

TO:	CHAIR AND MEMBERS WASTE MANAGEMENT WORKING GROUP MEETING ON AUGUST 13, 2020
FROM:	JAY STANFORD, M.A., M.P.A. DIRECTOR - ENVIRONMENT, FLEET & SOLID WASTE
SUBJECT:	UPDATE REPORT #13: LEGISLATIVE CHANGES TO ENVIRONMENTAL ASSESSMENTS IN ONTARIO

RECOMMENDATION

That, on the recommendation of the Director, Environment, Fleet and Solid Waste, this report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Relevant reports that can be found at www.london.ca under City Hall (Meetings – Advisory and other Committees) include:

- Background Report #1: Overview of Individual Environmental Assessment (EA) Process (January 19, 2017 meeting of the Waste Management Working Group, Item #3)

COUNCIL’S 2019-2023 STRATEGIC PLAN

Municipal Council has recognized the importance of solid waste management in its 2019-2023 - Strategic Plan for the City of London as follows:

Building a Sustainable City

London has a strong and healthy environment

- Build infrastructure to support future development and protect the environment

Growing our Economy

London is a leader in Ontario for attracting new jobs and investments

- Build infrastructure to support future development and retain existing jobs

Leading in Public Service

Londoners experience exceptional and valued customer service

- Increase community and resident satisfaction of their service experience with the City

BACKGROUND

PURPOSE:

This report provides the Waste Management Working Group (WMWG) with an update on the legislative changes to the *Environmental Assessment Act (EAA)*.

CONTEXT:

There are two types of Environmental Assessments (EAs) in Ontario, streamlined and comprehensive.

Streamlined EAs are for activities that have predictable environmental effects that can readily be mitigated. This allows for a standardized planning process for groups (or classes) of activities.

The most common type of streamlined EA is the Class EA. There are 10 approved Class EAs, setting out streamlined processes for municipal works, provincial highways, minor transmission facilities, etc. The Municipal Class EA is the most common EA undertaken by the City of London. There is also a streamlined EA process for certain waste management activities such as changing the service area of a landfill or increasing the rate of fill (maximum amount of waste a landfill can accept in a year).

The more rigorous comprehensive (or Individual) EA is less prescribed than the more common streamlined EA and is used for large-scale projects (e.g., landfill sites, large transmission lines, etc.).

The first phase of the Individual EA process is the development and approval of a Terms of Reference (ToR) by the Minister of the Environment, Conservation and Parks. The ToR becomes the framework or work plan for the preparation and review of the Individual EA. The ToR allows the proponent to produce an EA that is more direct and easier to be reviewed by interested persons.

The second phase of the Individual EA process is completion and approval of an EA. The proponent completes the EA in accordance with the approved ToR.

DISCUSSION

Summary - Implications for City of London EA for the Proposed Expansion of the W12A Landfill

As summarized below, the changes to the EA process are unlikely to have any significant impact on the EA for the Proposed Expansion of the W12A Landfill given that it is expected that the City’s EA will be submitted for approval to the MECP in early 2021. The Regulations required to support the changes are unlikely to be in place prior to this timing. However, if the changes are implemented in a timely fashion, it is possible it may shorten the time required for the approval of the EA.

It is noted that the legislation requires new, large landfills (private or public) to get support from the host municipality and adjacent municipalities that have residential uses within 3.5 kilometers of the landfill. Although Central Elgin is within 3.5 kilometres of the W12A Landfill, support of Central Elgin is not required since this portion of the legislation applies only to new landfills and not landfill expansions.

Overview

On July 8, 2020, Ontario introduced the *COVID-19 Economic Recovery Act, 2020* that included proposed legislative changes to the *Environmental Assessment Act* (EAA), and at the same time, the Ministry of the Environment, Conservation and Parks (MECP) began consultations on a series of amendments to Class Environmental Assessments (EAs) and exemption regulations. The *COVID-19 Economic Recovery Act, 2020* received Royal Assent on July 21, 2020.

The *COVID-19 Economic Recovery Act, 2020* can be described as omnibus legislation as it proposes to amend twenty provincial statutes. Its key stated objective is to jumpstart economic growth in Ontario and to lay the groundwork for long-term, sustainable recovery, by simplifying regulatory processes in a number of different statutory contexts — environmental analysis and compliance, business regulations, building and housing, and transportation.

This update report focuses primarily on the EA portion of the *COVID-19 Economic Recovery Act, 2020* and how it might impact the EA for the proposed Expansion of the W12A Landfill. This report does not focus on how the new legislation will impact other City of London projects such as water, wastewater, stormwater and transportation projects.

