



STAFF REPORT ACTION REQUIRED

Draft Terms of Reference for the Gardiner Expressway and Lake Shore Boulevard Reconfiguration EA Study

Date:	May 14, 2009
To:	Executive Committee
From:	Richard Butts, Deputy City Manager
Wards:	All
Reference Number:	p:\2009\ClusterB\tra\tim\ec09009tim

SUMMARY

The purpose of this report is to inform City Council of the public consultation to date to develop the Terms of Reference (TOR) for the Gardiner Expressway and Lake Shore Boulevard Reconfiguration Environmental Assessment (EA) Study and to receive authorization for the Deputy City Manager, on behalf of the City, to jointly submit with Waterfront Toronto, the TOR to the Ontario Minister of Environment for review and approval.

Staff of the City of Toronto and Waterfront Toronto have jointly prepared a draft TOR. The TOR describes the broad procedures to be followed for the preparation of the EA Study, including the study goals and principles, the types of alternatives to be evaluated, the evaluation process, and the public and agency consultation plan. The City of Toronto and Waterfront Toronto are identified as co-proponents for the EA Study.

The EA Study cannot commence until the Ontario Minister of the Environment formally approves the TOR. Following the receipt of City Council and Waterfront Toronto Board authority, City and Waterfront Toronto staff will submit the TOR to the Minister for formal government review, which will include a request for public comments. It is anticipated that the Minister will provide a decision on the TOR in late 2009, allowing the EA Study to commence in early 2010.

RECOMMENDATIONS

It is recommended that Council:

1. Authorize the Deputy City Manager whose responsibilities include Waterfront Revitalization, on behalf of the City, to jointly submit with Waterfront Toronto the Terms of Reference for the Gardiner Expressway and Lake Shore Boulevard Reconfiguration Environmental Assessment Study to the Ontario Minister of the Environment for review and approval; and
2. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The recommendation contained in this report will have no financial impact beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on July 15, 16 and 17, 2008, City Council authorized the City of Toronto, as a co-proponent with Waterfront Toronto, to undertake an individual environmental assessment study to examine options for modifying the elevated Gardiner Expressway from approximately Jarvis Street to east of the Don Valley Parkway.

City Council's full decision on this issue (EX22.1) can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-07-15-cc23-dd.pdf>

The staff background report, titled "Environmental Assessment for Creation of a Waterfront Boulevard and Removal of the Gardiner Expressway East from Jarvis" (EX22.1), can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-13984.pdf>

ISSUE BACKGROUND

In its July 2008 decision, Council also authorized a joint steering committee co-chaired by the Deputy City Manager whose responsibilities include Waterfront Revitalization and the President and CEO of Waterfront Toronto, to oversee the Gardiner EA process. The steering committee includes senior staff from the Waterfront Secretariat, Transportation Services and City Planning.

A joint project management team of City and Waterfront Toronto staff was created in fall 2008 to manage the Gardiner EA on a day-to-day basis. A technical advisory group with representatives of Waterfront Toronto, City divisions and ABCs and other agencies was also formed in late 2008 to advise on technical issues.

In early 2009, the joint project team selected the consortium of consultants that Waterfront Toronto has retained to prepare the environmental assessment and an integrated urban design study, and facilitate the associated public consultation process.

Environmental Assessment Process

An environmental assessment (EA) is a decision-making process designed to promote good environmental planning, by the consideration of all aspects of the environment (natural, social, economic, cultural, and built) and consultation with interested stakeholders. The Ontario Environmental Assessment Act (EA Act) sets out the general procedures to be followed in the preparation of an EA.

