

Notice of approval

Environmental Assessment Act section 9 notice of approval to proceed with the undertaking

RE: The Amended Environmental Assessment for Transportation
Improvements Donald Cousens Parkway to Morningside Avenue Link

Proponent: The Regional Municipality of York

EA file number: MU-1105-02

Take notice that the period for requiring a hearing, provided for in the Notice of Completion of the Review for the above-noted undertaking, expired on January 13, 2011.

I received no submissions requesting a hearing by the Environmental Review Tribunal.

I consider a hearing to be unnecessary in this case. Having considered the purpose of the *Environmental Assessment Act*, the approved Terms of Reference, the Amended Environmental Assessment, the Ministry Review of the Amended Environmental Assessment and submissions received, I hereby give approval to proceed with the Undertaking, subject to the conditions set out below.

Reasons

My reasons for giving approval are:

1. The Proponent has complied with the requirements of the *Environmental Assessment Act*.
2. The Amended Environmental Assessment has been prepared in accordance with the approved Terms of Reference.
3. On the basis of the Proponent's Amended Environmental Assessment and the Ministry Review, the Proponent's conclusion that, on balance, the advantages of this Undertaking outweigh its disadvantages appears to be valid.
4. No other beneficial alternative method of implementing the Undertaking was identified.

5. The Proponent has demonstrated that the environmental effects of the Undertaking can be appropriately prevented, changed, mitigated or remedied.
6. On the basis of the Proponent's Amended Environmental Assessment, the Ministry Review and the conditions of approval, the construction, operation and maintenance of the Undertaking will be consistent with the purpose of the *Environmental Assessment Act* (section 2).
7. The government agency, public and Aboriginal community review of the Amended Environmental Assessment has indicated no outstanding concerns that have not been addressed or that cannot be addressed through commitments made during the Amended Environmental Assessment process, through the conditions set out below or through future approvals that will be required.
8. The submissions received after the Notice of Completion of Ministry Review was published are being addressed through commitments made during the Amended Environmental Assessment process, through the conditions set out below or through future approvals that will be required, where appropriate. I am not aware of any outstanding issues with respect to this Undertaking which suggest that a hearing should be required.

Conditions

The approval is subject to the following conditions:

1. Definitions

For the purposes of these conditions:

Agreement

means the Cost Sharing and Implementation Agreement required by Condition 10 of this Notice of Approval to Proceed with the Undertaking.

Amended Environmental Assessment

means the document titled Transportation Improvements Donald Cousens Parkway to Morningside Avenue Link Amended Environmental Assessment amended as of July 2011.

Construction

means physical construction activities, including, site preparation works, but does not include tendering of contracts.

City

means the City of Toronto

Date of Approval

means the date on which the Order in Council pertaining to the approval of the amended Environmental Assessment was signed by the Lieutenant Governor-in-Council.

Director

means the Director of the Environmental Approvals Branch.

EAB

means the Environmental Approvals Branch of the Ministry of the Environment.

Ministry

means the Ministry of the Environment.

Proponent

means the Regional Municipality of York.

Regional Director

means the Director of the Ministry of the Environment's Central Region Office.

Undertaking

means the urban arterial roadway as described in the Amended Environmental Assessment, which is generally comprised of the following elements:

- Two new 407 interchange ramps at the north bound Donald Cousens Parkway south of Highway 407 to provide east and west access onto Highway 407 from Donald Cousens Parkway in the Region of York;

- Two new 407 interchange ramps at the north bound Donald Cousens Parkway south of Highway 407 to provide east and west access onto Highway 407 from Donald Cousens Parkway in the Region of York;
- A widening of Ninth Line from a two lane to a four-lane urban roadway from Steeles Avenue to the south limit of the Box Grove Residential Development in the Town of Markham (1.2 kilometers);
- A new crossing of the Neilson Tributary and the replacement of the existing Steeles Avenue crossings of the Rouge River and Morningside Tributary in the City of Toronto;
- A widening of Steeles Avenue from two and four lanes to a six-lane urban roadway from east of Tapscott Road to east of Ninth Line (2 kilometers) in the City of Toronto; and,
- A four-lane urban arterial roadway extension of Morningside Avenue from McNicoll Avenue north to Steeles Avenue (1.5 kilometers) in the City of Toronto.

2. General requirements

2.1 The Proponent shall comply with the provisions in the Amended Environmental Assessment which is hereby incorporated in this approval by reference, except as provided in these conditions and as provided in any other approval or permit that may be issued for the Undertaking.

2.2 These conditions do not prevent more restrictive conditions being imposed under other statutes.

2.3 For every document submitted to the Ministry, the proponent shall clearly identify the condition in this Notice of Approval pursuant to which the document, report or notice is submitted.

