



September 9, 2010

Kelly Roberts
Manager of Environmental Planning
Delcan Corporation
1223 Michael Street, Ottawa, On
K1J 7T2

Dear Ms. Roberts,

RE: Proposed Changes to the Municipal Engineers Association Class Environmental Assessment

This letter comprises comments by the Ontario Professional Planners Institute (OPPI) on the "MCEA Amendments" form circulated recently. Established in 1986, the Ontario Professional Planners Institute (OPPI) is the recognized voice of the Province's planning profession and provides vision and leadership on key planning issues.

Government, private industry, agencies, and academic institutions employ more than 3,000 practicing planners. In addition, we have approximately 500 student members. Members work in a wide variety of fields including urban and rural community development, urban design, environment, transportation, health and social services, housing, and economic development.

OPPI membership includes environmental assessment practitioners and planners who help implement the integrated Planning Act / Class EA process described in the Municipal Class EA.

We have three sets of comments. The first comprises direct responses to the proposals put forward in the circulated form, and the second makes additional suggestions for refining the provisions and administration of the Class EA. The third makes the case for a Class EA that reflects the broader changes taking place in the context of infrastructure planning.

Comments on the Proposed Class EA Changes

OPPI sees the Municipal Class EA as an important environmental review and implementation tool for municipal infrastructure projects. At the same time we believe that understanding of the Class EA's role and provisions and in particular the integrated planning process is inconsistent from one jurisdiction to another. Greater clarity and understanding will assist in more

widespread and effective use of these provisions, but care must be taken to ensure that the intent of the EA Act is maintained.

Response to Suggested Clarifications to the EA/Planning Act Integration Process on Page 1 of the MEA Form

As a general comment, we find that the suggested clarifications are very open-ended and may be difficult to respond to, given the limited experience in the use of the integrated process across the province to date.

Types of Planning Act Applications that Apply

While it is generally desirable to deal with environmental issues at the broad level when preparing new official plans and official plan amendments, the details of individual projects that enable net environmental effects to be identified are often not sufficiently known until zoning or subdivision decisions are made. Therefore, there should not be undue restriction on the types of planning approval that are integrated. There may be merit in dealing with master plan issues at the official plan level, for example, and integrating more detailed planning approvals at the same time as later steps of the Class EA process.

Study Area Boundaries Variation

We understand that this relates to issues that can arise in an integrated process when development requires infrastructure that is located outside the area of the proposed land use planning application and/or the applicant's ownership.

Overall, we believe that integrated processes can be successful when there is cooperation between the landowners and agencies involved, but if cooperation is not present the use of an integrated process becomes less feasible. Private proponents lack expropriation powers and cannot require implementation of projects outside their land holdings. Flexibility should be built into the provisions to allow for different boundaries while providing guidance on the importance of cooperation and buy-in by affected agencies.

Change Process/Implementation

The integration of the two processes can create complications as development and infrastructure projects evolve after their initial approval, resulting in uncertainty as to how changes are to be made and which approvals apply. We agree that this is a concern that may dissuade some proponents and municipalities from entering into integrated processes. The best that can be done is to utilize the processes that currently apply in each instance (zoning/minor variance, Class EA modification process) and to integrate the requirements in making any changes that affect both approvals.

Opportunities for Appeal

The "appeal" process for Class EA projects has limited value, given the lack of any successful bump-up requests, to our knowledge. It should be noted that appeal processes for infrastructure subject to the EA Act that also requires Certificates of Approval or Permits to Take Water are also truncated by regulations that exempt these projects from hearing requirements under the Environmental Protection Act and Ontario Water Resources Act, and that also exempt these projects from notice and leave to appeal applications under the Environmental Bill of Rights.

The credibility of the Parent Class EA would benefit from a streamlined appeal process. In 2005 the Minister's EA Advisory Panel made a number of recommendations and many of them have been implemented, however a recommendation to establish such an appeal process was not acted upon. An appeal process could also be combined with any Planning Act appeals in an integrated process.

Public Consultation and Notification

The opportunity afforded to present information and solicit comment on both development and related infrastructure from both agencies and the public in a single process represents one of the most significant benefits of an integrated process.

Response to the Proposed Changes to the Class EA Schedules

Changes re: Patrol Yards and Maintenance and Service Facilities (Roads items 30, 37 and 38, Wastewater Items 12 and 14, Water items 7 and 9)

There are serious concerns with this proposal to relegate certain projects comprising works yards, storage yards and maintenance facilities from Schedules "B" or "C" to Schedule "A" (i.e. pre-approved, no planning process required) in the Municipal Class EA, provided the project "conforms with local Planning Act requirements". The rationale provided for this change is that "municipalities routinely process and approve applications for commercial/ industrial projects with similar impacts".