The key issues the legislation is proposed to address:

- *Inconsistent Application of the EA Act*
The EA Act applies mainly on the basis of who is doing the work, rather than the potential impacts of the project being done. This means that many low-impact projects have required environmental assessments (EAs) in the past, simply because of who was doing them (e.g., municipalities).
- *The EA Process is Slow*
The typical time for an Individual EA for a new landfill or landfill expansion is six years or, for new landfills, much longer. For streamlined EAs, the Part II Order process is not working as a single request can delay a project by over a year.
- *Duplication with Other Approvals*
As a result of evolving regulatory frameworks, duplication between EAs and other planning and approvals processes has occurred, resulting in the need to review processes to ensure they are as efficient as possible.
- *Lack of Municipal Control in siting New Landfills*
While municipalities are engaged through the EA process they do not have the ability to stop the siting of a landfill within or close to their community.

Legislative Changes

The key changes are summarized in Table 1 below.

Table 1: Summary of EA Changes

Issue	Proposed Changes	Comments
<i>Inconsistent Application of the EA Act</i>	<ul style="list-style-type: none">• MECP will develop a list of “projects” that are subject to EAs. Many minor activities will no longer require an EA.	Should reduce the regulatory burden on the City.
	<ul style="list-style-type: none">• Both public and private sector will need approval for the same types of projects.	No comment.
<i>The EA Process is Slow</i>	Streamlined (Class) EAs <ul style="list-style-type: none">• Replace Class EAs with regulations with consistent and standardized processes (Class EAs will remain in place until these regulations are developed).	In theory this is a good idea but in practice it may be difficult to achieve standardized regulations for some projects.
	<ul style="list-style-type: none">• Immediately eliminate the Part II Order process for Class EAs (bump-up requests), except in respect to adverse impacts to aboriginal and treaty rights	It is unclear on what the stakeholders can do if they object to the conclusion of a Class EA.
	<ul style="list-style-type: none">• The Minister’s authority, on his or her own initiative and in a time-limited manner, can still impose conditions or require a comprehensive (individual) EA for streamlined projects.	No comment.
	Comprehensive (individual) EA <ul style="list-style-type: none">• Reduce Terms of Reference process from 2 years to ½ years by using a “Sectoral” Terms of Reference (i.e., a standardized Terms of Reference or work plan)	In theory this is a good idea but in practice it may be difficult to achieve. The MECP proposed Sectoral EAs for waste management projects in the 1990’s but were unable to implement them.

Table 1: Summary of EA Changes

Issue	Proposed Changes	Comments
	<ul style="list-style-type: none">• Reduce final review/decision of EA by MECP from 2.5 years to 10 months	In theory this is a good idea but in practice it may be difficult to achieve. Current legislation limits review/decision by MECP to 7 months. Due to a variety of circumstances, the current timelines are usually delayed.
	<ul style="list-style-type: none">• EAA will be amended to allow for time limits on completing an EA following approval of the ToR	The City should oppose/address this item when/if it comes forward via regulatory change. Setting a time may result in rushed studies or decision making when completing the EA.
	<ul style="list-style-type: none">• Expiry dates for comprehensive EAs (build the project within a certain time period after the EA is approved or the approval disappears)	No comment.
<i>Duplication with Other Approval</i>	<ul style="list-style-type: none">• Further harmonization between the Federal and Provincial EAs when both are required	Removing duplication is positive.
<i>Lack of Municipal Control in siting New Landfills</i>	<ul style="list-style-type: none">• Municipal approval required for new landfills (but not expansion of existing landfills).	There are currently seven large private sector approved or operating landfills in the Province. It is unlikely that another new private landfill will ever be approved in the Province.
<i>Other</i>	<ul style="list-style-type: none">• Move to on-line submissions	Should be positive provided that the role of graphics, illustrations, tables, etc. is not diminished or made harder to view through an on-line submission process.

Legislative Next Steps

There was limited consultation on the changes to EAA since the amendments were part of the *COVID-19 Economic Recovery Act, 2020*. However putting into practice most of the changes will require implementing regulations. For example, the *Prescribed Deadlines Regulation* will have to be revised in order to implement the changes to the EA review timelines. Changes to regulations or new regulations will also be required for the:

- project list (for comprehensive and streamlined projects);
- new streamlined assessment processes;
- sectoral Terms of Reference; and,
- expiry date exemptions.

The MECP will be consulting with the public, municipalities, stakeholders and Indigenous communities prior to making changes to any regulations.

The Province also plans to update the Ontario-Canada harmonization agreement with the Impact Assessment Agency to strengthen substitution provisions

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