

Ministry of the Environment

Environmental Assessment and
Approvals Branch

2 St. Clair Avenue West
Floor 12A
Toronto ON M4V 1L5
Tel.: 416 314-8001
Fax: 416 314-8452

Ministère de l'Environnement

Direction des évaluations et des
autorisations environnementales

2, avenue St. Clair Ouest
Étage 12A
Toronto ON M4V 1L5
Tél. : 416 314-8001
Télec. : 416 314-8452



November 24, 2009

Mr. John Moser
General Manager
Planning and Growth Management
City of Ottawa
110 Laurier Avenue
Ottawa, ON, K1P 1J1

Dear Mr. Moser:

On July 21, 2008, the Minister of the Environment (Minister), issued an order pursuant to section 16 of the *Environmental Assessment Act* (EAA) to the City of Ottawa (City) and the Kanata West Owners Group (KWOG), imposing conditions with respect to 22 projects within the Kanata West Development Area (the Projects) planned under the Municipal Engineer's Association's Municipal Class Environmental Assessment (Class EA) by the City and KWOG.

Condition 1 of the Minister's Order, in part, required the City and KWOG to prepare and provide a report to the Ministry of the Environment (MOE) following the City's completion of a Third-Party Review (TPR). The purpose of the TPR was to examine impacts to the Projects resulting from errors that had been identified in the stormwater management (SWM) modeling for the Carp River. Condition 1 of the Minister's Order further required the City and KWOG to report back on impacts, if any, resulting from the application of one and two zone floodplain polices. Condition 2 of the Minister's Order required the City and KWOG to consider the level of information required to calibrate and validate the SWM models, to consider the details of a water level and stream flow monitoring program for the Carp River and its tributaries, Poole Creek and Feedmill Creek, and to design a detailed Development Phasing Plan for the Projects.

In our letter of July 3, 2009, the MOE advised the City and KWOG that they should provide a report to the District Manager, Ottawa District Office and Director of Environmental Assessment and Approvals Branch outlining how the City and KWOG had met Conditions 1 and 2 of the Minister's Order prior to proceeding with Condition 3. Condition 3 deals with revising and updating Project documentation and reissuing Notices of Completion for the Transportation Master Plan, the Master Servicing Study, and the Carp River Restoration Plan.

On August 24, 2009, the City and KWOG provided the MOE with a formal response to the Minister's Order. Based on discussions with MOE staff and comments received from external agencies, including the Ministry of Transportation (MTO), Ministry of Natural Resources (MNR),

Ministry of Municipal Affairs and Housing (MMAH), and the Mississippi Valley Conservation Authority (MVC), the City and KWOG provided a revised response package consisting of your report dated October 15, 2009, and the revised Implementation Plan (containing a Development Phasing Plan) for the Kanata West Development Area.

The MOE has completed its review of the materials provided by the City and KWOG in response to Conditions 1 and 2 of the Minister's Order. Based on our review, which as noted above includes consideration of comments received from external agencies, the MOE is satisfied that the City and KWOG have adequately addressed the requirements of Conditions 1 and 2 of the Minister's Order. We are providing MOE and external agency comments to assist the City and KWOG in moving forward through the Class EA process and in satisfying Condition 3 of the Minister's Order.

As part of our review of the response to the Minister's Order and based on results from the TPR we have noted a number of key commitments made by the City with respect to the Projects. These commitments will affect the manner in which the Projects are to be designed, implemented and monitored as the commitments were made to address concerns that had been identified by the MOE. Please be advised that the MOE's determination of compliance with Conditions 1 and 2 of the Minister's Order is based not only on the documentation provided in this regard, but also on the basis that the commitments made by the City would be implemented, including:

- 1) In response to Condition 1.1 of the Minister's Order concerning the TPR, the City has committed to:
 - ensuring the provision of a worst case runoff volume identified in the TPR through at source SWM controls of 120 m³/ha of development until the SWM models are validated or unless monitoring and/or model validation indicates changes are necessary (sections 3.1.1 and 3.1.3 and Table 1 of the revised Implementation Plan); and,
 - including the provision for 25 % of the TPR worst case deficit storage volume through incorporation into the design of the Carp River Restoration Project (section 3.3.6 of the revised Implementation Plan).
- 2) In response to Condition 1.2 of the Minister's Order, the City has committed to the application of municipal planning designations and controls with respect to floodplain policies as set out in the City's response letter dated October 15, 2009, and section 2.2.1.1 of the Implementation Plan.
- 3) In response to Condition 2.1 of the Minister's Order concerning Water Level and Flow Modeling Data, the City has committed to completing the validation of the SWM modeling, which includes the preparation of a Model Validation Report and the implementation of a contingency plan, as outlined in section 3.3.5 of the Implementation Plan.
- 4) In response to Condition 2.2 of the Minister's Order concerning Water Level and Flow Rate Monitoring Plan, the City has committed to implementing a long term Water Level and Stream Flow Monitoring Program in sections 3.3.5 and 3.3.6.4 of the Implementation Plan.

