

3. NEW MEA CLASS ENVIRONMENTAL ASSESSMENTS
FOR ROADS, WATER AND WASTEWATER -
RMOC AS A PROPONENT

COMMITTEE RECOMMENDATION

That Council approve the request by the Municipal Engineers Association (MEA) that the Regional Municipality of Ottawa-Carleton be a proponent for the new provincial Class Environmental Assessments for municipal water, wastewater and road projects.

DOCUMENTATION:

1. Environment and Transportation Commissioner's and Planning and Development Approvals Commissioner's joint report dated 19 Jun 98 is immediately attached.
2. Extract of Draft Minute, 14 Jul 98, immediately follows the report and includes a record of the vote.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf.
Your File/V/Réf.

DATE	19 June 1998
TO/DEST.	Coordinator, Planning and Environment Committee
FROM/EXP.	Commissioner, Environment and Transportation Department Commissioner, Planning and Development Approvals Department
SUBJECT/OBJET	NEW MEA CLASS ENVIRONMENTAL ASSESSMENTS FOR ROADS WATER AND WASTEWATER - RMOC AS A PROPONENT

DEPARTMENTAL RECOMMENDATION

That the Planning and Environment Committee recommend that Council approve the request by the Municipal Engineers Association (MEA) that the Regional Municipality of Ottawa-Carleton be a proponent for the new provincial Class Environmental Assessments for municipal water, wastewater and road projects.

BACKGROUND

The approval for the existing municipal Class Environmental Assessments (EAs) for roads, water and wastewater expired in June of this year. An extension to the approval was granted by the Ministry of the Environment (MOE) until revised Class EAs can be submitted. The Municipal Engineers Association (MEA) has undertaken to prepare and submit new Class EAs to replace them and has until December 1998 to do so. The creation of these new Class EAs for municipalities must be done in accordance with Part II.1 of the Ontario Environmental Assessment Act (EA Act). This Act requires that a proponent or proponents be identified if they wish to proceed with an undertaking and that, at the outset, terms of reference be prepared and submitted for ministerial approval. A proponent is defined as someone who carries out or proposes to carry out an undertaking, in this instance the development of new municipal Class EAs. The idea behind the minister's approval of the terms of reference is to inform the public, allow comments early on in the EA process and give proponents some certainty on the scope of the EA study.

CLASS EA

A Class EA is an approved planning document which describes the process that proponents must follow in order to meet the requirements of the EA Act. Class EAs are a method of dealing with projects which display the following important characteristics:

- recurring
- usually similar in nature
- usually limited in scale
- have a predictable range of environmental effects
- responsive to mitigating measures

Projects which do not display these characteristics would not be able to use the planning process of the Class EA and would have to undergo an individual environmental assessment.

PROPONENCY

Since the MEA cannot itself be the proponent of the Class EAs, they have, in the past, relied upon several municipalities to be the proponents for the environmental assessment undertaking. Once approved, the Province writes a regulation extending the Class EA approval to all Ontario municipalities. Being a proponent involves endorsing the terms of reference and the new Class EAs, as well as allowing the use of our municipality's name in the submission to the Ontario Minister of Environment.

In order to demonstrate the applicability of the new Class EAs across the province, the MEA is asking for proponents who represent municipalities which are large and small, urban and rural, north and south, and east and west. The list of those being requested is as follows:

- City of Toronto
- City of Barrie
- City of London
- City of Sault Ste. Marie
- City of Thunder Bay
- County of Lanark
- Town of Carleton Place
- Regional Municipality of Durham
- Regional Municipality of Niagara
- Regional Municipality of Waterloo
- Regional Municipality of Ottawa-Carleton

Many of these municipalities were proponents to either or both the current Roads and Water and Wastewater Municipal Class EAs.

The benefit of assuming proponency for the RMOC is that the Region will sit as a member of the MEA Class EA Steering Committee providing input and direction to the preparation of these new

Class documents. There are several reasons why the RMOC's input would be particularly valuable as a Steering Committee member.

- The RMOC has just completed a planning process for land use and infrastructure through the preparation of both the Official Plan and the Master Plans for water, wastewater and transportation and has an important perspective on how this process can be better reflected in the new Class EA documents.
- The RMOC must meet federal EA requirements in addition to the provincial EA requirements for many of its projects.
- The RMOC has a transitway system which is unique in the province which may benefit from a Class process for some projects.

TERMS OF REFERENCE

The terms of reference describe the proposed scope of the changes to the existing Class EAs which will address:

- coordination between EA Act and Planning Act approvals;
- appropriateness of existing schedules for projects;
- harmonization with federal EA requirements (CEAA);
- consolidation of roads and water and wastewater into one Class EA;
- extension of the application of the Class EAs to other municipal projects (e.g. solid waste);
- monitoring of projects and Class EA application over time; and
- latest techniques in consultation and mediation.