The Gardiner Expressway and Lake Shore Boulevard Reconfiguration EA Study (Gardiner East EA) is being prepared as an Individual EA. The first step in this process is the preparation of a Terms of Reference (TOR) document that sets out the framework for the planning and decision-making process to be followed later during the preparation of the EA. The TOR must be submitted for the review and approval of the Minister of the Environment before an EA can begin. While the EA Act does not specifically identify what is to be included in a TOR, the Ministry's expectations are that the following elements be addressed in the TOR, as applicable:

- Identification of the proponent;
- Identification of how the EA will be prepared;
- Purpose of the study or undertaking;
- Description of and rationale for the undertaking;
- Description of and rationale for alternatives;
- Description of the existing environment and potential effects of the undertaking;
- Assessment and evaluation methods;
- Commitments and monitoring;
- Consultation plan for the EA;
- Flexibility to accommodate new circumstances; and
- Other approvals required

Public Consultation on Terms of Reference

Two rounds of public consultation on the Terms of Reference (TOR) for the Gardiner East EA were conducted during March and April 2009. Each round of consultation consisted of a workshop for stakeholders, four public forums at venues across the City, and an interactive website (www.gardinerconsultation.ca) open for 1 to 2 weeks to allow for broader participation by the general public.

The public forums included a public open house, presentations, question period, discussion groups and plenary sessions. The workshops were held for invited stakeholders identified to date, included presentations from guest speakers to stimulate discussion and allowed for more detailed interaction on specific issues. The interactive website was accessible by anyone with internet service and allowed for on-line dissemination of information and discussion of issues.

The first round of public forums was held on March 28 (Etobicoke), March 30 (Scarborough), April 2 (Central) and April 4 (North York). It was attended by 196 members of the public. The second round of forums was held on April 23 (Scarborough), April 25 (North York), April 27 (Central) and April 28 (Etobicoke) and attended by 85 members of the public. The stakeholder workshops were held on March 12 and May 2 and attended by 32 and 22 stakeholders respectively. The interactive website had 2,033 visitors and a total of 6,497 visits from March 27 to April 15, and 609 visitors and a total of 828 visits from April 23 to April 30.

The public forums were publicized by ads in the Toronto Star and local newspapers and by email. In addition, Councillors were encouraged to distribute meeting notices to their mailing lists. A “one-window” point of contact for the project was established with an independent facilitator’s office.

Major Comments on Draft Terms of Reference

A broad range of comments was received from the public during the public consultation on the draft Terms of Reference. The summary report that will form part of the consultation record for the TOR is included in this report as Attachment 2.

Comments received from the public related to the following major themes:

- Connectivity to the broader transportation system
- The physical barrier of the rail corridor
- Implications of ongoing studies and plans are underway in the area
- Potential for increased traffic and travel times
- Needs of both future local residents and other City and regional residents
- Health and social impacts
- Early and varied public notification
- Need for further detail on each Gardiner alternative
- Environmental and ecological restoration initiatives
- Timely completion of the EA process

These themes are included in the goals and principles of the draft Terms of Reference discussed later in order to address them effectively when the formal environmental assessment process is undertaken.

COMMENTS

Individual Environmental Assessment

The TOR for the Gardiner East EA has been prepared in accordance with the general requirements under the EA Act, meaning that there has been no attempt to limit its scope or to “focus” the EA. Focussing is sometimes undertaken when a proponent has undertaken preliminary analysis to screen out feasible alternatives or limit the extent of the environment to be assessed under the EA.

The TOR was developed under the guidance of the Gardiner Steering Committee co-chaired by the Deputy City Manager and the President and CEO of Waterfront Toronto. There was extensive public consultation on the TOR as discussed earlier. The level of interest from the public has been modest but is not unusual during the early stages in an EA process. Ministry of the Environment and Canadian Environmental Assessment Agency staff were also consulted.

Terms of Reference Content

A full copy of the draft TOR for the Gardiner Expressway and Lake Shore Boulevard Reconfiguration Environmental Assessment Study is provided in Attachment 1. The main components of the TOR are briefly summarized below.