3. Public record

3.1 Where a document, plan or report is required to be submitted to the Ministry, the proponent shall provide two copies of the document, plan or report: a copy for filing in the public record file maintained for the Undertaking and a copy for staff use.

3.2 The Proponent shall include the file number, MU-1105-02, on all documents submitted to the Ministry pursuant to this Notice of Approval.

4. Compliance Monitoring Program

4.1 The Proponent shall develop a Compliance Monitoring Program that sets forth how the Proponent will monitor and report on its fulfilment of the provisions of the Amended Environmental Assessment; commitments made by the Proponent during the environmental assessment process; and, the conditions included in this Notice of Approval.

4.2 The proponent shall submit the Compliance Monitoring Program to the Director within 12 months from the Date of Approval or at least 60 days prior to the start of construction, whichever is earlier.

4.3 The Director may require the Proponent to amend the Compliance Monitoring Program at any time. Should an amendment be required, the Director will notify the Proponent in writing of the required amendment and date by which the amendment must be completed and submitted to the Director.

4.4 The Proponent shall implement the Compliance Monitoring Program and any amendments to it.

4.5 All documentation pertaining to the Compliance Monitoring Program shall be made available to the Ministry or a designate in a timely manner when requested to do so by the Ministry.

5. Compliance reporting

5.1 The Proponent shall prepare an annual Compliance Report containing the results of the Compliance Monitoring Program required by Condition 4 of this Notice of Approval.

5.2 The annual Compliance Report shall be submitted to the Director on or before December 31 of each year, with the first report being due in 2013. Subsequent annual Compliance Reports shall be submitted to the Director on or before December 31 each year thereafter.

5.3 Each annual Compliance Report shall cover all activities of the previous 12-month period.

5.4 The Proponent shall submit an annual Compliance Report until all conditions in this Notice of Approval are satisfied.

5.5 Once all conditions in this Notice of Approval have been satisfied, the Proponent shall indicate in the annual Compliance Report that the Compliance Report is its final annual Compliance Report and that all conditions in this Notice of Approval have been satisfied.

5.6 The Proponent shall retain, either onsite or in another location approved by the Director, copies of each of the annual Compliance Reports and any associated documentation of compliance monitoring activities.

5.7 All documentation pertaining to this condition shall be made available to the Ministry or a designate in a timely manner when requested to do so by the Ministry.

6. Stormwater Management Plan

6.1 The Proponent shall prepare, in consultation with the Ministry's Central Region Office, a Stormwater Management Plan for the Undertaking.

6.2 The Stormwater Management Plan shall be provided to the Regional Director for review and comment. The Proponent shall consider any comments that are provided by the Regional Director.

6.3 The Stormwater Management Plan shall be submitted to the Regional Director no less than 3 months prior to the start of Construction or such other time as agreed to in writing .by the Regional Director. The Stormwater Management Plan submitted shall be to the satisfaction of the Regional Director.

6.4 The Regional Director may require the Proponent to amend the Stormwater Management Plan. Should an amendment be required, the Regional Director will notify the Proponent in writing of the required amendment and date by which the amendment must be completed and submitted to the Regional Director.

6.5 The Proponent shall implement the Stormwater Management Plan and any amendments to it.

6.6 The proponent shall prepare and submit to the Director and Regional Director, an annual report containing the results of the Stormwater Management Plan. The first report shall be submitted 12 months from the start of the monitoring program and every year thereafter until determined in writing by the Regional Director that the submission of reports may cease.

7. Complaint protocol

7.1 The Proponent shall prepare and implement a protocol on how it will deal with and respond to inquiries and complaints received during the construction and operation of the Undertaking.

7.2 The Proponent shall submit the Complaint Protocol to the Director at least 6 months prior to the start of Construction.

7.3 The Director may require the Proponent to amend the Complaint Protocol at any time. Should an amendment be required, the Director shall notify the Proponent in writing of the amendment required and when the amendment must be completed.

7.4 The Proponent shall submit the amended Complaint Protocol to the Director within the time period specified by the Director.

7.5 The Proponent shall implement the Complaint Protocol and any amendments to it.

8. Construction contracts

8.1 In carrying out the Undertaking, the Proponent shall:

- a) Provide information and training to contractor and subcontractor staff on the commitments made by the Proponent during the environmental assessment process, including those made in the Amended Environmental Assessment and in the Proponent's response to comments made during the environmental assessment comment periods, and on the applicable regulatory standards regarding construction, operation and maintenance of the Undertaking;

- b) Ensure that all contractors and subcontractors taking part in the Construction of the Undertaking adhere to commitments made by the Proponent during the environmental assessment process, including those made in the Amended Environmental Assessment and in the Proponent's responses to comments made during the environmental assessment comment periods;
- c) Ensure that all contractors and subcontractors taking part in the Construction of the Undertaking meet applicable regulatory standards regarding construction, operation and maintenance of the Undertaking; and,
- d) Ensure that any necessary approvals, permits or licenses for the Undertaking have been obtained.