Despite the apparently extensive scope of the renewal of the Class EAs, it will be an underlying principle of the work that the new Class EAs will be similar enough to the existing ones to minimize the learning for the public who have become familiar with the process and the municipal proponents using the new documents.

The terms of reference have been submitted to the Minister of the Environment and were posted on the Environmental Board Registry (EBR) for public comment for 30 days. The MEA was requested by the MOE through this process to make minor revisions to the terms of reference. These revised terms of reference are attached as Annex A. In the meantime, the MEA is proceeding with the rewrite of the Class EAs because they have consulted extensively and are confident the terms of reference currently drafted represent the concerns of a majority of stakeholders.

EXPENDITURE JUSTIFICATION

The financial requirement for this project is the time and cost to send a staff member of the RMOC to attend Steering Committee meetings in Toronto. The representative from the RMOC will be Jim Miller, Director of Engineering, ETD, (alternate, Kim Eaton PIPD) and the number of meetings would be approximately four (4).

CONSULTATION

Public consultation is as outlined in the MEA's terms of reference. The consultation program has been designed in accordance with the requirements of the Ontario Environmental Assessment Act.

Approved by:
André Proulx on behalf of
M.J.E. Sheflin, P. Eng.
Commissioner of Environment
and Transportation

Approved by:
N. Tunnacliffe, MCIP, RPP
Commissioner of Planning and
Development Approvals

Attach. (1)

Municipal Engineers Association

**Municipal Class EAs for Roads, Water and
Wastewater Projects - Renewal Project
Environmental Assessment Study**

TERMS OF REFERENCE

**February 1998
REVISED MAY 1998**



McCormick Rankin Corporation

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1.0 INTRODUCTION

On April 9th, 1987, the first municipal Parent Class Environmental Assessments (Class EA) ¹prepared by the Municipal Engineers Association (MEA) were approved under the *Environmental Assessment Act* (EA Act). At that time, two Class EAs were implemented to deal with 1) municipal road projects, and 2) municipal water and wastewater projects. The approval for these Class EAs was subject to review after 5 years. In 1993, the Class EAs were reviewed, revised and approved under the EA Act. This brought certain private sector projects under the Class EAs. In 1994, regulations were passed amending the private sector provisions of the Class EAs. The 1993 approval expires on May 31, 1998, and the MEA is again required to resubmit the Class EA for EA Act approval.

This Terms of Reference (ToR) sets out how the MEA proposes to meet the environmental assessment requirements for the review and revisions to the Parent Class EA for Municipal Roads Projects and the Parent Class EA for Municipal Water and Wastewater Projects. Once the environmental assessment requirements set out in these ToR have been established and approved, the study can proceed following these requirements with the assurance that the issues have been reasonably identified. This ToR has been prepared in accordance with the requirements of the EA Act as amended by the *Environmental Assessment and Consultation Improvement Act, 1996*. The new Parent Class Environmental Assessment will be prepared in accordance with the requirements as set out in Section 14(2) of the EA Act as defined through the Minister's approval of this ToR. Once approved by the Minister (under Subsection 6(4)), this ToR will provide the framework for preparing the EA and serve as a benchmark for reviewing the EA.

The Parent Class EA is being prepared by MEA on behalf of a group of proponent municipalities. As has been the case in the past, once the Class EA is approved, regulations will need to be passed, permitting all municipalities to carry out projects covered by the Class EA.

Previously there have been two Class EAs in effect - one for road projects, and another for water and wastewater projects. Since the Class EA processes for planning, designing and implementing these types of projects are essentially the same, consideration is being given to the preparation of a single new Class EA that includes both road and water / wastewater projects.

1.1 Project Location

The Parent Class EA will apply to a class of projects (e.g. road, water and wastewater projects) which could be carried out anywhere in Ontario. Currently, there are two Municipal Class EAs for Roads, and Water and Wastewater respectively. Since the types of projects undertaken by municipalities and included in the Class EAs vary in their environmental impact, these projects are classified in terms of schedules:

- **Schedule A** projects are limited in scale, have minimal adverse effects and include the majority of municipal maintenance and operational activities. These projects are approved and may proceed to implementation without following the Class EA planning process.
- **Schedule B** projects have the potential for some adverse environmental effects. The proponent is required to undertake a **screening** process, involving mandatory contact with directly affected public and with relevant government agencies, to ensure that they are aware of the project and that their concerns are addressed. If there are no outstanding concerns then the proponent may proceed to implementation. If, however, the screening process raises a concern which cannot be resolved, then

¹ See section 2.2 for a definition of Parent Class EA

the "bump-up" procedure may be invoked; alternatively, the proponent may elect voluntarily to plan the project as a Schedule C undertaking.

