

9. Amending the EA

In recognition of the fact that there could be changes to the design of the Preferred Undertaking following its approval by the Minister under the *EA Act* during detailed design and/or construction, York Region is proposing an amendment procedure. This amendment procedure would benefit all parties potentially involved by providing an agreed to and well understood approvals process for ensuring that proposed changes to the design of the Preferred Undertaking are effectively and appropriately dealt with.

With this in mind, York Region is proposing that any unforeseen changes to the design of the Preferred Undertaking be first reviewed by Regional staff and then grouped into one of three categories: (1) no amendment required; (2) a minor amendment required; or (3) a major amendment required. As a result of this approach, two amendment procedures are being proposed: one associated with minor amendments and one associated with major amendments.

9.1 Change Review Process

During the detailed design and/or construction of the Preferred Undertaking, changes to some aspects of the project's design may occur due to:

- a) unforeseen site-specific problems encountered only during detailed design and/or construction;
- b) improvements in the design to provide greater environmental benefits and/or less adverse effects;
- c) elements of the project that were not previously envisioned;
- d) circumstances that develop at the time of construction;
- e) issues identified in other approvals processes; and
- f) changes to the regulatory framework (i.e., new legislation or regulations).

Where such changes may occur, a process must be followed to consider them within the context of the Minister-approved Western Vaughan Transportation Improvements IEA and determine if an amendment is required based on the significance of the change. Therefore, any unforeseen change to the Minister-approved Preferred Undertaking will be reviewed by York Region prior to it being carried out. With this in mind, the following questions will be applied to the proposed change as part of the review to determine how it should be dealt with within the context of the amendment procedure:

- a) Is there a change to what was proposed to be built?
- b) Is there a change to where something was to be built?
- c) Is there a change to how something was to be built?

York Region will utilize the responses to these questions to determine how the proposed change will be dealt with. For example, in the case where a "Yes" is provided, York Region will determine the significance of that change in terms of its net effect on the environment, a stakeholder (including the public), and/or a commitment made in the Minister-approved Western Vaughan Transportation Improvements IEA.

If the significance of the change is determined to be negligible, then no amendment would be required and York Region could proceed with implementing the change. Examples of this would include:

- a) A change in the location or configuration of the travelled road surface, median, boulevard, sidewalks, and/or cycling lanes within York Region's right-of-way, where the change would result in similar or reduced net effects to those included in the approved IEA;
- b) A change in the type and/or design of noise mitigation provided for qualifying receptors, where the change would result in similar or reduced net effects to those included in the approved IEA;
- c) A change in the type and/or design of structures, including bridges, culverts, and grade separations, where the change would result in similar or reduced net effects to those included in the approved IEA
- d) A delay or change in the timing or phasing of construction of a road and transit improvement (e.g., widening Major Mackenzie Drive from 2 lanes to 4 lanes initially, and completing the widening to 6 lanes at a later date).

If, however, the change was to result in an increased net adverse effect (i.e., as a whole after considering potential benefits from the change), the review will be documented by York Region and then categorized by York Region as either a potential minor or major amendment, subject to discussions with the Ministry's Environmental Assessment and Approvals Branch (EAAB) and concurrence from the Director. Descriptions of the processes for addressing minor and major amendments are provided below.

9.2 Minor Amendments

Proposed changes to the approved IEA that would not alter the Preferred Undertaking significantly in terms of what would be built, where it would be built, and how it would be built, but would result in an increased net adverse effect would be categorized as minor amendments.

In the case of a minor amendment, regardless of the changes proposed, the conclusion that the Preferred Undertaking is required, and its status as the Preferred Undertaking in relation to the other alternatives considered during the IEA, would not be affected or opened to re-evaluation.

Some examples of proposed changes that would be considered as requiring a minor amendment include the following:

- a) A change in the location of the approved IEA-defined right-of-way, or expansion of the limits of the right-of-way and/or grading, requiring the permanent acquisition of property not previously identified in the approved IEA;
- b) A change in the grading limits or the addition of a detour road or a rail detour requiring the temporary acquisition of property not previously identified in the approved IEA;
- c) A change in the design of the Preferred Undertaking that would eliminate all access to adjacent property not previously identified in the approved IEA;

- d) The removal of noise mitigation, or change in the type and/or design of noise mitigation, where the removal or change would result in increased net adverse effects beyond those identified in the approved IEA;
- e) A change in the type and/or design of a new/replacement bridge, culvert, or grade separation that would result in increased net adverse effects beyond those identified in the approved IEA;
- f) Replacement of an existing bridge proposed for widening or an existing culvert proposed for extending with a new structure.

In the cases where the proposed change is categorized by York Region as a potential minor amendment, then the following process will be followed prior to implementing it:

- a) York Region will discuss the proposed design change and categorization with staff at the MOE's EAAB
- b) If staff at the MOE's EAAB agrees that the proposed design change is a minor amendment, York Region will prepare an amendment review document to describe:
 - The proposed design change to the Preferred Undertaking
 - The rationale for the proposed design change
 - Implications of the proposed design change on the social, cultural and natural environment, a stakeholder, or an EA commitment
 - Proposed mitigation/compensation measures, if required, to address any potential adverse effects of the change
 - Any net effects following implementation of mitigation/compensation measures.
- c) York Region will distribute the amendment review document to directly affected stakeholders, MOE's EAAB and the City of Vaughan for 30 calendar days for review and comment. During this time, York Region will seek concurrence from the Director of the MOE's EAAB as to whether the proposed design change constitutes a "minor" or a "major" amendment to the approved IEA for the Preferred Undertaking.
- d) York Region will attempt to address comments received during the 30 calendar day review period.
- e) York Region will implement the proposed change, subject to receiving concurrence from the Director of the MOE's EAAB that the proposed change is a minor amendment, ensuring that any required mitigation/compensation measures are provided for and carried out.

9.3 Major Amendments

Proposed changes to the approved IEA of a much more significant nature would be categorized as major amendments. In general, these proposed changes would alter the design of the Preferred Undertaking significantly in terms of what would be built, where it would be built, and how it would be built. An example of these proposed changes would include the construction of a new road/transit improvement not previously identified as part of the Preferred Undertaking within the approved IEA.

In cases where the proposed change is determined to be a major amendment, York Region will conduct a new IEA process for the major amendment that will either be considered, as applicable in the circumstances,

to be a new undertaking as per Section 12 of the *EA Act* as amended, an undertaking in accordance with the provisions of the Municipal Class Environmental Assessment (MEA October 2000, as amended) established pursuant to Part II.1 of the *EA Act* or a transit undertaking in accordance with O. Reg. 231/08 - *Transit Projects and Greater Toronto Transportation Authority Undertakings*

In the case of a major amendment, regardless of the changes proposed, the conclusion that the Preferred Undertaking is required, and its status as the Preferred Undertaking in relation to the other alternatives considered during the IEA, would not be affected or opened to re-evaluation. Therefore, the scope of the new IEA process would focus on the proposed change that is determined to be a major amendment.