

MUNICIPAL CLASS ENVIRONMENT ASSESSMENT

FIVE YEAR REVIEW

JULY 2005

**Prepared by the
MEA's Municipal Class EA
Monitoring Committee**

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In October 2000, the Minister of the Environment approved the Municipal Class Environmental Assessment. This approval included conditions that required annual monitoring and a review of the Municipal Class EA after 5 years. MEA established the Municipal Class EA Monitoring Committee and each year this Committee has produced a monitoring report.

The 5 year review of the Municipal Class EA must be submitted by October 2005. On January 17th, 2005, the Monitoring Committee outlined their plans for the 5 year review to MOE. On February 28th, 2005, MOE responded with some specific comments and suggested amendments to the Municipal Class EA. In February and March 2005 the previous monitoring reports were reviewed. The attached questionnaire was then developed based on the previous monitoring reports and on MOE's comments. Circulation of this questionnaire was delayed so that feedback regarding MOE's EA Advisory Panel's report could be collected at the same time.

On May 13th, 2005, the attached questionnaire was circulated to all MEA members and was posted on MEA's web site. The feedback, which was due on June 10th, 2005, was compiled and on June 20th, 2005, the MEA Class EA Monitoring Committee reviewed the feedback with MOE.

The MEA Class EA Monitoring Committee concludes that the Municipal Class EA is still compliant with legislative requirements, planning practices and continues to satisfy the purpose of the Environmental Assessment Act. However, based on the feedback and on discussions at the June 20th, 2005 meeting, to improve the process, the Monitoring Committee intends to pursue two amendments, one minor and one major, to the Municipal Class EA.

MINOR AMENDMENT

The minor amendment to the Municipal Class EA would address the following:

1. **Include Transit or Bus Lanes as Schedule C Projects**

The following minor amendment has been approved:

"Linear Paved Facility: Means facilities which utilize a linear paved surface including road lanes, or lanes in an exclusive right-of-way for HOV lanes, bus lanes or transit lanes. (Note: new busways or transitways, which include system elements such as stations and park'n'ride, are subject to individual EA requirements.)"

This minor amendment will be incorporated in a reprinting of the Municipal Class EA.

2. Structural Rehabilitation +40 years

The Committee has issued the following clarification:

Structures of 40 Years Old

There has been some concern expressed for the appropriate interpretation of the Table in Appendix 1 to the Class EA document as it relates to project type 29 and the requirement to follow a Class B or C approach for structures greater than 40 years of age.

In order to clarify the application of this section of Class EA document as it relates to the classification of structural projects, it is important that there is additional interpretation to clarify the applicability of the relevant portions of Appendix 1.

Firstly, the following definitions should apply. According to CSA-S6-00 a bridge is defined as:

“A structure that provides a roadway or walkway for the passage of vehicles, pedestrians, cyclists across an obstruction, gap....and has a span greater than 3 m.”

By contrast, a culvert is defined by CSA-S6-00 as:

“A structure that forms an opening through an embankment.”

On the basis of the foregoing definitions, it is clear that culverts are distinct structure types from bridges and the requirements for such works are adequately covered by project types 17 and 18 in Appendix 1.

Bridges are integral portions of the road of which they are a part. It is clear that the intent of project types 1, 19 and 23 in Appendix 1 is to cover projects which have the intent to reinstate a facility to its prior state and that such projects should be approved without delay. The works should result in a rejuvenated bridge that has all the capabilities of the originally constructed bridge. This would include rehabilitations to existing structures where there is no outwardly obvious difference in character or appearance between the previous and resultant facility.

The application of project type 29 is poorly worded and contradictory in that it is not possible to “construct a structure” which is “over 40 years old”. It is clear that the intent of project type 29 was to protect bridges of historical significance wherever possible and to ensure that when in doubt the appropriate screenings take place. The issue fundamentally boils down to what constitutes work that would alter the nature and significance of the structure. Any act that would alter the fundamental character of the construction or appearance of the structure should be appropriately scrutinized. To this end, it is recommended that any work that alters the basic structural system, overall configuration or appearance of a structure should fall under a Schedule B or C as applicable. All other work would be covered by items 19 and 23 above.

The information in this clarification will be included in a minor amendment and then that this minor amendment will be incorporated in a reprinting of the Municipal Class EA.

3. **Alter the Consultation – Public Notice Requirements to Provide Flexibility for Advertising**

The Committee has issued the following clarification:

Consultation – Public Notices

The second paragraph of A.3.5.3 states:

“For the purposes of this Class EA, a published notice shall mean a notice published in a local newspaper having general circulation in the area of the project. Two (2) published notices shall mean two (2) notices appearing in separate issues of the same newspapers. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of achieving the same objective of adequate notification to the general public.”