- **Schedule C** projects have the potential for significant environmental effects and must proceed under the full planning and documentation procedures specified in this Class EA document. Schedule C projects require that an Environmental Study Report be prepared and submitted for review by the public. If concerns are raised that cannot be resolved, the "bump-up" procedure may be invoked.

Examples of the types of projects to be covered by this Class EA are set out in the Appendices to the existing Class EAs. Specific projects covered by this Class EA may be carried out in areas ranging from highly developed and stable urban areas to undeveloped rural areas. In addition to these projects, consideration is being given to including other municipal undertakings currently not covered by a Class EA process. The proponents of any individual project within the class could include municipalities, private developers, or Public Utilities Commissions.

2.0 PURPOSE OF THE PARENT CLASS EA

2.1 The Undertaking

The undertaking is a process by which municipal infrastructure projects will be planned in accordance with the EA Act. Once approved, the Class EA will establish a process whereby the municipal projects as defined in the document can be planned, designed, constructed, operated, maintained, rehabilitated and retired without having to obtain project specific approval under the EA Act provided the approved process is followed. The "Parent" Class EA describes the approved planning process and types of projects which are included in the Class EA. The process that is implemented through the approval of the "Parent" Class EA ensures that the intent of the EA Act is met by providing for the identification of problems or opportunities; and the identification, evaluation and selection of a preferred means of addressing these problems or opportunities, giving due regard to the need to protect the environment and minimize environmental effects. The "Parent" Class EA will also provide for the involvement of affected stakeholders in the decision-making process.

The Class EA process is a self assessment process. In all situations where the Class EA process is applicable to a project, it is the responsibility of the proponent to ensure that the planning process as set out in the Class EA document is undertaken. The projects that will be assessed are those with predictable environmental effects and proposed mitigation measures will be identified and documented.

2.2 Definition of a Parent Class EA

A Parent Class EA is an environmental assessment document prepared in support of a conditional EA Act approval of a class of projects. As required by Sub-section 14(2) of the EA Act, the Parent Class EA will include:

- a description of the class of undertakings covered by the approval;
- a description of the reasons for covering these undertakings under the Class EA provisions of the Act;
- a description of the similarities and differences to be expected among the undertakings in the class;
- a description of the expected range of environmental effects that may result from proceeding with undertakings in the class;
- a description of measures that could be taken to mitigate against adverse effects that may result from proceeding with undertakings in the class;
- a description of the process to be used to consult with the public, government agencies and affected stakeholders;

- a description of the method to be used to evaluate a proposed undertaking; and
- a description of the method to be used to determine the final design of a proposed undertaking based on the evaluation.

Once the Parent Class EA is approved under the Act, all projects / activities of the type included in the class have pre-approval under the EA Act provided they are carried out in accordance with the commitments made in the Parent Class EA and any additional requirements specified in the EA Act approval.

2.3 Justification for the Class EA

Further to Section 14(2)2 of the EA Act, the reasons for using a class environmental assessment with respect to municipal infrastructure projects are provided herein.

The Class EA approach to dealing with municipal infrastructure projects has been proven to be an effective way of complying with the EA Act through 10 years of experience. It provides a reasonable mechanism for proponents to fulfill their responsibilities to the public for the provision of municipal services in an efficient, timely, economic and environmentally responsible manner. The Class EA process provides a consistent, streamlined, easily understood process for planning and implementing infrastructure projects. The process also provides the flexibility to tailor the planning process to the project taking into account the environmental setting, local public interests and unique project requirements. The planning process will focus on a range of environmental effects that may be identified and mitigation measures will be identified and documented. **The alternative to a Parent Class EA would be to undertake individual environmental assessments for all municipal projects and/or obtain exemptions where there are no requirements.** This approach would be extremely onerous, time consuming and costly. A decade of experience has demonstrated that considerable public, economic and environmental benefits are achieved by applying the Class EA concept to municipal infrastructure projects.

3.0 ASSESSMENT OF ISSUES

The Municipal Class EAs are premised on planning and designing municipal projects using a rational and comprehensive planning process i.e. identify the problems and opportunities, consider alternative solutions, assess their effects on all aspects of the environment prior to determining a preferred alternative, and do all of the foregoing within a framework of effective consultation and traceable decision-making. From comments received during the past five years and as part of the current renewal project, many municipalities and stakeholders have indicated that the process is working well. This has also been borne out through the survey that the MEA has conducted. It is therefore important to recognize that much has been achieved over the years of working with and refining the Municipal Class EAs. In addition, with municipal constraints and staff reductions likely continuing for the foreseeable future, now is not the time for wholesale change of a process that many municipalities and practitioners feel is working well. Many municipalities as well as stakeholders have become well versed with the Class EAs and would not be served well by extensive changes to those aspects that are working.

