



Office of the Commissioner
Environmental Services Department

MEMORANDUM

To: Members of Committee of the Whole

From: Erin Mahoney, M. Eng.
Commissioner of Environmental Services

Date: October 8, 2020

Re: Response to Provincial Class Environmental Assessments Major Amendments and broad comments on the Environmental Assessment program

Bill 197 included major changes to the *Environmental Assessment Act*

The *COVID-19 Economic Recovery Act*, introduced as Bill 197, received Royal Assent on July 21, 2020. This legislation introduced significant changes to both Class Environmental Assessment and Individual Environmental Assessment processes. Amendments to the *Environmental Assessment Act* (the Act) sets up the authority for the Ministry of Environment Conservation and Parks (the Ministry) to create new regulations that would replace all Class Environmental Assessments including the Municipal Class Environmental Assessment process and scaling back of the Part II Order Request process. Changes are intended to reduce timelines and costs to carrying out environmental assessments.

In 2019, the province consulted on proposed changes to the environmental assessment process which informed amendments made to the Act under Bill 197. York Region submitted a response to the 2019 consultation, which was [communicated to Regional Council in June 2019](#). The province has committed to consult on future regulations required to implement the changes to the revised *Environmental Assessment Act*.

Changes aim to reduce the number of projects subject to environmental assessments

Changes under the Act will ultimately shift from the current system, where the Act captures all municipal projects but allows for exemptions in some cases, to an approach where only the projects identified on a list will be subject to environmental assessment requirements. The province released a proposed list of projects subject to a full environmental assessment on

September 11, 2020. Based on the proposed list, the vast majority of Regional undertakings will not be subject to a full environmental assessment. Fewer comprehensive environmental assessments are anticipated to simplify and accelerate infrastructure delivery. Region staff plan to respond by the November 10th, 2020 deadline supporting this approach. Staff anticipate the province will release a draft project list for streamlined environmental assessments along with regulations to guide implementation of the updated environmental assessment program.

Approval delays increase project costs and may result in unintended consequences

It has been the Region's experience that there can be unintended consequences directly related to significant delays experienced with the Ministry issuing environmental assessment approvals for critical municipal infrastructure projects. Examples include:

- Duffin Creek outfall upgrade was a Schedule C Municipal Class Environmental Assessment which took nine years to receive approval
- Southeast Collector Trunk Sewer took more than a decade to receive a decision on the Environmental Assessment
- Upper York Sewage Solutions is now 11 years into the process without a decision

Changes intend to accelerate the environmental assessment process

Through amendment of the Act, the province intends to accelerate the time it takes to complete environmental assessments and issue project approvals. This includes limiting Part II Order Requests to projects that have impacts on Indigenous and treaty rights. However, the Minister will retain powers to impose conditions and elevate projects to a more comprehensive environmental assessment process. The province also seeks to reduce review timelines for complex projects by half (from six to three years) and provide greater certainty on different stages of the process for proponents. It remains to be seen whether these changes will result in faster approvals given delays experienced with the current regulated timelines.

While these changes have the potential to provide relief for future projects, changes to the Act will not accelerate receipt of an approval for the Upper York Sewage Solutions project. It is delayed due to Provincial Duty to Consult requirements.

York Region staff comments submitted to the province on August 24, 2020 which focussed on timelines, accountability, and increasing costs

Future regulations will establish consistent assessment processes to replace Class Environmental Assessments. Regional staff submitted comments on the Municipal Class Environmental Assessment consultation and leveraged this opportunity to signal key implementation considerations related to modernizing the broader environmental assessment process. Key concerns shared with the Ministry, which are supported by the Region's experience with the environmental assessment process, include:

- Regional staff requested that the Ministry include streamlined processes for municipal growth-related infrastructure similar to those for key transit projects
- Ensuring Ministry accountability for achieving timelines through third-party oversight, such as the Provincial Land and Development Facilitator (Ministry of Municipal Affairs and Housing) or the Auditor General. Regional staff are advocating that a defined audit and appeals process be included under planned regulations
- Developing objective and auditable criteria for Ministerial elevation orders
- Consideration of a third-party audit for Ministerial elevation orders and limiting these orders to projects with significant environmental impacts
- Separating concerns with environmental protections for infrastructure projects from concerns related to approved growth
- Mitigating increases to capital and operating costs resulting from conditions applied as a result of the environmental assessment process

Addressing these items is critical to the Region's ability to achieve growth targets under the Growth Plan for the Greater Golden Horseshoe. Further, by speeding up infrastructure approvals, municipalities can avoid excessive costs associated with protracted delays and focus on delivering critical infrastructure that contributes to Ontario's economic prosperity.

The response submitted to the Ministry to meet the August 24, 2020 deadline is included in Attachment 1. Through this response, it was requested that any comments received separately from Regional Council be considered. Regional staff will continue to monitor developments as amendments to the Class Environmental Assessment process proceed and regulations are developed under the *Environmental Assessment Act*. Staff will report back to Council with comments on draft regulations once they are released.

Erin Mahoney, M. Eng.
Commissioner of Environmental Services

Bruce Macgregor
Chief Administrative Officer

Attachments (1)
#11491239