

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: April 18, 2007

SUBJECT: A NEW CLASS ENVIRONMENTAL ASSESSMENT PROCESS
FOR TRANSIT PROJECTS

RECOMMENDATIONS

It is recommended that the Commission:

1. Endorse the attached new draft chapter of the Municipal Class Environmental Assessment (EA) document, which will establish a class EA process for municipal transit projects, noting that:
 - the draft Class Environmental Assessment (EA) process for municipal transit projects was developed with full participation by TTC staff, and is intended to provide a more-streamlined EA process specifically for municipal transit;
 - the new Class EA process for transit will be created by adding a new “chapter” to the Ontario Municipal Engineers Association’s Class EA document that already governs three separate classes of projects - municipal roads, water, and wastewater;
 - this new Class EA process will apply to all municipal transit projects except for new or extended subway lines which will continue to follow the more-extensive Individual EA process;
 - with this new Class EA process in place, the time required to complete EA studies for projects such as new Light Rail Transit lines, which must currently follow the Individual EA process, can be reduced by more than one year;
 - the draft new Class EA chapter is being circulated to Ontario municipalities and is being made available to the general public for comment and, based on the current schedule, final approval from the Minister of the Environment is expected in the summer/fall of 2007;
 - the Ministry of the Environment is conducting separate initiatives to find ways to further reduce the time required for other parts of the EA process, such as when the Minister receives objections to an EA study; and
2. Forward this report to the City of Toronto Public Works and Infrastructure Committee and, ultimately, Toronto City Council for comment and endorsement.

FUNDING

This report has no effect on the TTC's capital or operating budgets.

BACKGROUND

In the fall of 2004, the Honourable Leona Dombrowsky, then-Minister of the Environment, appointed an advisory panel to provide expert advice and guidance on improvements to Ontario's Environmental Assessment process in several areas, including ways to conduct EA studies of municipal transit projects in a manner that is not so time-consuming and costly.

The advisory panel recommended that the existing Municipal Class Environmental Assessment process, which applies to municipal roads, water, and wastewater, be amended to also include transit projects.

In the fall of 2005, a sub-committee was formed for this purpose, led by the Ontario Municipal Engineers Association. The sub-committee considered the two options available to create a Class EA for transit projects:

1. Develop a new, stand-alone Class EA document pertaining solely to the municipal transit class of projects – that is, a new 'parent' class EA for transit only.
2. Amend the Municipal Engineers Association's existing parent class EA document so that it applies to municipal transit, in addition to roads, water, and wastewater projects.

The sub-committee confirmed that the best approach would be to amend the Municipal Class EA process because of the similarity between certain transit and roads projects -- for example, widening a road to create a new traffic lane versus widening a road to create a new transit lane -- and because the process to amend an existing parent class document is much simpler than creating a completely new parent class EA for transit.

This report summarises the results of this work. The draft transit "chapter" that is now being circulated to Ontario municipalities and being made available to the general public for comment, is attached.

DISCUSSION

Within the Ministry of Environment's broader objective of protecting or enhancing the environment, the Environmental Assessment Act requires that an environmental assessment (EA) study be conducted for public infrastructure projects that have the potential to negatively impact the natural, socio-economic, or cultural environment. An EA study requires that such a project be clearly justified and include an assessment of alternative designs based on detailed criteria, including the extent to which the environment would be affected, and the manner in which such environmental effects can be mitigated.

A "class" EA is a pre-approved, public planning process that is developed to apply to certain types or "classes" of public infrastructure projects. The class EA applies to projects which do not require the rigour and comprehensiveness of the larger Individual EA. It identifies those projects which do not require any EA study, and provides a simpler, more-streamlined process for those which do.

There is already a class EA process in place that governs three classes of municipal projects -- roads, water, and wastewater. There are also class EA processes in place for GO Transit, and for Provincial highway projects. There has not, to date, been a class EA process developed specifically for municipal transit.

The sub-committee that was formed to modify the existing Municipal Class EA document by adding a new chapter for transit projects, was led by the Municipal Engineers Association, and included representatives of the Ministries of the Environment, Public Infrastructure Renewal, and Municipal Affairs and Housing, the Regions of York and Waterloo, the Cities of Toronto, Ottawa, Mississauga, Hamilton, and the TTC.

Current EA Processes for Transit Projects

At present, there are three alternate processes that may be used to satisfy EA requirements for municipal transit projects:

1. An exemption for projects under \$3.5 million: Regulation 334 of the Environmental Assessment Act allows an exemption for most transit projects that are estimated to cost less than \$3.5 million to construct (exclusive of land, engineering, and building code requirements). However, this specific exemption has been in place for almost 20 years, and has not been indexed to inflation, so the number and types of projects which can be eligible for exemption continues to dwindle over the years.
2. Make use of an existing Class EA Process: Certain projects, such as widening a road to create new reserved bus lanes, are allowed within the existing Class EA process for municipal roads projects.

3. Follow the Individual EA Process: New transit projects which are estimated to cost over \$3.5 million and which cannot be dealt with within the Class EA for roads, must be done under the more-onerous and time-consuming Individual EA (IEA) process.