The Interpretation Act defines a newspaper as:

“in a provision requiring publication in a newspaper, means a printed publication in sheet form, intended for general circulation, published regularly at intervals of not longer than a week, consisting in great part of news of current events of general interest and sold to the public and to regular subscribers; (“journal”)

However, newsprint papers, which are distributed free of charge, often have better coverage. Also, other notice methods, such as web pages, newsletters and signage have become more popular. The recently revised Municipal Act has recognized these changes and required municipalities to establish a procedure which details how the public will be notified for the various items requiring notification under the Municipal Act. This has enabled Municipalities to design a notice procedure which can be both more effective and less costly.

The second paragraph of A3.5.3 should be interpreted to read:

“For the purposes of this Class EA, a published notice shall mean a notice published in a local newspaper having generally circulation in the area of the project. Two (2) published notices shall mean two (2) notices appearing in separate issues of the same newspaper. Where no such newspaper exists, the proponent shall be responsible for determining the equivalent local means of achieving the same objective of adequate notification to the general public. In cases where a municipality has elected to establish a procedure for notifying the public regarding similar projects under other applicable provincial legislation, the proponent may use that procedure to fulfill their requirements for published notice.”

Proponents are encouraged to establish a procedure to coordinate the public notices for Schedule B and C projects with other municipal notice procedures. For example, notices for Schedule B and C projects, which are associated with a Planning Act application, should be coordinated with the notice required by the Planning Act. Municipalities should establish notice procedures for other Schedule B and C projects in a similar fashion to the notice procedures which they have adopted as required by the Municipal Act.

The information in this clarification will be included in a minor amendment and then that this minor amendment will be incorporated in a reprinting on the Municipal Class EA.

4. **Reference to Local Improvement Act**

The Committee has issued the following clarification:

Local Improvement Projects

The Table in Appendix I to the Class EA document, related to Municipal Road Projects, states that project type 34 – Roadworks undertaken pursuant to the Local Improvement Act, are considered Schedule A Projects. Also, Wastewater Management Projects type 15 and Water Projects type 11 state that projects, pursuant to the Local Improvement Act, are considered Schedule A Projects. However, section 474.10.0 of the new Municipal Act repealed the Local Improvement Act.

The Local Improvement Act has essentially been replaced by Ontario Regulation 119/03.

Projects planned and approved under this regulation can be considered Schedule A projects under the Municipal Class EA for Environmental Assessment Act Approval.

The information in this clarification will be included in a minor amendment and then that this minor amendment will be incorporated in a reprinting of the Municipal Class EA.

5. **Increase Dollar Limits with Inflation**

The dollar limits identified in Appendix 1 of \$1.5m and \$6.0m were established in 1993. Since then inflation has increased prices by 24.5%. Inflation will continue to increase costs.

A minor amendment to increase the dollar limits from \$1.5m to \$2.0m and \$6.0m to \$8.0m will be requested and that this minor amendment will be incorporated in a reprinting of the Municipal Class EA.

6. **The 5 Years Should Begin on the Date the EA is Approved**

Currently section A.4.2.2 states that “*If the period of time from filing the Notice of Completion of ESR in the public record to the proposed commencement of construction for the project exceeds five (5) years, the proponent shall review the planning and design process and the current environmental setting to ensure that the project and the mitigation measures are still valid given the current planning context. The review shall be recorded in an addendum to the ESR which shall be placed on the public record.*” For some projects, the final approval can be a significant amount of time after the Notice of Completion is filed as the proponent works with objectors and then waits for a decision from the Minister. If approval of the projects takes several years, it can be difficult to arrange to complete a major project within the time remaining within the 5 year deadline.

A minor amendment will be requested to revise Section A4.2.2 so that the five (5) year time is from final approval of the project to commencement of construction and that this minor amendment will be incorporated into a reprinting of the Municipal Class EA.

7. **Notices Regarding Addendum**

It should be clear to the public that when an addendum to an ESR is issued, only the items covered in the addendum are open for review.

A minor amendment will be requested to reword the sample notice for an addendum to an ESR to make it clear that only the items covered in the addendum are open for review and that this minor amendment will be incorporated in a reprinting of the Municipal Class EA.

8. **Construction of Local Roads**

The current Municipal Class EA states:

“Construction of local roads which are required as condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act prior to the construction of the road.” – Schedule A-NL

However, Ont. Reg 245/93 exempts works constructed by the private sector unless those works are identified in the Municipal Class EA as Schedule C activities and the works are to service residential development.

Recommendation

A minor amendment will be requested to add a section to A.13 which explains Ont. Reg 345/93 and its application but encourages municipalities to consider requiring developers to fully consider appropriate alternatives even if the project is exempt under Ont. Reg 345/93.

