

Stakeholders ‘frustrated’ with EA reform discussions

by Don Wall Aug 17, 2016

Ontario construction stakeholders who have been involved in discussions with the Ministry of Environment and Climate Change (MOECC) over reform of environment assessment (EA) processes have expressed frustration after being stymied once again, they say, at a recent meeting with ministry officials.



The issues are already complex, said Andy Manahan, executive director of the **Residential and Civil Construction Alliance of Ontario (RCCAO)**, and Paul Knowles, chair of the Municipal Engineers Association (MEA) Technical Committee. And so the introduction of new policies relating to the province's Climate Change Action Plan adds further complications, Manahan says, as the stakeholders attempt to obtain assurances from the ministry regarding a couple of key issues.

The biggest irritant the MEA and the RCCAO would like to see addressed is the length of time it takes to obtain Municipal Class Environmental Approval (MCEA) for typical municipal infrastructure projects such as roads, sewers and bridges, Knowles explained. Knowles, who's the chief administrative officer of the Town of Carleton Place, Ont., said over the past 15 years the appeals process for municipal projects has grown increasing lengthy and more complicated.

Manahan explained the problem: "You've got the class EA process which can take two-and-a-half-plus years, but if a member of the public or whoever doesn't like the project or has some concern about it, they can make the Part II Order Request to the Minister of Environment. That would typically add another six months minimum, because it normally takes six months from being received by the minister to being signed off by the minister."

Knowles says back in the 1980s, ministers would generally respond to Part II Order Requests in 45 days and if municipalities did not hear back, they went ahead and started work on their projects. Then, he said, it was clarified that municipalities required an actual answer. The response time, meanwhile, has steadily increased up to as much as 180 days.

Environment Minister Glen Murray announced revisions to the MCEA process last October that included clarifications for Part II requests but did not deal with the delays issue, said the stakeholders. In December the MEA submitted a position paper to the MOECC asking for a streamlining of Part II appeals among other requests. Since then, there have been communications and meetings but still no firm commitment to meet the stakeholders' requests on Part II appeals.

On July 26 stakeholders met with Sarah Paul, a director in the environmental approvals branch of the MOECC, along with other officials in the ministry but came away empty-handed on that key issue, Manahan said.

"I am not quite sure I would frame the meeting as positive," he said. "We have been quite frustrated that some of the reform requests that we have made over the past seven years have not been acted on."

Besides the length of time it takes to get answers, he and Manahan have identified what Manahan calls "scope creep."

Knowles said that when a Part II Order Request is filed these days, MOECC staff tend to ask for a substantial amount of extraneous information that does not deal with the issue covered by the request. "Of course that takes time and effort," he said. "So it turns into an audit of the process instead of just a review of the issue that was raised."

The stakeholders say the vast majority of the appeals are turned down anyway, as recommended by a director in the department, so they say the process could gain efficiency by having appeals dealt with by a director.

Knowles acknowledged the MEA was happy with announced EA reforms related to large-scale cycling projects, which will now be treated like big road projects and handled more quickly, he said, and Manahan also expressed satisfaction with reforms for smaller projects, termed Schedule A and A Plus projects.

MOECC director Paul was asked via email to comment on the sticking point of Part II Order Requests. She asked for specific questions and turned to MOECC communications staff to provide responses. Lindsay Davidson of the MOECC responded.

"The ministry is aware of the construction industry's view of the Part II Order requests process and is reviewing options to address concerns," Davidson wrote.

Asked what else could be done to push the issue, Knowles said it might take excessive delays on high-profile projects to create political pressure on the MOECC. Manahan said the RCCAO's

case has already been made persuasively in two reports prepared in 2010 and 2014, but noted that the Auditor General (AG) is currently studying best practices and suggested the AG might well come down in support of greater Part II appeals efficiencies.

On climate change, the approach being taken, Manahan says, is prescriptive, meaning project owners will be asked to identify and consider measures for "mitigation" and "adaptation."

Davidson wrote, "The draft guide is a companion to the EA program's Codes of Practice and Guides. These codes and guides request that proponents include climate as an effect to be considered in EA processes and studies. The ministry's draft guide provides tools and resources to assist proponents in characterizing a project's greenhouse gas impacts, emission reductions and climate preparedness."

Davidson said the guides will be posted on the Environmental Registry, giving the public a chance to comment.

Knowles said he feared more onerous documentation would be required as part of the new EA climate change guidelines. He gave the example of EA approvals for a hypothetical sewage treatment plant.

"Really, the class EA process is about deciding the best location for that plant in the community, and how it functions," said Knowles. "Do you have to add a bunch of paragraphs to say when we build it, it will use efficiency stuff and everything?"