



**York Region Detailed Comments – Modernizing Ontario’s Environmental Assessment Program –
Environmental Assessment Act –ERO 013-5102**

This is the second part of a two-part submission. This provides direct responses to questions posed by the Ministry in the discussion paper to simplify review by Ministry staff. It is critical that both parts of the response be considered by the Ministry decision-making process for modernizing the environmental assessments in Ontario.

Section 1: Ensuring better alignment between level of assessment and level of risk

1. What kind of projects should require environmental assessment in Ontario?

Recommendation	Rationale
Implement Municipal Engineers Association recommendations for amendments to Appendix 1 of the Municipal Class EA process.	<ul style="list-style-type: none"> Region staff support the proposal to simplify project schedules defined in Appendix 1 under the Municipal Class EA process for municipal roads, water and wastewater and proposed by the Municipal Engineers Association.
Exempt very low risk projects (e.g. intersection reconstructions) from the environmental assessment (EA) process entirely.	<ul style="list-style-type: none"> Projects that are low risk/routine with predictable impacts should be considered for exemption under the environmental assessment process. Region supports amendments through Appendix 1 of the Municipal Class EA process as proposed by the Municipal Engineers Association. There are a number of extremely low risk projects such as including intersection reconstruction and localized improvement projects. Requiring even a streamlined assessment for these types of projects represents a poor use of resources. It is recommended that the Class EA process be revised to identify low-level environmental risk project categories that are exempt from the Act.
If a list-based approach is developed, ensure sufficient flexibility to encompass an array of municipal	<ul style="list-style-type: none"> There are a wide variety municipal projects subject to environmental assessment requirements under the Act. Any list-based approach developed by the Province needs to ensure sufficient flexibility to ensure appropriate

<p>projects, similar to the Municipal Class EA process.</p>	<p>undertakings are captured and low risk activities are exempted.</p> <ul style="list-style-type: none"> • An evaluation of low and medium risk activities should be completed beyond the Municipal Class EA process. • The Municipal Engineers Association framework for project schedules provides a good starting point for review of project descriptions and appropriate Schedule categories.
<p>Ensure list of exemptions are included in regulations that the Minister can update as conditions and needs change.</p>	<ul style="list-style-type: none"> • If it is the intention of the Province to incorporate a list of project types that are exempt from the environmental assessments into the Act, Region staff recommend this list be incorporated through a regulation. • Regulations can be updated and revised by the Minister more quickly and effectively as they will not require amendments to the Act. • Projects under MCEA Schedule A and A+ activities would fall under the definition of low-level environment risk projects and are appropriate to be excluded from the EA Act.
<p>Province set a high standard for “social or economic benefit” for projects that would be exempted from the EA process. This should only be applied to unique projects that are not good candidates for a streamlined approvals process.</p>	<ul style="list-style-type: none"> • While the example shared in the discussion paper highlights challenges with the EA process for low risk projects, it is important to ensure there is clarity on what is deemed “high economic or social benefit”. It will be important to prevent projects being classified as low-risk where there may be human health and/or environmental impacts. • This needs to be carefully considered as it is difficult to determine what constitutes a ‘high economic or social benefit’. What may be considered high to some may actually be a negative and low to others depending on the impact of the project.

2. Are there some types of projects where a streamlined assessment process is appropriate?

Recommendation	Rationale
<p>Streamlined assessment process be developed for water, wastewater, and roads projects, similar to O. Reg. 355/11 for transit projects.</p>	<ul style="list-style-type: none"> • Currently it takes York Region 8 to 10 years to complete a municipal road project, from project inception to project completion. Meeting the requirements of the Environmental Assessment Program is 2-3 years of this schedule. • Delays can be even longer, 4 to 5 years have been experienced for some water and wastewater projects. • These delays make it challenging to bring servicing capacity online in a timely manner, which constricts growth and housing in Ontario. • York Region and RPWCO have repeatedly recommended that a regulation be enacted to expedite water, wastewater, and roads infrastructure that mirrors <i>Ontario Regulation 231/08: Transit Projects and Metrolinx Undertakings</i> (Transit Projects Regulation) • Regulation 231/08 recognizes timely delivery of transit infrastructure as a priority for the Province and provides a streamlined process to fulfill EA requirements limited to six months. A 30-day review period is required; however, if there is an objection to the proposed project, the Minister must provide notice to the proponent within 65 days indicating whether the project may proceed, and whether any further conditions must be fulfilled.
<p>Streamline processes for projects that support transit projects, such as construction and maintenance, under the Municipal Class EA process or O. Reg. 231/08.</p>	<ul style="list-style-type: none"> • The discussion paper is unclear how proposed amendments to the Act, such as removing EA requirements for routine projects, will be incorporated into the Municipal Class EA for roads, water and wastewater projects (MCEA). • It is also unclear how projects related to the maintenance and construction of transit facilities such as reserved bus lanes, lay-bys and transit shelters, facilities, stations, bus stops, rapidways, amenities, shelters, variable messaging signs, boarding/alighting platforms, and other transit infrastructure in the road right of way will be addressed under the MCEA for roads.

