

## Questions swirl around Ontario EA review

By **LINDSEY COLE** - Feb 4, 2016

The way Ontario's municipal class environmental assessment (MCEA) system works now, simple construction projects are facing significant delays and soaring costs because a person or group expresses a concern, says the executive director of the **Residential and Civil Construction Alliance of Ontario (RCCAO)**.

"For basic things like intersection improvements, lane widenings, bicycle lanes or replacing bridges that are already in the same location, a really lengthy class EA process of two-and-a-half to three-and-a-half years makes absolutely no sense," Andy Manahan says, pointing out this is far from a new problem.

"We were given commitments in 2011, when there was a previous minister. Nothing has changed."

The MCEA system is in place to raise awareness and encourage public input for municipal infrastructure projects. Residents and stakeholders have the right to make requests for Part II Orders, commonly known as "Bump-Up requests," for a full environmental hearing. However, in several instances these requests are causing costs to increase and projects to be put on hold, Manahan explains.

The RCCAO has commissioned several reports in recent years and has supported other organizations, such as the Municipal Engineers Association (MEA), in order to push the province for change, or at least a review of the system.

Manahan says they were optimistic when they heard in 2015 that [Ontario's Ministry of the Environment](#) (MOE) was going to review the EA permitting process. However, without confirmation as to when this review will formally start, both the MEA and [RCCAO](#) are looking for answers.

"We look forward to having meaningful discussions during the review of the EA Permitting Process so we can co-operatively find efficiencies and support your government's commitment to eliminating road blocks that delay moving ahead with important infrastructure projects," reads a November 2015 letter from the MEA to the ministry. "Please confirm when your review of the EA Permitting Process will commence."

According to a statement from ministry spokesperson Kate Jordan, the MOE "will be continuing its review of the Environmental Assessment Program in 2016 with a focus on what efficiencies can be made in the program."

An exact timeframe has yet to be determined.

"While we are in the early part of our review process, some stakeholders have already provided valuable input," she writes. "As we move forward, we will be taking this input and any others we receive into account."

A February 2015 report commissioned by the RCCAO, authored by environmental and construction lawyer Frank Zechner, compared Ontario's system to other jurisdictions. It was a follow up to reports conducted in 2010 and 2014.

According to Zechner's findings, the average report/study costs of 99 separate Schedule B and C MCEA projects reviewed in 2010 was \$113,000. In 2014, the average costs of 28 Schedule B and C projects reviewed was \$386,500. He also notes in 2014 the average duration of 28 separate Schedule B and C MCEA projects reviewed was 26.7 months.

"Once the request for a Part II is issued everything stops. Nothing moves forward. No design work, construction work, no tenders, nothing," Zechner states.

In the report, one of Zechner's recommendations was to set a higher threshold for bump-up requests. In some situations, only a single Part II Order request has to be made and sometimes that can come from a person who "does not appear to have any discernable connection to the project."

"It also creates uncertainty. You can be up in Kapuskasing and you can be opposing a municipal class EA program in Niagara," he says.

The MEA created a paper outlining its position, making recommendations on how the system can be improved, stating it needs to be efficient, consultative, transparent, thorough, fair and protective. While stakeholder input is significant "input is not appropriate or practical for certain routine projects and activities."

Manahan supports the MEA's recommendations and says it is time to make the process more effective for everyone.

"Is there some other way to address some of these issues where you don't bog it down?" he asks.

"There's a whole bunch of different voices out there saying changes are needed. Municipalities are being held up from doing some really basic infrastructure projects because of one specific piece of legislation within the ministry of the environment."

Zechner says Ontario is unique across Canada and other parts of the country could possibly be considered as examples when the review officially gets underway.

"Things get done a lot quicker in other parts of the country," he says, adding for certain projects the public does not need to be up in arms. "Let the people who you've elected make the decisions and let them use professionals who will look after these issues. Every time they lift a shovel or change the pavement it shouldn't be attracting a full environmental inquiry."