Therefore, the underlying principle in the review and revisions of the Class EA process is to minimize the learning curve. The overall approach is to make any necessary changes while maintaining the substance of the existing process.

Nevertheless, there are a number of issues relating not only to components of the existing Class EAs but also to new features of the amended EA Act; potential opportunities to improve and enhance the Class EAs; and evolving new issues and realities which have to be addressed and integrated. The following discusses some

of the issues / objectives that will be considered during the preparation of the new Class EA. These issues will be validated and/or revised through the consultation process to be carried out as part of the EA study. The thrust will be to confirm the issues, identify options for addressing them, determine a preferred option and then incorporate into the revised Class EA accordingly.

3.1 The Bump-up Process

The Parent Class EAs have a process whereby a specific project within the Class can be removed from the Parent Class EA approval and addressed separately, including the potential for requiring an Individual EA. Projects can also be moved from a Schedule requiring a reduced level of environmental review (e.g. Schedule B) to one requiring more detailed review and documentation (e.g. Schedule C). This process is called the Bump-up process. It was originally devised to provide a mechanism through which projects that were not appropriate for a Class EA could be elevated to an Individual EA with the potential for a hearing. Experience has shown that the current process is not necessarily achieving decisions that are in the best overall public interest. Proponents have expressed frustration with the process because of delay and cost, whereas other stakeholders have expressed frustration that their concerns are not being addressed through the process. Alternative conflict resolution options will be explored, along with modifications to the bump-up process to try and address the frustrations.

3.2 Integrated Approach - Co-ordination with Planning Act Requirements and Application to the Private Sector

There has been frustration and confusion related to co-ordination with the Planning Act and the regulatory amendments that brought private sector undertakings under the EA Act. The "included on an approved development plan" provision needs to be clarified. While there has been some significant progress made in using the concept of "master plans", from the comments received, it is evident that there is still confusion with this approach.

In 1994 the Class EA provisions were applied to certain types of projects carried out by private land developers. Concerns have been expressed by private land developers and the Urban Development Institute that the regulation applying the Class EAs to the private sector is confusing and has resulted in inefficiencies and duplication of the requirements of the Planning Act.

These issues are interrelated and for this study are being referred to as "integrated approach". There exists the potential for efficiencies through better integration of the provisions of the Planning Act and the EA Act. This can lead to less public and stakeholder confusion, better decision-making and reduced duplication. This study will consider how to co-ordinate the provisions of both the Planning Act and the EA Act to achieve environmental protection and process efficiencies. The study will also review the provisions of the regulations and the current application of the Class EAs to private sector projects.

3.3 Clarification and Simplification of Class EA Triggers (including Review of Schedules)

Significant time is spent determining whether or not municipal and private sector projects are subject to the Parent Class EA and, if so, to what Schedule they belong. The study will address the key areas of confusion. Consideration will be given to whether or not it is possible to use the level of environmental impacts rather than project scale as the trigger.

3.4 Tailor the Level of Effort to the Project Significance

Some users of the Class EAs have expressed concern that the Class EAs require a high degree of effort and expenditure to investigate and/or document information that has little importance to the decisions being made, or to the protection of the environment. For example, there are no reasonable alternatives to certain projects other than to do nothing, and therefore the requirement to review other alternatives in these cases is of little value. This points to the importance of effectively scoping the issues at the start of any environmental assessment study. The study will investigate ways of effective scoping of the issues to reduce areas of inefficiency in the current planning and design process. The study will consider environmental effects as a mechanism to determine the level of assessment, i.e. certain projects in higher schedules (e.g. Schedules A or B) can be assessed with less rigour because proponents are familiar and experienced in predicting environmental effects and the appropriate mitigation. The current schedules will be reviewed to confirm if the projects are properly categorized, and whether or not the present level of planning and documentation is appropriate for the specific project types.

3.5 Harmonization with CEAA

There are overlaps between the EA Act and the Canadian Environmental Assessment Act (CEAA). These overlaps are not insurmountable and often an Environmental Study Report (ESR) prepared under the Parent Class EA serves as the Screening Document when CEAA applies. It is important that the relevant federal interests are addressed in the ESR, and that the responsible federal agencies (RA) have been involved in the study. Problems arise in those cases where a project does not require the preparation of an ESR yet a CEAA document is required. In these cases a CEAA Screening Document would still need to be prepared. The revisions will address the need to harmonize both EA processes.

