

8. Approvals Required for the Undertaking

In addition to requiring *EA Act* approval, there are also a number of municipal, provincial, and federal approvals that are anticipated to be required before implementation of the Preferred Undertaking can commence. Potential additional approvals were identified at the “Alternatives to the Undertaking” stage of the IEA process as part of applying the criterion “potential approval requirements” to the alternatives. In applying this criterion, potential municipal, provincial, and federal approvals were identified for each alternative comparatively evaluated.

With this in mind, the potential approvals previously identified for the preferred alternative have been confirmed in accordance with the Minister-approved ToR based on a greater level of design detail and further input received from agencies.

8.1 Municipal Approvals

It is anticipated that a number of municipal approvals will be required from the City of Vaughan and utility authorities for road / lane closures, road detours, and temporary traffic management; utility relocation; tree cutting, topsoil stripping, building permits, noise by-law exemptions, property agreements, temporary power and water supply for construction.

8.1.1 City of Vaughan

With regard to the City of Vaughan, the following approvals will be required for the Preferred Undertaking:

- *Tree By-laws*
Where trees are to be removed or trimmed to permit construction.
- *Noise By-Laws*
If necessary, York Region will require exemptions to the municipal by-law for construction noise from the City of Vaughan. Exceptions will include requirements to operate beyond standard work hours of 7:00 am and 7:00 pm Monday to Saturday, or to operate construction equipment that exceeds MOE noise guideline NPC-115 levels applicable to maximum construction equipment sound levels.
- *Property Agreements (easements, encroachment agreements)*
Agreements with the City of Vaughan will be required to be negotiated in order to obtain the necessary rights for lands that are owned by the City and that have been identified as being required for the new road and transit alignments.
- *Discharge to Sewer Permit*
A permit would be required for the disposal of water to the City of Vaughan’s sanitary or storm sewer system.
- *Fill and Topsoil Disturbance By-law 265-2006*
Approval will be required to remove topsoil and alter the grade of land in accordance with the requirements of the City’s By-Law. This approval may also require erosion and sediment control measures.

To date, no local municipal services (sanitary, storm sewers or water mains) in the City of Vaughan have been identified as requiring relocation; however, this will be confirmed during detailed design.

8.1.2 Utility Authorities

The majority of the new alignments for the Western Vaughan Transportation Improvements require widening of the existing right-of-way and are thus likely to affect utilities. Specific utilities that may be affected by the project will be determined as part of detailed design, and formal notification and consent will be obtained from these authorities. This will potentially include the relocation of overhead or underground utility services by the following authorities, potential successors and others, as required:

- Bell Telephone;
- Bell Fibre Optics;
- Enbridge;
- Hydro One;
- PowerStream; and
- Rogers Cable.

Approval from the applicable local electrical authority will be required in order to arrange for temporary electrical power to be provided for construction purposes. Upgraded power supplies will be required to be extended to the construction sites. With this in mind, a survey for the availability of the power supply will be conducted during detailed design.

8.1.3 Compliance with Municipal Plans and Policies

In addition to requiring the preceding approvals, the Preferred Undertaking was reviewed against the applicable requirements of the current York Region Transportation Master Plan.

As part of identifying the preferred alignments, it was determined that this IEA is consistent with the relevant policies of the York Region Transportation Master Plan insofar as:

1. It includes the implementation of transit priority improvements along urban arterial roads;
2. It includes HOV lanes on all of the six lane alignments;
3. Road widening has been limited to six lanes;
4. York Region has co-ordinated with the City of Vaughan to accommodate continuous collector roads that include local transit services, sidewalks, and cycling paths; and
5. The preferred alignments exceed York Region's EA requirements to ensure infrastructure needs are minimized while enhancing natural heritage and environmental features.

8.2 Provincial Approvals

A number of provincial approvals from the following ministries, government agencies and the local conservation authority or their successor agencies will be required for the Preferred Undertaking:

- Ministry of the Environment;
- Ministry of Natural Resources;
- Ministry of Culture;
- Ontario Realty Corporation;
- Toronto and Region Conservation Authority; and
- Ontario Heritage Trust.

8.2.1 Ministry of the Environment

The Ministry of the Environment (MOE) is the approval authority for Permits to Take Water (PTTW), which may be required for the Preferred Undertaking. A PTTW is issued under the *Ontario Water Resources Act* (OWRA)

for temporary water takings that exceed the trigger threshold of 50,000 L/day (or 7.5 l/gpm). The groundwater takings for this project will be temporary and are not expected to exceed the trigger threshold. Should the threshold be exceeded, a PTTW application must comply with the requirements of Ontario Regulation 387/04 or future requirements. Based on the nature of the water takings anticipated for this project, the PTTW would currently qualify as a Category 3 taking and must comply with the applicable requirements.

