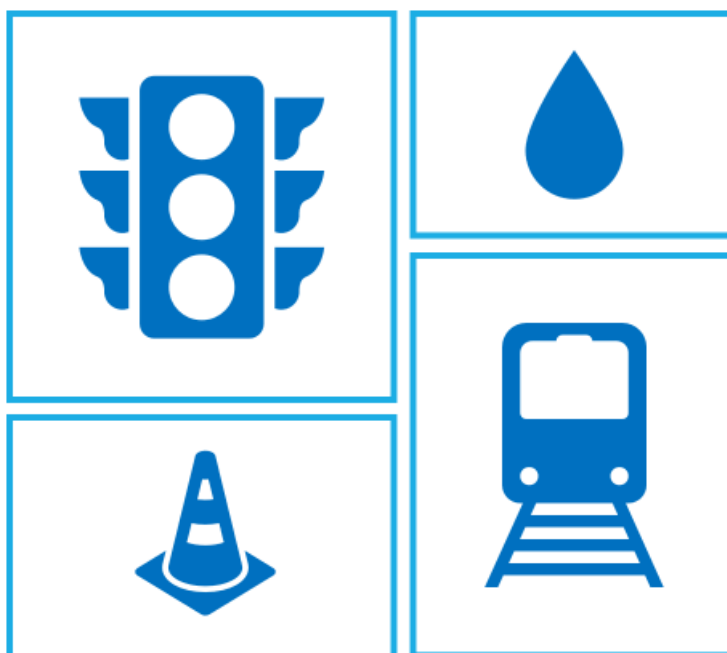


**Modernizing Ontario's Environmental Assessment Program:  
Workshop with Municipal Practitioners**

**Comment Form**



**Organization: RESIDENTIAL AND CIVIL CONSTRUCTION ALLIANCE OF  
ONTARIO**

Please fill out responses to the attached questions and submit this document to  
[EAModernization.MECP@ontario.ca](mailto:EAModernization.MECP@ontario.ca) by **May 28, 2021**.

## Levels of Assessment

1. Should the streamlined EA process include multiple levels of assessment (e.g. Category A and B projects) that set out different requirements for consultation and environmental studies? If so, should these be based on the existing Municipal Class EA schedules?
  - a. **NO, the concept of different levels or classes of assessment, whether A, B and C or other similar distinctions is not required under the new regulation. This is not to say that the replacement of a culvert on a secondary road should trigger the same studies and degree of consultation as a new bridge over a watercourse. RCCAO submits that the proponent should have the authority to determine what studies and what form of stakeholder and public consultation is appropriate for the specific project.**
  - b. **RCCAO submits that the current Municipal Class EA Manual developed by the Municipal Engineers Association (“MEA”), which has been refined over the past thirty years, can form the basis of a guidance document under a proposed new regulation, for use by municipal proponents on how to consult with stakeholders for various types of projects and what types of studies and reports should be considered.**
2. Alternatively, should the categories of projects all have the same requirements but be based on project type (i.e. transportation, wastewater, etc.)?
  - a. **NO, given the broad diversity of municipal infrastructure projects, ranging from expansion of a waste water treatment plant to creating a new paved bike lane within an existing road allowance, there needs to be flexibility built into the process, the types of impact studies and consultations should not be the same for all project types.**
  - b. **RCCAO recommends that within each of the project types, e.g. roads vs. drinking water systems, the proponent should have flexibility to determine the types of studies and reports required and the reasonable form of consultation required with the public and other stakeholders.**
3. If there are multiple levels of assessment (e.g. Category A/B) within broad categories (e.g. transportation) should there be flexibility built into the process to allow for proponents to address individual/project specific situations?
  - a. **RCCAO is not supporting multiple levels of assessment within the category types. RCCAO strongly supports providing proponents the flexibility to determine the issues and studies needed to evaluate the environmental impact of municipal infrastructure Class projects.**