9. **Changes in Legislation and Review Procedures**

Section A.2.10 Relationship to Projects within the Class EA to Other Legislations, Page A-45

1. References to new provincial statutes that may affect the planning and design of municipal infrastructure should be updated. Examples include:
 - ~ the Oak Ridges Moraine Conservation Act, 2001, and the Oak Ridges Conservation Plan enacted in 2001;
 - ~ the Ontario Safe Water Drinking Act, 2002 and its regulations;
 - ~ the Nutrient Management Act, 2002 and its regulation;
 - ~ the proposed Greenbelt Plan;
 - ~ proposed Places to Grow Act;
 - ~ Ontario Regulation 116/01 (Electricity Regulation); and
 - ~ Municipal Act, 2001.
2. This section should state that proponents will be required to demonstrate they have completed the EA process when submitting applications under the *Environmental Protection Act* and *Ontario Water Resources Act*. Proponents are requested to provide copies of Notices of Completion and confirm that no Part II order requests are outstanding.

A minor amendment will be requested to include the above information and that this minor amendment will be incorporated into a reprinting of the Municipal Class EA.

10. **Changes in Legislation and Review Procedures**

Section A.2.10 and A.2.11 Relationship to Projects within the Class EA to Other Legislations, Page A-45

Guidelines being finalized by DFO to identify federal information requirements for projects that are subject to both Federal Fisheries Act, and MEA's Class EA. Also, effective May 29th, 2004, responsibility for the Navigable Waters Act switched to Transport Canada. These sections should reference the above.

A minor amendment will be requested to include the above information and that this minor amendment will be incorporated into a reprinting of the Municipal Class EA.

11. **References to Drainage Act on Pages A-49, C-16 and 1-11, Schedule A**

Section A.2.10.5 identifies that drainage works regulated under the Drainage Act are exempt from the Act by Ontario Regulation 334, section 5.(2)(c). This provision is repeated in the Class EA.

Section 5.(2)(c) of O.R. 334 does not align with *Ontario Water Resources Act*, section 53.(6)(d). Section 53.(6)(d) only exempts drainage works for agricultural purposes. Therefore, references to the Drainage Act should be revised to read;

Certain drainage works, regulated under the Drainage Act are exempt under Ontario Regulation 334.

A minor amendment will be requested to include the above information and that this minor amendment will be incorporated into a reprinting of the Municipal Class EA.

12. **Appendix 1, Schedule B, item 25, Page 1-15**

Class EA describes construction and replacement of dams and weirs, but does not identify removal of these activities. Scheduled activities should also capture removal of these activities.

A minor amendment will be requested to include the above information and that this minor amendment will be incorporated into a reprinting of the Municipal Class EA.

MAJOR AMENDMENTS

The major amendment to the Municipal Class EA would include two parts:

- Part I The process requirements of the Municipal Class EA would be rewritten to create and define a new schedule of projects – Schedule A+. Projects in this new schedule would require notification to the public, (Note – Schedule A projects do not require any public notification) but there would be no ability to request a Part II Order from the Minister (Note – Schedule B projects allow the public to request a Part II Order). The schedules would then be reviewed and those projects for which public notice is appropriate but the issues are local would be placed in this new Schedule A+.

Ontario Regulation 334 exempts municipal projects less than \$3.5 million unless the project is identified in a Class EA. During the review of the schedules certain projects could be removed from the Class EA if appropriate to take advantage of this exemption. This portion of the Major Amendment would address the following issues which have been identified:

1. **Addition of Bike Lanes**

The current Municipal Class EA designates “Construction or Operation of Sidewalks or Bicycle Paths Within Existing Right-of-Way” as a Schedule A activity.

Bike Lanes would be identified in the appropriate Schedule.

2. **Conversion of One Way or Two Way Streets**

Conversion of streets would be identified in the appropriate Schedule.

3. **Parking or Turning Lane Markings**

Parking or Turning Lane Markings would be identified in the appropriate Schedule.

4. **Water Crossing by Tunneling**

Point 11 on Page 1-16 of the current Municipal Class EA designates:

“Water crossing by a new or replacement water facility.”

as a Schedule B activity.

New technology has made it practical to install watermains by tunneling under a water course and causing no disruption.

Water Crossing by Tunneling would be identified in the appropriate Schedule.