Goals and Principles

The TOR structures the EA study to address key goals and relating principles based on the City’s Central Waterfront Secondary Plan and other important City and Waterfront Toronto planning initiatives. Each goal has a series of guiding principles developed by the study team in consultation with stakeholders and the public. The goals and their guiding principles are summarized below:

Goal 1 – Revitalize the Waterfront – emphasize city-building by prioritizing urban design excellence, place-making, and quality of life as integral components of project design. The study will seek to maximize public benefit resulting from investment.

Goal 2 – Reconnect the City with the Lake – create physical, visual, and cognitive connections to the waterfront for the downtown, the City, and region. Also, design the public realm to maximize the quality of experience offered by streets, plazas, parks, promenades, pathways, bicycle routes, and visual corridors. These principles will be major drivers of urban design decisions.

Goal 3 – Balance Modes of Travel – promote a balance between transportation’s social, economic, and environmental benefits while recognizing the importance of maintaining access to the City and its neighbourhoods for commuters, freight, and regional travelers. Supply and demand management measures will be applied to achieve transportation goals.

Goal 4 – Commit to Sustainable Solutions – balance the social, economic and environmental aspects of the project’s commitment to sustainability and ensure ecology and natural systems are successfully integrated with city design. Also, promote public awareness and education on environmental issues through design of infrastructure and the public realm.

Goal 5 – Create Value – plan and design for positive net value creation and define a public and private investment structure that creates and captures value for the public sector, and maximizes net benefits. Also, consider staging, implementation, servicing, and constructability while evaluating infrastructure solutions and coordinate infrastructure life-cycles with decision-making and development phasing.

Alternatives to be Assessed

Both alternative concepts and alternative designs will be developed and evaluated in the EA study. Alternative concepts (also known as “alternatives to” under the Ontario EA Act) are the functionally different ways of solving the problem and/ or taking advantage of an opportunity. Based on past work by the City and Waterfront Toronto related to the Gardiner Expressway, as well as the input obtained through the recently completed TOR public and agency consultation, four alternative concepts have been confirmed:

Do Nothing – maintain the existing road infrastructure in the Gardiner/Lake Shore Boulevard area.

Replace – replace the existing elevated expressway and its express function with a different type of grade-separated facility, above or below grade.

Improve – maintain the existing elevated expressway, and create a better urban environment underneath the Gardiner Expressway.

Remove – removing the elevated expressway without replacing the grade-separated express function, proposing instead an at-grade connection.

Alternative concepts will be described in terms of infrastructure, travel patterns and level of activity, layouts that address how the surrounding areas relate to proposed road reconfigurations and, opportunities to enhance/create environmental restoration initiatives.

Alternative concepts will be evaluated and a preferred concept will be recommended. The preferred concept will form the basis of the alternative designs (also known as “alternative methods” under the Ontario EA Act). The development of the alternative designs will be guided by the project goals and principles. Alternative designs will be complemented with urban design/public realm designs and transportation solutions, including non-auto solutions where appropriate.

Evaluation of Alternatives

The TOR identifies two assessment and evaluation phases in the EA study: 1) alternative concepts (the “alternatives to”) and 2) alternative designs (the “alternative methods”). Following the definition of the alternatives and baseline conditions, each evaluation phase will follow three steps:

1. Develop evaluation criteria and indicators;
2. Assess potential effects and benefits; and
3. Evaluate alternatives and select the preferred alternative.

The assessment and evaluation of the alternatives (concepts and designs) will be based on a set of evaluation criteria/indicators that consider both qualitative and quantitative (i.e. numerical) data organized on the basis of four study lenses (i.e. urban design, transportation and infrastructure, environment, and economics) and criteria groups set out in the TOR. The evaluation criteria/indicators will be confirmed through comprehensive consultation process prior to applying them in the study.

Evaluation criteria identified through this process will be used to assess the potential positive (benefits) and negative effects of each alternative in qualitative and quantitative summaries. Mitigation measures will be identified to minimize reported negative effects.