The Individual Versus the Class EA Process

There are two main differences between the Individual EA process and a Class EA process:

- 1) **Terms of Reference:** the Individual EA requires the preparation of a detailed Terms of Reference document at the beginning of the study process, with input from the public, affected agencies, and appropriate Provincial Ministries. These Terms of Reference require formal approval from the Minister of the Environment. In contrast, the Class EA process allows the proponent to simply prepare terms of reference to reflect the intended purpose of the study. No approvals are required.
- 2) **Approval Process:** When an Individual EA study is completed, the project requires review by Ministry staff and approval from the Minister of Environment. In contrast, when a Class EA study is complete and, if there are no objections received by the Minister at the end of a 30-day public review period, the project may proceed.

With an Individual EA process, the development of the Terms of Reference and their approval by the Minister of the Environment at the beginning of a project, combined with the time required for Ministry review and approval of the EA study once it is completed, can take over one year. This is time over and above the time required to do an EA for the same project if it were done under a Class EA process.

Key Elements of the Proposed Amended Municipal Class EA Process for Transit Projects

The amended Municipal Class EA process is intended to apply to all municipal transit projects in Ontario, with the exception of new heavy rail lines such as subways. TTC staff accepted the Ministry of Environment's request that, given the very-high cost of new subway lines, the complexity of their construction, and the fact that a pre-assessment of potential environmental impacts is very difficult given that they are typically underground, subways continue to be subject to the Individual EA process. However, the amended Municipal Class EA for transit would apply to subway-related facilities such as a new or expanded subway station on an existing line, or a new or expanded subway storage yard. It would also apply to non-subway transit projects that have sections that are underground, such as the streetcar tunnel under Bay Street, between Queens Quay and Union Station, or at grade or above-ground, such as the Scarborough RT.

As with the existing Municipal Class EA process for roads projects, transit projects would be separated into three categories -- called "Schedules" -- depending on their potential for environmental impacts. These three categories are:

Schedule A: little or no potential impact

Schedule A projects would be pre-approved and require no EA study, though some projects, designated as A' (A 'prime'), would require notification of the public and businesses in the immediate area. Examples of Schedule A projects are:

- widening roads for queue jump lanes
- bus or streetcar loops
- reconstruction of existing transit facilities where there is no significant change in its purpose, use, or location
- a new inter-modal transit station, a new commuter parking lot, or a new or expanded storage yard for bus, streetcar or subway, providing these are not adjacent to a residential or environmentally-sensitive area such as wetlands

Schedule B: potential for some adverse impact

Schedule B projects would have a relatively-simple EA process, consisting of identifying the problem to be solved and following a streamlined process of selecting a preferred solution. Examples of Schedule B projects are:

- a road widening for transit purposes beyond a site-specific queue jump lane,
- new grade-separation for transit
- a new bus garage that is not in a residential or environmentally-sensitive area
- certain Schedule A projects if adjacent to a residential or environmentally-sensitive area, such as a new inter-modal transit station, a new commuter parking lot, a new or expanded storage yard for transit vehicles (bus/streetcar/subway)

Schedule C: potential for more-significant adverse environmental impacts

Schedule C projects would require a higher level of study and public involvement as well as the preparation of a detailed Environmental Study Report. Examples of Schedule C projects are:

- construction of a new bus garage immediately adjacent to a residential or environmentally-sensitive area
- construction of a new streetcar line or a new right-of-way for buses
- reconstruction of, or modification to, an existing streetcar line, or an existing right-of-way for buses, that involves a significant change to its location

A detailed listing of transit projects, and their associated Schedules, is included in Appendix 1, which is entitled, "*Municipal Class EA – New Part D – Transit Projects*". Exhibit 1 presents a simplified list of steps which would be followed for Schedule B and C projects.

Unlike the Municipal Class EA for road projects, where project cost -- not environmental impact - often determines the type and rigour of environmental assessment which must be done, under

the amended Municipal Class EA process for transit projects, the choice of schedule for certain projects would be made by the proponent who would be responsible for determining the extent of any potential environmental impact. For example, for specific types of projects, a proponent might decide to follow either Schedule A or Schedule B depending on the adjacent land use.

The elimination of cost thresholds as the determinant for which type of schedule or activities would be applicable, would be a big step forward for the new Municipal Class EA process for transit. It would provide much more opportunity for a proponent to use discretion to proceed with a simpler process for a straightforward -- though possibly very costly -- project. In every case, the amended Municipal Class EA process would eliminate the need for a collaborative development of terms of reference requiring Ministerial approval, and the need for Ministerial review and approval of the completed EA work.

Schedule for Approval of the Amended Municipal Class EA for Transit

The attached draft amendment to the Municipal Class EA 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 approve this amendment.

By mid-July, all of the required Council approvals of the draft document are expected to be in place, and any changes to the document resulting from comments received will be incorporated in a final document. That document will then be subject to 30-day review period. Following this, it is expected that the document will be submitted to the Minister by mid-August for her approval. While the Minister is allowed sixty days to approve the document, her approval of the amended Municipal Class EA process for transit could be received as early as August or September 2007, in the absence of any public objections.