## Consideration of Alternatives

4. What are the benefits and drawbacks in considering alternatives for municipal infrastructure projects?
  - a. RCCAO submits that there may be benefits in considering alternatives for municipal infrastructure project if the *Planning Act* or other approvals leave options for the proponent. For example, if the Official Plan includes expansion of a specific existing four lane roadway to six lanes, there would be few if any alternatives available for consideration or study. On the other hand, if the Official Plan includes replacing an existing rural intersection, alternatives such as a traffic circle instead of conventional traffic lights may be appropriate. There are also advantages for considering alternative designs in projects such as streetscaping for an existing downtown roadway or replacement of a heritage bridge structure, as the look and feel of such projects have a significant impact on activities such as tourism and shopping.
5. Is there merit in considering both alternative solutions / methods (“alternatives to”) and alternative designs?
  - a. Similar to the response to question #4 above, RCCAO’s answer to this question is somewhat dependent upon the nature of the specific project and the nature of the Planning Act or other approvals required for the municipal project.
  - b. If the project involves replacing an existing bridge over a water course, the location of the relevant roadway would likely preclude an alternate geographic location for the bridge, but the project might still be open to various design options such as a beam bridge, suspension bridge or truss bridge.
  - c. If the project involves expansion of an existing waste water treatment plant, the new components would likely need to be compatible to and integrated with the existing treatment plant, thereby limiting potential treatment technologies. Treatment processes and technologies might also be subject to prescriptive requirements for any MECP or Conservation authority approvals.
  - d. Any requirement to consider alternative solutions through the EA process should be guided by the fact that the actions of municipal proponents are often through the decision of municipal councils who are duly elected by local residents to proceed in the best interests of their respective constituents. In many cases, municipal projects are subject to council and committee meetings held in public and with public opportunities to make oral and/or written submissions.
6. If the streamlined regulation proposes multiple levels of assessment, does it make sense for both levels to consider some type of alternative (e.g. alternative designs)?
  - a. Based on the meaning of the term ‘multiple levels of assessment’, as used in question #1 above, it does not make sense for simpler or less complex projects to consider alternatives. For instance, the replacement of a culvert where the location is predetermined and the throughput capacity is unchanged, the only alternatives would likely be as simple as either a precast concrete or corrugated steel and the final decision on which alternative to use might come down to pricing and availability.

- b. Other, more complex projects, such as replacing a bridge that had unique iron truss designs, may be more likely to require alternate designs, such as a functional truss bridge or a beam bridge with aesthetic truss elements.
- c. RCCAO favours leaving the decision of whether the EA process should include consultation on alternative solutions and/or alternate designs to municipal proponents.

## Environmental Studies

- 7. Should the new streamlined environmental assessment process set out what types of studies should be done based on the projects listed in the regulation or should it have flexibility?
  - a. Most municipal proponents are sufficiently experienced to determine when there will be likely noise, drainage, visual, thermal or other impacts of a proposed municipal project and to undertake studies of likely quantitative and qualitative impacts and opportunities such as designs or technologies that might minimize any adverse impacts. Consequently, RCCAO favours greater flexibility for municipal proponents to determine what types of studies should be undertaken for a specific municipal project.
  - b. Municipal project proponents should also have maximum flexibility to utilize existing studies for similar projects. Such flexibility could reduce the time to complete the required studies as well as the proponent's costs to complete the EA process.
  - c. If guidance is required for what types of studies should be included for various types of municipal projects, such guidance should not be in the regulation itself, but should be part of guidance documents based on the existing MCEA Manual published by the MEA, and similar in scope to the existing 'Guide to Environmental Assessment Requirements for Transit Projects' published by the MECP.
- 8. Should all projects listed in the regulation have the same environmental study requirements? Or should the required studies be specialized based on the type (water vs road projects)?
  - a. NO, all projects listed in the regulation should not have the same study requirements, RCCAO submits that the study requirements should be based on the nature or type of the specific projects.
  - b. Each type of project should have study requirements appropriate to that project type. Water projects should not have that same study requirements as road projects.
  - c. Even among a specific group of projects, not all road projects are equal. Some road projects, such as a new connecting road will have certain study and consultation requirements, whereas other road project, such as adding a left hand turn lane or widening the width of sidewalks, may require fewer studies given that it is part of an existing roadway.
  - d. Many water projects require approvals from the MECP and/or Conservation authorities, and may therefore not have certain design or technology options.