5. **Changes Proposed by MOE in Scheduled Activities**

Appendix 1, Schedule A, Water Projects, Page 1-11, item 1, 7th bullet – remove “replacement” from item

Existing Wording: *repairs, cleaning or replacement of a well or intake.*”

Proposed Wording: *“repairs or cleaning of a well or intake”*

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 3 – add “or new building” after “acquisition”

Existing Wording: *“Expand/refurbish/upgrade water treatment plant up to existing rated capacity where no land acquisition is required.”*

Proposed Wording: *“Expand/refurbish/upgrade water treatment plant up to existing rated capacity where no land acquisition or new building is required.”*

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 5 – remove *“install new wells or”* from the clause

Existing Wording: *“Install new wells or deepen existing wells or increase pumping capacity of existing wells, at an existing municipal well site, where the existing rated yield will not be exceeded.”*

Proposed Wording: *“Deepen existing wells or increase pumping capacity at existing municipal well site, where the existing rated yield will not be exceeded.”*

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 1 – 10th bullet point

Existing Wording: *“Installation or replacement of standby power equipment where new equipment is located within an existing building or structure.”*

Proposed Wording: *“Installation or replacement of standby power equipment where the new equipment is located within a building or structure which previously contained standby power equipment.”*

Appendix 1, Schedule B, Water Projects, Page 1-16 Item 6

Existing Wording: *“Installation or replacement of standby power equipment located in a new building or structure.”*

Proposed Wording: *“Installation or replacement of standby power equipment where the new equipment is not located within a building or structure which previously contained standby power equipment.”*

Appendix 1, Schedule B, Water Projects, 1-16, Item 12 – remove new or expanded water intake pipe

Existing Wording: *“Increase water treatment plant capacity including new or expanded water intake beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant.”*

Proposed Wording: *“Increase water treatment plant capacity beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant.”*

Page 1-11, Item 1, Water Projects and Page 1-16, item 6 references to *“standby power equipment”*

MEA does not support the proposed changes above but will review these items in detail and identify these projects in the appropriate schedule.

6. **Traffic Calming**

Currently traffic calming measures are designated
Schedule B < 1.5m
Schedule C > 1.5m

Traffic Calming would be identified in the appropriate Schedule.

7. **Include Shoreline Works Such as Off Shore Breakwater, Shore Connected Breakwater, Groynes and Sea Wall**

Shore Projects would be identified in the appropriate Schedule.

1. **Increase Dollar Limits for Intersection Improvement So That It Does Not Go To A Schedule C At \$1.5 million**

Intersection Improvement would be identified in the appropriate Schedule.

9. **Reclassify or Redefine Road Closure**

Certain proponents have suggested that Road Closure projects should shift to Schedule A.

Road Closure would be identified in the appropriate Schedule.

10. **Municipal Drain Projects**

The Minor Amendment will explain that certain drainage works, regulated under the Drainage Act, are exempt under Ontario Regulation 334.

Other drainage works, which are exempt, will be identified in the appropriate schedule.

Part II The Municipal Class EA would be rewritten to incorporate a new section for Transit projects. Specific Transit Projects would then be defined as Schedule A, A+, B or C projects. This implements one of MOE's EA Advisory Panel's recommendations.

The MEA is currently seeking partners with Transit expertise to assist with the preparation of the proposed major amendment to the Municipal Class EA. We anticipate that both individuals and funding will be identified shortly so that work on the proposed major and minor amendment can proceed in the fall of 2005.

In 2004, MEA organized an EA update training course which was delivered in 7 locations throughout the Province and attended by more than 450 practitioners. In the spring of 2005, MEA organized an EA101 training course for junior staff which was attended by 129 people. This course is being repeated on October 27th, 2005. Further training sessions will be organized after the proposed amendments have been approved and the Municipal Class EA reprinted to incorporate the amendments.

Also, MOE has committed to inviting MEA to meet with the Regional EA Coordinators in September 2005. This meeting will be useful to ensure EA practices are consistent across the Province.

QUESTIONNAIRE

MUNICIPAL CLASS ENVIRONMENTAL ASSESSMENT

In 2000, the Ministry's approval of the Municipal Class EA, included the condition that the MEA monitor the use of the Class EA and review every five years.

MEA's Municipal Class EA Monitoring Committee has reviewed the monitoring reports from previous years, gathered comments from MOE and reviewed the Class EA document and proposes to amend/update and reprint the Class EA.

The following outlines the proposed amendments/updates. Although a number of the changes proposed are described as minor amendments to the Class EA, the change could have a significant impact on individual projects. Please review the following in detail and assess the impact of the proposed changes. To provide your input, please type your comments in the space directly under the issue and then e-mail this document, complete with your comments to Paul Knowles, the Chair of the MEA's Municipal Class EA Monitoring Committee at pknowles@carletonplace.ca or mail to Paul Knowles, 175 Bridge Street, Carleton Place, Ontario K7C 2V8.

