
9 OTHER APPROVAL REQUIREMENTS AND AMENDING THE EA

9.1 APPROVALS REQUIRED FOR THE UNDERTAKING

In addition to requiring Ontario *Environmental Assessment Act* approval, there are a number of other provincial, federal, municipal and utility approvals/permits required to implement the Recommended Alternative. The following provides an overview of the permits and approvals required for this project. All permit and approval requirements will be confirmed during Detail Design.

9.1.1 Provincial

Approvals from the Ministry of the Environment, Ministry of Culture, Ontario Realty Corporation and Hydro One Networks will be required for the Recommended Alternative.

9.1.1.1 Ministry of the Environment

The Ministry of the Environment (MOE) is the approval authority for a number of approvals that will be required for the Recommended Alternative. These approvals include:

- Permits to Take Water (PTTW), which are issued under Section 34 of the Ontario Water Resources Act for temporary water takings that exceed the threshold of 50,000 L/day (or 7.5 lpm). The groundwater takings for this project will be temporary but may exceed the threshold in some areas of the project. Application for any necessary PTTWs will be made during Detail Design. The PTTW applications will comply with the requirements of Ontario Regulation 387/04.
- Ontario Regulation 347, which identifies hazardous wastes through a series of listings and tests. For this study the regulation will be applied to determine the disposal options of any contaminated materials identified during contaminated site investigations and any site clean-ups (e.g. determining that soil is either hazardous or non-hazardous).

9.1.1.2 Ministry of Culture

As the provincial regulatory agency responsible for built heritage, cultural landscapes, and archaeological resources in Ontario, the Archaeology and Heritage Planning Unit of the Ministry of Culture (MCL) assists MTO in meeting the relevant requirements of the *Ontario Heritage Act*. These requirements are detailed in the MTO document entitled, *Environmental Protection Requirements for Transportation Planning and Highway Design, Construction, Operation and Maintenance* (October 2006), specifically, *Section 9: Built Heritage and Cultural Heritage Landscapes* and *Section 10: Archaeological Resources*.

All archaeological fieldwork undertaken to satisfy the conservation requirements tied to the EA process must be conducted by a consultant archaeologist holding a valid archaeological license issued by MCL under the *Ontario Heritage Act*. MCL acts as reviewer of the investigations conducted by licensed archaeologists, manages the resources documented by those investigations, and develops and implements operational policies, technical standards, and guidelines regulating the practice of archaeological conservation in Ontario. Once archaeological resources that may be disturbed by highway design investigations, construction, operation or maintenance have been identified and conserved to the satisfaction of the MCL, in accordance with the *Ontario Heritage Act*, MCL will provide written notification of concurrence with recommendations and acknowledgement that Provincial concerns for archaeological

resources have been met. Receipt of this notification from MCL will fulfill MTO's obligations with respect to archaeological resources under the EA process for the Recommended Alternative.

Currently, while there is no parallel licensing and review process in place regulating the assessment and conservation of built heritage and cultural landscapes, MCL does routinely participate in the review of all relevant EA documentation and thereby provides comment on whether or not provincial concerns for heritage resources have been addressed in accordance with the *Ontario Heritage Act*.

Where a property is either designated or listed on a municipal registry, MTO may be requested to undergo the municipal process related to provision of a Heritage Permit Application for building alterations and/or a Demolition Permit for removals. Where a property is designated and will be removed through demolition, then MTO may be required to submit an application to de-designate the property under the *Ontario Heritage Act* prior to receipt of a demolition permit. This request may go to municipal Council for approval.

9.1.1.3 Ontario Realty Corporation and Hydro One

Property will be required from the Ontario Realty Corporation (ORC) / Hydro One as part of the project. ORC and Hydro One received project notification and Hydro One participated in technical agency consultation.

Typically when ORC disposes or leases land, they have EA requirements under the Ministry of Energy and Infrastructure (MEI) Class EA. Given that the 'ORC project' is ancillary to the project, it is intended that their EA requirements are addressed as part of the EA process. This is in keeping with direction provided by the Ministry of the Environment and Section 9.7.1 of the MEI Class EA.

This following outline how this EA Report addresses ORC's seven point analysis criteria for a Category B Consultation and Documentation Report.

1. Describe the Undertaking

This EA Report documents the need for provincially owned property which is ancillary to the project (refer to Section 7.2.1).

2. Description of Environmental Effects, Mitigation and Monitoring

This EA Report documents the potential environment effects of the project and the associated mitigation measures and monitoring commitments (refer to Sections 7.0 and 8.0). Each factor included in ORC's seven point site-specific analysis (per Section 4.2 of the MEI Class EA) has been addressed. Commitments to Future Work are identified in Chapter 8 of this report.

3. Consult Directly with Affected Agencies and the Public

This EA Report documents consultation with directly effects parties including, but not limited to, agencies and the general public (refer to Chapter 2). Stakeholder involvement was a key component throughout the environmental assessment process.