3.6 Consultation / Mediation

Consultation is a cornerstone of effective environmental assessment. The existing Municipal Parent Class EAs have a comprehensive section on consultation outlining how to identify potential stakeholders and timing and types of consultation. Consultation has, however, evolved since the preparation of the Class EAs. Many have suggested that the consultation requirements need to be updated, strengthened and made more flexible. In addition, the provisions for alternative dispute resolution mechanisms (e.g. mediation) need to be addressed.

3.7 Application of the Class EA Process to Municipal Projects

It is desirable that the application of the Class EA process to Municipal Projects provide consistency and ease of use for all stakeholders. There are two facets to this: a) current application to roads, and water and wastewater projects; and b) potential application to other municipal projects. The former (a) is discussed here while the latter (b) is discussed in the next section.

The current Roads and Water and Wastewater Class EAs have essentially identical structures and planning processes. They are also very similar to other Class EAs in the province that have been evolving towards a consistent format. There are however differences that create confusion amongst those who have to deal with all Class EAs. Some people have expressed a desire to reduce the number of Class EAs while at the same time improving consistency. It may be possible to consolidate the planning processes of the two Class EAs into one process that can be applied to a wide variety of projects. There was strong support among those

responding to the questionnaire to combining the two processes. The study will investigate the merits of combining the two municipal Parent Class EAs into one new Parent Class EA for municipal infrastructure.

3.8 Increase the Application of Class EAs

Class EAs have proven to be very effective self-assessment tools for projects having a predictable planning process, and a predictable range of environmental effects with proven mitigating measures. It is conceivable that other municipal undertakings could be covered in a Class EA. The advantage of a Class EA is that it lays out a clear, easily understood decision-making process that could be more broadly applied. The study will investigate the merits of including other undertakings within the Class EA and the means for so doing not only as part of the current study but also in the future. The types of undertakings that will be considered may include, but not be limited to, solid waste projects, transit, municipal parks etc..

3.9 Monitoring

There are two aspects of monitoring that will be reviewed. First, there is a need to have an ongoing process whereby summary information on projects carried out under the Parent Class EA is maintained and can be periodically audited during the life of the Class EA to assess general compliance with the requirements of the Class EA, and to identify areas for improvement. This data will also be useful at the time of Class EA renewal. There is currently no ongoing monitoring of the application of the Class EAs in place. Mechanisms for monitoring the Class EAs will be reviewed as part of the study.

Secondly, there is a need to review and expand upon the project-related monitoring sections of the Class EA to ensure that the environmental protection objectives are being achieved.

3.10 Relationship to Municipal Act / Other Legislation

The Class EAs identify the process to fulfill the requirements of the EA Act. There are, however, other permits, authorizations and/or approvals required under other legislation to enable project implementation. While to identify all of these and address them in detail goes beyond the scope of the current study, opportunities for addressing this issue in general will be identified.

3.11 Other

Other issues that have been identified include general updating of terminology / definitions and clarification of stakeholder roles.

4.0 CONSULTATION

Consultation is an important component of the EA process. This section discusses both the consultation that was carried out as part of the preparation of these Terms of Reference as well as the consultation that will be carried out as part of the EA Study.

4.1 Study Organization

The following is a list of the agencies and organizations who have representation on the EA Study Steering Committee:

- Municipal Engineers Association (MEA)
- Ministry of the Environment - EA Branch
- City of Toronto
- Regional Municipality of Niagara
- Regional Municipality of Ottawa-Carleton
- Town of Carleton Place
- The Regional Planning Commissioners
- Urban Development Institute
- EA practitioners

4.2 Terms of Reference Consultation

During the development of this Terms of Reference, discussions were held with government agencies to determine their areas of concern with the application and structure of the current Class EAs and how they wish to be involved in the EA Study. The following are the key stakeholders and issues identified during these discussions.

Provincial Agencies

Ministry of the Environment (MOE) - MOE (Environmental Planning and Approvals Branch -EPAB) requires consideration of: impacts to air quality; impacts to surface and ground water quantity and quality; noise and vibration impacts; waste management implications; land use compatibility issues; and ecosystem planning considerations. A meeting was held with representatives of MOE-EPAB and the Regions to hear their comments and ideas for the next generation of Class EAs.

Ministry of Natural Resources (MNR) - MNR expressed an interest in ensuring that its traditional areas of interest (e.g. fisheries, wetlands, wildlife, endangered species, aggregates, forest management, crown land and salt extraction) are identified for the screening / impact assessment aspects of the EA process. MNR would like to review a draft of the Class EA.

Ministry of Municipal Affairs and Housing (MMAH) - MMAH has expressed an interest in ensuring that the Provincial Policy Statements under the *Planning Act* form part of the policy framework under which projects within the Municipal Class EA are carried out. They are also strongly interested in better and more streamlined integration of the Planning Act and the EA Act processes.