## General Planning Process

9. Is there value in identifying the problem/ solution as part of the EA process?
- a. YES, RCCAO submits that the EA process needs to include a description and rationale for the proposed project, e.g. an extra lane in each direction is being added to a specific section of a roadway to accommodate increased traffic volumes as identified in a specific study or Official Plan.
  - b. In those circumstances where the need or problem is not widely known or understood, the EA process should be expanded to include a description of the problem and practical and feasible alternatives including the proponent's preferred alternative.
10. What are the benefits and drawbacks of having a prescribed time limited process? Is six months a reasonable timeframe?
- a. For the past 20 years or longer, the environmental assessment of many municipal infrastructure projects spanned multiple years. The Ontario government passed Ontario Regulation 231/08 to expedite rapid transit projects and impose specific time frames for completing various elements of the respective EA's.
  - b. RCCAO commissioned and published [a report in 2010](#) regarding a review of recently completed environmental assessments for all sizes and types of municipal infrastructure projects across all regions of the Province. While the average project took more than 19 months to complete the relevant EA process, some projects took longer than five years.
  - c. RCCAO commissioned a follow up [study in 2014](#) only to find that the average time to complete an EA for municipal infrastructure had increased from 19 months to almost 27 months.
  - d. Many stakeholders across the Province identified uncertain and growing timeframes to complete EA's as a barrier to an efficient economy and affordable housing.
  - e. RCCAO supports a mandated deadline for the completion of various phases of environmental assessments for municipal infrastructure. Public consultation following the identification of a preferred solution should, in most circumstances, not exceed 4 months.
11. If there are multiple levels of assessment, should there be different timeframes for each level?
- a. It is recognized that the time to complete an environmental assessment is dependent upon the scope and complexity of the consultations and the number of studies and other investigative reports required. Consequently, there should be more time allotted to complete an EA for larger projects that have a broader consultation requirement, such as the description and evaluation of alternative routes for a new arterial road and consultation with Indigenous stakeholders.

- b. An EA for refurbishment of a bridge or replacement of a culvert would likely require less in the way of background studies and consultation and should therefore have a shorter permitted timeframe to complete.

12. Would a 'timeout' provision be appropriate and under what circumstances?

- a. A timeout provision should not be available except in the most extreme situations such as where a pandemic or natural disaster has prevented the completion of any one or more portions of an EA in a timely manner.
- b. An optional suspension or 'timeout' of an EA could, in some circumstances, lead to potential abuse by proponents or stakeholders and result in the same types of delays experienced by many projects during the past two decades.

13. If an alternatives assessment is required in the streamlined process, is it reasonable to have timelines on the proponent to complete the process?

- a. RCCAO submits that there should be no time restriction to pre-planning of an infrastructure project to identify if there is a need or identify potential alternatives, but once the proponent has commenced formal public consultation of the EA process, the timelines would remain firm.
- b. RCCAO submits that there should be no mandated timelines for pre-planning work, particularly for more complex projects, such as a new road bridge. RCCAO believes that the only portion of the EA process that should have mandated timelines are for public consultations and decisions by other bodies such as conservation authorities, impacted by the project.

## Consultation

14. Is there value in including public participation in the early planning stages or is it better to consult on focused proposal?