Further Improvements are Needed in the EA Process

Even with this amended Municipal Class EA in place, there is still the potential for significant delays to a project if a member of the public files an objection with the Minister (technically referred to as a request for a Part II Order, and often called a "bump-up" request). 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.

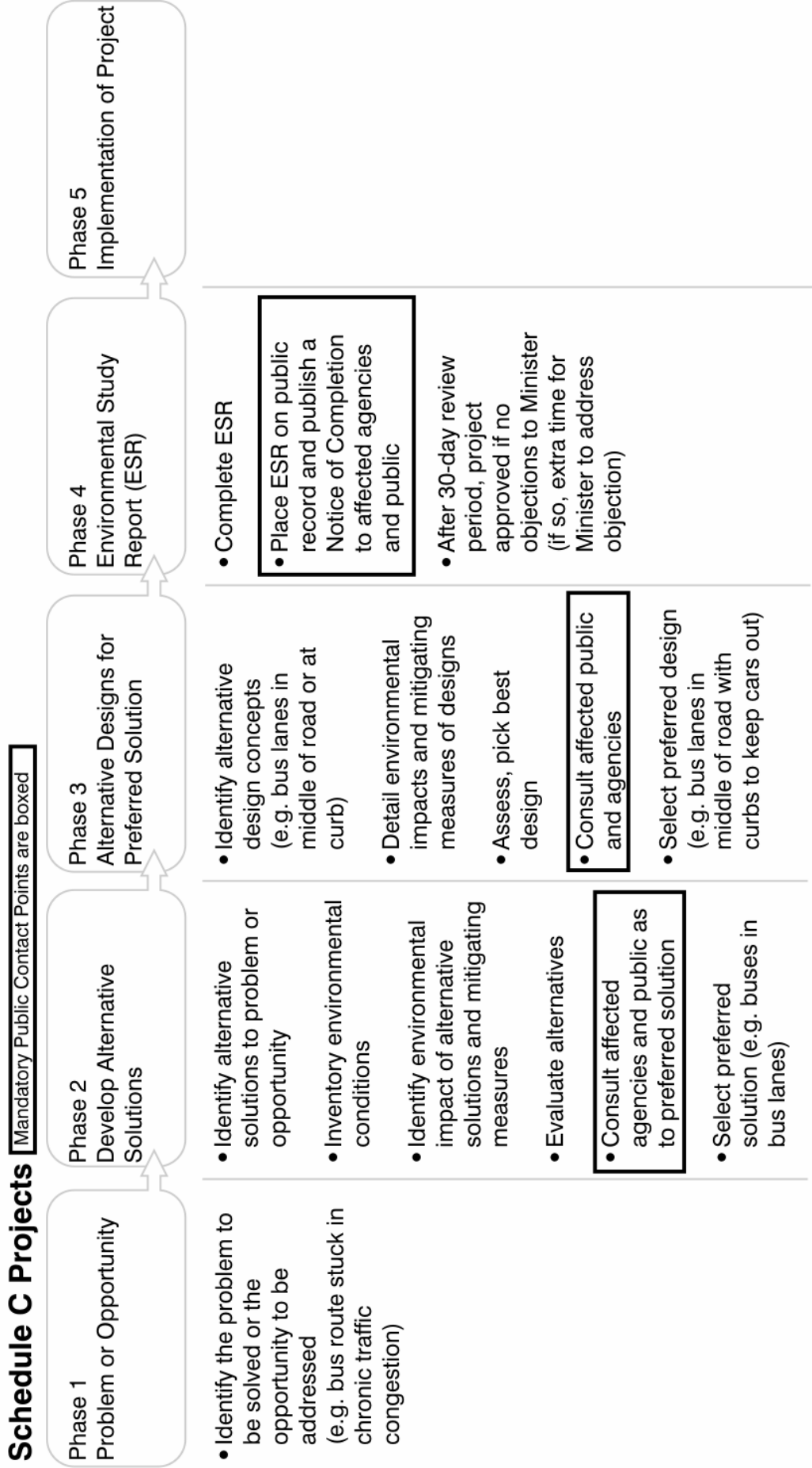
The Ministry of the Environment is currently developing "Codes of Practice" for key elements of the EA process that are intended to provide a clearer understanding of the roles and rules that apply and to further assist in reducing unnecessary delays in EA approvals. This further work will include delegating 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.

April 2, 2007

11-31-42

Attachments: Exhibit 1
Appendix 1: Municipal Class Environmental Assessment New Part D
- Transit Projects (DRAFT)

Basic Process for Schedule B & C Projects



Schedule B Projects

- Follow phase 1, 2 above and then require publishing a Notice of Completion to affected agencies and public.
- If no objections received within 30 days, proceed to implementation. If objections received, Minister to address.
- No Environmental Study Report is required. A detailed project file must be kept and made available for review upon request.