1. Addition of Bike Lanes

The current Municipal Class EA designates "Construction or Operation of Sidewalks or Bicycle Paths Within Existing Right-of-Way" as a Schedule A activity.

Recommendation

THAT a clarification be issued by the Committee which explains that bike lanes are just bike paths located adjacent to travel lanes and are Schedule A activities.

Insert Comments Below:

2. Conversion of One Way or Two Way Streets

Conversion of one way or two way streets is controlled by municipal by-law and falls under:

Installation, Construction or Reconstruction of Traffic Control Devices
Schedule A < 6,0m
Schedule B > 6.0m

Recommendation

THAT a clarification be issued by the Committee which explains that traffic control devices includes one way signs.

Insert Comments Below:

3. **Parking or Turning Lane Markings**

Recommendation

THAT a clarification be issued by the Committee which explains that repainting markings is normal operation of a Schedule A activity. Paint markings would normally be first established as part of:

Construction of Localized Operation Improvements as Specific Locations

Schedule A < 1.5m

Schedule B > 1.5m

or

Installation of Traffic Control Devices

Schedule A < 6.0m

Schedule B > 6.0m

or

Construction of a New Road

Schedule A < 1.5m

Schedule B > 1.5m

Insert Comments Below:

4. **1 – 2 day “How to do a EA Project” Course**

In the spring of 2004, MEA offered a one day update for users of the Municipal Class EA. In the spring of 2005, a 1 – 2 day “How to do an EA Project” course will be offered.

Recommendation

THAT MEA continue to provide appropriate training related to the Municipal Class EA.

Insert Comments Below:

5. **Information Regarding the Municipal Class EA Should Be Posted on MEA's Web Site**

MEA's web site currently has a section dedicated to the Municipal Class EA.

Recommendation

THAT MEA continue to post information, relevant to users of the Municipal Class EA, on MEA's web site.

Insert Comments Below:

6. **MEA Should Meet with MOE's Regional EA Coordinators and Review MOE's Role in the Class Ea Process**

Insert Comments Below:

7. **Structural Rehabilitation +40 years**

The Committee has issued the following clarification:

Structures of 40 Years Old

There has been some concern expressed for the appropriate interpretation of the Table in Appendix 1 to the Class EA document as it relates to project type 29 and the requirement to follow a Class B or C approach for structures greater than 40 years of age.

In order to clarify the application of this section of Class EA document as it relates to the classification of structural projects, it is important that there is additional interpretation to clarify the applicability of the relevant portions of Appendix 1.

Firstly, the following definitions should apply. According to CSA-S6-00 a bridge is defined as:

"A structure that provides a roadway or walkway for the passage of vehicles, pedestrians, cyclists across an obstruction, gap....and has a span greater than 3 m."

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Bridges are integral portions of the road of which they are a part. It is clear that the intent of project types 1, 19 and 23 in Appendix 1 is to cover projects which have the intent to reinstate a facility to its prior state and that such projects should be approved without delay. The works should result in a rejuvenated bridge that has all the capabilities of the originally constructed bridge. This would include rehabilitations to existing structures where there is no outwardly obvious difference in character or appearance between the previous and resultant facility.

The application of project type 29 is poorly worded and contradictory in that it is not possible to “construct a structure” which is “over 40 years old”. It is clear that the intent of project type 29 was to protect bridges of historical significance wherever possible and to ensure that when in doubt the appropriate screenings take place. The issue fundamentally boils down to what constitutes work that would alter the nature and significance of the structure. Any act that would alter the fundamental character of the construction or appearance of the structure should be appropriately scrutinized. To this end, it is recommended that any work that alters the basic structural system, overall configuration or appearance of a structure should fall under a Schedule B or C as applicable. All other work would be covered by items 19 and 23 above.

Recommendation

THAT the information in this clarification be included in a minor amendment and then that this minor amendment be incorporated in a reprinting of the Municipal Class EA.

Insert Comments Below:

8. **MOE's Preferred Procedures Regarding Notices and Involvement in the Process During Class EA Projects will be Included in Future Monitoring Reports and Training**

The Committee has issued the following clarification:

Mandatory MOE Contact Information

As indicated in Section A.3.6 of the Municipal Class EA, for all projects, all mandatory notices including Notices of a Study Commencement and Notices of Completion are to be directed to the appropriate Regional EA Coordinator, at the Regional Office shown below.