	<p>Distinction is needed between roads-related improvements under the MCEA and Transit Project Assessment Process (TPAP).</p>
<p>Ensure that streamlined processes such as O. Reg. 101/07 to increase waste processing capacity can be leveraged for facilities that are built and in operation without requiring a new individual environmental assessment to be performed.</p>	<ul style="list-style-type: none"> • <i>Ontario Regulation 101/07 Waste Management Projects</i>, under the <i>Environmental Assessment Act</i>, declared certain types of new and expanding energy from waste facilities eligible for the streamlined Environmental Screening Process. • York Region staff strongly support this direction as it recognizes the environmental benefits of energy from waste, including waste diversion from landfill. The Province has also recognized these benefits under the discussion paper <i>Reducing Litter and Waste in Our Communities</i>. • York Region staff recommend that the Province demonstrate its commitment to both streamlining approvals and energy from waste by ensuring the streamlined Environmental Screening processes can be effectively leveraged by proponents. This could be accomplished by considering the full array of analysis already performed under previous environmental assessment processes when determining whether to elevate assessment of expansions to energy from waste projects to avoid undue burden, costs, and delays for projects.

Section 2: Eliminate duplication between environmental assessment and other processes

3. What could a one-project-one-review process look like for projects in Ontario subject to both provincial and federal requirements?

Recommendation	Rationale
<p>When implementing a one-project, one-review approach, apply the more stringent requirements to mitigate environmental risks.</p>	<ul style="list-style-type: none"> • While Region staff support a one-project, one-review approach, it will be critical that clear guidance on implementation of a harmonized approach be provided to ensure projects can be completed effectively and requirements are understood from the outset. • When determining efficiencies between provincial and federal EA processes, consider adopting the more stringent requirements to minimize risks to the public and environment.

4. Can you identify any other examples of provincial processes that could be better integrated?

Recommendation	Rationale
<p>Ensure that work completed under one Class EA process satisfy to another.</p>	<ul style="list-style-type: none"> • In some cases, multiple EA processes will need to be completed for a project both for the initial build and for retrofits or capacity adjustments later on. • It would be beneficial to create a mechanism that recognizes work done under one Class EA when the project might trigger another Class EA. The completed Class EA should be permitted to satisfy the EA requirements (e.g. Municipal Class EA project which has land issues that could trigger the Ontario Realty Corporation Class EA. In these cases the Municipal Class EA should be considered valid to reduce duplication of efforts).

Section 3: Find efficiencies in the environmental assessment process and related planning, and approvals processes to shorten timelines from start to finish

5. What could a coordinated one-window approach look like for Ontario projects?

Recommendation	Rationale
Create a single point of contact for a project.	<ul style="list-style-type: none"> • A single point of contact should be established where all information is received and redistributed for comment to create greater simplicity for proponents.
Better integrate permitting/approval requirements and coordination of review among issuing bodies.	<ul style="list-style-type: none"> • Integrate the EA process with any provincially-issued permits, including supporting permits required to undertake a project such as permits to take water and endangered species.
Maintain municipal review with sufficient timelines for review under a single-window approach.	<ul style="list-style-type: none"> • Municipal permit review processes should be maintained under a one-window approach. • This will be necessary to ensure that projects comply with requirements related to source water protection and other areas under municipal jurisdiction. • Much of the technical impact assessment work is generally completed as part of the EA. Information should be provided to municipalities early in the process to allow sufficient time to review, which would support timely issuance of permits. • Early provision of documentation to municipalities would allow for issuance of a conditional pre-approval, documenting additional work the proponent would need to complete to be issued the PTTW. • This approach would help provide early line of sight to proponents to help ensure projects can commence quickly following EA approval.

