

15
COMMENTS ON
IMPROVING ENVIRONMENTAL ASSESSMENT IN ONTARIO
A FRAMEWORK FOR REFORM

The Transportation and Works Committee recommends the adoption of the recommendations contained in the following report, June 7, 2005, from the Commissioner of Transportation and Works and the Commissioner of Planning and Development Services:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council endorse Council Attachment 1 as York Region's comments on the Provincial EA Advisory Panel Report "Improving Environmental Assessment in Ontario – A Framework for Reform."
2. Regional Council supports the inclusion of Transit related Environmental Assessment into the Class Environmental Assessment process.
3. Regional Council not support the proposed five category sector specific EA procedural framework for the Transportation Sector given that the Class EA is already in place for municipal road projects and water and wastewater projects and that this process works well.
4. Regional Council not support municipal funding for participants, intervenor and Advisory Board funding in the preparation or undertaking of Environmental Assessment studies.
5. The Ministry of the Environment be requested to undertake further municipal consultation with respect to the development of sector specific EA policies, sector specific EA procedural framework and procedures, and any related Act or legislative changes.
6. The definition of "Green Projects" include energy from waste facilities.
7. The Regional Clerk forward copies of this report to the Ministry of Environment, Municipal Engineers Association (MEA), Ontario Professional Planners Institute (OPPI) and to Clerks of the local municipalities in York Region.

2. PURPOSE

The purpose of this report is to inform Regional Council on the findings and recommendations of the Minister of Environment Advisory Panel of Experts Report on “Improving Environmental Assessment in Ontario: A framework for Reform” dated March 2005. The Advisory Panel’s report provides recommendations on improving Ontario’s environmental assessment (EA) program, particularly as it relates to three sectors: waste, energy and transit/transportation. The MOE’s deadline for comments related to the Advisory Panel’s report is July 4, 2005.

3. BACKGROUND

3.1 Overview of EA and History

Ontario’s EA was enacted in 1975 and proclaimed in 1976. The focus of the EA Act has been on identifying and selecting a preferred alternative from among a range of reasonable alternatives, having regard for the environmental advantages and disadvantages of the proposed undertaking and the alternatives.

Another key feature of Ontario’s EA Act is the broad definition of the “environment” which is generally defined as the ecological, social, cultural, economic and built environments. The stated purpose of the EA Act is “the betterment of the people of Ontario” by providing for protection, conservation and wise management of the environment. The EA Act remained largely unchanged from 1976 to 1996. In 1997, a number of amendments to the Act came into force as a result of the passage of Bill 76 (the Environmental Assessment and Consultation Improvement Act). The intention of Bill 76 was to make the EA process “less costly, more timely and more effective”. It is debatable whether these goals have been achieved to date. Bill 76 created the new “Terms of Reference” requirements for Individual Environmental Assessments (IEA), and imposed a mandatory duty upon proponents to undertake public consultation, and entrenched Class EAs on a firm legislative basis. The EA Act is administered by the Minister of the Environment.

The EA Act applies to “undertakings” proposed by public sector proponents, unless such undertakings have been exempt from the Act. The EA Act does not generally apply to private sector undertakings, unless such undertakings have been specifically designated by regulation as undertakings to which the Act applies.

Where an undertaking is subject to the EA Act and requires the preparation of an individual EA, the proponent is responsible for preparing technical studies, public consultation and submitting EA documentation to the Ministry of the Environment. Ontario’s Individual EA process generally consists of four main steps:

- Preparation and Approval of “Terms of Reference” to direct the content and conduct of the EA process for the proposed undertaking.

- Preparation and submission of the EA consisting of studies, reports and research required by the Terms of Reference.
- Government and public review of the EA submitted by the proponent.
- The Minister's decision on the proposed undertaking (i.e. approve, reject, or refer to mediation or public hearing before the Environmental Review Tribunal).

Each of the foregoing steps is to be carried out with notice and comment opportunities for First Nations, communities and stakeholders who are interested in, or affected by, the proposed undertaking.