Central Region

Central Region Office
Ministry of the Environment
5775 Yonge Street, 8th Floor
North York, ON M2M 4J1
Attn: Ernie Hartt, APEP Supervisor

Eastern Region

Kingston Regional Office
Ministry of the Environment
133 Dalton Avenue, P.O. Box 820
Kingston, On K7L 4X6
Attn: Bob Holland, Acting APEP Supervisor

Northern Region

Northern Regional Office
C/O Sudbury District Office
Ministry of the Environment
199 Larch Street, Suite 1101
Sudbury, ON P3E 5P9
Attn: Kathy McDonald, APEP Supervisor

Southwestern Region

London Regional Office
Ministry of the Environment
733 Exeter Road
London, ON N6E 1L3
Attn: Mike Parker, Acting APEP Supervisor

West Central Region

Hamilton Regional Officer
Ministry of the Environment
119 King Street West, 12th Floor
Hamilton, ON L8P 4Y7
Attn: Lou-Ann Cornocchio, APEP Supervisor

In addition, municipalities must also submit a Notice of Completion for each Schedule B or C Project to MOE's Environmental Assessment and Approvals Branch. A sample memo is included in Appendix 6 of the Municipal Class EA document.

Ministry of the Environment
Environmental Assessment and Approval Branch
2 St. Clair Avenue West
Toronto, Ontario
M4V 1L5
Attn: Gemma Connolly

Recommendation

THAT the information in this clarification be included in a minor amendment and then that this minor amendment be incorporated in a reprinting of the Municipal Class EA. The notice requirements will continue to be kept up to date and posted on MEA's web site.

Insert Comments Below:

9. Include Transit or Bus Lines as Schedule C Projects

The following minor amendment has been approved:

“Linear Paved Facility: Means facilities which utilize a linear paved surface including road lanes, or lanes in an exclusive right-of-way for HOV lanes, bus lanes or transit lanes. (Note: new busways or transitways, which include system elements such as stations and park’n’ride, are subject to individual EA requirements.)”

Recommendation

THAT this minor amendment be incorporated in a reprinting of the Municipal Class EA.

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The Local Improvement Act has essentially been replaced by Ontario Regulation 119/03.

Projects planned and approved under this regulation can be considered Schedule A projects under the Municipal Class EA for Environmental Assessment Act Approval.

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Recommendation

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Insert Comments Below:

13. The 5 Years Should Begin on the Date the EA is Approved

Currently section A.4.2.2 states that *“If the period of time from filing the Notice of Completion of ESR in the public record to the proposed commencement of construction for the project exceeds five (5) years, the proponent shall review the planning and design process and the current environmental setting to ensure that the project and the mitigation measures are still valid given the current planning context. The review shall be recorded in an addendum to the ESR which shall be placed on the public record.”* For some projects, the final approval can be a significant amount of time after the Notice of Completion is filed as the proponent works with objectors and then waits for a decision from the Minister. If approval of the projects takes several years, it can be difficult to arrange to complete a major project within the time remaining within the 5 year deadline.

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Insert Comments Below:

14. Notices Regarding Addendum

It should be clear to the public that when an addendum to an ESR is issued, only the items covered in the addendum are open for review.

Recommendation

THAT a minor amendment be processed to reword the sample notice for an addendum to an ESR to make it clear that only the items covered in the addendum are open for review and that this minor amendment be incorporated in a reprinting of the Municipal Class EA.

Insert Comments Below:

15. Water Crossing by Tunneling

Point 11 on Page 1-16 of the current Municipal Class EA designates:

“Water crossing by a new or replacement water facility.”

as a Schedule B activity.

New technology has made it practical to install watermains by tunneling under a water course and causing no disruption.

Recommendation

THAT a minor amendment be processed to reword point 6 on Page 1-12 to state:

“Establish, extend or enlarge a water distribution system and all works necessary to connect the system to an existing system or water source, provided all such facilities are in either an existing road allowance or are in a existing utility corridor. This includes tunneling under a water course provided there is no disruption to the water course.”

Insert Comments Below:

16. Construction of Local Roads

The current Municipal Class Ea states:

“Construction of local roads which are required as condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act prior to the construction of the road.” – Schedule A-NL

In the 1993 Municipal Class EA, this section stated:

“Construction or reconstruction of a road (local or collector) clearly shown on an approved development plan and contained entirely within the approved development plan.” Schedule A-NL

where “approved development plan was defined as:

*“Refers to site plans, draft plans of subdivision, community improvement plans or to development agreement, **provided such plans or agreements have been subject of review by potentially affected persons and public and private agencies and have received approval under the Planning Act**; does not include Official Plans, Official Plan Amendments and Secondary Plans.*

Site plans for developments are approved by municipalities with no mandatory notice or circulation. Also, although consents and Plan of Condominium approval does require notice and circulation, generally the notice material focuses on the consent of condominium application rather than on a road that may be required as a condition of approval.

On the other hand, Plans of Subdivision are subject to notice and circulation and clearly show roads. Often the roads, required for the subdivision, include collector or arterial roads.