Ministry of Citizenship, Culture and Recreation (MCzCR) - MCzCR has expressed an interest in the protection of archaeological resources, heritage features and cultural landscapes. The staff supports the single Class EA process. The Ministry pointed out that even maintenance and operation projects can adversely affect heritage features (e.g. bridges, buildings) and should have some protection built into the Class EA process.

Ministry of Transportation (MTO) - MTO has expressed an interest in reviewing a draft of the Parent Class EA. Their main concern is to ensure that MTO is consulted on municipal projects that could impact on the provincial transportation system.

Ministry of Health - The Office of the Medical Officer of Health requested that the Class EA indicate that the local Medical Officer be advised of any project that could have public health implications such as affecting air or water quality or involving contaminants. They would like to be circulated with a draft of the Parent Class EA.

Ontario Realty Corporation (ORC) - ORC expressed minimal interest in being involved in the Class EA rewrite and are satisfied to have a provision in the Class EA that ensures that affected landowners are contacted and made aware of individual projects.

Ontario Native Affairs Secretariat (ONAS) - ONAS is interested in ensuring that local First Nations and aboriginal communities are contacted and consulted on projects that could affect them. Proponents should also identify where proposals may be affected by land claims. First Nations, ONAS and INAC can assist in identifying where land claims exist.

Ontario Provincial Police (OPP) - The OPP is interested in being involved in any project that could affect provincial policing such as traffic impacts on provincial highways, emergency access issues, and developments that have the potential for vandalism. In most cases, municipal undertakings will be of interest to local police departments, where they exist. The OPP would like to review the draft Parent Class EA and require 7 copies to facilitate review by the regional Head Quarters.

Conservation Ontario (formerly Association of Conservation Authorities) - Conservation Ontario is satisfied as long as there is at least one notification of the local Conservation Authority early in the process to allow the authority to become involved in the project. They will be interested in the project schedules and any significant changes in the Parent Class EA. Conservation Ontario like to receive a draft of the revised Parent Class EA for review and comment.

Niagara Escarpment Commission (NEC) - The NEC wishes to be involved in any project that could impact upon the lands and natural features of the Niagara Escarpment and would like to review a draft of the revised Parent Class EA.

Waterfront Regeneration Trust - The Waterfront Regeneration Trust is interested in any project that could affect the health of Lake Ontario and the watersheds (including greenways) between Niagara Falls and Gananogue. They would also like to review a draft of the Class EA.

Federal Agencies

Undertakings carried out under the municipal Class EAs can trigger the *Canadian Environmental Assessment Act* (CEAA). The potential triggers include involvement of federal lands or funding, or the requirement for a federal decision under federal statutes such as the *Fisheries Act*, the *Canadian Transportation Act*, and the *Navigable Waters Protection Act*. Discussions were held with the Canadian Environmental Assessment Agency and appropriate federal departments. It is apparent from the questionnaire that there are many municipalities who are unaware of the federal government interests in municipal projects and the potential CEAA triggers.

Department of Fisheries & Oceans (DFO) - There are two possible triggers of CEAA administered by DFO. The first is the Fisheries Act. Any project that has the potential to adversely affect fish habitat could require an authorization from DFO before proceeding. This Authorization triggers CEAA. In addition, any project that affects a navigable waterway requires a Navigable Waters Protection Act (NWPA) approval. The requirement for this approval also triggers CEAA. DFO wishes to see an explanation of the Fisheries Act and

NWPA requirements in the Class EA, as well as a recognition of the fisheries and navigation interests in the screening / assessment processes.

Environment Canada (DOES) - DOES is interested in the effects on wildlife (especially migratory birds), stormwater quality / quantity issues, and impacts on transboundary waters.

Canadian Transportation Agency (CTA) - Any project affecting a railway line, where the proponent cannot reach an agreement with the railway company requires an Order to Construct under the Canadian Transportation Act. If it is necessary for the CTA to issue this Order to Construct, then CEAA is triggered. This requirement should be reflected in the Class EA.

Indian and Northern Affairs Canada (INAC) - Any projects involving lands or land claims of the First Nations should include a contact with INAC.

The comments made by those contacted were used to scope the factors to be considered in the EA Study and to complete the ToR.

Public

A draft of the ToR was made available to the public through the *Municipal Class EA Homepage* (<http://www.ilap.com/mea/ea/index.html>). For those who do not have Internet access, copies of the ToR will also be made available through the local MOE offices. Copies of the draft ToR were also distributed at stakeholder workshops which were held on January 28 and February 26, 1998.