It should be noted that Part II of the EA Act provides statutory authority for the approval of "Class EAs", which set out streamlined planning procedures and documentary requirements. If a project is subject to a Class EA, the proponent follows the prescribed planning/documentary requirements as set out in the Municipal Class EA, June 2000 document. The Minister of the Environment has authority to issue an order "bumping up" a project to an individual EA if warranted in the circumstances.

The vast majority of projects and activities subject to the EA Act are processed under the Class EAs rather than through individual EAs. Of those EAs that have proceeded as individual EAs, since bill 76 took effect, only two individual EA matters were referred to hearings before the Environmental Review Tribunal. All other individual EAs have been decided (and approved) by the Minister without public hearings.

It should be noted that stakeholders expressed concern about the government's decision to allow the Intervenor Funding Project Act to expire without renewal in 1996. The Act had provided a legal mechanism for eligible public interest representatives to obtain funding to participate meaningfully in EA hearings.

3.2 Advisory Panel

In June, 2004, the Provincial Government approved the creation of the Minister's Advisory Panel to provide recommendations on improving Ontario's environmental assessment program, particularly as it relates to three specific sectors (waste, energy and transit/transportation).

The Advisory Panel consisted of an Executive Group and three Sectoral Tables that were formed to address priority areas related to waste, energy and transit/transportation.

According to the Advisory Panel's Terms of Reference, the mission was to address the following goals:

- **Revitalize** the EA program providing clear, prescriptive rules for appropriate environmental planning and decision-making.
- **Rebalance** EA decision by settling out clear roles for all participants.
- **Refocus** the EA process such that the level of assessment/review of proposed undertakings reflects the potential that proposals have to positively or negatively

impact the environment as defined by the EA Act (the EA Act defines the environment as, air, land or water, plant and animal life, including human life, the social economic and cultural conditions that influence the life of humans or a community, any building, structure, machine or other device or thing made by humans. Any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or any part of combination of the foregoing and interrelationships between any two or more of them).

Beyond the general goals noted above, the Minister also sought the Advisory Panel's advice on how to ensure that undertakings that provide positive contributions to Ontarians' quality of life (i.e. public transit or clean energy options) do not face major obstacles or delays in the existing EA program. Related to this is the concern that the present EA program lacks focus on basic objectives: sustainability, predictability, clarity, fairness and consistency. To address such concerns, the Executive Group developed a "Challenge Statement" to guide the Advisory Panel's deliberations regarding potential changes to Ontario's EA program.

The Panel's work has been predicated on the Ministers clear commitment to the EA and not whether Ontario needs a statute-based EA program; instead the question is how Ontario's EA program can be strengthened and improved in order to reflect the above noted goals.

The Panel submitted their report and recommendations to the Minister of the Environment on March 15, 2005 outlining proposed improvements for Ontario's environmental assessment process. The Ministry of the Environment is seeking input from all stakeholders and interested parties with regard to the recommendations contained in the Panel's report. Submissions related to the Panel's report are to be forwarded to the MOE before July 4, 2005.

3.3 York Region Council Resolution

At its meeting on June 24, 2004, Regional Council adopted recommendations contained in Clause 26 of Report No. 6 of the Transportation and Works Committee including the following:

Resolution Regarding Environmental Assessment and Approvals Process:

Whereas York Region is the fastest growing large municipality in Ontario; and

Whereas York Region is dedicated to ensuring that growth occurs in an environmentally sustainable manner; and

Whereas this growth is an important component of the Ontario economy and a direct result of the growing population in Canada and Ontario; and

Whereas York Region recognizes that the need for infrastructure projects is inherent in the Provincial approval of Official Plans; and

Whereas new and expanded municipal infrastructure is required to provide the necessary services to new residents and businesses within York Region; and

Whereas significant delays have been experienced by York Region in delivering the necessary municipal infrastructure due to impediments during the Environmental Assessment process and other required environmental approvals and permits; and

Whereas delays in the approval of municipal infrastructure projects can often result in other unplanned and unmitigated environmental impacts; and

Whereas the Environmental Assessment Act should recognize the unique and important aspects of transit, roads, water, wastewater and solid waste projects; and

