



To: Regional Council
Meeting Date: March 21, 2024
From: Laura McDowell
Commissioner of Public Works
Re: **Response to new provincial legislation for streamlined environmental assessment of higher-risk municipal infrastructure projects**

This memorandum provides Regional Council with the staff response to the Province's proposed streamlined EA for infrastructure projects. The comments, submitted to the Province to meet the March 17 deadline, indicated further Council comments may be submitted following the March 21, 2024 Council meeting.

Province has proposed a streamlined environmental assessment process for municipal infrastructure

The Province recently released a consultation proposal on the Environmental Registry of Ontario to streamline the Environmental Assessment process for municipal infrastructure projects. The proposal includes revoking the Municipal Class Environmental Assessment in place of a streamlined environmental assessment regulation for municipal infrastructure projects. This consultation is separate from the *Get It Done Act, 2024* introduced on February 20, 2024, which proposed a minor change to the *Environmental Assessment Act*, along with changes to other acts.

The proposal includes a list of municipal projects that would be subject to a new Municipal Projects Assessment Process (MPAP). The proposed MPAP would replace the current Municipal Class Environmental Assessment process and apply to certain water, sewage, stormwater and shoreline water infrastructure projects undertaken by a municipality. Ontario Regulation 345/93 *Private Sector Developers* that requires owners of private lands to undertake environmental assessments for Municipal Class Environmental Assessment Schedule "C" water, wastewater and road projects would be revoked.

This proposal does not impact other streamlined environmental assessment processes for waste and transit. The Province will continue to have a Comprehensive Environmental Assessment process for a limited set of designated projects (formerly Individual Environmental Assessments). York Region does not have any anticipated projects meeting requirements for a Comprehensive Environmental Assessment, which is limited to high-risk projects like landfills and major electricity projects. However, under the provisions of the *Environmental Assessment*

Act, the Minister could order a proponent to proceed through the Comprehensive Environmental Assessment process, when aboriginal or treaty rights issues are raised.

Staff support the Province’s proposal for streamlining and providing greater certainty for municipal infrastructure project assessments

Staff indicated support for the proposed process, as it balances environmental protection and infrastructure acceleration. The Province’s proposal aligns with recommendations put forward in a [May 2023](#) Council memo requesting the Ontario government take a more risk-based approach to the environmental assessment process for municipal infrastructure.

Proposal exempts many road and some water/wastewater infrastructure projects through the new risk-based approach

The proposal exempts municipal infrastructure projects for roads, stormwater (without treatment), expansions to water and wastewater linear infrastructure, and specific expansions to wastewater treatment plant capacity. This infrastructure is considered low risk and would not be captured under the proposed MPAP. Exempt projects will continue to be assessed for potential environmental impacts through existing comprehensive planning and environmental permitting processes.

Proposed changes do not impact projects required to meet the *Supporting Growth and Housing In York and Durham Regions Act, 2022*

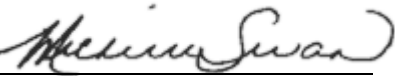
The York-Durham Sewage System and Duffin Creek Plant expansions that constitute the York Region Sewer Works project under the Act will not need to follow the MPAP. These projects will continue to follow the process in the *Supporting Growth and Housing In York and Durham Regions Act, 2022* and are exempt from the *Environmental Assessment Act*.

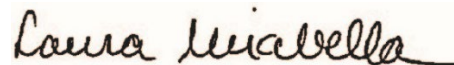
Staff comments submitted to meet provincial deadline indicating Council comments would be shared after discussion at Regional Council

The attached staff response (Appendix 1) was submitted to meet the March 17 deadline and indicated any further Council comments may be submitted following the March 21, 2024 Regional Council meeting. Staff have recommended additional changes to better align assessment processes with risk. Staff worked with municipal organizations including the Municipal Engineers Association and the Regional Public Works Commissioners of Ontario to ensure future assessment processes can be consistently applied across the province using a risk-based approach.

Staff will continue to monitor policy proposals and decisions related to the Environmental Assessment process and have requested to be engaged in any further consultations with the Province.

For more information on this memo, please contact Mike Rabeau, General Manager, Capital Infrastructure Services at 1-877-464-9675 ext. 75157. Accessible formats or communication supports are available upon request.

Per: 
Laura McDowell, P.Eng
Commissioner of Public Works



for Erin Mahoney
Chief Administrative Officer

March 12, 2024
#16029909

Appendix A – Letter to Assistant Deputy Minister, Ministry of the Environment, Conservation and Parks

March 17, 2024

Via email: EAModernization.MECP@ontario.ca

Lisa Trevisan
Assistant Deputy Minister
Ministry of the Environment, Conservation and Parks
Environmental Assessment and Permissions Division
135 St. Clair Ave. W., 14th Floor
Toronto ON M4V 1P5

Dear Ms. Trevisan:

RE: York Region Response – ERO 019-7891 – New regulation to focus municipal environmental assessment requirements

Thank you for the opportunity to comment on a new regulation to focus municipal environmental assessment (EA) requirements (the proposal). York Regional Council will review these recommendations on March 21. Any additional comments arising from Council will be shared with the Ministry in a follow-up letter.