- a. Depending on the nature of the project, public participation can be vitally important and effective on large and complex projects such as the replacement of an obsolete and inefficient wastewater treatment plant and related sewer system.
- b. Reconstruction of a substandard road bridge would likely benefit less by having public participation in the early planning and evaluation phases, as the engineering of such a project would be largely dictated by regulatory requirements and current engineering best practices.

15. How prescriptive should consultation requirements be?

- a. RCCAO submits that the new regulation should identify which stakeholders are mandatory for specific projects, but the proponent should have considerable flexibility in how communications are carried out with those stakeholders and any other stakeholders that the proponent considers reasonably necessary.

## Indigenous Consultation

16. How can the ministry better support consultation with Indigenous communities on municipal infrastructure projects?
- The Province, whether through the MECP or other government branch, should be ready to provide assistance in how to undertake consultations with Indigenous communities, including but not limited to primary contacts for each relevant Indigenous community and a clear guideline as to what constitutes sufficient consultation.**
  - The Province should recognize that consultation with stakeholders does not equate to attaining unanimous consent to the project, particularly where there are few if any direct consequences to Indigenous communities.**
  - For those smaller rural municipalities with very limited resources and budgets, the Province should consider providing funding and/or consultants to assist such proponents in achieving adequate, effective consultations with Indigenous communities.**
17. How prescriptive should the requirements for consulting with Indigenous communities be in the regulation?
- A regulation outlining procedures and requirements for consulting with Indigenous communities should provide sufficient flexibility to reflect the needs, limitations and resources of both municipal proponents and the respective Indigenous communities.**
  - There may be significant differences, such as interests and resources, among indigenous communities, and there are likely significant differences, such as resources and needs for various municipalities. Given those circumstances, the prescriptive requirements for consulting with Indigenous communities should be minimized.**
18. Is specific guidance on consultation for municipal infrastructure needed?
- Not only should specific guidance be available to municipal proponents for consultation with Indigenous communities, the Ministry should establish a specific resource, complete with internet accessible documents and a helpline email and/or phone number for use by municipal proponents.**

## Issues Resolution

19. Is there value in creating a universal issues resolution process or should these be developed by each proponent?
- NO, given the extremely broad and diverse range of municipal infrastructure projects, municipal proponents and stakeholders, RCCAO submits that there should not be a requirement to address a universal issues list.**

- b. **The Ministry should establish and maintain through a resource based on the MCEA manual, a suggested list of issues that municipal proponents should consider for various project types as well as guidelines as to how best to address relevant issues.**
20. Should an issues resolutions process be focused on matters of provincial importance (i.e. similar to TPAP)?
- a. **RCCAO submits that there should be an extremely limited number of matters of provincial importance which would be subject to a mandated resolution process.**
21. What recommendations do you have for the ministry in creating an issues resolutions process? Should there be pre-determined steps for a proponent to follow in an attempt to resolve any potential issues?
- a. **It is the responsibility of the municipal proponent to ensure that any infrastructure projects subject to the EA Act include notices to stakeholders, engaging in meaningful stakeholder consultations and responding to stakeholder concerns before proceeding with an infrastructure project. While unanimous acceptance by all stakeholders is a preferred outcome, it is not always practical or possible, nor is it required that a proposed project is free of objections.**
  - b. **RCCAO does not believe that given the diversity in scope and types of municipal infrastructure projects that pre-determined steps mandated by a regulation would be productive or assist with the timely completion of the EA process.**

### Master Planning and Integration Provisions

22. Should the new streamlined environmental assessment process include guidance for master planning, or should the ministry develop that guidance as a separate document?
- a. **It is RCCAO's understanding that in the majority of circumstances involving municipal infrastructure, the establish or amendment of Official Plans (how land in a community should be used) and Master Plans (dynamic long-term planning documents that provide a conceptual layout to guide future growth and development for specific areas or zones) includes consultation and input from the affected communities.**
  - b. **It is RCCAO's recommendation that the proposed Municipal EA regulation should ensure for a smooth and timely transition from the completion of a Master Plan to the required EA approval and that Master Plan consultations are recognized as substantially or completely fulfilling the pre-planning consultation requirements. Appropriate timeframes can be prescribed, however there should be no time restrictions for the completion of Master Plans.**