Whereas the Provincial government has announced that an expert panel will be established to provide recommendations on improvements to the environmental assessment process;

Therefore be it resolved that:

- 1. The Ministry of the Environment be requested to amend the Environmental Assessment Act to streamline the environmental assessment process for municipal infrastructure projects, in particular to:*
 - a) clarify the public and private sector roles in the provision of waste management infrastructure,*
 - b) provide some certainty to the private sector on the outcome of the process when initiating an environmental assessment for a waste management facility,*
 - c) allow the scoping of an environmental assessment process for the expansion of an existing landfill site or to residual waste options if the municipality has maximized other waste diversion initiatives,*
 - d) provide definition and rules for the implementation of research scale facilities for waste management,*
 - e) allow the scoping and streamlining of the environmental assessment for transit infrastructure, recognizing the overall net environmental benefit of implementing transit facilities as early as possible,*
 - f) recognize that the need for infrastructure projects is inherent in the Provincial approval of Official Plans; and*
- 2. The Ministry of the Environment be requested to streamline the approval and permitting process required subsequent to the completion and approval of an environmental assessment by ensuring that the process and requirements for applying*

- for Provincial permits be clarified and that suitable turn around times be identified and resources applied to achieve these target timelines; and*
- 3. The Ministry of the Environment be requested to clarify and streamline the areas of responsibility for all ministries and agencies dealing with the natural environmental impacts to make clear the respective responsibilities and to eliminate duplication, particularly between the Ministry of the Environment, the Ministry of Natural Resources, the Conservation Authorities, Environment Canada and Fisheries and Oceans Canada; and*
 - 4. The Ministry of the Environment be requested to expedite and finalize the proposed Canada-Ontario Agreement on Environmental Cooperation as soon as possible; and*
 - 5. The Ministry of the Environment be requested to establish the expert panel to provide recommendations on improvements to the environmental assessment process and act upon its recommendations as quickly as possible and to include a representative from York Region on the panel; and*
 - 6. This resolution be forwarded by the Regional Clerk to the Minister of the Environment for a response; and*
 - 7. This resolution be forwarded by the Regional Clerk to the York Region area municipalities.*

Association of Municipalities of Ontario Resolution Regarding Environmental Assessment and Approvals Process

The Association of Municipalities of Ontario (AMO) is a non-profit organization representing the municipal order of government and provides a variety of services and products to members and non-members.

The mandate of the organization is to support and enhance strong and effective municipal government in Ontario. It promotes the value of the municipal level of government as a vital and essential component of Ontario and Canada's political system.

The Association of Municipalities of Ontario adopted the following Resolution:

Whereas growth is occurring throughout the Province of Ontario; and

Whereas municipalities in Ontario are dedicated to ensuring that growth occurs in an environmentally sustainable manner; and

Whereas this growth is an important component of the Ontario economy and a direct result of the growing population in Canada and Ontario; and

Whereas it is recognized that the need for infrastructure projects is inherent in the Provincial approval of Official Plans; and

Whereas new and expanded municipal infrastructure is required to provide the necessary services to new residents and businesses within Ontario; and

Whereas significant delays have been experienced by municipalities in delivering the necessary municipal infrastructure due to impediments during the Environmental Assessment process and other required environmental approvals and permits; and

Whereas delays in the approval of municipal infrastructure projects can often result in other unplanned and unmitigated environmental impacts; and

Whereas the Environmental Assessment Act should recognize the unique and important aspects of transit, roads, water, wastewater and solid waste projects; and

Whereas the Provincial government has announced that an expert panel will be established to provide recommendations on improvements to the environmental assessment process;

Therefore be it resolved that:

- 1. The Ministry of the Environment be requested to amend the Environmental Assessment Act to streamline the environmental assessment process for municipal infrastructure projects; and*
- 2. The Ministry of the Environment be requested to streamline the approval and permitting process required subsequent to the completion and approval of an environmental assessment by ensuring that the process and requirements for applying for Provincial permits be clarified and that suitable turn around times be identified and resources applied to achieve these target timelines; and*
- 3. The Ministry of the Environment be requested to clarify and streamline the areas of responsibility for all ministries and agencies dealing with the natural environmental impacts to make clear the respective responsibilities and to eliminate duplication, particularly between the Ministry of the Environment, the Ministry of Natural Resources, the Conservation Authorities, Environment Canada and Fisheries and Oceans Canada; and*
- 4. The Ministry of the Environment be requested to expedite and finalize the proposed Canada-Ontario Agreement on Environmental Cooperation as soon as possible; and*

5. *The Ministry of the Environment be requested to establish the expert panel to provide recommendations on improvements to the environmental assessment process and act upon its recommendations as quickly as possible.*

3.4 Implication to York Region

York Region has been experiencing significant growth pressures for numerous years, and this trend is expected to continue into the near future. As a result, York Region has one of the largest infrastructure programs in North America. Hence, York Region undertakes numerous Environmental Assessment projects, both individual as well as class, and in multiple sectors (water, wastewater, roads, transit and solid waste). Therefore, the EA process or any proposed changes could have a significant impact on how York Region delivers infrastructure projects.

4. ANALYSIS AND OPTIONS

4.1 Summary of Panel Recommendations

Subsequent to Bill 76 coming into effect, it appears that many long standing concerns about Ontario's EA program have not been addressed adequately or at all. This continued debate and many other key questions prompted Ontario's Environment Minister to establish the EA Advisory Panel in 2004. The EA Advisory Panel has concluded that Ontario's Environmental Assessment Act is fundamentally sound and that all Sector Tables and all stakeholders shared that view. No input suggested that the EA Act should be repealed. However, the EA program must be robust and consultative in nature and should facilitate undertakings that provide environmental benefits, mitigate or avoid negative biophysical and socio-economic impacts and support liveable communities and a strong provincial economy.

The principal recommendations may be summarized as follows:

- The MOE should develop guiding EA principles that are entrenched in a policy guideline issued under the EA Act. The following goals, objectives and values include:
 - o Sustainability benefits.
 - o Clear, consistent, predictable and timely.
 - o Transparent.
 - o Public participation.
 - o One project, one integrated process.
 - o The precautionary principle.
 - o The ecosystem approach.
 - o Based on good data, good science and sound engineering.
 - o Environmental protection.
 - o 'Avoidance first'.

- The MOE should establish sector Specific working groups to develop sectoral policies that identify and prioritize “green projects” and to develop sectoral EA procedures that are clear, consistent, predictable and timely. The planning, consultation and documentation requirements should reflect the environmental benefits and risks associated with each project:
 - The MOE should establish EA application fees, and should direct such revenue to prescribed EA activities.
 - The Ontario government should establish a high-level office that is expressly mandated to help facilitate “green projects” within the EA process and other statutory approval regimes.
 - The Ontario government should develop appropriate protocols and procedures that more effectively involve First Nations and aboriginal communities in the EA process.
 - The MOE should establish an independent provincial advisory body in order to provide expert advice and solicit public views on various EA matters, such as community acceptance of proposed undertakings and effects/effectiveness monitoring.
 - The MOE should ensure greater use of alternative dispute resolution (ADR) techniques throughout the EA process, and should refer certain undertakings to the ERT (Environmental Review Tribunal) for public hearings that are consolidated with other hearing requirements where applicable.
 - The MOE should amend Class EA Procedures and the Electricity Projects Regulation to create opportunity to seek summary rulings for the ERT and on contentious matters such as bump up/elevation request.
 - The MOE should establish and enhanced EA website or online registry to facilitate proponent and public access to EA documents and project status information.
 - The MOE should expand its EA monitoring, inspection and training activities to ensure compliance with the EA Act, regulation, or terms and conditions with approvals.

In total, the Panel identified 41 recommendations for EA reform as shown Council Attachment 1. The cornerstone of the Panel’s vision for EA reform is the first five recommendations and their link to all subsequent recommendations.