6. Can you identify any areas in the environmental assessment process that could be better streamlined with the municipal planning process or with other provincial processes?

Recommendation	Rationale
<p>Ensure the Part II Order Request process is not used to reopen an issue that has already been settled through other processes</p>	<ul style="list-style-type: none"> • Delays to projects result in significant time and cost impacts to proponents. • Any delays encountered as a result of the EA process should be to mitigate environmental issues, not to address land-use planning issues. • Decisions rendered by the Ontario Land Review Tribunal needs to be respected under the EA process, this should not be an opportunity to re-litigate an issue to delay a process. • This would better reflect consultation and planning work a proponent has completed under other processes such as Official Plan amendments, Plans of Subdivision, Master planning processes, etc.
<p>Integrate <i>Environmental Assessment Act</i> and <i>Planning Act</i> processes for infrastructure projects.</p>	<ul style="list-style-type: none"> • York Region staff support improving the integration of EA Act processes and <i>Planning Act</i> requirements. • For example, although the MCEA includes the provision for local roads, the Region is supportive of broadening this definition to include “all roads and related infrastructure which are required as a specific condition of a Planning Act Approval”.

7. What advantages and disadvantages do you see with the ministry’s environmental assessment process being the one-window for other approval/permit processes?

Recommendation	Rationale
<p>Advantages</p>	<ul style="list-style-type: none"> • A single point of contact is likely to reduce confusion on document submission and would help ensure issues are addressed once, not revisited during the permit stage. • Improves clarity and coordination where there are multiple Provincial ministries reviewing project issues from different perspectives. • Any one-window approach will need to include an internal process for various

	Ministries to address conflicting comments.
Disadvantages	<ul style="list-style-type: none"> • Coordination of approval from various ministries could increase review and approval timelines and has the potential to result in delays to an entire project if timelines are not achieved. • This could lead to the loss of implementation efficiencies, currently sections of a project can proceed with construction in parallel to working with ministries and third parties on permitting and additional approvals outside of the Class EA.
Opportunities	<ul style="list-style-type: none"> • Efficiencies could be attained by allowing applicants to initiate and streamline certain permit and approval applications during the environmental assessment process prior to waiting for formal EA approval.

8. What areas of the environmental assessment program could benefit from clearer guidance from the ministry?

Recommendation	Rationale
Provide guidance on how to reduce the scope of study reports to support a streamlined EA process.	<ul style="list-style-type: none"> • There has been a significant level of scope creep in EA study report requirements in recent years, likely in an attempt to preempt Part II Order Requests or to provide information to permit the Minister to make a decision. • With proposed revisions under Bill 108 to the Part II Order Request process to better align with concerns about specific impacts of a project, consideration should be given to supporting the regulated community with guidance on how report content can be scaled back, as appropriate.
Clearly define key criteria and triggers that result in escalation of projects (e.g. Schedule B to C) through a self-assessment tool.	<p>Escalating assessment Class EA process from a Schedule B to a Schedule C or to an individual environmental assessment (IEA) has significant cost and time implications for proponents.</p> <ul style="list-style-type: none"> • It would be beneficial for proponents if the Ministry provided self-assessed risk-based analysis would help define the process. A clear understanding of

	<p>the scope and criteria for determining what projects are preapproved, which are Schedule B and which are Schedule C would assist proponents.</p>
<p>Provide clearer guidance on tools to assess health impacts in EAs.</p>	<ul style="list-style-type: none"> • The EA program could benefit from clearer guidance on how to best incorporate tools which assess a broad scope of health impacts (e.g. Health Impact Assessments).
<p>Work with Indigenous leadership and municipalities to develop guidance and support to better implement the Crown’s Duty to Consult, where this Duty is engaged on municipal infrastructure projects</p>	<ul style="list-style-type: none"> • Indigenous engagement is an important aspect of the EA process for both proponents and the Province. • Clear guidance should be developed on when a project may trigger the Duty to Consult • In the event that the Crown’s Duty to Consult with an Indigenous community is triggered, discussion should occur at front end of an EA process by communicating with the municipality and the Indigenous community on: 1) any procedural elements the Crown proposes to delegate to the municipal proponent; and 2) funding mechanisms and other supports the province will be providing to support Indigenous participation in the Crown’s Duty to Consult activities; • There is limited information provided on best practices for proponents to effectively and authentically engage Indigenous communities, nor how this is integrated into the Crown’s Duty to Consult and corresponding Duty to Accommodate, where appropriate. • It would be helpful if the Ministry were to clarify and provide guidance for engagement with Indigenous communities under the EA process.
<p>Provide clear guidance on assessment of broader environmental issues through the EA process and access to data on appropriate scales</p>	<ul style="list-style-type: none"> • Examples of these broader environmental issues are: consideration of cumulative effects; climate change effects, mitigation and adaptation; and for wastewater projects, assimilative capacity studies and modelling.

