



**Office of the Auditor General: Follow-up to the
2013 Audit of Management of the Environmental
Legislated Approval Process, Tabled at Audit
Committee – June 14, 2018**



Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process

Table of Contents

Executive summary	1
Conclusion	2
Acknowledgement.....	2
Detailed report – Assessment of implementation status	3

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

Executive summary

The Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process was included in the Auditor General's 2015 Audit Work Plan.

Ontario's Environmental Assessment Act requires the City to undertake an environmental assessment (EA) for any major public project that might have significant environmental effects on ecological, cultural, economic and social aspects. In addition to provincial EA requirements, the project may also be subject to a federal EA pursuant to the Canadian Environmental Assessment Act (CEAA 2012).

Our original audit reviewed the City's understanding of the regulatory requirements for environmental assessments and the efficiency and effectiveness of the processes. The key findings of the original audit were:

- City staff properly used both the Municipal Engineers Association - Municipal Class Environmental Assessment (MCEA) and the Ontario's Transit Project Assessment Process (TPAP) guidelines to determine the type of Environmental Assessment (EA) that was required for a project.
- In the summer of 2013, work on a City construction project was delayed when a threatened bird was found under a structure. The EA for this project was completed in 2008 and the bird was added to the list of threatened species in 2012. City procedures did not look for this on ongoing projects.
- In half of the projects covered by MCEA guidelines that we reviewed, we found the City held more public consultations than the minimum required by the Municipal Engineers Association. The City considered public consultation to be one of the key elements for a successful EA. The project manager determined the number of public consultations to be held for each EA. However, there were no City guidelines or tools to assist the project manager in making this determination.
- Transportation Planning¹ within Transportation Services department prepared a Statement of Work before undertaking a Schedule C EA, and presented it to City Council, through Transportation Committee, for approval. This practice provided City Council with an opportunity to review the expected content of an EA.

¹ Formerly Transportation Planning branch within Planning and Growth Management department (PGMD)

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

However, other departments, such as Infrastructure Services² did not follow this approach.

- The City received comments and questions related to projects through several mechanisms (e.g., public open houses; emails to project managers; comments to Councillors; etc.). These comments had to be gathered, analyzed and discussed by the City and the consultant working on the project to determine how best to consider them in the project. There was however, no official tracking tool to ensure that this list was complete.

Table 1: Summary of status of completion of recommendations

Recommendations	Total	Complete	Partially complete	Not started	No longer applicable
Number	5	5	-	-	-
Percentage	100%	100%	-	-	-

Conclusion

Management has been proactive in addressing the recommendations, as all five are complete.

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.

² Formerly Infrastructure Services department (ISD)

Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process

Detailed report – Assessment of implementation status

The following information outlines management's assessment of the implementation status of each recommendation as of August 2017 and the Office of the Auditor General's (OAG) assessment as of December 2017.

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

Recommendation #1

Table 2: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City adopt a mechanism to identify and update an EA that has already been completed, but where the project has not yet been constructed, and where there is subsequent modification to the legislation that would affect the project. For example, if a new species is added to the list of species at risk, the EA should be reviewed to determine any potential impacts during construction.

Original management response:

Management agrees with this recommendation.

Upon completion of the EA and prior to construction, staff will review the EA assumptions and recommendations and verify that applicable legislation has not changed, which could affect the project outcome.

This requirement will be communicated to staff via written direction by Q4 2014.

Management update:

A directive was issued to staff by the acting Deputy City Manager on May 14, 2015.

OAG assessment:

The directive that was issued assigns responsibility for legislative changes relating to the Environmental Assessment to the project manager of the initiating department up to the point that the project is transferred to the Infrastructure Services branch (ISB) for design and construction. Once transferred, the directive assigns responsibility to the assigned ISB project manager.

ISB's project management process requires initiating departments provide them with a project charter before the design phase of the project. The process now requires that the EA be refreshed one time, at the project charter phase, rather than continuously before the design phase.

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

The project charter template includes specific sections for considering both geotechnical and environmental requirements and species at risk requirements.

We reviewed the updated screening conducted on one sample project, the Baseline Bus Rapid Transit (BRT) project. An EA was completed for this project in 2017. The project charter assigns responsibility for a species at risk screening review for the study area to be completed again by ISB. We noted that although this second screening review was assigned, it had not yet been undertaken as the project is not yet at that stage.

We noted that the ISB directive does not specifically reference projects not transferred to ISB for design and construction, such as those bundled as part of LRT Stage 2. However, Stage 2 LRT management have confirmed that they track updates to environmental legislation in accordance with the directive.

As such, we assess this recommendation as complete.

Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process

Recommendation #2

Table 3: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City analyze and rationalize the relevance of holding points of contact in excess of MCEA guidelines.

Original management response:

Management agrees with this recommendation and it has been implemented.

Current practice includes rationalizing the need for each public event through the preparation of briefing notes to Senior Management that describes and justifies the event.

Management update:

Current practice in the Planning, Infrastructure and Economic Development department (PIED) includes providing a Summary Note to senior management in advance of high profile events to describe the issue, rationalize the consultation efforts and identify financial considerations.