4. Reporting

This EA Report documents all the issues typically discussed in a Category B Consultation and Documentation Report.

5. Confirmation of Category B

This EA Report clearly identifies the need to acquire provincially owned property. The property requirements have some potential for adverse environmental effects; however, the

effects are well understood from a technical perspective and are minor in nature. Consultation with technical agencies has been carried out to ensure adequate mitigation measures are proposed. This is in keeping with a Category B undertaking.

6. Notice of Completion and 30 Calendar Day Review

This EA Report has been made available for public and agency review in accordance with the Ontario *Environmental Assessment Act*.

7. Part II Order Requests (if any)

Ontario *Environmental Assessment Act* allows a public and government review period and allows the Minister of the Environment to require further consideration or impose conditions under certain situations based on that review.

9.1.1.4 Compliance with Provincial Plans and Policies

In addition to requiring the preceding approvals, the Recommended Alternative was reviewed against the applicable requirements of a number of provincial plans and policies to ensure these were adhered to. A total of three plans and policies were determined to be applicable:

- The Ontario Provincial Policy Statement (2005);
- Growth Plan for the Greater Golden Horseshoe (2006); and
- The Greenbelt Act and Plan (2005).

Note: The project study area is approximately 5.5 km south of the Oak Ridges Moraine planning area.

As part of identifying the Recommended Alternative, it was determined that the 427 Transportation Corridor EA has fulfilled all of the relevant requirements of the preceding provincial plans and policies insofar as:

1. It has met all applicable criteria in all of the provincial documents to establish the project as a legitimate and appropriate use and activity that is needed to meet the growth and land use needs of both the province and area municipalities in an effective manner.
2. It has taken or will take all appropriate steps in the planning, design, construction and operation of the project to ensure that negative impacts on stated or implied provincial, municipal and community interests have been kept to a minimum.
3. It has thoroughly examined alternatives to the project and has, where practical, adopted additional enhancement and mitigation measures that will enhance the long-term effectiveness and sustainability of the project.
4. Negative impacts on ecological and hydrological features, functions and processes identified in the provincial plans and other documents have been largely avoided or minimized so that there will be no significant or long-term negative effects on these features, functions or processes.
5. Where possible, opportunities to improve or enhance ecological or hydrological integrity will be pursued through the planning, design, construction and operation of the Recommended Alternative through adoption of appropriate mitigation measures.

9.1.2 Federal

To date, no federal permits or approvals are anticipated to be required for this project. Based on feedback from federal agencies it has been determined that the only potential federal approval requirement would occur if a *Fisheries Act* authorization is required. Watercourse crossing have been reviewed in accordance with the MTO/DFO/OMNR Fisheries Protocol (2006) and it has been determined, based on the preliminary design, that *Fisheries Act* authorization is not required. This will be reviewed during Detail Design based on final design details.

The assessment of need for various federal approval and permit requirements is outlined in Section 1.2.

9.1.3 Municipal

The following outlines the typical municipal permits and approvals that are required for construction of a road project:

- Planning approvals through the Regional Municipality of York, Regional Municipality of Peel and City of Vaughan, as applicable.
- Building permits for transitway stations from the Regional Municipality of York, Regional Municipality of Peel and City of Vaughan, as applicable
- Toronto and Region Conservation Authority (TRCA) permits and approvals for works within a regulated area.
- Approval for stormwater management in accordance with the Regional Municipality of York, Regional Municipality of Peel, City of Vaughan and TRCA requirements, as applicable.
- Sewer discharge approvals in accordance with the Regional Municipality of York, Regional Municipality of Peel, City of Vaughan and TRCA requirements, as applicable.
- Municipal noise bylaw exemptions, as required

As a provincial agency MTO does not require municipal permits or approvals; however, MTO's policy is to adhere to the intent of specific municipal permit and approval requirements and submit applications for review and information.

9.1.4 Utilities

Contact has been made and discussions have taken place with all potentially affected utility companies/authorities within the study corridor. The Recommended Alternative requires a number of utilities to be relocated. During subsequent design phases, formal notification and consent will be obtained from relevant authorities including Hydro One, Powerstream, TransCanada Pipelines, City of Vaughan and York Region. Details regarding potential effects to utilities are provided in Section 7.4.3.

9.1.5 MTO Class EA Requirements

Once this EA Report is approved, the remainder of the assessment will be carried out under the MTO Class EA process, which will apply to detailed design, construction and operations/maintenance of the Recommended Alternative.

The *MTO Class Environmental Assessment (Class EA) for Provincial Transportation Facilities, July 2000*, process, page 6-8, states that:

“For Group A new freeway projects:

The TESR is mandatory if Environmental Assessment approval for the project was granted at the completion of Planning.