4.2 Summary of York Region Comments

The Panel’s review is comprehensive and includes 41 recommendations covering the three sector areas of waste, energy and transit/transportation, EA procedures, public participation and participant roles, enhanced roles for the Environmental Review Tribunal (ERT), integration of EA with other legislation and policy, monitoring and reporting, and potential role of community advisory/liaison committee.

The intent of the main reforms is that proponents are to get expeditious timelines, certainty and increased efficiency while the public benefits by more emphasis on

outcomes and greater access to an appeal body, participant funding, public notice and information.

In some cases, the suggested improvements will clearly benefit the EA process, particularly where streamlined EA procedures apply to the waste, energy and transit sectors. In other areas, the proposed improvements are not so obvious and may require further clarification and guidelines. Procedural reforms, for example, would appear to have future implications to all Class EA sectors (e.g., road, water and waste water EAs) in the event that the new EA procedural framework is incorporated into existing instruments such as the MEA Class EA (e.g., the introduction of intervenor funding and applications/appeals to the Environmental Review Tribunal into the Class EA process will have obvious process implications to municipal proponents).

Staff comments with respect to the 41 recommendations contained in the Provincial EA Advisory Panel Report can be found in *Council Attachment 1*

The main proposals of the Executive Group are provided in five recommendations (Recommendations #1 to #5) that collectively identify a need for:

- Overarching EA principles to guide the process (Recommendations 1 and 2).
- Sector specific EA policies that would identify and prioritize “green projects” within the sector for expedited treatment. (Recommendations 3 and 4).
- A new sector specific EA procedure that matches EA effort to the expected environmental benefits and risks associated with a particular undertaking. (Recommendation 5).

The following subsections present York Region’s response to these needs.

4.2.1 Overarching EA principles to guide the process (Recommendations 1 & 2)

<i>EA Panel Recommendations</i>	
1.	<i>Need for EA to better address green projects in the waste, energy and transportation sectors.</i>
2.	<i>Need for guidance on how to interpret and apply the purpose of the EA Act.</i>

York comments:

- York Region agrees that there is a need for further development of principles, policies and procedures for Environmental Assessments. Any change to the EA process must be clearly justified as an improvement to the current Provincial environmental assessment process and not cause undue delay in the provision of warranted infrastructure nor should it create another level of bureaucracy that complicate an already complex process.
- Having a set of clear principles to guide the EA planning and decision-making will serve to benefit the proponent, Ministry and other EA participants, as each will be

working with the same reference point when considering and evaluating proposed undertakings and EA documentation under the EA Act.

- There has been a lack of policy and guidance from the MOE. Numerous guidelines prepared by the MOE in the 1990's were neither finalized nor formally released. As a result, proponents have relied on the principles of good EA planning (i.e. consultation with affected parties early and throughout the process), consideration of a reasonable range of alternatives, alternative methods of implementing the solution, identification and consideration of the effects of each alternative on all aspects of the environment, evaluation of alternatives in terms of their advantages and disadvantages to determine their net environmental effects, and provision of clear and complete documentation of the planning process to allow traceability of decision-making (i.e. the Municipal Class EA process). These principles are well recognized and accepted by MOE, proponents, review agencies and the public. These should be the basis for EAs under the Ontario EA Act. They are applicable now and should continue to be so.
- A key consideration in the development of guidance documents should recognize that an Environmental Assessment is in the most part a planning tool to implement government infrastructure.
- The policies outlined in Volume II of the Panel Report do not reflect the types of policy and guidance proponents, reviewers and the public require. Guidelines similar to the "Interim Guidelines on Environmental Assessment Planning and Approvals", July 1989 are more in line with what is required.
- The purpose of the Draft EA Policy Guidelines provided in Volume II is unclear. Additional work and consultation is required if the guidelines are intended to assist in the EA decision making process. If they are intended to facilitate the identification of "Green Projects" they do not provide clear direction as to how a project would be classified as "green". Further, it appears that the advantages and disadvantages of an undertaking have already been determined and weighed for so called "green projects" even before the specific impacts have been identified. This would appear to be contrary to the requirements of the Ontario EA Act.
- Currently, Transit infrastructure projects (such as the Yonge Street Corridor Public Transit Improvements EA, Highway 7 Corridor and Vaughan N-S Link Public Transit Improvements EA, Markham North South Link Corridor Public Transit Improvements EA, North Yonge Street Corridor Public Transit Improvements EA) must be undertaken as Individual EAs which are onerous, costly and time consuming processes. Transit type projects should be clearly defined as "Green" projects as they would provide societal and natural environmental benefits and as such should be expedited. Clear direction as to what is defined as a "Green Projects" and who makes that decision is required. Green Projects must include new and emerging waste management technologies and energy from waste facilities.
- Clear principles and objectives for EA ToRs need to be developed. Current direction from the MOE is for a very generic document (i.e. unscoped ToR). This document is not useful for EA proponents and the public as it is not specific and clear as to the purpose of a project. Further, processes have already been developed through past projects and/or those undertaken as part of Class EA process. In addition, a ToR