A draft of the ToR was also made available to the MOE-EA Branch for review and comment. The comments received on the draft have been addressed with the ToR being revised accordingly. Once the ToR has been finalized and submitted to the MOE for approval, an Environmental Bill of Rights (EBR) Terms of Reference Registry Form will be placed on the EBR Registry advising the public of the availability of the Terms of Reference, and providing further opportunity to comment. The Final ToR will be placed on the Homepage, and discussed in a *MEA Update*.

4.3 Consultation Plan for the EA

Consultation is an important and integral component of the EA process. The Consultation Plan for the EA study was developed taking the following into consideration:

- The Municipal Class EAs have been operating since April 1987;
- This is the 3rd generation of the Class EAs;
- Generally, they are working quite well (based on feedback from municipalities, MOE, technical agencies, public comments, project experience and questionnaire results);
- Municipalities and EA practitioners are familiar with the Class EA requirements and processes;
- There are areas that need to be updated due to changing legislation, roles, organizational structures and project approaches;
- There are additional improvements to methodologies that should be reflected in the new Class EAs to reflect actual implementation and new opportunities.

In summary, overall the existing Class EAs are working well and basically require updating.

Accordingly, the following approach was determined:

- Stakeholders should be made aware of the Class EA Renewal Project and be given the opportunity to identify their desire to become involved;
- Information on the renewal project should be made available to interested stakeholders;
- Workshops should be held with representatives of stakeholder groups as input to updating the Class EA; and,
- Stakeholder comments should be taken into consideration in the revisions to the Class EA.

Therefore, the main features of the consultation plan are:

- multi-stakeholder Steering Committee
- distribution of a questionnaire to over 1,370 stakeholders including:
 - all Ontario Municipalities
 - federal and municipal agencies typically involved in Class EA projects
 - waste management co-ordinators of Ontario
 - randomly-selected consulting firms working with the Class EAs
 - contacts at the Canadian Environmental Law Association (CELA), Association of Municipalities of Ontario (AMO), OWMMA, and Professional Engineers of Ontario (PEO)
 - randomly-selected members of the Ontario Society of Environmental Management
 - members of the Urban Development Institute
- workshops with EA practitioners at key points in the study, including:
 - October 1997 - workshops organized by the representatives of the Regional Planning Commissioners
 - January 28, 1998 - workshop organized by MEA and MOE with those stakeholders who indicated in the questionnaire that they would like to participate in a workshop and the Core Reviewer Team
 - February 26, 1998 - workshop with Ontario Society of Environmental Management
- mailing of a series of Municipal Class EA Updates at key points in the study to those stakeholders who identified their desire to be on the study mailing list
- articles / notices in:
 - the OPPI Journal
 - Ontario Association for Impact Assessment Newsletter
 - the Ontario Technologist - March / April 1998 edition
- Municipal Class EA Homepage
- circulation of the draft Class EA for review and comment to those stakeholders who indicated an interest in reviewing it
- use of the EBR
- meetings with staff of the MOE - Environmental Planning and Approvals Branch, and the Canadian Environmental Assessment Agency
- formation of a Task Group of representative stakeholders to address co-ordination with the Planning Act

The effectiveness of the consultation plan will be reviewed by the Steering Committee as the study proceeds.

5.0 THE EA STUDY

The following summarizes the main stages of the EA study. Appendix 1 includes a study Schedule.

Stage 1 - Project Startup

A Project Steering Committee has been formed with representation from a range of municipalities, the Ministry of the Environment, private developers, law firms and consulting firms.

Stakeholders will be informed of the Study Startup through the *MEA Update* as well.

Stage 2 - The Questionnaire

A questionnaire has been prepared by the MEA and distributed to over 1370 stakeholders involved with the Class EA process including:

- all Ontario municipalities
- waste management co-ordinators of Ontario
- federal and provincial government agencies typically involved in Class EA projects
- randomly-selected consulting firms working with the Class EAs
- contacts a CELA, AMO, OWMA and PEO
- randomly-selected members of Ontario Society of Environmental Management (OSEM)
- members of the Urban Development Institute (UDI)

The questionnaire results will be tabulated and the findings of this survey will be used in determining the key areas for improving the Class EA. The findings of the analysis and the recommendations will be documented in a report with a summary of the results being made available for information on the Internet, and through the *MEA Update*.

Stage 3 - Terms of Reference

Terms of Reference (this document) have been prepared in accordance with the requirements of the amended EA Act.

Stage 4 - Consultation

Consultation with the main stakeholders throughout the course of the study is discussed in Section 4.0.

Stage 5 - Summary of Issues

The comments received will be combined into a document entitled *Summary of Issues* which will be circulated to the Steering Committee and considered in the renewal project. The *Summary of Issues* will be published in the *MEA Update*.