Transportation Services project managers continue to explore cost-effective methods of public consultation. The number of consultations is a function of the complexity of the project.

OAG assessment:

The Municipal Engineers Association - Municipal Class Environmental Assessment guidelines require a minimum of two points of contact (POC) for a Schedule B Environmental Assessment and three for a Schedule C.

For projects under the Transit Project Assessment Process, there is no minimum number of points of contact. The Provincial regulation under the Environmental Assessment Act leaves this to the judgement of the proponent.

OAG selected three sample projects, which included an environmental assessment where at least part of the consultation phase occurred since the original audit.

Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process

For each of these projects, we confirmed that where the number of POCs exceeded MCEA guidelines, the need for additional POCs was analyzed and rationalized.

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

Recommendation #3

Table 4: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City consider combining several public open houses together and replacing additional public open houses by another information mechanism in order to be more efficient in the collection of public comments and questions.

Original management response:

Management agrees with this recommendation and it has already been implemented.

Current practice includes rationalizing the need for each public event associated with the environmental assessment process. Once the public consultation approach is determined, it is communicated to the Mayor's Office and the Deputy City Manager's Office.

Current consultation practice also includes tools such as online surveys and feedback. Current consultation methods address the need for efficient and effective mechanisms for consulting with stakeholders.

Management update:

Current practices in PIED include joint public open houses and project websites that provide the project manager's contact information or surveys, if applicable. In person and online consultations are promoted through weekly PSAs, social media (Twitter and Facebook), corporate e-newsletters, signage, direct mail drops and newspaper ads as appropriate.

OAG assessment:

Infrastructure Services branch and the Transportation Planning service area in Transportation Services department follow the same process to collect public comments and questions.

They both use the City's Public Engagement Strategy to plan their consultation. The Public Engagement Strategy requires following the applicable legislation, which for an

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

EA is the MCEA guidelines. The MCEA guidelines are therefore the starting point for determining the type and number of consultations. Per the Public Engagement Strategy, the method selected depends on the complexity of the project, as the project team is to balance the need to be efficient when gathering public input with the need to keep the public engaged and informed. The ward councillor(s) to be kept informed of the engagement approach.

The same three sample projects discussed above in Recommendation 2 were reviewed and the above practices were found to have been followed.

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

Recommendation #4

Table 5: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City present a Statement of Work to the relevant standing committee (e.g., Transportation Committee, Environment Committee) for approval prior to undertaking any study that is required to carry out a Streamlined Schedule C (Municipal Class EA), Individual EA or TPAP.

Original management response:

Management agrees with this recommendation.

A Statement of Work will be prepared for each Schedule C, individual EA or TPAP (Transit Projects) study for the approval of the relevant standing committee. This requirement will be communicated to staff via written direction by Q4 2014.

Management update:

A directive was issued to staff by the acting Deputy City Manager on May 14, 2015.

OAG assessment:

The directive to staff was issued. To confirm compliance with the directive, we selected one applicable project.

A statement of work was provided to Transportation Committee prior to issuing the Request for Qualifications for the consultant to undertake the EA study for the Baseline BRT project.

Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process

Recommendation #5

Table 6: Status

Management update	OAG assessment
Complete	Complete

Audit recommendation:

That the City ensure that the project managers perform an internal review of the report to ensure that comments and questions received during consultation have been considered in the EA.

Original management response:

Management agrees with this recommendation and it has been implemented.

Existing public consultation practice is to provide one point of contact for comments, which are documented, reviewed and considered as part of the EA.

Project managers will now be required to also check with ward Councillors to ensure that feedback that is sent directly to elected officials is also captured for the public record and consideration. This direction has been given to staff.

Management update:

This recommendation continues to be carried out, as is expected through provincial EA legislation. EA documents always include a record of public feedback and study team responses to the issues raised. The Ministry of Environment and Climate Change also reviews all EA documentation.

In addition, Infrastructure Services and Transportation Services project managers liaise closely with ward Councillors to collect all public feedback that may have been received through their offices.

OAG assessment:

OAG reviewed a sample of the comments provided for one project, the Transportation Planning Transit Project Assessment Process (Baseline BRT project).

Follow-up to the 2013 Audit of Management of the Environmental Legislated Approval Process

Comments and questions received from the public during consultation events were listed together with a response in the Environmental Assessment project report. Comments received outside of consultation events, such as via email, were also included in the report with responses.

We reviewed a sample of three of the comments received during a consultation event and two emails submitted outside of consultation events. In all five cases, the comments were noted in the report and the responses provided demonstrated that the comments were adequately considered.

Follow-up to the 2013 Audit of Management of the
Environmental Legislated Approval Process



Table 7: Status legend

Status	Definition
Not started	No significant progress has been made. Generating informal plans is regarded as insignificant progress.
Partially complete	The City has begun implementation; however, it is not yet complete.
Complete	Action is complete, and/or structures and processes are operating as intended and implemented fully in all intended areas of the City.
No longer applicable	The recommendation is obsolete due to time lapses, new policies, etc.