- document adds an additional 6-12 months to an Individual EA (preparation and approval time). Since the current MOE advice for ToRs is to be as open and general as possible, there does not seem to be much benefit of obtaining formal approval of such general document given the approval time requirements. If MOE's position **to not** allow a proponent to provide the rationale and justification for an undertaking so as to limit the range and types of alternatives in a manner consistent with the requirements of the OEAA, then MOE's position should be revisited. A better process would be for proponents to produce "study designs" that MOE consults on but do not require formal MOE approval. This is similar to what MOE was encouraging in the early 1990's (Environmental Assessment Proposals).
- Any further work needs to ensure that those involved in developing policy have recent, relevant and direct environmental assessment project experience.

4.2.2 Sector specific EA policies that would identify and prioritize “green projects” within the sector for expedited treatment (Recommendations 3 and 4)

EA Panel Recommendations

3. *Need for provincial policy which prioritizes “green” undertakings, and which addresses need and alternatives.*
4. *Need to establish working groups to develop sectoral policy.*

York comments:

- York Region supports the concept of sector-specific policies.
- Clear statements of sectoral policies under the EA Act would clarify for proponents and EA participants what benefits are currently most valued and what prohibitions should be respected. For example, less stringent EA requirements regarding “need” and alternatives for Transit/Transportation initiatives provided that sectoral policies articulates a clear Provincial preference for transit and certain specific transportation facilities.
- The focus of the Panel's recommendation should be on improvements to the EA process to facilitate all projects.
- Clear direction must be given on what is considered a green project and who makes that determination. Green projects should include energy-from-waste facilities.
- The sectoral working groups must develop clear and concise sectoral policies. These policies must be circulated to affected parties such as York Region for review and comments. The timeline for completion and adoption of sectoral policies must be expedited given the significant growth pressure's being experienced by York Region and the significant delay in York Region's ability to meet infrastructure needs due in part to the current EA process and lack of Provincial highway expansion.
- A Water and Wastewater Sector specific working group should also be established.

- Those involved in developing the Sectoral Tables must have recent, relevant and direct operational and environmental assessment project experience.

4.2.3 A new sector specific EA procedure that matches EA effort to the expected environmental benefits and risks associated with a particular undertaking (Recommendation 5)

EA Panel Recommendation

5. *Need for EA procedures which correlate assessment requirements to the degree of benefit and risk associated with an undertaking.*

York comments:

- Municipal Transit Projects generally undergo the more rigorous Individual EA (York Region Public Transit Improvement EA projects). The existing Class EA and regulatory instruments should be adapted to allow for municipal transit projects to be streamlined into the Class EA planning procedures that is currently in place for road infrastructure. Municipal Transit initiatives should be classified as “Green Project”, and in some cases exempt from the EA Act.
- The procedural framework must address the degree of risk and recognize that infrastructure going through urban areas are more preferred than going through greenfields.
- The existing parent Class EA documents are working well and address the majority of projects which are undertaken. Staff are of the opinion that the proposed five category system is too prescriptive and not manageable. Furthermore, it is not warranted given that the Class EA process is already in place and working well. In addition, the five category system would likely require a fundamental change to the Municipal Class EA process, thus making the process much more onerous.
- Given that York Region has one of the largest capital work programs in North America, and that York is experiencing significant growth pressures, it is essential that the MOE recognize that infrastructure projects are essential to growth in York Region and also to the economy of Ontario and that the growth in York Region has been Provincially mandated. Hence, York Region requests to be part of the working group/executive group on the EA triggers and process for specific sectors.
- Water & Wastewater should also be included as a separate sector.
- Ontario is clearly lacking waste management infrastructure as a significant amount of waste is exported outside of the province. Terms of Reference for waste undertakings must focus on residual waste “alternatives to” to ensure that there is a successful outcome of the EA process to ensure waste is managed within Ontario.

4.2.4 Highlights of Other Regional Comments

The following list highlights areas that York Region supports with respect to the Panel’s recommendation:

- Inclusion of Transit related Environmental Assessment into the Class Environmental Assessment process
- Revision to the draft consultation guidelines
- Ontario government should develop protocols, procedures and collaborative agreements to facilitate participation by First Nations and aboriginal communities in the EA planning and decision making process. One window approached is recommended
- No objection to revising the draft mediation guidelines, however additional details and consultation will be required.
- Guideline on harmonization of CEAA and the EA Act
- MOE should develop EA and educational training.
- MOE should develop collaborative protocols with other provincial ministries and agencies.
- Need to review relationship between master plan and EA process

The following list highlights issues that York Region has with the Panel's recommendations or lack of recommendation:

- Class EA approvals of infrastructure master plans should serve as the need and justification for the following EAs for specific projects in the master plans.
- Green Projects need to include waste management projects such as energy from waste facilities.
- Waste management research scale undertakings of a size $\frac{1}{4}$ or less of the full operational scale facility should be exempt from the EA.
- Monitoring and enforcement of operational waste facilities is subject to the EPA and should not be duplicated in the EA process.
- Further consultation is required with respect to the development of sector specific EA policies, sector specific EA procedural framework and procedures, and any related Act/Instrument/legislative changes.
- Projects are in the most part a planning tool to implement government infrastructure and that some of the Panel's recommendations could substantially impede the EA process.
- Funding and role of the Provincial Advisory Body.
- The proponent should not be responsible for funding participants in the EA process (intervenor funding).
- Fees for EA activities should not be imposed on the proponent.
- Need a clear definition of "interested persons" and what their rights and responsibilities are.
- The reference to monitoring cumulative effects needs to be defined in a clear and concise manner.
- Potential role for municipal EA community or advisory committee.
- Timelines for each stage of an EA should be defined and adhered to.

- Clear timelines must be set and adhered to in processing Part II Order (“Bump-Up”) requests with incentives to ensure compliance.

York Region’s response to the forty-one recommendations are included in *Council Attachment 1*.

5. FINANCIAL IMPLICATIONS

There are no direct cost implications associated with this report. However, if MOE proceeds to implement the recommendations in the Panel’s report, it will have a major impact on the way York Region delivers infrastructure. A number of the Panel’s recommendations if implemented will result in delays and additional costs in completing environmental assessments for municipal infrastructure.

6. LOCAL MUNICIPAL IMPACT

The recommendations of the Minister of Environment Advisory Panel of Experts Report on EA reform, if implemented, could directly affect future local municipal EA projects. As York Region undertakes EA projects (government infrastructure), so do the local municipalities and as such would be impacted by any proposed changes in the EA process.

7. CONCLUSION

The Panel’s review is comprehensive and includes forty-one recommendations covering the three sector areas of waste, energy and transit/transportation. In some cases, improvements will clearly benefit the EA process, particularly where streamlined EA procedures apply to the waste, energy and transit sectors. In other areas, the proposed improvements are not so obvious and may require further clarification, guidelines and additional consultation. Finally, the Minister of the Environment should recognize that Environmental Assessment projects are in the most part a planning tool to implement government infrastructure and that some of the Panel’s recommendations could substantially impede the EA process.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)