Once the potential effects for each alternative are identified, the alternatives will be compared to one another to determine, which alternative on balance has the most advantages and least disadvantages. Evaluation to select a preferred alternative will be based on credible logic guided methodologies, coupled with significant input from stakeholders and public consultation.

Public Consultation Process during the EA

As noted in the TOR, the involvement of community residents, stakeholders and those who may be potentially affected by a project will be an integral part of the EA process. Effective community consultation saves time, saves money and results in better decisions for both the community and the environment. Consultation will form a key component of this study in keeping all stakeholders, agencies and the public informed and involved. In keeping with the consultation for the TOR, consultation events during the EA will be held at venues across the City, and input from transportation industry and business representatives will be actively pursued.

Consultation for this EA will be based on guiding principles of inclusiveness of engagement, timeliness in the process to allow early and ongoing participation, transparency of communication, balance of opinions and perspectives, flexibility for participation, and traceability of decision-making. Guiding consultation principles will be augmented by key consultation objectives, to generate broad awareness of the project, facilitate constructive input, provide ongoing opportunities for feedback and input, and to demonstrate the impact of consultation on decision-making.

As set out in the TOR, a broad consultation framework is proposed for the EA. A Technical Advisory Committee and a Government Review Team have been established to provide input at key milestones during the EA process.

Public forums and interactive stakeholder workshops will provide an opportunity to give feedback and comments on study components, results, and ideas as they develop over the course of the study. Three rounds of Public Forums and Stakeholder Workshops are proposed during the EA process. A Stakeholder Advisory Committee (SAC) will be established at the outset of the EA, to provide an ongoing forum for feedback, guidance and advice to the Project Team at key points during the EA process. Eleven SAC meetings are proposed as part of the EA.

Waterfront Toronto and the City are committed to following a protocol for First Nations consultation that describes when and how First Nations and relevant government departments should be contacted during the EA process.

The web-based portal (www.gardinerconsultation.ca) established in the EA TOR phase will be continued to enable online consultation throughout the EA. The web-portal will include relevant study and public notices as they are developed. The “one-window” point of contact for the project established during the development of the TOR will be continued in the EA, with dedicated phone/fax/ email communications links.

Consultation will be conducted in accordance with the Ontario EA Act. As the project moves through the EA process, Waterfront Toronto and the City will consider additional enhancements to the consultation framework as may be appropriate.

Schedule and Next Steps

Upon authorization by City Council, and receipt of any preliminary comments from MOE staff, the draft TOR will be amended, as required, and a formal submission to the Minister of the Environment will be prepared. This is a process completed in close cooperation with the MOE Project Officer assigned to the Gardiner EA Study, to ensure that the formal government review proceeds smoothly.

This process begins with the selection of a mutually agreeable date for the formal submission of the TOR. Copies of the TOR, the Record of Consultation, and any other supporting documents are delivered to the MOE, all Government Review Team agencies, appropriate Aboriginal communities, and to all locations where members of the public will be able to review the documents. Once these are in place, a Notice of Submission is issued, identifying the start of the 12-week review and decision period. The Minister’s decision is due at the end of the 12 weeks. All interested persons, including the general public, Aboriginal peoples, and government review agencies, may provide comments to the MOE Project Officer during the first 30 days of the review period.

It is currently anticipated that the formal submission of the TOR will occur in September 2009, and the Minister's decision on the TOR will be issued in December 2009. Following approval of the TOR, the EA Study will begin in early 2010 and is anticipated to be complete in late 2011. A preliminary schedule for the EA, including major milestones, is provided in Attachment 3.

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SIGNATURE

Richard Butts, Deputy City Manager

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ATTACHMENTS

1. Gardiner Expressway and Lake Shore Boulevard Reconfiguration Draft EA Terms of Reference
2. Consultation Record for the Terms of Reference
3. Preliminary TOR and EA Study Schedule