

Proposal to exempt various Ministry of Transportation Projects from the *Environmental Assessment Act*

ERO number 019-1883

August 2020

1. INTRODUCTION

The Residential and Civil Construction Alliance of Ontario ('**RCCAO**') appreciates the opportunity to provide comments and recommendations regarding the proposed exemption of various Ministry of Transportation projects from the *Environmental Assessment Act* (the "**Act**"). It has been RCCAO's position that certain Environmental Assessment Classes, most notably the Municipal Class EA, required specific changes to reduce the delays and costs often associated with such projects. It has also been RCCAO's position that various stakeholders and local residents should have a reasonable opportunity to review and comment on projects which might have a significant adverse environmental impact, provided that the consultation does not trigger significant delays or costs.

2. ABOUT RCCAO

RCCAO is a not-for-profit industry association that represents both labour and management in the residential and civil sectors of Ontario's construction industry. RCCAO and its members strive to provide real solutions to complex issues and has often commissioned independent research on issues such as the Municipal Class Environmental Assessment (**MCEA**) process. RCCAO's reports on the MCEA process as well as other issues such as bridge safety, transit projects, road tolls and utility locates can be viewed and downloaded from the [RCCAO website](#). While considerable advocacy efforts have been made by RCCAO to improve the MCEA process, RCCAO members also have a strong interest in related transportation infrastructure, including various Ministry of Transportation ("**MTO**") projects, which provide vital links within and between regional centres.

3. COMMENTS ON PROPOSED EXEMPTIONS

A. PROPOSED EXEMPTION OF THE 'BRADFORD BYPASS PROJECT'

RCCAO acknowledges that the MTO Class EA process was established in late 1999 so that the routing, planning and construction of MTO projects, such as highway improvements, could proceed with minimal delay while still providing Ontario residents with an opportunity to comment on the proposed project before construction commenced. The Bradford Bypass project is a new four-lane east-west highway about 16 km in length that would pass just north of the Town of Bradford to connect Highway 400 to Highway 404. The individual EA approval was issued in 2002, at a time when most of the lands in the proposed right of way were privately owned agricultural properties. Construction of the project was expected to start about 2007-08, but the election of a provincial Liberal government in 2003 resulted in the project being shelved until the Smart Growth plan was developed and implemented. By 2017, local municipalities had pressured the Province to resume planning for the project.

The 2002 EA approval still requires further studies and reports: 1) a Transportation Environmental Study Report ("TESR") and 2) one or more Design and Construction Reports ("DCR") to provide details of the final design. MECP is proposing a regulation to exempt the Bradford Bypass from requirements of the Act to avoid duplication in work already completed. Under the proposed regulation, neither a TESR nor DCR would be required, and there would be no trigger for a further 30-day public consultation. Other studies would still be required such as an updated noise study and stormwater management plan and groundwater protection plan, and an Indigenous

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communities consultation plan. In the summer of 2019, York-Simcoe MPP and Minister of Transportation, Caroline Mulroney, announced that the Province would immediately begin updating the environmental reports.

RCCAO supports any proposal, including new regulations, to reduce duplication of existing or prior work. However, the Bradford population has been growing at a rate of more than 5% per year for the past 20 years. The local population in 2020 or 2021 is significantly different and larger than the local population that was consulted in the late 1990's. Some form of refreshed public consultation/consensus should be given serious consideration. As the Bradford Bypass has been added to the Region's Official Plan, consultation with local residents and stakeholders should avoid duplication of recent Planning Act consultations.

B. PROPOSED EXEMPTION OF CERTAIN NORTHEAST ONTARIO MTO PROJECTS

MECP is proposing that six separate highway improvement projects in northeast Ontario that have completed the respective MTO Class EA process for either a Group A (new facilities) or Group B (major improvements to existing facilities) project be exempted, by a new regulation, from undertaking an addendum to the original EA reports. Each of the six MTO projects have completed a TESR, but under current requirements, must prepare an addendum if the project has not been implemented within five years of the completion of the TESR. The purpose of the addendum is to consider any significant changes which have taken place since the original report, including new conditions in the study area, new government policies, new technologies or engineering standards. Four of the six listed MTO projects involve improvements to Highway 69 (which at this location is designated as part of the TransCanada Highway). One of the six projects is a patrol yard for Highway 69 and the other project is an interchange improvement to Highway 11 at South Mary Lake Road.

In four of the six projects, the TESR is more than 10 years old. In the other two cases the TESR or TESR addendum is over five years old.

Given the significant role and history of the TransCanada highway in this region of the Province, improvements to the highway are often of vital importance to maintain a transportation link between large parts of the Province that might not otherwise have a viable road connection. RCCAO submits that rather than an outright exemption regulation, that a regulation be considered which would reduce the scope of the addendum to determine whether there are significant new technologies or engineering standards applicable to the project, and if none, then the proponent should merely declare that finding and proceed with implementation of the project in accordance with the Act and conditions of the original EA approval.