23. If the new streamlined processes do not provide for master planning, do municipalities still want/require guidance on master planning?
- a. **Master Planning is an important tool for effective planning and consultation of a municipality's infrastructure. Even if the new EA regulation does not provide for master planning, a guidance document, based on the current elements in the MCEA Manual should be made available to municipal proponents.**
24. Should the new streamlined regulation consider exemptions for projects types that are planned under a master planning process?
- a. **It is RCCAO's understanding that any municipal infrastructure project not listed in the proposed Municipal EA regulation, or the Ministry's proposed project list for comprehensive EA's, would be exempt from the EA. An exemption list would likely create confusion among the regulated community.**
25. How can the ministry provide for better integration with the Planning Act?
- a. **RCCAO's responses to questions 23 and 24 above outline some measures to better integrate the EA process with the Planning Act.**

### **Duplication with the Planning Act**

26. When and where does duplication with the Planning Act occur and how can the ministry address it?
- a. **It is RCCAO's understanding that there is duplication with the Planning Act when the EA process requires that a specific project, such as a road widening of A street between C avenue and D avenue, has already been the subject of consultation by the municipal proponent with local stakeholders to obtain Planning Act approval.**
  - b. **The most recent proposed amendments to the MCEA manual by the Municipal Engineers Association would, if approved by the Ministry or included in a proposed Municipal EA regulation, address such duplication.**
27. Keeping in mind the amendments to the Class EAs that are being considered, do you see any examples of overlap between land use planning and EA process?
- a. **If the amendments to Municipal Class EAs that the Ministry is considering include transitioning the existing MCEA Manual, together with the Municipal Engineers Associations most recent proposed changes into the new regulation and related guidance documents, then RCCAO believes that most of the overlap between the land use planning process and the EA process would be eliminated.**

## Recognizing other regulatory frameworks

28. How can the streamlined environmental assessment process ministry better recognize other permitting frameworks and guidelines?
- a. To the extent that the proposed infrastructure involves facilities or operations which require approvals or other instruments issued under the Ontario Water Resources Act, (examples: drinking water system expansions or alterations or construction of a new wastewater treatment facility) the EA process should identify those designs and features which are mandated by existing government regulations and guidelines and the consultations with stakeholders should be adjusted accordingly.
  - b. Similarly, if the proposed infrastructure involves facilities or operations requiring approvals issued under the Conservation Authorities Act (example: flood control works), the EA process should identify and acknowledge those designs and features which are mandated by existing government regulations and guidelines and the consultations with stakeholders should be adjusted accordingly.
29. Do you have any recommendations to better link the environmental assessment planning process to plans, guidelines and planning frameworks?
- a. The primary recommendation of RCCAO is to use the existing MCEA manual, including the most recent amendments proposed by the Municipal Engineers Association (without separate classes such as B or C), as the basis of the proposed regulation and associated guidance documents.
30. Do you have any suggestions on how to better link the planning process to the permitting process?
- a. RCCAO's suggestion is to use the existing MCEA manual, including the most recent amendments proposed by the Municipal Engineers Association (without separate classes such as B or C), as the basis of the proposed regulation and associated guidance documents.
31. As we transition to a streamlined regulation, what is the best way to ensure that proponents have adequate guidance for projects that are no longer caught under the Environmental Assessment Act (e.g., cultural heritage)?
- a. Regarding municipal infrastructure projects which are exempted from the EA Act, RCCAO submits that the checklists for exempted projects in the existing MCEA manual, can provide the required guidance. It is the RCCAO's understanding that the Municipal Engineers Association is prepared to work with the Ministry and other stakeholders to provide additional checklists and guidance documents, if needed.