- 5) In response to Condition 2.3 of the Minister's Order concerning the Development Phasing Plan Relating to Stormwater Management, the City has committed to:
- adhering to development thresholds, as specified in Table 1 of the Implementation Plan;
 - commencing the Carp River Restoration Project within 24 months of Class EA approval (section 3.3.6.1 of the Implementation Plan);
 - ensuring that each development application submitted to the City demonstrates through an interim analysis that any incremental changes to the floodplain/SWM pond design will not increase water levels upstream and downstream in accordance with section 3.1.3 of the Implementation Plan; and,
 - a phasing of the Carp River Restoration Project and development in such a manner that there will be no reduction in the available flood storage capacity of the corridor as set out in sections 2.2.1.1 and 3.3.6.1 of the Implementation plan and the City's response letter dated October 15, 2009.
- 6) With respect to Condition 2.3 of the Minister's Order the City has further committed to providing an Overall Monitoring Plan (section 6 of the Implementation Plan) that serves to track and report on all aspects of the servicing of the development area, including: the various monitoring programs contained in the Implementation Plan; the status and progress of development, including conformance with the Development Phasing Plan; the application of SWM controls and performance; the results of all model validation efforts; the construction phasing and progress of the Restoration Project; and any contingency and adaptive management measures. The City has committed to preparing a report on the Overall Monitoring Plan that will also be available to the public and other review agencies on April 1 of each year upon request. In response to this commitment, and in addition to making the report available to the public and other interested agencies, the MOE is requesting that the City prepare and submit the Overall Monitoring Report to the MOE's Ottawa District Office by April 1 of each year, with the first report submitted by April 1, 2010.

We have attached MOE's technical comments outlining further expectations on these commitments. It is our expectation that these comments, along with the commitments made by the City and KWOG will be addressed in consultation with MOE.

The City and KWOG may proceed to Condition 3 of the Order, subject to the commitments that have been made by the City in its response package for the Kanata West Development Area. We remind the City and KWOG of the requirements of Condition 2.4 of the Order with respect to Records in the Public File.

Additional MOE comments related to Condition 3 of the Minister's Order and other matters are as follows.

Revising Class EAs

The Minister's Order clearly states that the City and KWOG must revise and update the Carp River Restoration Project, the Master Servicing Study and the Transportation Master Plan. Each of these documents should be revised to include a discussion on how the 22 projects are

impacted by the modeling errors and provide an updated Development Phasing Plan and Monitoring Plan.

In your response to the Minister's Order, you state that the updated Implementation Plan will be included as a supporting document when the three Master Plans are made available for public review. We would like to point out that the Minister's Order states that the City and KWOG must include the updated Development Phasing Plan in the revised versions of the Carp River Restoration Project, Master Servicing Study and Transportation Master Plan.

Since 15 projects received no Part II Order requests and it was determined through the TPR that no addendum is required for the 15 projects, the approved status of these projects does not change. The Notices of Completion for the revised Transportation Master Plan, the Carp River Restoration Project and Master Servicing Study must be written to reflect the status of the 15 projects.

Although the MOE has expressed its satisfaction with the City's fulfillment of Conditions 1 and 2, the City must still fulfill Conditions 2.3.1 and 2.4, which involve the inclusion of information in the revised Class EAs.

Climate Change Adaptation

In addition to the ordered conditions, the Minister asked the City and KWOG to consider climate change adaptation in the Kanata West Development Area, particularly with respect to future flooding events. In your October 15, 2009 revised response package, you advised the MOE that the City has been developing and implementing both mitigation and adaptation strategies to address the issue of climate change adaptation and a discussion was included on potential adaptation measures that may be considered for the Kanata West Development Area. You have indicated that the City's approach to deal with climate change adaptation will be through the implementation of best management practices (BMPs), Infrastructure Master Planning and ongoing monitoring. We also understand from your response that the City intends to review the available adaptive measures when the City has established its city wide climate change adaptation policy.

Time Lapse Provision

In your Development Phasing Plan, you state that *"The seven projects subject to new Notices of Completion will have time lapses in accordance with the revised filing dates/approvals."* Please be advised that since the Master Plans were prepared under the 2000 version of the Municipal Engineers Association's Municipal Class Environmental Assessment (Municipal Class EA), the five year time lapse provision will apply to all 22 projects. Updating the documentation and notices in compliance with the terms of the Minister's Order does not constitute the review required to be completed pursuant to the Municipal Class EA. The review of the Projects prior to implementation after a five year delay is a separate process from responding to the Minister's Order. The Municipal Class EA review must be completed in accordance with the 2000 version of the Municipal Class EA and recorded in an addendum which must be placed on the public record.

The seven projects that require new Notices of Completion are subject to time lapse provisions in accordance with the original filing dates, and not with the revised filing dates.

The Projects remain subject to the terms and provisions of the 2000 Municipal Class EA. It is important that proponents follow one consistent planning process. Allowing proponents the discretion to choose between the 2000 or 2007 versions of the Municipal Class EA once a Notice of Completion has been issued would lead to an inconsistent application of the EAA and uncertainty for both the proponents and the public.

While we appreciate the complexity of the Projects, and the sensitivity of timing, the original Notices of Completion for the Projects were issued prior to September 6, 2007. As such, the provisions of the 2000 MEA Class EA apply.

We hope this helps to clarify. Please feel free to contact Mr. Michael Harrison or Ms. Kristina Rudzki directly should you have any concerns. Mr. Harrison can be reached directly at 416-314-7237. Ms. Rudzki can be reached at 416-314-8229.

If you have any questions about MOE's technical comments, please contact Mr. Steve Burns, District Manager or Mr. Jason Schaefer, P. Eng., District Engineer, at the MOE Ottawa District Office at 613-521-3450.

Sincerely,



Agatha Garcia-Wright
Director
Environmental Assessment
Environmental Assessment and Approvals Branch



Steve Burns
District Manager
Ottawa District Office

Attachments

- c: Mr. Don Herweyer, Program Manager, City of Ottawa
- Mr. Mike Green, Senior Project Manager, Kanata West Owners Group
- Ms. Kelly Roberts, Planner, Delcan
- Mr. Les Pataky, MNR
- Mr. Dave Lindensmith, MTO
- Mr. John Price, Mississippi Valley Conservation
- Ms. Laurie Miller, MMAH