Stage 6 - Draft Outline of the MEA Parent Class EA

A draft outline of the MEA Parent Class EA will be prepared setting out:

- the guiding principles to be reflected in the Class EA;
- the proposed planning process;
- the proposed consultation process;
- the suggested approach to conflict resolution;

- concepts being considered for documentation (e.g. ESRs, Reduced Documentation, Environmental Protection Plans);
- the approach to describing the undertaking; and
- the approach to triggering the Schedules

This Outline will be posted on the Homepage, and published in the *MEA Update*.

Stage 7- Draft MEA Class EA

A Draft Parent Class EA will be prepared based on the Outline, addressing the issues identified in the Summary of Issues. During this phase, stakeholders will be kept informed of the proposed changes to the Class EAs through the Website and *MEA Updates*. The Draft Parent Class EA will be circulated to government agencies, and those municipalities and other stakeholders who have expressed a desire to review and comment on the draft.

Stage 8 - Finalize the MEA Class EA

The Parent Class EA will be revised based on the comments received on the draft. Once completed, the final Municipal Parent Class EA will be submitted to the Minister of the Environment for approval.

6.0 MODIFICATIONS TO THIS TERMS OF REFERENCE

Once approved by the Minister of the Environment, this Terms of Reference (ToR) will both provide the framework for preparing the Parent Class EA and serve as a benchmark for reviewing the EA. It is understood that given the nature of a ToR, it is not intended to present every detail of all the activities that will occur when preparing the Class EA.

It is therefore possible that in carrying out the work contemplated by these ToR, it may become evident that certain modifications to the approved ToR will be necessary. It is envisioned that these routine changes may include the following types of activities:

- Identification of new issues to be addressed in the Class EA;
- Determination that some issues originally proposed in the ToR will not be pursued further; or
- Modifications to the proposed public consultation program given the above changes.

This list is not intended to be exhaustive, it is simply to set out, by example, the types of changes that will be considered routine and/or that are likely to result in an insignificant impact on the environment, and that could be accommodated within the framework of an approved ToR. Any significant variance to the approved ToR may require a new or amended ToR to be submitted to the Minister for approval.

In the event of uncertainty as to whether a proposed change should be considered routine or not, the MOE will be consulted through the Director of the EA Branch.

Attachment 1

Municipal Class EAs Renewal Project - Proposed Schedule

Stage	Component	1997				1998											
		Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Stage 1	Start-up	■															
Stage 2	Questionnaire	■	■	■	■	■											
Stage 3	Terms of Reference	■	■	■	■	■	■	■									
Stage 4	Consultation	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Stage 5	Summary of Issues		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Stage 6	Outline						■	■	■	■	■	■	■	■	■	■	■
Stage 7	Draft Class EA						■	■	■	■	■	■	■	■	■	■	■
Stage 8	Final Class EA												■	■	■	■	■

Proposed Schedule re: Submission of Class EA

- Late June 1998 - circulate draft for comments
- September 1998 - revise and provide final EA to proponent municipalities for approval
- December 1998 - submit final EA to MOE

Extract of Draft Minutes
Planning and Environment Committee
14 July 1998

**NEW MEA CLASS ENVIRONMENTAL ASSESSMENTS
FOR ROADS, WATER AND WASTEWATER -
RMOC AS A PROPONENT**

- Environment and Transportation Commissioner's and Planning and
Development Approvals Commissioner's joint report dated 19 Jun 98

Councillor Legendre, when reading the report, understood the current Schedules A, B and C of the Environmental Assessments (EAs) were being replaced with revised schedules. He asked if that was correct.

Kim Eaton, Senior Project Manager, Water and Wastewater, Policy Planning Branch, Policy and Infrastructure Planning Division, Planning and Development Approvals Department (PDA) explained the schedules will not change, however, there may be some amendments to the schedules as part of the process. She further explained there are two existing Class EAs the Region uses in their work, one for roads and one for water and wastewater and this process must be reviewed every five years looking at the existing Class EAs, revising and resubmitting them to the Ministry for approval. She noted the two Classes may be amalgamated, therefore, the process will be amalgamated, however, there would continue to be two separate sets of schedules for both roads and water and wastewater.

Councillor van den Ham asked if the revisions to the process will simplify it or reduce costs. Ms. Eaton indicated there are some areas of the Class EA process staff would like to see changes in, one being to bring together the EA and the planning process. She added a combined and simplified process would mean there would be no need to go to the public twice on an issue and combining the two books, roads, water and wastewater all in one, will further simplify the process for the public.

There being no further discussion, Committee then considered the staff recommendation.

That the Planning and Environment Committee recommend that Council approve the request by the Municipal Engineers Association (MEA) that the Regional Municipality of Ottawa-Carleton be a proponent for the new provincial Class Environmental Assessments for municipal water, wastewater and road projects.

CARRIED