided to host a workshop in Richmond Hill on November 29, 2017. A number of Ministry representatives were present and participated in the workshop yet there was still no announced broader public consultation plan.

In mid-January 2018, OGRA, RCCAO and MEA distributed a proposed form of a resolution to be passed by any Ontario municipalities that believed that improvements to the MCEA process were urgently needed. To date, more than 104 Ontario municipalities have responded with resolutions, similar to the ones shown in Attachment 'A' (City of Windsor, Region of Peel and Municipality of Strathroy-Caradoc). See also Attachment 'B' which is an article entitled 'Easing Burdens' published in *Novae Res Urbis* on February 28, 2018.

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On February 27, 2018, there was a special panel presentation to discuss MCEA issues at the OGRA conference. Speakers included the Mayor of Caledon, two representatives from the MEA and a spokesperson from the MOECC. The Ministry's presentation confirmed that an action plan is in place to make short-term improvements to the Part II Order Request process for all Class EAs. The Ministry also announced that 'internal service standards' for a Ministry response for a Part II Order Request of 90 business days for MCEA Schedule 'B' projects and 180 business days for MCEA Schedule 'C' projects. RCCAO and MEA will advocate for a 90 calendar day deadline for a ministry response for all classes of MCEA projects, failing which the Part II Order Request would be deemed to have been denied and the project could proceed. OGRA, RCCAO and MEA believe that the Ministry's proposal is too long **(180 business days translates to about 255 calendar days to respond)** and there needs to be a mechanism to prevent the types of delays that stakeholders have seen over the past 20 years, notwithstanding the fact that the Ministry had a performance target of 60 days to respond.

On March 1, 2018, the MOECC finally announced the commencement of its public consultation program, being a series of meetings every Wednesday, commencing on March 21, 2018 and through to May 2, 2018. Every organization receiving this update should ensure that they are represented at one or more of these consultation meetings.

PLEASE ADVISE US IF YOU HAVE BEEN CONTACTED BY THE MINISTRY FOR THIS CONSULTATION OR NOT.

On March 8, 2018, the MOECC announced that on February 28, 2018 it had posted its proposed guidance document for persons wishing to request a Part II Order on the Environmental Bill of Rights (EBR) Registry at <https://ero.ontario.ca/notice/013-2099>. Any organization, stakeholder or other member of the public can submit comments on the proposed guidance document at the EBR website on or before April 13, 2018. RCCAO and MEA will be filing a formal submission on the Part II Order guidance document.

If there are any questions please do not hesitate to contact Frank Zechner at frankzechner@sympatico.ca or Andy Manahan at manahan@rccao.com. Also please contact us if your organization has any specific concerns or suggestions regarding the Ministry's Part II Order guidance document or request form.

Thank you for your ongoing support.

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Attachment 'A'

7. COMMUNICATIONS INFORMATION PACKAGE

7.1. Correspondence - January 29, 2018

Moved by: Councillor Kusmierczyk
Seconded by: Councillor Marra

Decision Number: CR23/2018

That the following Communication Items 7.1.1 through 7.1.5, and 7.1.7 and 7.1.13 inclusive, as set forth in the Council Agenda **BE REFERRED** as noted, and that Item 7.1.6 be dealt with as follows:

7.1.6 Request for Support for Municipal Class Environmental Assessment (MCEA) process reform

Moved by: Councillor Marra
Seconded by: Councillor Sleiman

Decision Number: CR24/2018

WHEREAS a coalition of the Municipal Engineers Association (MEA) and the Residential and Civil Construction Alliance of Ontario have successfully applied to have a review of the Municipal Class Environmental Assessment (MCEA) process conducted under Part IV (Section 61) of the *Environmental Bill of Rights Act, 1993* (EBR Act);

AND WHEREAS impact studies and public meetings required by the MCEA process often take two years or more to complete before construction can commence;

AND WHEREAS the MCEA requirements to evaluate alternatives are often not well aligned with prior or municipal land use planning decisions;

AND WHEREAS analysis by the Residential and Civil Construction Alliance of Ontario (RCCAO) has demonstrated that the time to complete an EA rose from 19 months to 26.7 months and costs went from an average of \$113,300 to \$386,500;

AND WHEREAS the Auditor General of Ontario has tabled recommendations for modernizing the MCEA process;

AND WHEREAS in spite of written commitments made by the Ministry of the Environment between 2013-2015, no action has been taken;

AND WHEREAS local projects that do not have the necessary approvals could lose out on the next intake of Build Canada funding;

**Minutes
City Council**

Monday, January 29, 2018

THEREFORE BE IT RESOLVED that City of Windsor requests that the Minister of the Environment and Climate Change take immediate steps to expedite the response process for Part II Orders or Bump-Up requests, as part of the s.61 review to improve MCEA process times and reduce study costs;

AND FURTHER that the Minister of the Environment and Climate Change support changes to better integrate and harmonize the MCEA process with processes defined under the *Planning Act*,

AND FURTHER that the Minister of the Environment and Climate Change amend the scope of MCEA reports and studies to reduce duplication with existing public processes and decisions made under municipal Official Plans and provincial legislation.