The TESR is not prepared if Environmental Assessment approval for the project was granted during Preliminary or Detailed Design.”

This EA Report includes the Preliminary Design stage for the Recommended Alternative. Therefore, a Transportation Environmental Study Report (TESR) is not required in the subsequent Detail Design stage.

Design and Construction Reports (DCRs) are mandatory given that this EA Report does not document Detail Design. DCR(s) will be filed during Detail Design (usually by contract) for each section of highway, documenting the design, the commitments for construction, and any necessary commitments for environmental concerns, maintenance/ operations and monitoring requirements.

The subsequent Detail Design stage will continue the consultation process carried out during the route planning and preliminary design phase of the EA and will involve government agencies, municipalities, interest groups, First Nations, local property owners and the public.

9.2 PROCESS FOR AMENDING THE UNDERTAKING FOLLOWING EA APPROVAL

Some aspects of the project may require a change as the design details are further developed during the later stages of project design and construction. It may be necessary to amend the EA because of changes in conditions, development of new technologies or mitigation measures or the identification of previously unknown concerns. The following outlines the amendment procedure to be followed which will address these changes. Sections 10 and 11 of MTO’s *Class Environmental Assessment for Provincial Transportation Facilities* (2000) provides further information and guidance on amendment procedures.

Changes to the project may occur due to:

- unforeseen site-specific problems encountered only during subsequent design phases and/or construction;
- improvements in the design to provide greater environmental benefits and/or less adverse effects;
- elements of the project that were not previously envisioned;
- circumstances that develop at the time of construction;
- issues identified in other approvals processes; and
- changes to the regulatory framework (i.e. new legislation or regulations).

Where such changes may occur, a process must be followed to consider the changes within the context of the Minister approved 427 Transportation Corridor EA and determine if an amendment is required based on the significance of the change. Therefore, any unforeseen changes to the Minister approved Recommended Alternative will be reviewed by MTO and/or its agent prior to any changes being carried out. As part of the review, MTO and/or its agent will determine the significance of the change in terms of its potential effect on the environment, a stakeholder (including the public), and/or a commitment made in the Minister approved 427 Transportation Corridor EA.

Insignificant or Minor Changes

If the significance of the change is determined to be negligible or of a minor nature, no amendment would be required and the change could be implemented by MTO and/or its agent. Potential examples of this would include, but not be limited to, the following:

- Changes to a construction component, such as a change in the size or type of structure, where the alteration or change results in similar or reduced potential effects that have been previously identified or included in the approved 427 Transportation Corridor EA Report.
- The alteration or change in location or configuration of equipment (e.g. illumination) within the previously defined construction limits where the alteration or change results in similar or reduced potential effects that have been previously identified or included in the approved 427 Transportation Corridor EA Report.
- The alteration or change in location, size or configuration of stormwater management ponds within the previously defined construction limits where the alteration or change results in similar or reduced potential effects that have been previously identified or included in the approved 427 Transportation Corridor EA Report.
- The alteration of interchange configurations or intersection designs within the previously defined construction limits where the alteration or change results in similar or reduced potential effects that have been previously identified or included in the approved 427 Transportation Corridor EA Report.
- Deletion of a proposed facility (e.g. maintenance facility) that is determined to be unnecessary during subsequent design phases.

Significant Changes

If the significance of the change is determined not to be negligible, but of a more substantial nature, an amendment would be required. Several examples of proposed changes that would be considered as more significant include the following:

- Changes to a construction component, such as a change in the size or type of structure, where the alteration or change results in increased potential effects not previously identified or included in the approved 427 Transportation Corridor EA Report.
- The alteration or change in location or configuration of an interchange or crossing road structure where the alteration or change results in increased potential effects not previously identified or included in the approved 427 Transportation Corridor EA Report.

The following process for amending the Minister approved 427 Transportation Corridor EA will be applied:

- Parties potentially affected by the proposed changes will be consulted on the proposed changes, anticipated environmental effects, proposed mitigation, and the need for a Transportation Environmental Study Report (TESR).
- A TESR will be prepared documenting the proposed change, the circumstances necessitating the change, the anticipated environmental effects, and the proposed mitigation. The TESR will be made available for a 30 day public review period.

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- A Notice of Bump-up opportunity will be issued at the time of TESR submission.

Only the changes noted in the TESR will be eligible for bump-up. The concept of the undertaking as outlined in the original EA may not be challenged. In the event that a bump-up is granted by the Minister of the Environment, MTO and/or its agent has the option of withdrawing the TESR and implementing the Recommended Alternative as documented in the 427 Transportation Corridor EA Report.

If, through unforeseen circumstances, an immediate change is required to prevent environmental damage from occurring or continuing, then the change will be considered as a Group D emergency response activity in accordance with MTO's *Class Environmental Assessment for Provincial Transportation Facilities* (2000) document.