8.2.2 Ministry of Natural Resources

A permit is required from the Ministry of Natural Resources (MNR) under the Endangered Species Act for any activity that may harm or harass species at risk or damage protected habitat, including work in or near a waterway where Redside Dace are present. There are a number of watercourses within the Study Area that are managed for Redside Dace, including the Main Humber River, the East Humber River, Purpleville Creek, West Robinson Creek, and East Robinson Creek. If effects to Redside Dace or their habitat cannot be avoided, a permit will be required prior to construction.

8.2.3 Ministry of Tourism and Culture

A Letter of Concurrence will be required from the Ministry of Tourism and Culture (MTC) to signify concurrence of the MTC with the findings of the Stage 2 Archaeological Assessments conducted as part of this IEA, and any subsequent Stage 3 or 4 Archaeological Assessments that are required. Until the Letter of Concurrence is received, no grading or other activities that may result in the destruction or disturbance of an archaeological site are permitted.

8.2.4 Ontario Realty Corporation

Permanent and temporary easement agreements may be required for the portions of Ontario Realty Corporation (ORC) managed lands (hydro corridors) intersecting the new road alignments at the following locations:

Major Mackenzie Drive

- Between Highway 27 and Islington Avenue;
- Between Highway 50 and Huntington Road;

Rutherford Road

- Between Highway 27 and Islington Avenue;
- Between Highway 50 and Huntington Road;

Highway 27

- Between Highway 407 and Highway 7;
- Between Highway 7 and Langstaff Road;

Pine Valley Drive

- Between Steeles Avenue and Highway 407; and,

Weston Road

- Between Steeles Avenue and Highway 407.

This requirement for approval falls under the Ministry of Energy and Infrastructure (MEI) Environmental Assessment Process (2008) in which ORC, as an agency, is authorized to act on its behalf. Thus, should

easements be required at any or all of these properties, approval will be sought from the ORC. Obtaining these types of easements qualifies as a 'Category A' activity under the *Class Environmental Assessment Process for the Ministry of Energy and Infrastructure for Realty Activities other than Electricity Projects* (2008). Due to the phased nature of the transportation improvements, these approvals will be requested at a later date, as needed, and the applicable MEI Class Environmental Assessment Processes or successor processes will be carried out at that time as well.

8.2.5 Toronto and Region Conservation Authority

A number of approvals may be required from TRCA for the Preferred Undertaking. For example, under *Ontario Regulation 166/06 Toronto and Region Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*, approval may be required for crossings of the proposed alignments over creeks and streams, depending on the nature of the crossing and the potential for impacts to watercourses. The need for this type of approval will be confirmed as part of detailed design in consultation with TRCA.

In addition, TRCA provides co-ordination and assistance to DFO for review and assessment of projects that may affect fisheries and/or fish habitat and require authorization under the federal *Fisheries Act*.

TRCA permits will be required in order to authorize temporary site construction activities in TRCA-regulated areas pursuant to Ontario Regulation 166/06 noted above or successor legislation. Approvals from the TRCA may also be required in relation to temporary and permanent land requirements during construction as well as to accommodate the proposed alignments. Permits for storm sewer outfalls to watercourses in these locations will also be required from the TRCA as applicable in the circumstances.

During detailed design of each improvement (or section of improvement), an Environmental Management Plan (EMP) will be prepared as required. Each EMP will be finalized in co-operation with the TRCA and submitted in support of the approval applications for the Western Vaughan Transportation Improvements.

Approval for the purchase of land will also be required from the TRCA for areas of the right-of-way that overlap with TRCA-owned land. In addition, approvals from TRCA will be required in relation to temporary land requirements during construction of the new road alignments.

8.2.6 Ontario Heritage Trust

Approval for the purchase or exchange of land will be required from the Ontario Heritage Trust (OHT) for areas of the right-of-way that overlap with OHT-owned land. In addition, approvals from OHT will be required in relation to temporary land requirements during construction of the new road alignments.

8.2.7 Compliance with Provincial Plans and Policies

In addition to requiring the preceding approvals, the Preferred Undertaking was reviewed against the applicable requirements of a significant number of provincial plans and policies to ensure adherence. A total of three plans and policies were examined:

1. The Ontario Provincial Policy Statement;
2. The *Greenbelt Act* and the Greenbelt Plan and; and,
3. Growth Plan for the Greater Golden Horseshoe.

As part of identifying the preferred alignments, it was determined that this IEA 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 Preferred Undertaking by the adoption of appropriate mitigation measures.

The detailed examination of these three provincial plans and policies and how they have been complied with is provided in **Appendix 8A**.