Carried.

Report Number: CMC 2/2018
Clerk's File: GM2018

No.	Sender	Subject
7.1.1.	Premier of Ontario	Response regarding CR743/2017 (<i>attached</i>) from Kathleen Wynne, Premier, regarding licensing, planning and zoning regulations of cannabis retail outlets City Clerk/Licence Commissioner City Planner City Solicitor Note & File GP/13047
7.1.2.	Association of Municipalities Ontario (AMO)	\$26 Million Main Street Revitalization Fund Announced – AMO to be Fund Administrator City Planner City Treasurer Note & File MMA2018
7.1.3.	Ministry of the Environment and Climate Change	Environmental Compliance Approval for the construction of sanitary and storm sewers on Barkley Avenue and Clearwater Avenue (from Peppervine Street to Firgrove Drive) and stormwater relief sewers on Peppervine Street (from Barkley Avenue to Aspen Lake) City Engineer Note & File ZP/7350
7.1.4.	Ministry of the Environment and Climate Change	Environmental Compliance Approval for the construction of storm sewers on Lublin Avenue and Icewater Avenue (from Little River Blvd. to Beverly



Office of the Chair

February 15, 2018

Resolution Number 2018-77

The Honourable Chris Ballard
Minister of the Environment and Climate Change
11th Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario M7A 2T5

Sent by e-mail

Dear Minister:

Subject: **Request to Accelerate the Application for Review of the Municipal Class Environmental Assessment Process**

I am writing to advise that Regional Council approved the following resolution at its meeting held on Thursday, February 8, 2018:

Resolution 2018-77:

Whereas a coalition of the Municipal Engineers Association (MEA) and the Residential and Civil Construction Alliance of Ontario (RCCAO) have successfully applied to have a review of the Municipal Class Environmental Assessment (MCEA) process conducted under Part IV (Section 61) of the *Environmental Bill of Rights Act, 1993* (EBR Act);

And whereas, impact studies and public meetings required by the MCEA process often take two years or more to complete before construction can commence;

And whereas, the MCEA requirements to evaluate alternatives are often not well aligned with prior or municipal land use planning decisions;

And whereas, analysis by the RCCAO has demonstrated that the time to complete an environmental assessment rose from 19 months to 26.7 months and costs went from an average of \$113,300 to \$386,500;

And whereas, the Auditor General of Ontario has tabled recommendations for modernizing the MCEA process;

And whereas, in spite of written commitments made by the Ministry of the Environment and Climate Change between 2013-2015, no action has been taken;

And whereas, local projects that do not have the necessary approvals could lose out on the next intake of Build Canada funding;

Therefore be it resolved, that The Regional Municipality of Peel requests that the Minister of the Environment and Climate Change take immediate steps to expedite the response process for Part II Orders or Bump-Up requests, as part of the s.61 review to improve MCEA process times and reduce study costs;

And further, that the Minister of the Environment and Climate Change support changes to better integrate and harmonize the MCEA process with processes defined under the *Planning Act*;

And further, that the Minister of the Environment and Climate Change amend the scope of MCEA reports and studies to reduce duplication with existing public processes and decisions made under municipal Official Plans and provincial legislation;

And further, that a copy of this resolution be forwarded to the Minister of the Environment and Climate Change, Ontario Good Roads Association Board of Directors and the Association of Municipalities of Ontario.

On behalf of Regional Council, I request that you give consideration to the above resolution.



Frank Dale
Regional Chair and Chief Executive Officer

FD:ms

Also sent to:

Lynn Dollin, President, Association of Municipalities Ontario
Joseph Tiernay, Executive Director, Ontario Good Roads Association Board of Directors

c: Gary Kocialek, Director of Transportation, Public Works, Region of Peel
Arvin Prasad, Director of Integrated Planning, Public Works Region of Peel
Andrew Farr, General Manager, Water and Waste Water, Public Works, Region of Peel
Andrea Warren, Director of Development Services, Public Works, Region of Peel
Scott Butler, Manager, Policy and Research, Ontario Good Roads Association Board of Directors



52 FRANK STREET
STRATHROY, ONTARIO
N7G 2R4
PHONE: 519-245-1070
FAX: 519-245-6353
WWW.STRATHROY-CARADOC.CA

March 7, 2018

Hon. Chris Ballard
Minister of the Environment and Climate Change
By email only

Dear Minister Ballard,

Re: Request for Reforms to Municipal Class Environmental Assessment Process

Please be advised that Strathroy-Caradoc Council at its meeting on March 5, 2018 considered the above-noted matter and the following resolution was adopted:

Moved by Deputy Mayor Richards and Mayor Vanderheyden

THAT: the Council of the Corporation of the Municipality of Strathroy-Caradoc support and endorse the resolution provided by the Ontario Good Roads Association seeking reforms to the Municipal Class Environmental Assessment process as follows:

WHEREAS a coalition of the Municipal Engineers Association (MEA) and the Residential and Civil Construction Alliance of Ontario have successfully applied to have a review of the Municipal Class Environmental Assessment process conducted under Part IV (Section 61) of the Environmental Bill of Rights Act, 1993 (EBR Act);