Region staff support streamlined Environmental Assessments to achieve certainty with infrastructure approval timelines

Region staff support the Ministry's proposal to streamline the EA process through implementation of the Municipal Projects Assessment Process (MPAP). The Ministry's proposal for municipal infrastructure planning strikes the right balance of environmental protection and certainty of infrastructure approval timelines. Staff have included recommendations in this response to ensure the proposal effectively supports delivery of the infrastructure required to service York Region's portion of the province's target of 1.5 million homes.

York Region is moving rapidly to deliver infrastructure required to support housing in Ontario and recommends the province implement the streamlined EA process as soon as possible to expedite infrastructure delivery and bring certainty to the process for project approvals.

Further clarity is needed on MPAP requirements including exemptions to support effective timing and delivery of infrastructure

To achieve the province's target of 1.5 million homes by 2033, timely delivery of municipal infrastructure is crucial. Clear regulatory requirements for project approvals, including Ministry guidance will be required to support effective and timely infrastructure delivery. It is recommended the proposed regulation and any supporting Ministry guidance provide clarity on the MPAP process, specifically on the Environmental Project Report and addendum process.

Regarding the Environmental Project Report, it is recommended the regulation include specific requirements for the Report and more flexible measures for public notification to allow municipalities to leverage changing forms of media use and availability. To avoid confusion and delays, municipalities need clear guidance on what constitutes an emergency project that would be exempt from MPAP. The criteria for emergency exemption should be well-defined and consistent.

For the Addendum process, when changes arise affecting project scope, it is unclear how “significance” will be determined under the regulation, given the array of projects and situations that would fall under MPAP. Proponents are best suited to assess whether a change to the project is significant enough to require an Addendum. It is recommended assessment of “significant” changes be fully delegated to the proponent under the Regulation.

To support a risk-based approach, private sector projects should be subject to MPAP if they meet project list criteria

Environmental assessment processes should be risk-based, rather than proponent-based, to ensure effective environmental protection. If a project meets the criteria under the project list for an MPAP, it should follow the MPAP process. The Province has indicated the Private Sector Developers Regulation O. Reg. 345/93 will be revoked, which would exempt private developers from provincial environmental assessment requirements, including MPAP. This represents significant cost and environmental risk to municipalities who may be ordered to take over a privately-owned communal system if poorly managed. It is recommended the Province consistently apply a risk-based approach to determining which projects meet MPAP requirements. Systems meeting the threshold requirements under the project list should complete an MPAP regardless of whether the project is led by a public or private proponent.

Revise MPAP project lists based on Municipal Engineers Association recommendations to align water and wastewater requirements

Region staff support the MPAP project list in general but noted there are more stringent requirements for water than for wastewater. It is recommended that the 50,000 liter per day threshold for wastewater projects defined in MPAP proposal also be applied to water projects. For example, construction of a new drinking water system including a new well with a rated capacity of greater than 100,000 litres per day would be subject to MPAP. It is also recommended only expansions to a drinking water treatment plant of greater than 50 per cent in system capacity be subject to MPAP. This aligns with Municipal Engineers Association recommended changes to the Part II.4 project list.

Master plans and infrastructure permits provide strong protections for all municipal projects that effectively mitigate environmental risks

Master plans are a critical part of the process to delivering the infrastructure required to service growth needed to meet provincial housing targets. York Region completes comprehensive master planning that optimizes the system and reduces environmental impacts, evaluating the needs, impacts, options, and timelines of each project. Master planning processes include public consultation to ensure representation of community needs and interests. Region staff

support the province's proposal and assert that master plans and environmental permitting processes are sufficient to address the environmental risks of low-impact projects not captured by MPAP. Master plans and permits ensure all projects, even low-impact ones, meet high environmental standards. The province's proposal matches the level of assessment with the level of risk, while keeping environmental protection paramount.

Expansions to an existing system that has an Environmental Compliance Approval should be exempt from MPAP as these are low-risk projects

It is recommended that definitions be clarified, especially for linear infrastructure. Currently, there are some inconsistencies between the project list and glossary. For example, the glossary contains "sewage collection system" but this does not appear in the project list. Clarifying this would help support clear interpretation of when an MPAP is required.

The proposal would also benefit from clarity around how "new" and "expanded" will be applied under the MPAP project list. For example, the Region would consider the York Durham Sewage System to be part of an existing system and any expansion to be part of that system. It is recommended that any expansion to a system under an existing Environmental Compliance Approval be considered an expansion to the system and not a new system.

Municipal engagement would help to ensure regulations deliver a process that bring certainty to deliver timely infrastructure

Staff request an opportunity to participate directly in Ministry consultations for enacting regulations that will help bring certainty to approval timelines for municipal infrastructure projects.

If there are questions regarding these comments or further detail required, please contact Mike Rabeau, General Manager, Capital Infrastructure Services at Mike.Rabeau@york.ca

Sincerely,

Original signed

Erin Mahoney
Chief Administrative Officer

cc Laura McDowell, Commissioner, Public Works, The Regional Municipality of York
 Serge Imbrogno, Deputy Minister, Ministry of the Environment, Conservation and Parks
 Annamaria Cross, Director, EA Modernization (MECP)
 Ross Lashbrook, Senior Manager EA Modernization (MECP)
 Martha Greenberg, Deputy Minister, Ministry of Municipal Affairs and Housing
 Caspar Hall, ADM, Local Government Division (MMAH)
 Sean Fraser, ADM, Planning and Growth Division (MMAH)
 Paul Freeman, Chief Planner, Corporate Services (York Region)
 Laura Mirabella, Commissioner of Finance and Regional Treasurer (York Region)

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