Recommendation

THAT a minor amendment be processed to revise #22 on P. 1-5 to read:

“Construction, reconstruction or widening of new or existing roads provided the roads are shown on an approved Plan of Subdivision.” Schedule A-NL

Insert Comments Below:

17. Changes in Legislation and Review Procedures

Section A.2.10 Relationship to Projects within the Class EA to Other Legislations, Page A-45

- a. References to new provincial statutes that may affect the planning and design of municipal infrastructure should be updated. Examples include:
 - ~ the Oak Ridges Moraine Conservation Act, 2001, and the Oak Ridges Conservation Plan enacted in 2001;
 - ~ the Ontario Safe Water Drinking Act, 2002 and its regulations;
 - ~ the Nutrient Management Act, 2002 and its regulation;
 - ~ the proposed Greenbelt Plan;
 - ~ proposed Places to Grow Act;
 - ~ Ontario Regulation 116/01 (Electricity Regulation); and
 - ~ Municipal Act, 2001.
- b. This section should state that proponents will be required to demonstrate they have completed the EA process when submitting applications under the *Environmental Protection Act* and *Ontario Water Resources Act*. Proponents are requested to provide copies of Notices of Completion and confirm that no Part II order requests are outstanding.

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

18. Changes in Legislation and Review Procedures

Section A.2.10 Relationship to Projects within the Class EA to Other Legislations, Page A-45

Guidelines being finalized by DFO to identify federal information requirements for projects that are subject to both Federal Fisheries Act, and MEA's Class EA. This section should reference draft Guidelines being proposed by DFO.

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

19. References to Drainage Act on Pages A-49, C-16 and 1-11, Schedule A

Section A.2.10.5 identifies that drainage works regulated under the Drainage Act are exempt from the Act by Ontario Regulation 334, section 5.(2)(c). This provision is repeated in the Class EA.

Section 5.(2)(c) of O.R. 334 does not align with *Ontario Water Resources Act*, section 53.(6)(d). Section 53.(6)(d) only exempts drainage works for agricultural purposes. Therefore, references to the Drainage Act should be revised to read;

Certain drainage works, regulated under the Drainage Act are exempt under Ontario Regulation 334.

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

20. Proposed Changes in Scheduled Activities

Appendix 1, Schedule A, Water Projects, Page 1-11, item 1, 7th bullet – remove “replacement” from item

Existing Wording: *repairs, cleaning or replacement of a well or intake.”*

Proposed Wording: ***“repairs or cleaning of a well or intake”***

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 3 – add “or new building” after “acquisition”

Existing Wording: *“Expand/refurbish/upgrade water treatment plant up to existing rated capacity where no land acquisition is required.”*

Proposed Wording: ***“Expand/refurbish/upgrade water treatment plant up to existing rated capacity where no land acquisition or new building is required.”***

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 5 – remove “install new wells or” from the clause

Existing Wording: *“Install new wells or deepen existing wells or increase pumping capacity of existing wells, at an existing municipal well site, where the existing rated yield will not be exceeded.”*

Proposed Wording: *“Deepen existing wells or increase pumping capacity at existing municipal well site, where the existing rated yield will not be exceeded.”*

Appendix 1, Schedule A, Water Projects, Page 1-11, Item 1 – 10th bullet point

Existing Wording: *“Installation or replacement of standby power equipment where new equipment is located within an existing building or structure.”*

Proposed Wording: *“Installation or replacement of standby power equipment where the new equipment is located within a building or structure which previously contained standby power equipment.”*

Appendix 1, Schedule B, Water Projects, Page 1-16 Item 6

Existing Wording: *“Installation or replacement of standby power equipment located in a new building or structure.”*

Proposed Wording: *“Installation or replacement of standby power equipment were the new equipment is not located within a building or structure which previously contained standby power equipment.”*

Appendix 1, Schedule B, Water Projects, 1-16, Item 12 – remove new or expanded water intake pipe

Existing Wording: *“Increase water treatment plant capacity including new or expanded water intake beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant.”*

Proposed Wording: *“Increase water treatment plant capacity beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant.”*

Page 1-11, Item 1, Water Projects and Page 1-16, item 6 references to “standby power equipment”

Definition to be provided for standby power equipment and when the activity applies.

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

21. Changes and Clarifications to Existing Text and Definitions

Item 19, Page 1-6

Definition of structure

Schedule A – Page 1-12

Item 7 change “collection” to “***distribution***”.

Page A-40, Decision 3-Part II Order

Items i and ii wording should be consistent with section 16.(2)(2) of the EAA

Page A-35

Should state that proponents contact Regional EPEP (Air Pesticides and Environmental Planning) Supervisors, as opposed to EAAB (Environmental Assessment and Approvals Branch).

