

Issue at a glance:

Supporting Municipal-Indigenous Relations and Housing-Enabling Infrastructure



The City calls on the Ministry of the Environment, Conservation and Parks to resolve ongoing and future Section 16 Order requests on projects in Guelph in a timely manner, and to develop a province-wide framework for navigating capacity funding requests as part of the Municipal Class Environmental Assessment process, including working with provincial partners, such as the Ministry of Indigenous Affairs and First Nations Economic Reconciliation, to ensure First Nations have the appropriate resources to meaningfully engage in provincial statutory requirements.

In recent years, the Section 16 Order process has increasingly been used to negotiate capacity payments which go beyond provincial requirements. This has significantly delayed critical infrastructure projects, and strained municipal-Indigenous relationships, while adding substantial work for the province.



A construction worker wearing a yellow hard hat and an orange safety vest is walking away from the camera on a dirt path. In the background, another worker in similar gear is visible, and the scene is set at a construction site with hills in the distance under a hazy sky.

Moving Forward: Opportunities for Provincial Support

Ongoing disputes around capacity-funding not only strain municipal-Indigenous relationships, but also add unnecessary additional work for the province, taking up significant Ministry capacity to resolve S16O requests.

In the short term, Guelph will require provincial support to resolve current and potential S16O requests in a timely manner, and to enable major housing-enabling projects to move forward.

Looking forward, a province-wide framework for navigating capacity funding requests, and consistent direction on which Indigenous communities must be engaged would ensure a consistent and easy-to-understand approach to consultation and accommodation under the MCEA process. A clear and shared understanding of Indigenous rights and municipal obligations will support meaningful consultation, improve relationships, and streamline the delivery of housing-enabling infrastructure.

Overview: Municipalities and Indigenous Consultation

The Crown has a duty to consult, and when appropriate, to accommodate Indigenous Nations where activities may adversely impact Aboriginal or treaty rights. While municipalities do not hold

the Duty to Consult (DtC) themselves, they are often delegated administrative and procedural consultation responsibilities as part of various provincially-mandated processes:

Municipal Indigenous Consultation Pathways Across Regulated Processes in Ontario:

Process	Indigenous Consultation Requirements	Governing legislation and guidelines	Overseeing Ministry
Archaeological Assessments	Formal consultation with Indigenous communities is required for municipalities as part of field-based archaeological assessments (Stage 3 and onwards*). This may include review of documentation and monitoring of field work. *The City of Guelph also engages with Indigenous rightsholders in both Stage 1 & 2 as a best practice	Ontario Heritage Act, 1990 Standards and Guidelines for Consultant Archaeologists (2011)	Ministry of Citizenship and Multiculturalism
Municipal Class Environmental Assessments (MCEAs)	Formal consultation with Indigenous communities is required for municipalities as part of MCEAs for major infrastructure projects. This may include discussions and review of alternative solutions and design options, and verification of environmental impact statements.	Environmental Assessment Act, 1990; Municipal Engineers Association MCEA User Guide (2023)	Ministry of the Environment, Conservation, and Parks
Planning Act Processes	Early and meaningful engagement by project proponents with Indigenous communities is required as part of planning and development applications. This may look like discussion of project impacts, and various accommodations considered by the project proponents. Some municipal planning policy changes (i.e. Official Plan Updates) are subject to formal consultation requirements.	Planning Act, 1990 Provincial Planning Statement (2024)	Ministry of Municipal Affairs and Housing

Overall, consultation requirements and guidelines are divided across several different ministries, and contain varying degrees of detail leaving aspects open to individual interpretation. Beyond inconsistent requirements, the City receives varying directions on the Indigenous communities to be engaged, who all have different expectations of municipal obligations. Together, this creates opportunities for confusion, relationship harms, and project delays.

MECP Challenges: Capacity Funding, Section 16 Orders and Environmental Assessment Delays

Indigenous rights holders are increasingly seeking capacity funding to support their participation in consultation activities as part of the MCEA process. Based on the potential rates provided to Guelph by Indigenous governments, this may cost the City in excess of tens of thousands of dollars per MCEA project should capacity funding be provided on an equitable basis across all First Nations.

While the MECP has previously informed the City that capacity funding is not a requirement under the MCEA process, First Nations have increasingly been requiring it to support their participation in EA consultation activities. Select First Nations have stated that their capacity funding requests are borne from provincial direction, and are refusing to participate in MCEA consultation activities without compensation, requesting the issuance of a Ministerial Section 16 Order (S16O) with MECP for all city-led MCEAs where payment has not been made.

As of June 2026, Guelph is awaiting a decision from MECP following a capacity-funding-based S16O request on the Macdonell and Allan Structures Municipal Class Environmental Assessment Study, and is anticipating a S16O on another 6 upcoming EAs in 2026. Given previous provincial direction to Guelph, continued consultation and sharing of project materials with Indigenous communities, and the significant costs of capacity funding, a lack of capacity funding ultimately cannot be the reason for a S16O. These EAs are essential to advance housing-enabling and economic infrastructure, and capacity-funding related S16Os could see at least 14,893 future housing units at risk of significant delays across the City.

Environmental Assessment(s)	Details	Impacts
Macdonell and Allan Structures MCEA	This study is needed to enable the repair of a key transportation corridor into Guelph's downtown, and is currently on hold awaiting resolution of a S16O request.	Potential future weight restrictions on corridor will increase emergency response times and re-route thousands of truck trips daily.
Stone and Victoria Road MCEA Structure 116 MCEA	These studies are needed to support future development in the Guelph Innovation District. They are expected to receive S16O requests following notice of completion in 2026.	Delays to the construction of a projected 4,544 housing units in the Guelph Innovation District.
Gordon Street, Clair Road and Laird Road MCEA Street A MCEA	These studies are needed to enable future development in Clair-Maltby Secondary Plan Area. They are expected to receive S16O requests following notice of completion in 2026.	Delays to the construction of at least 10,349 housing units in the west side of the Clair Maltby Secondary Plan Area.
South West Water Supply MCEA North East Water Supply MCEA	These studies are needed to enable greater future water takings and source water protection from existing and new wells. They are expected to receive S16O requests from SNGR following notices of completion in the coming years given capacity funding challenges.	Future water supply constraints placing restrictions on new growth.





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