AND WHEREAS impact studies and public meetings required by the MCEA process often take two years or more to complete before construction can commence;

AND WHEREAS the MCEA requirements to evaluate alternatives are often not well aligned with prior or municipal land use planning decisions;

AND WHEREAS analysis by the Residential and Civil Construction Alliance of Ontario (RCCAO) has demonstrated that the time to complete an EA rose from 19 months to 26.7 months and costs went from an average of \$113,300 to \$386,500;

AND WHEREAS the Auditor General of Ontario has tabled recommendations for modernizing the MCEA process;

AND WHEREAS in spite of written commitments made by the Ministry of the Environment between 2013-2015, no action has been taken;

AND WHEREAS local projects that do not have the necessary approvals could lose out on the next intake of Build Canada funding;

THEREFORE BE IT RESOLVED THAT Municipality of Strathroy-Caradoc requests that the Minister of the Environment and Climate Change take immediate steps to expedite the response process for Part II Orders or Bump-Up requests, as part of the s.61 review to improve MCEA process times and reduce study costs;

AND FURTHER THAT the Minister of the Environment and Climate Change support changes to better integrate and harmonize the MCEA process with processes defined under the Planning Act;

AND FURTHER THAT the Minister of the Environment and Climate Change amend the scope of MCEA reports and studies to reduce duplication with existing public processes and decisions made under municipal Official Plans and provincial legislation. **CARRIED.**

For further information, please do not hesitate to contact the undersigned at (519) 245-1070 or atoth@strathroy-caradoc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Toth". The signature is stylized and cursive.

Angela Toth
Director of Corporate Services/Clerk

Cc/ Scott Butler – Ontario Good Roads Association

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Attachment 'B'

EASING BURDENS



Maryam Mirza

The **Town of Caledon** has added its voice to calls for implementation of a promised review designed to streamline the environmental assessment process for municipal infrastructure projects.

February 20, Caledon council adopted a recommendation that the provincial Ministry of Environment and Climate Change complete a review of the Municipal Class Environmental Assessment that had been promised in 2016. The review is intended to speed up the review process by reducing any duplication of studies and thus save time and money for municipalities like Caledon.

“Having to spend two years in an EA [Environmental Assessment] process is onerous,” Caledon CAO **Mike Galloway** told *NRU*. “It’s onerous for our budgets [and] it’s onerous on the time in which we can essentially get the project done.”

Galloway said that the current EA process typically lasts two years and costs thousands of dollars for studies by consultants. He said that in many cases municipalities are asked to complete studies already done by others but not recognized by the current Municipal Class Environmental Assessment process.

“It [the pending review] is ensuring that the duplication can be minimized within all the different acts that require approval to get any project moving forward, and EA processes are one of those.” He said.

Meanwhile, the Ontario Good Roads Association, the Municipal Engineers Association and the Residential and Civil Construction Alliance of Ontario have also called for a modernization of the environment assessment review process.

“We think that perhaps the [provincial] minister could delegate – either some or all of this [the process] to staff,” Municipal Engineers Association president **John Thompson** told *NRU*. He says the current process requires input from multiple government departments that he says causes needless delays in providing approvals for infrastructure projects. Speeding up the approval process, while still respecting environmental issues, he said, is “one of the ideas we’ve suggested.”

The multi-organization coalition also has proposed a reduction in the time allowed for so-called ‘bump-up’ requests where a member of public can request a bump up of the assessment to the minister

of the environment, if they have environmental or other concerns. According to critics, that typically adds about 10 months to the approval process for municipal infrastructure. Currently, nearly 95 per cent of these requests are eventually turned down by the ministry, resulting in unnecessary delays to projects, according to the coalition. It also seeks a change in regulations that would eliminate a requirement on municipalities to conduct studies already done by others.

Thompson said his organization assisted in the creation of the MCEA [Municipal Class Environmental Assessment] process decades ago. “We shepherded it way back in the late 80s so municipalities could do the work they always do, and meet all the requirements of the environmental assessment act,” he said. “We’re very interested because it’s our document.”

Since its creation, the assessment review process has not been updated, critics say, despite a rise in the average cost of environmental assessment. An analysis from 2014 found that assessment costs increased from approximately \$125,000 dollars to \$365,000 dollars between 2010 and 2014, Residential and Civil

Construction Alliance of Ontario executive director **Andy Manahan** told *NRU*.

“When the environmental assessment legislation came through in the 1970s the planning act really didn’t look at environmental matters very carefully,” he said. “But now we have provincial policy statements, we have a lot of other water-based initiatives, clean water act, and so forth, where all of these things must be looked at already by the municipality.”

In addition to Caledon and other local governments, the Association of Municipalities of Ontario also backs completion of the review.

“We certainly see an advantage to expedite the process,” AMO president **Lynn Dollin** told *NRU*. “We definitely support going forward with this review in a way that still allows for consultation with the public and lots of opportunity for the public to get involved, but at the same time doesn’t duplicate processes.”

Manahan notes that after a 2016 report by the provincial auditor general, the review was expected to be completed by last November. He expressed concern that this year’s provincial election could further delay a timetable for implementation. 🌱