Definitions should be provided for “pumping stations” and “water treatment plant”, consistent with definitions provided in the Safe Drinking Water Act (SDWA).

Section 2.10 – Page A-45

The Class EA should state that proponents document in the ESR or Project File all subsequent permit and approval requirements and the intent of these approvals. The text currently states documentation must include mitigation measures and commitments made during the planning process.

Section A.2.8.2. – Page A-37

The Class EA should state that the ministry’s 45 day review period does not start until all information is received by the proponent to the satisfaction of the EAAB.

Page 6-6 Sample Notices

The Class EA may want to provide example notices that are very general in order that the public understands what a Part II Order request entails, proponent’s expectations and next steps.

Section A.2.9 Integration with the Planning Act, pages A-40 and A-41, and Appendix 1, item 42, page 1-6

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

22. Appendix 1, Schedule B, item 25, Page 1-15

Class EA describes construction and replacement of dams and weirs, but does not identify removal of these activities. Scheduled activities should also capture removal of these activities.

Recommendation

THAT a minor amendment be processed to include the above information and that this minor amendment be incorporated into a reprinting of the Municipal Class EA.

Insert Comments Below:

23. Traffic Calming

Currently traffic calming measures are designated
Schedule B < 1.5m
Schedule C > 1.5m

Often traffic calming projects are controversial and many Part II Order requests are received. Traffic calming projects have local impacts and should likely be determined locally rather than referred to the Minister for a decision. However, designating traffic calming projects as a Schedule A activity would mean that traffic calming could be installed without any consultation.

If a sufficient number of municipalities agree, a major amendment to the Municipal Class EA could be processed which would create a new Schedule of Activities. The new Schedule (between A & B) would require public notification but there would not be an opportunity to request a Part II Order as the final decision would rest with municipal council. Projects which could be included in this new Schedule are:

- i) Traffic calming;
- ii) Construction of a new road in an existing road allowance;
- iii) Related facilities;
- iv) Increase pumping station capacity by adding or replacing equipment and appurtenances, where new equipment is located in a new building or structure or where existing rated capacity is exceeded;
- v) Installation or replacement of standby power equipment where new equipment is located in a new building or structure;
- vi) Increase sewage treatment plant capacity beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant or the outfall to the receiving water body;
- vii) Construction of spillway facilities at existing outfalls for erosion or sedimentation control;
- viii) Construct a fishway or fish ladder in a natural watercourse, expressly for the purpose of providing a fishway;

- ix) Expand existing water treatment plant including intake up to existing rated capacity where land acquisition is required;
- x) Increase pumping station capacity by adding or replacing equipment and appurtenances where new equipment is located in a new building or structure;
- xi) Installation or replacement of standby power equipment located in a new building or structure; and
- xii) Increase water treatment plant capacity including new or expanded water intake beyond existing rated capacity through improvements to operations and maintenance activities only but without construction of works to expand, modify or retrofit the plant.

Recommendation

THAT a major amendment to the Municipal Class EA to create a new Schedule of Activities be pursued only if a number of municipalities strongly support proceeding.

Insert Comments Below:

24. Include Wastewater Management Projects in Schedule A

Certain proponents have suggested that Wastewater Management projects should shift to Schedule A.

Recommendation

THAT if major amendment proceeds to establish a new Schedule as described in 23 above that all projects be thoroughly reviewed and designated in the appropriate schedule.

Insert Comments Below:

25. Include Shoreline Works Such as Off Shore Breakwater, Shore Connected Breakwater, Groynes and Sea Wall

Recommendation

THAT if a major amendment proceeds to establish a new Schedule as described in 23 above that all projects be thoroughly reviewed and designated in the appropriate schedule.

Insert Comments Below:

26. Increase Dollar Limits for Intersection Improvement So That It Does Not Go To A Schedule C At \$1.5 million

Recommendation

THAT if a major amendment proceeds to establish a new Schedule as described in 23 above that all projects be thoroughly reviewed and designated in the appropriate schedule.

Insert Comments Below:

27. Reclassify or Redefine Road Closure

Certain proponents have suggested that Road Closure projects should shift to Schedule A.

Recommendation

THAT if a major amendment proceeds to establish a new Schedule as described in 23 above that all projects be thoroughly reviewed and designated in the appropriate schedule.

Insert Comments Below:

28. Change Fees for Part II Order Requests

Section 39 of the EAA does not provide regulatory power to impose fees. Amendments to the Act would be required to allow for the implementation of any fee structure.

Recommendation

No action at this time.

Insert Comments Below:

Insert Other Comments Below:

Name:

Title:

Organization:

E-mail:

Additional Comments: