

Class EA for Provincial Transportation Facilities and Municipal Expressways, 2024

General Information Session for ACEC-Ontario

June 19, 2024

Presentation Highlights

2024 Class EA

EA Modernization

Key Changes in 2024 Class EA (from 2000 Class EA)

Transitioning to 2024 Class EA

Key Overall Takeaways

EA Modernization

Timeline of Work on Class EA Amendment

MTO has been working with the Ministry of the Environment, Conservation and Parks (MECP) to ensure the regulatory and policy changes being proposed by MECP support streamlined delivery of transportation infrastructure, balanced with environmental protection.

2019

- MECP's Environmental Assessment (EA) program introduced EA Modernization.
- MTO revises project groupings and begins to amend the MTO Class EA.

2020

- MTO's Class EA amendment posted on the Environmental Registry (ERO) as part of its public consultation.
- Post-consultation, MTO reviewed and responded to comments from the public, Indigenous communities, and stakeholders.

2021 to 2024

- Between 2021 and December 2023, MTO worked with MECP to resolve outstanding comments.
- MECP Minister approved the Class EA amendments on December 15, 2023, and further amended the Class EA on February 22, 2024, to add highways of any length and allow municipalities to use the Class EA for municipal expressways.

EA Modernization

MECP's
Environmental
Assessment
Modernization
work

- Simplify streamlined EA process:
 - Amendments to Class EAs
- Move more projects to streamlined EA process:
 - Project list approach for projects subject to comprehensive EA
- Shortened timelines

- On February 22, 2024, MECP implemented a project list approach for projects subject to **comprehensive EA** (previously known as individual EA) and allowed more projects to follow **streamlined EA** processes.
 - Details are in the Environmental Registry of Ontario (ERO) decision notice: 019-4219.
- Certain projects relevant to MTO business have been shifted to a streamlined process:
 - All new highways of any length (including provincial freeways and municipal expressways and associated transitways)
 - Rail projects
- To facilitate this, MECP amended the Class Environmental Assessment for Provincial Transportation Facilities on February 22, 2024, and it has been renamed the **Class Environmental Assessment for Provincial Transportation Facilities and Municipal Expressways**. Two Class EAs are applicable to MTO projects: the 2000 and 2024 Class EAs.

Note: If you have any questions related to EA modernization, please reach out to MECP at: EAModernization.MECP@ontario.ca



What You Need To Know

EA Modernization

- MECP's EA modernization initiative has moved to a project list approach and has shifted the focus from who is undertaking the project to what the project is.
- There are comprehensive EAs (robust) and streamlined EAs (standard process to follow).
- The Class EA is a streamlined pre-approved EA process that can be followed for certain projects, so long as proponents fulfill the requirements set out in the Class EA for their project.
- The name of the Class EA has been changed to Class EA for Provincial Transportation Facilities and Municipal Expressways.
- The Class EA has been amended twice recently (in December 2023 and again in February 2024).
- Highways of any length, and freeways and expressways included in the February 22, 2024, amendment. Process remains generally the same as detailed in the December 15, 2023, Class EA.

2024 Class EA Process and Key Changes

Project Groupings – 2024 Class EA

- Changes made to Groups A, B and C to more accurately reflect the nature and type of projects included.
- A number of project types (i.e., select safety, rehabilitation, reconstruction and replacement projects, and improvements and upgrades to existing facilities **within existing property or designated right-of-way (ROW)**) have been moved to a list of exempt projects.

Group A	Group B	Group C	Group D	Exempt Projects
<ul style="list-style-type: none"> • Establishing new provincial transportation facilities and highway/freeway realignments regardless of length. 	<ul style="list-style-type: none"> • Projects that modify access or add capacity to existing provincial transportation facilities, and new service / maintenance / operations facilities • e.g., new interchanges, intersections or roundabouts, highway and freeway expansions. 	<ul style="list-style-type: none"> • Improvements to existing facilities that require additional property beyond existing property or ROW. • e.g., addition of passing lanes, truck climbing lanes or turning lanes to improve traffic flow; bridge or culvert rehabilitation, reconstruction or replacement with minor design changes. 	<ul style="list-style-type: none"> • Exempt from EA requirements. • Activities include: operation activities; routine maintenance (that doesn't meet the definition of Group C projects); emergency work; facility administration; etc. 	<ul style="list-style-type: none"> • 30 project types moved to EA exempt • Generally, safety, routine rehabilitation / replacement, improvements to existing service, maintenance and operations facilities without heritage value, and within existing property or designated ROW.

Screening Process for Group C Projects – 2024 Class EA

- Screening process developed to enable certain Group C projects to be screened and reclassified to fall under the list of exempt projects.
- Screening shall be done prior to proceeding with the project. The process applies to the entire project.
- Group C projects eligible to be screened are ones that would be exempt if the project did not extend beyond the existing property or designated ROW, or if the project extends beyond the existing property or designated ROW within a localized and minimal area.
- The screening can be completed using the project characteristics, available secondary sources of information, and information available from any pre-existing research or feasibility studies done outside of the EA process.
- Additional investigations/studies are not required unless more information is needed to answer the screening questions.
- Secondary source information can also be used, such as consultation with Indigenous communities and organizations, regulatory agencies, municipalities and other stakeholders as appropriate.

Screening Process for Group C Projects – 2024

Class EA, cont'd

Screening Results:

- The project can be exempted if the screening determines:
 - there are no additional impacts on natural heritage or cultural resources after application of mitigation measures;
 - there will be no interference with wildlife species, species at risk, migratory fish or their respective habitats after application of mitigation measures;
 - there will be no additional impacts on air or water quality or ambient noise levels after application of mitigation measures.

Next Steps:

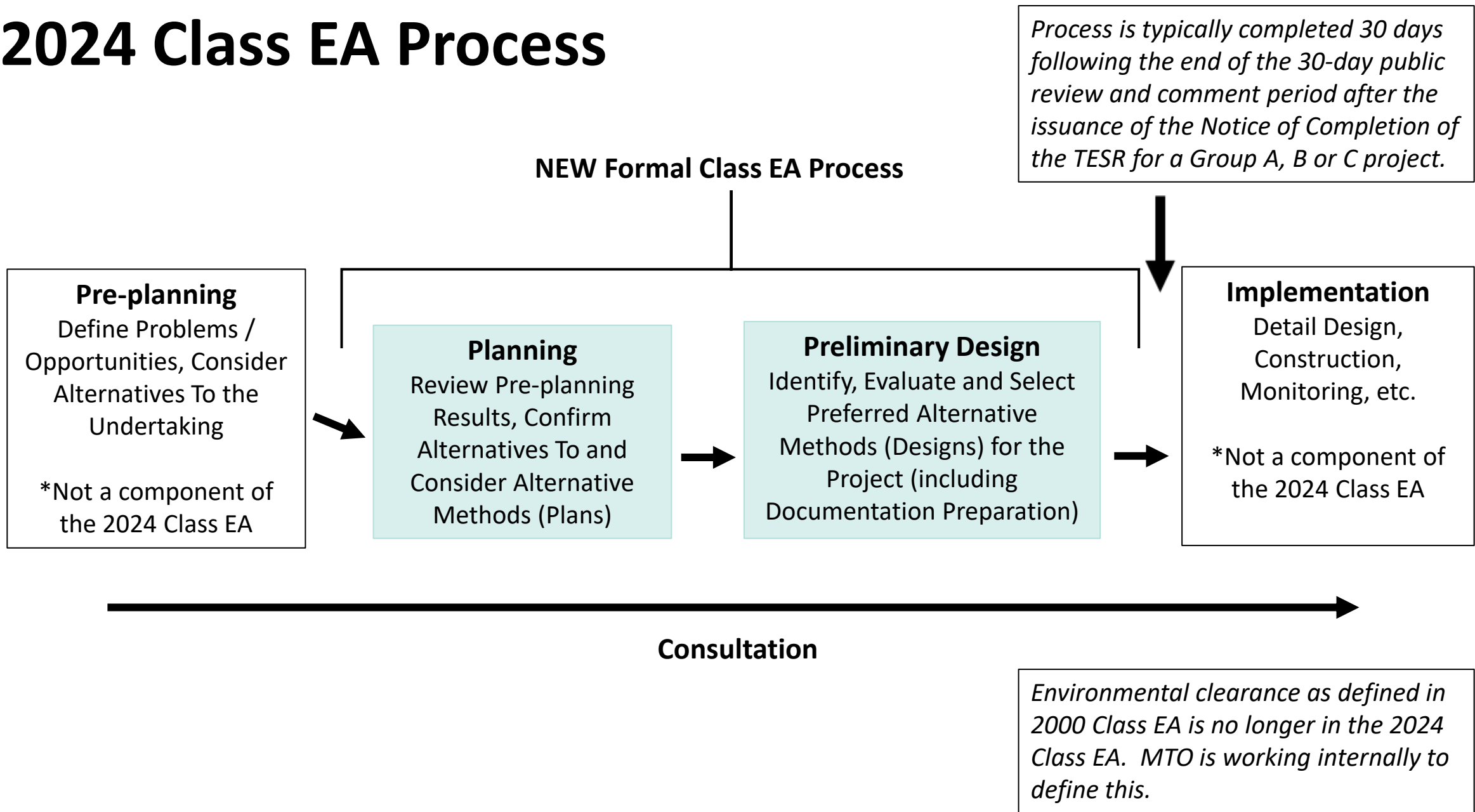
- If none of the criteria are met, then the project can fall under the list of exempt projects and is exempt from the *Environmental Assessment Act*.
- If any one or more of the criteria are met, the project must be undertaken as a Group C undertaking under the Class EA process.
- The screening process must be documented to illustrate the outcome, kept on file and made available upon request.

Exempt Projects – 2024 Class EA

- The exempt projects (Section 5.7 of 2024 Class EA) are ones that have:
 - Few or no Alternatives To;
 - Limited Alternative Methods;
 - Standard mitigation approaches to address potential environmental impacts that have been developed by MTO through extensive experience;
 - Minimal potential environmental impacts as the work is focused on existing transportation infrastructure.
- Exemption from the *Environmental Assessment Act* does not exempt the proponent from:
 - the requirements of planning principles,
 - project-specific consultation – may still need to consult with property owners, the public and Indigenous communities,
 - fulfilling the requirements of other legislation – may still need to undertake fisheries, terrestrial, and archaeological fieldwork to obtain necessary permits and authorizations,
 - mitigating potential negative environmental impacts as appropriate, and
 - fulfilling constitutional Aboriginal consultation requirements (i.e., Duty to Consult).

Refer to MTO's Environmental Standards and Practices documents to ensure the provincial transportation facility is being planned accordingly.

2024 Class EA Process



Consultation/Documentation Requirements – 2024 Class EA

	Group A	Group B	Group C
Planning	<ul style="list-style-type: none"> Review TNA results (if completed outside of EA process), Consultation Plan, Notice of Commencement Identify Alts To, Preliminary Study Area Identify and evaluate Alt Methods (Plans) Select preferred Alt Method (Plan) Minimum two points of consultation (Notice of Commencement and Alt Methods (plans)) Document and carry forward the results of the planning process in the TESR (Optional) Study Design Report (SDR) 	<ul style="list-style-type: none"> Review TNA results (if completed outside of EA process), Consultation Plan, Notice of Commencement Alts To and Preliminary Study Area are already identified Identify and evaluate Alt Methods (Designs) Select the preferred Alt Method (Design) Minimum three points of consultation in Planning and Preliminary Design (Notice of Commencement, Alt Methods (designs), Notice of Completion) Document the combined Planning and Preliminary Design in the TESR (include any comments in a post-TESR Record of Consultation) 	<ul style="list-style-type: none"> Consultation Plan, Notice of Commencement Alts To and Preliminary Study Area are already identified Identify and evaluate Alt Methods (Designs) Select the preferred Alt Method (Design) Minimum two points of consultation for both Planning and Preliminary Design (Notice of Commencement, Notice of Completion). Consultation approach developed based on the scope of the project, potential environmental impacts and potentially interested persons Document the combined Planning and Preliminary Design in the TESR (include any comments in a post-TESR Record of Consultation)
Preliminary Design	<ul style="list-style-type: none"> Identify and evaluate Alt Methods (Designs) Select the preferred Alt Method (Design) Notice of Completion and 30-day review and comment period Minimum two points of consultation (Alt Methods (Design) and Notice of Completion) Completion of TESR and associated Record of Consultation 	<p><i>Note: The Duty to Consult remains for all project groupings. Talk to your MTO contact about Indigenous consultation for your projects.</i></p>	

Issues Resolution Process – 2024 Class EA

- MTO makes reasonable efforts throughout the Class EA process to resolve issues raised and minimize the potential for outstanding issues at the end of the Class EA process.
- The 2024 Class EA requires that the proponent (MTO) use an IRP to attempt to resolve **significant issues** that are identified during the 30-day TESR or TESR Addendum review and comment period that cannot be resolved using the MTO normal Class EA consultation process.
- It is not intended to be used for every issue. It is a tool to help MTO work through issues raised specifically during the 30-day TESR or TESR Addendum review and comment period that could not be resolved.
- The process is intended to ensure transparency and completeness while providing structure to MTO's approach to resolving contentious issues raised regarding MTO projects.
- MTO determines when and if an issue for a project needs to enter the IRP.

Changes to a Project and 10-Year TESR Review

Changes to a Project:

- There may be changes to the project after the TESR has been completed. **Any significant modification to the project or in the environmental setting for the project after the Notice of Completion of the TESR** must be considered through a TESR Review.
- If MTO determines that the change is a significant modification, a TESR Addendum must be prepared and filed with a Notice of Addendum for a minimum 30-day comment period. If comments are received, a TESR Addendum Record of Consultation must be prepared and kept on file.
- If the modification to the project is not significant, then there is no further action. The project can proceed in the manner outlined in the TESR.

10-Year TESR Review:

- If 10 years passes from the latter of: 1) the issuance of the Notice of Completion of the TESR; or 2) a decision on a Section 16 Order request, to the proposed start of construction of the project, a TESR Review must be completed. The review must be documented and made available for public review upon request.
- The intent of the review is to ensure that the project and the mitigation measures are still valid given the current planning context.
- If the review finds that there has been a significant modification, a TESR Addendum must be prepared and filed with a Notice of Addendum issued for a minimum 30-day comment period.



Key Takeaways

2024 Class EA – Key Changes & Process

- **2024 Class EA:** new freeways (and extensions to existing freeways) and highways of any length now subject to the Class EA; municipal expressways added (municipalities can use this Class EA).
- **Project Groupings:** re-organized; 30 low risk projects are exempt (e.g. safety, routine rehab or replacement); screening process for Group C to exempt.
- **EA Process:** comprised of Planning and Preliminary Design, with option to bring in elements of Detail Design. Process ends 60 days after the Notice of Completion of the TESR for a Group A, B or C project.
- **TESR Review:** tied to any significant modification to the project or in the environmental setting for the project that occurs after the Notice of Completion of the TESR; TESR Review increased from 5 to 10 years.

Transitioning to the 2024 Class EA

Transition Provisions

- Transition provisions have been included that allow a project to shift from the 2000 Class EA to the 2024 Class EA.
 - Transition is not mandatory for any project, but it may be beneficial to take advantage of the 2024 Class EA process.
- MTO makes the decision on whether to transition a project, and it is considered on a project-by-project basis.
- There is a list of projects (in Section 11.2.1 of 2024 Class EA) that have been initiated under the 2000 Class EA and are **not eligible to transition**. They must continue to follow the process set out in the 2000 Class EA.
 - These are projects which have completed a significant amount of the Class EA process or have a Section 16 order request associated with them.

Timeline for Transitioning – 1 Year

	1 Year to Transition
Project Type	Projects that have not issued a Notice of Commencement under the 2000 Class EA.
Transition Window	December 15, 2023 – December 15, 2024
	MTO may decide to use either the 2000 Class EA or 2024 Class EA and proceed according to the process they have selected.
Post Transition Window	Past December 15, 2024
	Any project that has not yet issued a Notice of Commencement <u>must</u> follow the 2024 Class EA.

Note: The 2024 amendment does not change the transition provisions/timelines. They are tied to the date of the December amendment (December 15, 2023).

Timeline for Transitioning – 2 Years

	2 Years to Transition
Project Type	Projects that have issued a Notice of Commencement for Preliminary Design or Initial Notice under the 2000 Class EA.
Transition Window	December 15, 2023 – December 15, 2025
	MTO may decide to transition the project to the 2024 Class EA, or continue using the 2000 Class EA.
Post Transition Window	Past December 15, 2025
	Any projects that have elected to transition must have completed their transition and be following the 2024 Class EA by this time.

Transition Process: 2024 Class EA

- There are some steps that must be taken if an initiated project is going to transition to the 2024 Class EA process.
- The steps will involve transition notices and a 30-day review and comment period.
- The transition process varies for each of the following project scenarios:

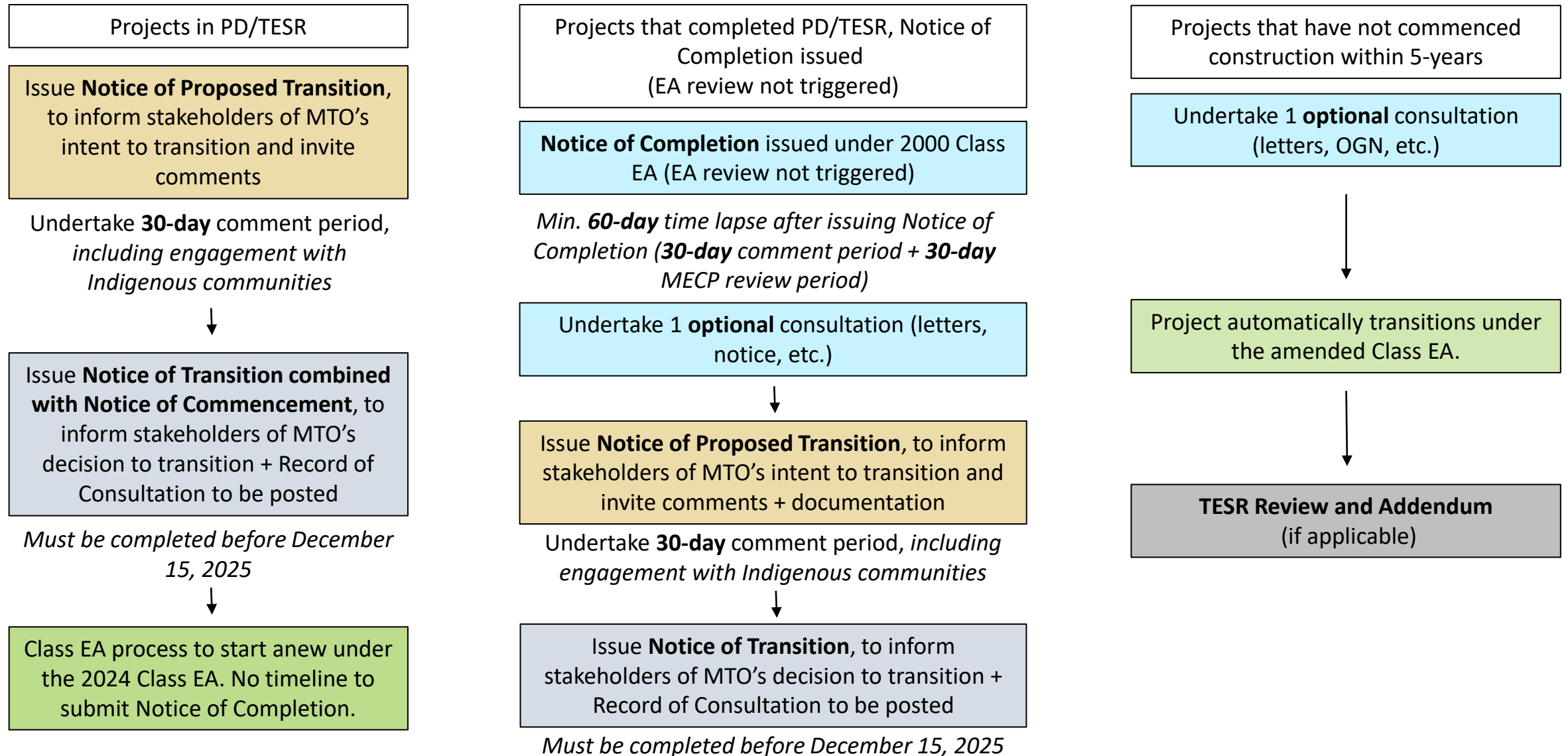
Projects in PD/TESR

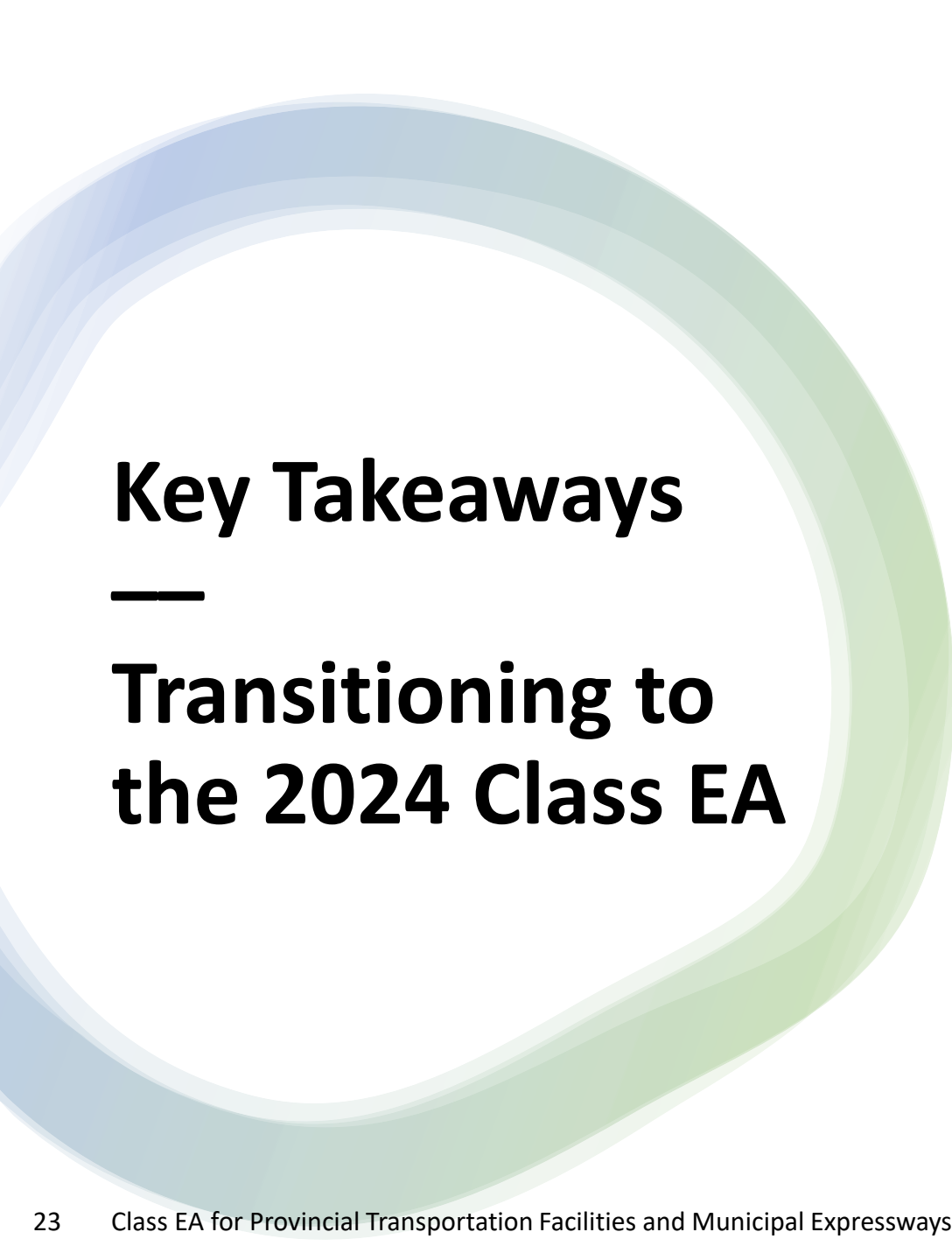
Projects that Completed
PD/TESR

Projects that Have not
Commenced Construction
Within 5 years

NOTE: Projects that are transitioning from the 2000 to the 2024 Class EA must have fully completed the transition process by December 15, 2025. This means that **the deadline for initiating transition will be September 16, 2025 (at the latest)**, which accounts for the time that must be taken to perform transition provisions (minimum 90 days).

Transition Process: 2024 Class EA





Key Takeaways

Transitioning to the 2024 Class EA

- Transition is not mandatory for any project currently underway, but it may be beneficial to take advantage of the process and requirements under the 2024 Class EA.
- Not all projects are eligible to transition to the 2024 Class EA.
- MTO makes the decision on whether to transition a project.
- There are some timelines for transitioning that are tied to the status of the project.
- If a project is transitioned, there is a process to follow depending on the status of the project.
- The deadline for initiating transition (from 2000 to 2024 Class EA) is September 16, 2025 (at the latest), which accounts for the time that must be taken to perform transition provisions (minimum 90 days).
- Reach out to your MTO contact if you have any questions about the projects you are working on.



Key Takeaways

Overall

- The Class EA was amended on December 15, 2023 and further amended in February 2024.
 - This is part of MECP's EA modernization that is changing how EA is delivered in the province and by MTO. It aligns EA process with level of environmental risk.
 - The 2024 amendment added freeways and municipal expressways, and highways of any length.
- EA process is complete at the end of Preliminary Design, 30 days following the 30-day public review and comment period for the Notice of Completion.
- Some projects are exempt from EA requirements but are still required to obtain any permits, authorizations or approvals, undertake project-specific consultation and mitigate potential negative environmental impacts as appropriate.

Questions?

- Are there any questions on the material we have covered today regarding the 2024 Class EA?
- If you have project specific questions, please contact your designated MTO contact for support.