



## Municipal Class Environmental Assessment Reform March 2019

As the proponent of the Municipal Class Environmental Assessment (MCEA), the Municipal Engineers Association (MEA) has been monitoring the MCEA process for many years; in recent years, it has become clear that the MCEA process has become overly time-consuming and expensive - and it is not delivering the intended streamlined approval process. Three main improvements to the process are needed:

### **1. Exempt Schedule A and A+ projects from Part II Order Requests (PIORs):**

Since the late 1980s, when the MCEA was first created, the MCEA (as well as other Class EAs) identified pre-approved projects (Schedule A and A+ projects in the MCEA). These pre-approved projects are low risk, routine projects for which there is little or no approval process and are exempt from PIORs. Examples include, maintenance activities, road resurfacing and infrastructure within a new plan of subdivision. Despite more than 25 years of history of this practice, in 2011, the MEA learned of a new legal interpretation of the EA Act by the Ministry of Environment, Conservation and Parks (MECP) that Schedule A and A+ projects could be subject to PIORs. This new interpretation is unworkable and in 2015, the Ministry began developing a regulation that would close the 2011 loophole. However, their work stalled, and the issue remains. The public has become more sophisticated and, even though the MECP has not publicized their 2011 interpretation, the public is discovering their ability to file a PIOR on a low risk Schedule A or A+ project. In 2017 a small Eastern Ontario municipality had a simple road paving project delayed for an entire year because of a PIOR by an individual.

### **2. Issue PIOR Decisions in a Timely Manner**

When the MCEA was first created, the MECP had 45 days to rule on a PIOR and, if there was no decision announced within the 45 days, the municipality was free to proceed with the project. This has now changed - projects cannot proceed until the Minister announces a decision and these decisions are taking too long. In 2018, the time for a decision on a PIOR ranged from 115 days to 714 days with an average of 319 days. Another concern is the MoECP's PIOR evaluation process – instead of limiting their review to the issues raised in the PIOR, the MECP expands their review to encompass all issues of provincial interest, even if there were no concerns with these issues raised during the MCEA consultation process. The Auditor General's 2016 *Value for Money Audit of MCEA* concluded that PIOR decisions were delayed an average of 110 days waiting on the Minister's signature. The PIOR system needs to be revamped so that the review focuses only on the issues raised in the PIOR and the authority to announce a decision on a PIOR needs to be delegated to the Director level. With these changes the MEA is confident that Ministry staff can organize their efforts to deal with PIORs in a timelier manner.

### **3. Re-Organize Projects in the MCEA Schedules**

Appendix 1 of the MCEA includes a listing of projects and classifies them as being Schedule A, A+, B or C projects. The project proponent must then follow the process associated with the identified schedule to be approved. MEA believes the projects listing should be re-written with clearer, more comprehensive descriptions – projects can then be re-classified based on environmental risk using environmental impact as a trigger for a more rigorous EA process. The ability to rely on other approvals to mitigate risk and the role of the local Council should also be considered while classifying projects. The MEA intends to submit an amendment to replace Appendix 1 of the MCEA with a new version with the re-organized projects in the spring of 2019.

MEA's efforts to reform the MCEA process have been strongly supported by the Residential Civil Construction Alliance of Ontario (RCCAO) and Ontario Good Roads Association (OGRA) which have been endorsed by several other groups and more than 130 resolutions from individual municipalities.