In most municipal zoning by-laws works yards and similar facilities are classed as infrastructure or public uses that are exempt from zoning requirements. Therefore facilities can meet local Planning Act requirements and be developed or expanded with no requirement for consultation or Planning Act approvals (unlike commercial or industrial projects). The proposed changes to the Class EA would remove the only remaining "planning" based approval requirement for these facilities and would mean that they could be established with no public notice or environmental approvals under either the Planning Act or the EA Act.

Works yards have the potential to generate noise, dust, groundwater contamination (e.g. from salt storage) and truck and heavy equipment traffic concerns. Proposals for expansions and new facilities should be subject to appropriate studies and approvals as well as public scrutiny.

Municipalities could respond to the proposed change by developing their own policies and zoning requirements, but it should be borne in mind that they would in effect be regulating themselves.

Roads Item 23

The meaning and implications of the proposed change are unclear. There are instances where meeting Class EA requirements in an integrated process for new non-local roads in areas that are to be comprehensively developed may be redundant, but planning may also benefit from an EA type of planning approach, involving review of alternatives, where sensitive features and crossings are involved.

Other Class EA-Specific Items

Need for a Class EA Registry

There continues to be a need for an accessible registry of Class EA approval processes to facilitate monitoring of how and where Class EAs are occurring, and to share of good professional practice. There are already registries of other environmental proposals (EBR) and applications, Certificates of Approval and brownfield information, but not for Class EAs. This was another of the Minister's EA Advisory Panel recommendations that was not acted upon.

Infrastructure Needed for Approved Development Projects

At the present time the only entity that can initiate a Class EA process (other than under an integrated process, with its inherent restrictions) is a municipality. Sometimes a proponent can obtain all necessary site-based approvals for a development project, however the project may still require off-site infrastructure if it is to proceed. A decision (or lack of decision) by a municipality as to whether to carry out a Class EA process for that infrastructure is not appealable. There should be some form of appeal or adjudication process available to resolve such situations when they arise.

Relationship of the Class EA with Provincial Policy

The Class EA should include a more comprehensive description of the way projects may relate to provincial policies such as the PPS, the Growth Plan for the GGH, the Oak Ridges Moraine Plan and the Lake Simcoe Protection Plan as well as municipal policies in such areas as defining "need" and evaluating

the environmental effects of infrastructure. It should also recognize the new transit Regulation and EA planning process.

Comments on the Planning Context of the Municipal Class EA

OPPI is committed to creating and fostering healthy communities in Ontario. Launched in 2006, our “Healthy Communities, Sustainable Communities” initiative emphasizes the importance of urban design, active transportation and green infrastructure, links between public health and land use planning, and strategies for collaborating on tangible actions for healthier communities.

Planners have a pivotal role to play in bringing together multiple partners and disciplines and in engaging their communities. OPPI members are committed to creating and fostering healthy communities throughout Ontario and will play a key role in the implementation of the Municipal Class EA.

We believe the way the Municipal Class EA is presently structured and implemented may re-enforce the status quo in terms of existing municipal and engineering standards that apply to active transportation and enhanced public transit. It also precludes taking a hard look at municipal and engineering standards that may need to be changed in order to support enhanced active and public transportation alternatives.

Projects to implement such initiatives may be assigned to Schedule “C” simply because they are different from the more standard projects listed in the various schedules. In that sense this document is an obstacle to the application of project designs needed to support healthy communities, especially where new municipal facilities are needed beyond those typically found in design manuals and mandated by the Highway Traffic Act.

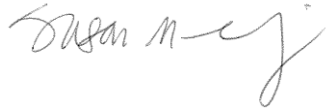
The industry is only just beginning to struggle with the integration of transit requirements and other modes of transportation, especially in urban areas. Land use planning plays a significant role in how transit and other modes are integrated into the community fabric. The Class EA process is essentially a comparison and evaluation of physical infrastructure. The physical infrastructure we are dealing with today is far more complicated than past road projects that the EA process is based upon.

“Need” may involve more than responded to projected trends, and the understanding of the scope of the environment affected needs to be expanded (within the EA Act definition) to include such matters as public health and air quality.

OPPI sees this as an important initiative, and we would welcome the opportunity to meet with you to discuss any of the matters raised here, or other matters of concern to you or the Municipal Engineers Association. To schedule a meeting or for further information, please contact Loretta Ryan,

MCIP, RPP, Manager, Policy and Communications at (416) 483-1873, ext. 226 or by e-mail at policy@ontarioplanners.on.ca

Sincerely,

A handwritten signature in cursive script, appearing to read "Sue Cumming".

Sue Cumming, MCIP, RPP
President
Ontario Professional Planners Institute