

Stakeholders call for EA reform following AG report

by Angela Gismondi Dec 14, 2016

Ontario Auditor General Bonnie Lysyk says the province's Environmental Assessment (EA) process "has not kept up with the times," and stakeholders in the construction industry agree reform is needed.

Lysyk's comments came in a Value for Money (VFM) audit contained in the 2016 annual report released Nov. 30.

Andy Manahan, executive director of the **Residential and Civil Construction Alliance of Ontario (RCCAO)**, said rather than facilitating many basic municipal infrastructure projects such as building roads, bridges and sewer systems, the EA process, which is the responsibility of the Ministry of the Environment and Climate Change (MOECC), has become more of a regulatory burden. Many EAs take over two years to complete and appeals and Part II Orders, also known as bump-up requests, add more time.

"The Class EA process that is referred to in the Auditor General's report as 'streamlined' has not been streamlined for a long time," said Manahan, adding the RCCAO has been dealing with the issue for eight years and has commissioned a series of reports. "The situation continues to get worse."

Manahan made a pre-budget presentation on behalf of the RCCAO to the standing committee on finance and economic affairs and said reforming the Class EA process was the top issue. He added while other issues in the report have garnered more attention, this is a significant one for the construction industry.

In his submission, he stated, "While we are hopeful that the auditor general's VFM will result in reform of the Class EA system, RCCAO and the Municipal Engineers Association (MEA) are preparing a section 61 Environmental Bill of Rights application which will be submitted to Ontario's environmental commissioner for consideration."

Manahan explained this application "would force the ministry of the environment — if the environmental commissioner deems it to be a worthy project — to do a report on it and basically analyze all of the issues that have been a problem and suggest EA reform."

Steve Ganesh, a strategist of infrastructure, planning and design for the transportation division of the Region of Peel, said the bump-up requests are the number-one challenge facing Municipal Class EAs. Bump-ups are a request to the ministry to put the project through a full, comprehensive EA. All it takes is one individual to make a request, he said.

"Some of them at times are vexatious and slow down our ability to get infrastructure built to support future growth," said Ganesh.

He explained that a few years ago, the region was widening a major transportation and commuter corridor and had to do an EA. In one location on the corridor, there was a landowner who had a development application under review.

"We received a bump-up request on that particular EA because the landowner was not satisfied with comments on his planning application," said Ganesh. "The landowner was just using the Part II Order as an opportunity to get more face time with regional staff to resolve his issues. The time that we had to spend with the province and the landowner was close to a year back and forth. The Part II Order was eventually denied but it caused a delay in us moving forward with detailed design and construction of the project."

Ganesh suggested partnerships be established between the MOECC and provincial conservation authorities to streamline permitting approvals to expedite construction.

Paul Knowles, who chairs the MEA committee on Class EAs, commended the auditor general for recommending that the MOECC improve the timeliness of its process for reviewing bump-up requests to ensure that it does not cause unnecessary delays.

According to the auditor's report, in the last five-and-a-half years, "the minister has denied all but one of the public's requests to have 177 streamlined assessments bumped up to comprehensive assessments."

When it comes to making decisions about bump-up requests, Knowles said, the MEA has been trying to get the ministry to delegate the authority to the director of the approvals branch of the MOECC for almost 20 years. After the request clears the director's desk, it goes through three or four more people before it gets to the minister, he added.

"What the auditor points out quite clearly in the review is one of the real hold-ups is that it gets reviewed internally by staff and then waits, according to their data, 110 days on average for the minister and senior management to sign off and they really don't change anything," said Knowles. "There's no benefit to that added oversight."

"In the meantime, costs are rising and you can't go ahead until the ministry makes a decision... It's just unacceptable, we're frustrated."

He said the MEA was disappointed with the ministry's response to the recommendation, which stated it will review its bump-up request process to "determine whether opportunities exist to improve timeliness."

"The Ministry's response to me certainly reads they have no intentions of actually following the auditor general's recommendations and that's our biggest disappointment in the whole report," Knowles stated. "We find that to be the number one problem and it doesn't look like they're showing any willingness to address it."