9. What other actions can we take to reduce delays and provide certainty on timelines for environmental assessment?

Recommendation	Rationale
<p>Develop a streamlined Ministerial review process to provide proponents clarity on timelines.</p>	<ul style="list-style-type: none"> • A streamlined Minister review process would enable proponents to better plan projects and provide greater certainty to project cost and delivery to support the development of planned residential and employment growth. • This could be achieved by: <ul style="list-style-type: none"> ○ Clarify Ministry definition of what would be deemed high, medium and low risk to provide guidance to proponents when determining the appropriate level of EA when initiating a project. ○ Adherence to timelines for Minister IEA review and approval, including terms of reference and Part II order decisions. ○ Delegate Ministerial authority for decisions on Part II order requests to the Director-level. ○ Clarify and define the scope of a valid Part II Order requests (see following recommendation for detail).
<p>Limit acceptable scope of Part II order requests</p>	<ul style="list-style-type: none"> • Part II order requests have a significant impact on projects and as identified previously, are used in some cases to address issues better suited to or already defined under other processes. • Clearly defining the scope of a valid Part II Order requests would be beneficial to help proponents better understand likely outcomes of this process. Specifically, this should identify: <ul style="list-style-type: none"> ○ Limits for what is considered a valid Part II order request under the Act i.e. process/consultations errors, Indigenous or treaty rights, and other matters of prescribed provincial importance. ○ Part II Order request process does not apply to routine and low-risk projects.

	<ul style="list-style-type: none"> ○ Invalid Part II Order requests include those related to the built form, marketability, or aesthetics over the natural environment. Although these issues fall within the definition of environment, they fall outside of the intended scope of Part II Order requests and in many cases there are other processes designed to address these issues such as the Planning Act.
<p>Establish a process to notify proponents as EAs, including Class EAs, proceed to next stages.</p>	<ul style="list-style-type: none"> ● Currently, municipalities do not receive formal notices from the Ministry for completed Class EAs, nor when critical milestones have been reached in the process. ● It would be helpful if the Ministry could provide some form of notification advising proponents that the 30 day review period has been cleared with no Part II Order were received.

10. What are the advantages and disadvantages of using a sector-based terms of reference?

Recommendation	Rationale
Advantages	<ul style="list-style-type: none"> ● A sector-based terms of reference would likely streamline the review process by ensuring sufficient flexibility to exempt low risk projects as appropriate and allow the opportunity modify the terms of reference for projects within the sector ●
Disadvantages	<ul style="list-style-type: none"> ● Care will need to be taken to avoid creating too many classes/sectors; otherwise, the process could become confusing and impact project timing.

Section 4: Go digital by permitting online submissions

11. What type(s) of environmental assessment project information would you like to access online?

Recommendation	Rationale
Ensure that EA documentation is available online to ensure transparency.	<ul style="list-style-type: none"> It is recommended that all EA documentation submitted for approval be available on the Ministry website, Locating all documents in one place will to improve transparency and make it easier for the public to access information on a proposed project.

12. Are there any existing online tools that would be appropriate to use for environmental assessment information?

Recommendation	Rationale
Post EA information on the Provincial website, including the open data portal, where feasible.	<ul style="list-style-type: none"> Locating all documents in one place will improve transparency and make it easier for the public to access information on a proposed project. This also has the potential to help the Province meet its open data goals while providing information for interested parties to review and analyze.
Consultations on EAs should remain on the Environmental Registry of Ontario.	<ul style="list-style-type: none"> Maintain the Environmental Registry of Ontario as the primary tool for engagement of EA processes. This is an established and effective tool for consultation, which should be maintained.

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