9. Consultation with Aboriginal communities

9.1 The Proponent shall consult with the Aboriginal communities previously notified of the Undertaking during the detailed design and implementation of the Undertaking.

9.2 The Proponent shall fulfil! all commitments made to the Aboriginal communities during the Amended Environmental Assessment process, including but not limited to, providing the following to the Director and any Aboriginal communities that have requested or may request it:

- a) an Aboriginal Community Consultation Plan;
- b) a Notification Protocol to inform Aboriginal communities should archaeological resources or Aboriginal remains be encountered during Construction;
- c) copies of the final Stage 2 Archaeological Assessment Report; and,
- d) notices and updates on key steps in the design and Construction of the Undertaking.

9.3 The Proponent shall provide notice to the Director and Aboriginal communities previously notified of the Undertaking if the Proponent discovers any Aboriginal archaeological sites in respect of which a Stage 3 Archaeological Assessment is recommended.

9.4 The Proponent shall hold meetings with any interested Aboriginal communities regarding any site(s) identified in Condition 9.3. These meetings shall include discussions about the

potential participation of Aboriginal archaeological liaisons and appropriate mitigation measures for the site(s).

10. Cost Sharing and Implementation Agreement

10.1 The Proponent shall work with the City and any other municipalities, agencies or ministries participating in the construction of the Undertaking to prepare an Agreement detailing how and when the various portions of the Undertaking will be built and financed.

10.2 The Agreement shall, at a minimum, include:

- a) the names of all participants;
- b) the general terms;
- c) an estimate of the cost to carry out the various portions of the Undertaking;
- d) a description of the activities, approvals and permitting required to carry out the various portions of the Undertaking;
- e) a work plan which sets out an implementation schedule for the completion of all work related to the various portions of the Undertaking;
- f) an overview of the roles and responsibilities associated with the cost, construction, operation, maintenance and monitoring of the various portions of the Undertaking;
- g) an outline of how the parties will ensure that all commitments made by the Proponent during the environmental assessment process, the Amended Environmental Assessment and all conditions set out in this Approval, are met, including but not limited to:
 - mitigation measures,
 - public and Aboriginal consultation, and;
 - additional studies and work.
- h) a description of how the costs of construction, operation and monitoring of the Undertaking are to be allocated for the various portions of the Undertaking;
- i) a dispute resolution mechanism;
- j) a plan for monitoring and reporting on the fulfillment of the terms of the Agreement;
- k) a protocol to address changes to the design of the Undertaking that may be required;

- l) documentation from all parties demonstrating authorization to proceed with the Agreement and,
- m) documentation from all parties demonstrating authorization to proceed with implementation of the Undertaking.

10.3 The Agreement shall be submitted to the Director for confirmation that the requirements set out in this condition have been met. The Director will confirm in writing that the requirements of Condition 10.2 have been met.

10.4 The Proponent shall have 5 years from the Date of Approval, or such other date as agreed to in writing by the Director, in which to submit an Agreement to the Director. Should the Agreement not be submitted, not meet the requirements set out in Condition 10.2 or not be submitted within the specified timeframe, this approval to proceed with the implementation of the Undertaking is hereby revoked.

10.5 No person shall commence Construction of the Undertaking until such time as the Director has notified the Proponent in writing that the requirements of Condition 10.2 have been met.

10.6 The Proponent shall prepare and submit to the Director an annual report which describes the activities, progress and commitments made to establish the Agreement. The report shall be submitted to the Director 12 months from the Date of Approval and each year thereafter until the Agreement has been accepted by the Director in writing, or pursuant to Condition 10.4 the approval to proceed with the undertaking is revoked.

11. Amending procedures

11.1 Prior to making any changes to the Undertaking, the Proponent shall, in consultation with and to the satisfaction of the Director, determine what *Environmental Assessment Act* requirements are applicable to the proposed changes and fulfill those *Environmental Assessment Act* requirements.

Dated the 28th day of November, 2012 at Toronto.

Original signed by:

Minister of the Environment
77 Wellesley Street West
11th Floor, Ferguson Block
Toronto, Ontario
M7A 2T5

Approved by O.C. No. 128/2013

Date O.C. approved: January 23, 2013