



City of
Peterborough

To: Members of the Committee of the Whole

From: W.H. Jackson, Director of Utility Services

Meeting Date: September 26, 2016

Subject: Report USDIR16-011
Parkway Corridor Minister's Order

Purpose

A report to advise Council of the Order to comply with Part II of the Environmental Assessment Act, issued by the Minister of the Environment and Climate Change.

Recommendation

That Council approve the recommendation outlined in Report USDIR16-011 dated September 26, 2016, of the Director of Utility Services, as follows:

That staff report back to Council on the implications of the Minister's Order including all options available for Council to move forward with Transportation improvements in the City.

Budget and Financial Implications

Sufficient funds remain uncommitted on the Purchase Order issued to AECOM. These funds will be used to engage expert advice if required. No additional budget will be required to obtain appropriate advice.

Background

The Order

On Friday September 16, 2016 the Minister of the Environment and Climate Change issued an Order (Attachment 1) requiring the City to comply with Part II of the Environmental Assessment Act (the "EAA").

Part II of the EAA addresses the requirement to complete an Individual Environmental Assessment (an "IEA"). An IEA is a complex, in-depth and possibly very broad environmental assessment.

The Minister provides several reasons for his decision to issue the Order

Requirements of the Order

The Order effectively requires the City to complete more study before the Minister will further consider approval of the Parkway project. The City cannot therefore proceed with any aspect of the project until the IEA is approved.

The process to complete an IEA begins with preparation of the Terms of Reference for the IEA. The Terms of Reference lay out a plan for how the IEA will be conducted. Preparation of the Terms of Reference requires consultation with the Public and agencies should also be consulted. The Order also sets out some specific requirements for the Terms of Reference. The Terms of Reference require approval of the Minister before the City could actually begin the IEA.

The City can only begin the IEA after the Terms of Reference are approved by the Minister of the Environment and Climate Change.

Implications of the Order

Reasons provided by the Minister for the Order require clarification before the City can proceed and reliably interpret all aspects and requirements of the Order. In order to properly assess the Order and its implications it would be appropriate to seek guidance from experts familiar with IEA's and Minister's Orders.

The implications of any option the City may have in response to the Minister's Order are likely expansive and careful consideration should be applied before proceeding. This would include cancellation of the Parkway Project, removal of the portion of the Parkway that crosses over Jackson Park or completion of an IEA. It is anticipated that any decision made with regard to this issue will be subject to further scrutiny by Provincial agencies and Council should be assured of the appropriateness of the next steps before making any decisions. Until City staff can identify all the options available to the City it would be premature to decide a course of action.

To ensure Council is aware of the options available and the full implications of each option, outside expertise may be required.

Timelines

To properly discuss and clarify any details of the Order with the Ministry of the Environment and Climate Change and develop appropriate and viable options, staff will require approximately 6 to 8 months. Accordingly, Staff will report back to Council in the second quarter of 2017 (or earlier if possible).

Summary

Staff requires an opportunity to fully examine and review the particulars and implications of the Order so that a full slate of options, and their implications can be presented to Council.

Submitted by,

W. H. Jackson, P. Eng.
Director Utility Services

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Attachment 1: Minister's Order dated September 16, 2016.

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and Climate Change

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ENV1283MC-2016-2192

SEP 16 2016

Mr. Robert J. Dunford
Project Manager
City of Peterborough
500 George Street North
Peterborough ON K9H 3R9

Dear Mr. Dunford:

Between February 28, 2014, and March 24, 2014, I received 88 requests asking that the City of Peterborough (City) be required to prepare an individual environmental assessment for the proposed Parkway Corridor (Project).

I am taking this opportunity to inform you that, based on a review of the project documentation, the provisions of the Municipal Engineers Association's Municipal Class Environmental Assessment (Class EA), the issues raised in the requests, the City's response to the Minister's Order, and other relevant matters required to be considered under subsection 16(4) of the Environmental Assessment Act, I have decided that an individual environmental assessment (EA) is required for the Project.

Of particular note in my consideration of this matter was the alternative to cross Jackson Park. Despite receiving additional information I have outstanding concerns, some of which appear to overlap with many of the concerns raised in the Part II Order requests.

The reasons for this decision are as follows.

1. The proposed Parkway Corridor may cause significant effects to the natural environment and impacts to noise, specifically with respect to the bridge proposed to cross Jackson Park. The potential effects were not adequately considered. The documentation provided to date by the City has not provided sufficient detail to ensure that potential impacts will be mitigated and the environment protected.

2. Further studies are required to address any impacts to the identified species at risk, as well as the significant natural features including the Provincially Significant Wetland and the significant woodlands and valleyland sites. A new noise assessment should be undertaken for the part that addresses noise issues for the living areas of the properties along the corridor.
3. There continues to be significant public concern with the proposed Project, alternatives evaluation and the potential for environmental impacts. There is a need for additional consultation due to significant public interest and the potential for significant adverse impacts to the public. Further consultation on the Project is required before a decision is made on the Project.
4. For the reasons stated above, the proposed Parkway Corridor differs from projects to which the Class EA applies.
5. In light of the above points, it is my opinion that the purpose of the Environmental Assessment Act cannot be fulfilled through the application of the Class EA, including the position of additional conditions for this Project.

Therefore, I am ordering, pursuant to subsection 16(1) of the Environmental Assessment Act, the City to comply with Part II of the Environmental Assessment Act for the proposed undertaking.

Based on my decision to require an individual EA for the Project, the City cannot proceed with the Project without obtaining my approval pursuant to section 5(1) of the Environmental Assessment Act. In order to obtain approval, you must prepare and submit an individual EA in accordance with Part II of the Environmental Assessment Act. An application for approval under Part II of the Environmental Assessment Act consists of Terms of Reference, to be approved by myself as Minister of the Environment and Climate Change, and the environmental assessment. The environmental assessment will be subject to a government review, following which myself and Cabinet must decide whether or not to approve the proposed undertaking.

Pursuant to subsection 16(2)1 of the Environmental Assessment Act, I am also setting out the following directions with respect to the Terms of Reference that must be prepared.

1. The Terms of Reference shall be prepared in accordance with subsection 6(2)(a) of the Environmental Assessment Act.
2. The Terms of Reference shall ensure that the proponent studies design alternatives that minimize impacts to Jackson Park.

Mr. Robert J. Dunford
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3. Ensure that all technical studies prepared as part of the Environmental Assessment are peer reviewed by appropriate experts and document the review in the Environmental Assessment.
4. The Terms of Reference shall include a consultation plan that outlines, but not limited to, consultation methods with the public on the alternatives and assessment methodology for the alternatives.

As part of that process, I highly recommend that you address the issues outlined above. It is a requirement of the Environmental Assessment Act that the City consult with the public on the Terms of Reference and the environmental assessment.

This Environmental Approvals Branch is responsible for coordinating the submission and review of individual EAs. I encourage you to contact Kathleen Hedley, Director, Environmental Approvals Branch, about the preparation of an individual EA. She can be reached directly at 416-314-7288, or at kathleen.hedley@ontario.ca.

Sincerely,



Glen Murray
Minister of the Environment and Climate Change

Attachment (s)

c: Requesters
Mr. Kevin Jones, Project Manager, AECOM
EA File No. 14019 Parkway Corridor