## Providing Certainty

32. What do you see as the current challenges with the environmental assessment process from the perspective of certainty?
- One of the challenges regarding certainty is the transition process moving from the current system under the MCEA Manual to the process under the new regulation. The Province should ensure that there is sufficient lead time for proponents to identify changes to current procedures, ensure that there is adequate training for staff and consultants about the changes, and clear information on how to proceed with projects that have started but not yet completed the EA process under the current system.**
  - Indigenous community consultation requirements are likely to increase, and the Province needs to take a greater role in providing guidance and resources to municipal proponents, especially smaller rural communities with very limited resources and expertise.**
  - With respect to the 30 day window for the Minister to issue a s.16 Order, proponents need to know precisely when that 30 day window starts and under what circumstances, if any, the Minister is likely to issue a s.16 Order.**
33. Do you have any suggestions on how the new process could provide more certainty to proponents?
- Please see RCCAO's responses to questions 31 and 32 above.**

## Project List

34. Considering the existing project schedules in the Municipal Class EA as well as the proposed amendments, do you have any recommendations on what projects should be subject to the new process?
- Only projects undertaken by municipal proponents should be considered for the new list of projects subject to the streamlined Municipal Class EA process. Projects by proponents other than municipalities, such as private residences, retirement homes, roads on privately owned lands and privately owned and operated drinking water supply systems, should not be subject to the EA process.**
  - As noted in RCCAO's responses above, the existing MCEA manual, together with the most recent recommended changes from the MEA (without separate classes such as B or C), should be the basis for the list of municipal projects subject to the proposed streamlined EA process.**

## General Questions and Comments

35. Are there any strengths and weaknesses that you want to point out with the Class EA process that have not yet been addressed?

- a. With respect to the Municipal Class EA process, most of the remaining weaknesses would be addressed by approval of the Municipal Engineers Association's most recent changes to the MCEA Manual (without separate classes such as B or C), and using that amended manual as the basis for the new MCEA regulation and guidance documents.
- b. RCCAO agrees that incorporating time frames for certain steps in the MCEA process will likely improve the overall process.

36. Are there any strengths and weaknesses with the transit process that you have not yet provided comments on?

- a. RCCAO submits that timelines for certain elements of the EA process are a strength in the current transit process and should be used for other municipal infrastructure projects. The current MCEA Manual, and related guidance documents, are a strength that should be carried forward through the proposed new regulation and guidance documents.
- b. The single greatest weakness of the MCEA system, which was recently addressed by the Ministry, was the delays and in some cases, abuse of the Part II Order request and decision process.

37. What does your organization see as the key opportunities in developing a new streamlined environmental assessment process?

- a. One of the key opportunities through a new streamlined process is to use some of the positive features of the Transit Regulation O. Reg. 231/08 and insert appropriate timelines for specific steps in the EA process for all municipal infrastructure projects.
- b. Another key opportunity through a new streamlined process is clarification of which projects are subject to the streamlined process, which together with a description of which the comprehensive EA project list. Those two lists would clearly identify which municipal projects are subject to an EA process. Any municipal infrastructure projects which are not on either list would be exempt from the EA process.

38. Do you have any other feedback / comments that you'd like to share?

- a. The MCEA process is unique in that the proponents are often proceeding to follow the mandate given by the local public through a free and democratic election process. Many of those decisions by elected councils are open to the public and provide the public with opportunities to make oral and/or written submissions before a council decision is finalized. Many decisions by local municipal councils related to the Planning Act are subject to an independent appeal process. Consequently, any changes that the Province chooses to make the Municipal Class EA process through a new regulation should recognize the unique structure and public rights regarding municipal council decisions and avoid overlaps with that system.

- b. While it is always desirable to attain a consensus regarding decisions by municipal proponents to proceed with an infrastructure project, it is extremely unlikely that any decision will have the unanimous consent of affected stakeholders and opposition by some stakeholders should not be construed as a flawed decision by the proponent.**