C. PROPOSED EXEMPTION OF CERTAIN NORTHWEST ONTARIO MTO PROJECTS

MECP is proposing that two separate highway improvement projects in northwest Ontario that have completed the respective MTO Class EA process for either a Group A (new facilities) or Group B (major improvements to existing facilities) project be exempted, by a new regulation, from undertaking an addendum to the original EA reports. Both of the MTO projects have completed a TESR, but under current requirements, must prepare an addendum if the

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project has not been implemented within five years of the completion of the TESR. In the case of a new commercial inspection facility, a Group A project, the TESR was completed in 2013.

Similar to its comments regarding the Northeast Ontario MTO projects, RCCAO submits that rather than an outright exemption regulation, that a regulation be considered which would reduce the scope of the addendum to determining whether there are significant new technologies or engineering standards applicable to the project, and if none, then the proponent should merely declare that finding and proceed with implementation of the project.

D. PROPOSED EXEMPTION OF CERTAIN WEST ONTARIO MTO PROJECTS

MECP is proposing that more than a dozen separate highway improvement projects in western Ontario that have completed the respective MTO Class EA process for either a Group A (new facilities) or Group B (major improvements to existing facilities) project be exempted, by a new regulation, from undertaking an addendum to the original EA reports. All of the MTO projects have completed a TESR, but under current requirements, must prepare an addendum if the project has not been implemented within five years of the completion of the TESR.

Seven of the projects have completed a TESR or TESR addendum within the last ten years. RCCAO submits that rather than an outright exemption regulation, that a regulation be considered which would extend the validity period of a TESR or TESR addendum from five years to 10 years. For the remainder of the projects in which the TESR or TESR addendum is more than 10 years old, the regulation should reduce the scope of the addendum to determining whether there are significant new technologies or engineering standards applicable to the project, and if none, then the proponent should merely declare that finding and proceed with implementation of the project.

E. PROPOSED EXEMPTION OF CERTAIN CENTRAL ONTARIO MTO PROJECTS

MECP is proposing that six highway improvement projects in central Ontario that have completed the respective MTO Class EA process for either a Group A (new facilities) or Group B (major improvements to existing facilities) project be exempted, by a new regulation, from undertaking an addendum to the original EA reports. All of the MTO projects have completed a TESR, but under current requirements, must prepare an addendum if the project has not been implemented within five years of the completion of the TESR.

Four of the six projects have completed a TESR or TESR addendum within the last ten years. RCCAO submits that rather than an outright exemption regulation, that a regulation be considered which would extend the validity period of a TESR or TESR addendum from five years to 10 years. For the remaining two projects in which the TESR or TESR addendum is more than 10 years old, the regulation should reduce the scope of the addendum to determining whether there are significant new technologies or engineering standards applicable to the project, and if none, then the proponent should merely declare that finding and proceed with implementation of the project.

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F. PROPOSED EXEMPTION OF CERTAIN EAST ONTARIO MTO PROJECTS

MECP is proposing that eight highway improvement projects in eastern Ontario that have completed the respective MTO Class EA process for either a Group A (new facilities) or Group B (major improvements to existing facilities) project be exempted, by a new regulation, from undertaking an addendum to the original EA reports. All of the MTO projects have completed a TESR, but under current requirements, must prepare an addendum if the project has not been implemented within 5 years of the completion of the TESR.

Only one of the eight projects have completed a TESR or TESR addendum within the last ten years. RCCAO submits that rather than an outright exemption regulation, that a regulation be considered which would extend the validity period of a TESR or TESR addendum from five years to 10 years. For the remaining seven projects in which the TESR or TESR addendum is more than 10 years old, the regulation should reduce the scope of the addendum to determining whether there are significant new technologies or engineering standards applicable to the project, and if none, then the proponent should merely declare that finding and proceed with implementation of the project.

4 CONCLUSIONS AND RECOMMENDATIONS

RCCAO has been actively advocating for improvements to various Ontario EA processes for more than the past decade and has worked closely with the Province and other stakeholders to identify potential improvements.

RCCAO also supports the premise that duplication of prior studies and reports should be minimized in order to allow key infrastructure projects to proceed with minimal delays and additional costs, while maintaining the fundamental requirements of protecting the environment and engaging in meaningful consultation with local residents and other stakeholders.

RCCAO is supportive of exemption regulations to the extent that they only eliminate duplication and do not seriously erode the rights of local residents and other stakeholders to meaningful consultations.

With respect to the proposed regulation or regulations to exempt certain MTO projects from the requirement to provide and consult on project addendums, RCCAO believes that its comments and recommendations strike a practical balance between the competing interests and priorities of local residents and other stakeholders.

RCCAO remains willing and able to continue to work with the MECP and other stakeholders to continue to improve all EA processes that might impact infrastructure projects.

End of Submission