



**STAFF REPORT
ACTION REQUIRED**

**A New Class Environmental Assessment Process for
Transit Projects**

Date:	May 7, 2007
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division General Manager, Transportation Services
Wards:	All
Reference Number:	pg070040

SUMMARY

This report provides an overview of the development of a new Municipal Transit chapter to be incorporated into the current Municipal Class EA document and recommends that City Council endorse the process documented in the draft chapter on Municipal Transit and the associated amendments to the Municipal Class EA document, which will result in a more streamlined EA process specifically for municipal transit projects.

RECOMMENDATIONS

The City Planning Division and Transportation Services Division recommend that:

1. City Council endorse the attached draft document, “New Part D – Transit Projects”, to be added to the Municipal Class Environmental Assessment (EA) document, which will establish a class EA process for municipal transit projects.
2. The Ministry of the Environment be requested to complete and make available a “Code of Practice” regarding Part II Orders as soon as possible so that all municipalities have a clear understanding of the procedures for how that element of the EA Act and its regulations are implemented.

Financial Impact

The recommendations in this report have no financial impact.

BACKGROUND

The City of Toronto is a proponent municipality of the MEA Municipal Class EA. This proponenty has a history dating back to the original development of the MEA Municipal Class EA, approved in 1983. The current Class EA document was approved in October 2000 by the Minister of the Environment as part of a regular five year update process. The City has participated in the regular updates and amendments of the Class EA as well as the annual monitoring reports that are submitted to the MOE.

The Municipal Class EA includes a built-in amending procedure that allows the MEA along with the municipal proponents to amend the Class EA as the need arises. The City of Toronto, as a proponent of the Municipal Class EA, approved this amending procedure. The development of the new Transit chapter is being completed using this approved amending procedure.

Additional amendments to the roads, water, and wastewater components of the Municipal Class EA are also being proposed. These will be presented for City Council's endorsement through a joint Staff Report from Transportation Services and Toronto Water at the Public Works and Infrastructure Committee's June 2007 meeting.

As noted in the attached TTC Staff Report (Attachment 2), the impetus to create a Transit Class EA process came about as a result of recommendations from a 2004 Advisory Panel on Ontario's Environmental Assessment process. The Panel recommended that the existing Municipal Engineers Association (MEA) Class EA process, that applies to municipal roads, water and wastewater projects, be amended to include transit projects.

In the Fall of 2005, a sub-committee was formed, led by MEA, to examine the best options for creating a Transit Class EA and then to develop an appropriate process and documentation of that process. Both City staff and TTC staff were represented on the sub-committee, in addition to representatives of other municipalities from across Ontario including Ottawa, York Region, Waterloo Region, Mississauga and Hamilton.

The results of the work done by the sub-committee are documented in the attached Draft Transit Class "chapter" (Attachment 3). The draft amendment (Municipal Class EA New Part D - Transit Projects and Draft Project Schedules) to the document is now being circulated to Ontario municipalities and being made available to the general public for comment. At the same time, a number of municipalities that were proponents of the original Municipal Class EA must ask their Councils to endorse this amendment.

By mid-July 2007, all of the required Council endorsements of the draft document are expected to be in place, and any changes to the document resulting from comments received will be incorporated into a final document. That document will then be subject to a 30-day review period for public comment. It is expected that the document will be submitted to the Minister of the Environment by mid-August for approval. While the Minister is allowed sixty days to approve the document, the approval of the amended

Municipal Class EA process for municipal transit projects could be received as early as August or September 2007, in the absence of any public objections.

COMMENTS

The introduction of a Class EA process for transit projects will benefit the City and TTC in two key ways:

- **Terms of Reference:** Approval by the Minister of the Environment is no longer required for a Terms of Reference for transit EA projects. Currently the Terms of Reference process can take 12 months or more from initiation to approval by the Minister.
- **Project Approval:** Approval by the Minister of the Environment of the final EA study report is no longer required. Currently, an individual EA study must be submitted to MOE for approval. This will not be a requirement under the new Transit Class EA process. The Transit Class EA process will require that an Environmental Study Report (ESR) be made available for a 30-day public review upon completion. If no objections are received during the review period, the project can then proceed.

TTC and City staff view this as a significant improvement in the new EA approval process for transit and recommend City Council's endorsement. In addition, the draft "Part D - Transit Projects" chapter incorporates and clarifies the role of Official Plans in the EA process. This is an important component of the new chapter in terms of setting the stage for Class EAs with work and consultation done through the Official Plan development process and the importance of Official Plans as legal documents setting out policies and objectives for the municipality.

Notwithstanding, even with this amended Municipal Class EA in place, there is still the potential for significant delays to a project if any member of the public, interest group or agency files an objection with the Minister (technically referred to as a request for a Part II Order, and often called a "bump-up" request). A Part II Order request, if approved, would require the City to conduct an Individual EA for the project being studied.

In some cases, a single frivolous objection during the 30-day review period at the end of an EA study can create significant, and often, unnecessary delays to a project. It is often unclear how Part II Order requests are handled by MOE, particularly the rules followed to determine whether or not a Part II Order is frivolous.

MOE is currently developing "Codes of Practice" for key elements of the EA process, intended to provide a clearer understanding to proponents of the roles and rules that apply to proponents, stakeholders and Ministry staff and to further assist in reducing unnecessary delays in EA approvals. Two draft "Codes of Practice" were released by MOE in the Fall 2006; "Draft Code of Practice: Consultation in Ontario's Environmental Assessment Process" and "Draft Code of Practice: for preparing and Reviewing Terms of

Reference for Environmental Assessments in Ontario”. These two Codes of Practice provide useful guidance for the subject areas that they address.

Further work to improve the EA process will include delegating the decision-making authority for Part II Order requests to the Director level of Ministry staff, rather than requiring Ministerial involvement as is now the case. This should further reduce the time required for proponents to fully complete an EA and to be in a position to begin implementation of a project. “Codes of Practice” are broadly applicable to all projects that are subject to EA processes and would, therefore, provide a city-wide benefit to all divisions conducting EAs. As a result, these "Codes of Practice" should be made available by the Ministry of the Environment as soon as possible.

CONTACT

Joanna Kervin, Program Manager, Transportation Planning - City Planning
Tel. No. 392-8572
Fax No. 392-3821
jkervin@toronto.ca

John Kelly, Manager, Infrastructure Planning – Transportation Services
Tel. No. 392-8340
Fax No. 392-4808
jkelly@toronto.ca

SIGNATURE

Ted Tyndorf
Chief Planner and Executive Director
City Planning Division

Gary Welsh, General Manager
Transportation Services Division

ATTACHMENTS

Attachment 1: (April 19, 2007) Letter from General Secretary, T.T.C.

Attachment 2: (April 18, 2007) TTC Staff Report, A New Class Environmental Assessment Process for Transit Projects (PDF)

Attachment 3: (April 3, 2007) Municipal Engineers Association, Municipal Class Environmental Assessment, New Part D - Transit Projects (PDF)

Attachment 1: [attachment name]

Attachment 2: [attachment name]

Attachment 3: [attachment name]