8.3 Federal Approvals

In accordance with the Minister-approved ToR, a Project Description was prepared and submitted to the Canadian Environmental Assessment Agency (CEA Agency) in April, 2011 for circulation to Federal Departments and Agencies in order to determine whether or not the Preferred Undertaking would trigger a federal environmental assessment process pursuant to Section 5(1) d of the *Canadian Environmental Assessment Act* (CEAA).

Based on the current understanding of the project works and activities and associated potential effects, the following federal permits/authorizations may be required, which will trigger the federal EA process:

- Harmful Alteration, Disruption, or Destruction (HADD) of Fish Habitat Authorization(s) – *Fisheries Act*;
- Rail Crossing Permit(s) – *Canada Transportation Act*;
- Navigability Permit(s) – *Navigable Waters Protection Act*; and,
- Pipeline Crossing Permit(s) – *National Energy Board Act*.

8.3.1 Fisheries and Oceans Canada / Department of Fisheries and Oceans (DFO)

The federal *Fisheries Act* gives the Minister of Fisheries and Oceans the legislative authority to protect fish and fish habitat from destructive activities in marine and inland waters. The *Fisheries Act* sets out some

general habitat and pollution protection provisions in Sections 22(1), 22(2), 22(3), 32, 35(2) and 37(2), which are binding on all levels of government and the public in areas such as:

- a) the provision of sufficient water flows;
- b) prohibition against the destruction of fish by means other than fishing unless authorized by DFO;
- c) prohibition to deposit deleterious substances unless by regulation; and
- d) prohibition against the harmful alteration, disruption or destruction (HADD) of fish habitat unless authorized by DFO.

The Western Vaughan Transportation Improvements project will include several water crossings. As such, it is possible that an authorization or permit may be required under the *Fisheries Act*, due to the potential for any HADD of fish habitat that could not otherwise be avoided or mitigated. If this should transpire, it would trigger the involvement of DFO as a Responsible Authority (RA) or a Federal Authority (FA) under the CEAA.

8.3.2 Canadian Transportation Agency

Pursuant to the *Canada Transportation Act*, agreements between Canadian Pacific Railway (CPR) and York Region and Canadian National Railway (CN) and York Region will be required in order to make amendments to the CPR crossings at: (1) Major Mackenzie Drive, west of Highway 27; (2) Rutherford Road, west of Highway 27; (3) Highway 27, south of Rutherford Road; and (4) the CN crossing at Pine Valley Drive, between Highway 407 and Steeles Avenue. At all locations, except for Major Mackenzie Drive, agreements will also be required to detour the existing rail lines to construct the crossings.

Under the *Canada Transportation Act*, York Region has two options for proceeding to obtain the necessary authorization:

1. Under subsection 101(1) of the Act, York Region may reach an agreement with CPR and CN for the new crossing and no environmental assessment process is required under CEAA; or
2. Under subsection 101(3) of the Act, if York Region is not able to achieve an agreement with CPR and/or CN, they may make an application to the Canadian Transportation Agency (CTA) for authorization to construct the crossing.

Therefore, if an agreement is not reached with CPR and/or CN and an application is made to CTA by York Region under subsection 101(3), this would constitute a trigger under CEAA and the CTA may be an RA. If the CEAA is triggered, a screening level assessment would currently be required for this project because it is not defined or described under the *Comprehensive Study List Regulations*.

8.3.3 Transport Canada

Transport Canada has the responsibility to protect the public's right to navigation under the federal *Navigable Waters Protection Act* (NWPA). The NWPA defines a navigable water as a "canal or any other body of water created or altered as a result of the construction of any works", but in practice include "any body of water capable of being navigated by a floating vessel of any description, for the purposes of transportation, recreation or commerce". The *Navigable Waters Protection Act* prohibits the construction or placement of any "works" in, on, over, under or through navigable waters without first obtaining approval from Transport Canada (TC).

The Preferred Undertaking involves crossings of the Main and East Humber Rivers, Rainbow Creek, East and West Robinson Creek, Purpleville Creek, and Marigold Creek as well as numerous other first and second order tributaries thereof. As such, authorization may be required under the NWPA due to potential disruption to navigable waterways in the study area. A Request for Project Review Application under the NWPA will be submitted to TC.

8.3.4 National Energy Board

The locations of pipeline crossings will need to be confirmed as part of detailed design of the project. As a result, if an agreement(s) is required, York Region will seek approval from the pipeline companies prior to constructing the proposed road improvements at the identified crossing locations.

This approvals process includes a review by the National Energy Board (NEB). The NEB is an independent federal agency established to regulate the activities of, among others, oil, gas and commodity pipeline companies, oil and gas exporters, and electricity exporters. The *National Energy Board Act* establishes the NEB, the purpose of which is to protect the public interest by regulating certain areas of the oil, gas, commodity and electric utility industries. Should the pipeline company(s) or the National Energy Board object to the proposed crossing, then a NEB approval will be required under the *National Energy Board Act*.