

Ontario's Municipal Class Environmental Assessment System

**2016 - STILL in Need
of a REBOOT**

**Ontario Association for
Impact Assessment
2016 Conference**

Toronto, Ontario
Tuesday October 25, 2016



**Frank J. E. Zechner
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Ontario's MCEA System - no other Province has anything like it

Other Provinces require Environmental Assessments for major infrastructure projects, but Ontario requires assessment studies for a much broader class of municipal projects

- **Replacement of Combined Sewers with separate storm and sanitary sewers**
- **Bridge replacements**
- **Waste Water Treatment Plant Expansions and Improvements**
- **Certain Combined Sewer Overflow projects**
- **Flood Control berms**
- **Road Safety Improvements such as Left Turning Lane**



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Ontario's MCEA System ADDS

TIME (anywhere from 5 to 84 months or more, excluding any time to respond to and address Part II Order requests)

and

COSTS (up to an additional 10% of the Capital Cost of a project to pay for reports, studies, consultations and responses to Part II Order requests).



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- Average duration of 99 separate Schedule 'B' and Schedule 'C' MCEA Projects reviewed in **2010** was **19 months**
- Average duration of 28 separate Schedule 'B' and Schedule 'C' MCEA Projects reviewed in **2014** was **26.7 months**

Delays have increased by 40% over four years



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- A Schedule 'C' MCEA report for a road widening project in the GTA was completed in May 2015, **67 months** after the Notice of Commencement was published
- A similar project, also in the GTA, was completed in June 2016 and required **32 months** to complete the Final EA Report.
- Over the years there have been many similar delayed completions



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- Average report/study costs of 99 separate Schedule 'B' and Schedule 'C' MCEA Projects reviewed in **2010** was **\$113,300***
- Average report/study costs of 28 separate Schedule 'B' and Schedule 'C' MCEA Projects reviewed in **2014** was **\$386,500***

**Study costs have increased by 340%
increase from 2009 to 2013**

* amounts exclude municipal staff time and costs as well as any costs associated with responding to Part II Order requests

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- The costs of two recent Schedule 'C' MCEA reports for road widening projects (one completed in **mid 2015** and the other completed in **mid 2016**) cost an estimated \$500,000 to \$700,000 each.*
- Another road widening MCEA report in the Southwestern part of the Province budgeted \$800,000 for the completion of an EA Report.*
- This suggests that the average MCEA report/study costs are continuing to increase at an alarming rate

* amounts exclude municipal staff time and costs as well as any costs associated with responding to Part II Order requests

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**Some elements of Ontario's MCEA
System that should be changed**



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Potential MCEA Improvements

Focus on Environmental Impacts

- A recent Municipal Class EA report for a road widening project in the GTA included a review and analysis of 11 planning and growth studies and reports. Another recent Municipal Class EA report for a road widening project in the GTA totalled more than 2,000 pages, including appendices to address issues as constructability, cultural and archaeological sites and a structural assessment of an overhead railway bridge.
- Municipal Class EA reports should be limited to environmental issues such as soil quality and erosion, water body impacts, subsurface hydrology, species at risk and noise and vibration issues.



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Possible MCEA Improvements

Avoid Duplication - Official Plans calling for road widenings typically address most of the issues that are covered in many Schedule 'C' MCEA Reports.

- The purpose of the MCEA System is to foster public input for local municipal infrastructure decisions. Other jurisdictions, such as the United Kingdom, address public interaction for municipal infrastructure through a single statute that covers what Ontario addresses in its *Planning Act* and *Environmental Assessment Act*.
- If Ontario is continue to have two separate reviews instead of one integrated assessment, significantly greater efforts are needed to avoid duplication of the consultation processes, reports and appeal processes.



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Potential MCEA Improvements

Restrict the Use of Part II Order requests to more significant MCEA projects, i.e. Schedule 'B' and Schedule 'C' projects

- At present any person, anywhere in the Province can request a Part II Order for any MCEA project. In some instances Part II Order requests are used by opponents for non-environmental purposes such as better compensation for a proposed expropriation. In other cases opponents may have ignored and chosen not to participate in the consultation process knowing that at the end of the process they can make a Part II Order request.
- The MEA has proposed the mandatory use of standardized forms for Part II Order requests, which would identify the applicant's efforts to raise the issue of concern through consultation meetings and other venues. Some jurisdictions require a minimum number of applicants to initiate an appeal.

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**What Has Happened
to the MCEA Process
during the Past 2 Years?**



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The average time for the Minister to render a decision on a Part II Order Request appears to plateaued at an unacceptably long period

- Under section A.2.8 of the MCEA guidance document (which was approved by the Ministry) the Environmental Assessment and Approvals Branch of the Ministry should review Part II Order Requests within 45 days and then the Minister will issue a decision within an additional 21 days for a total of 66 days.
- Since 2009 the time to process Part II order requests increased to an average of 304 days in 2013 and 347 days in 2014, over 5 times the allotted 66 days. This performance is unacceptable.



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Minister has not take action to address EA reform, including the appeals process

- In **August 2014** both the MEA and RCCAO submitted letters to the Minister about growing delays for Part II Order request processing and the MOECC interpretation that all municipal infrastructure maintenance and construction activities are subject to Part II Order requests
- In **January 2015** the Minister responded stating it looks forward to meaningful discussions and a review of the EA Permitting Process to find efficiencies and support the government's commitment to eliminating road blocks that delay important infrastructure projects. The Minister also stated that he comprehensive review would be undertaken in 2016.
- In **July 2016**, Ministry spokespersons acknowledged the Minister's earlier statements but refused to provide a more precise timeframe.



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Minister Refuses to Commit to Reducing time to process Part II Order Requests

- In **November 2015** the MEA published a report and requested that the Ministry address a number of shortcomings in the MCEA process, including growing delays for Part II Order request processing and the MOECC interpretation that all municipal infrastructure maintenance and construction activities are subject to Part II Order requests;
- In **December 2015** the RCCAO undertook a detailed review and commentary of the MEA's November 2015 report and forwarded it to the Minister emphasizing the need for improvements in the MCEA process to reduce unacceptably long delays and high costs for Schedule 'B' and 'C' projects.



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MEA's latest report on Part II Order Requests

- In October 2016 the MEA published its most recent annual report, which report included particulars of 18 separate Part II Order Requests that were completed in calendar 2015.
- The October report indicates that the average turn around time for the Minister to issue a decision had decreased from the average of 347 days in 2014 to 265 days in 2015, but still far longer than the original 66 day target.



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Lack of action by MOECC is a growing concern

- While the MOECC acknowledged the receipt of letters by the MEA and RCCAO in late 2015 the responses have been unsatisfactory
- As of early October 2016 there still is no specific information regarding the scope of the Ministry's review of the full Ontario Environmental Assessment Process or certain classes of Environmental Assessments such as the Municipal Class EA system.



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Auditor General Undertakes a Survey to all Ontario Municipalities regarding the MCEA Process

- In late April 2016 Ontario's Auditor General launched an online survey questionnaire among the more than 400 Ontario municipalities regarding their experiences and views on the MCEA process.
- Final responses by Municipalities to the Auditor General were due by April 29, 2016.



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Auditor General Undertakes a Survey to all Ontario Municipalities regarding the MCEA Process

- The RCCAO expects that the MCEA survey results will be used as part of a Value for Money report to be published in the Auditor's Annual Report. The 2016 report is expected to be released to the public in early December 2016.



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**Copies of RCCAO's reports
referenced in this presentation
can be downloaded
at rccao.com**



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QUESTIONS?



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