



Office of the Auditor General

Audit of Management of the Environmental Legislated Approval
Process

Tabled at Audit Committee on March 12, 2015

Table of Contents

Executive Summary..... 1

 Introduction1

 Background.....1

 Audit Scope and Objectives.....7

 Approach8

 Summary of Key Findings.....8

 Recommendations and Management Responses 11

 Potential Savings 13

 Conclusion 13

 Acknowledgement..... 14

1.1 Detailed Audit Report 15

 1.1.1 Introduction 15

 1.1.2 Background 15

 1.1.3 Audit Scope Objectives and Criteria.....23

 1.1.4 Approach.....24

 1.1.5 Detailed Findings, Observations and Recommendations.....26

 1.1.6 Potential Savings41

 1.1.7 Conclusion42

 1.1.8 Acknowledgement.....42

Executive Summary

Introduction

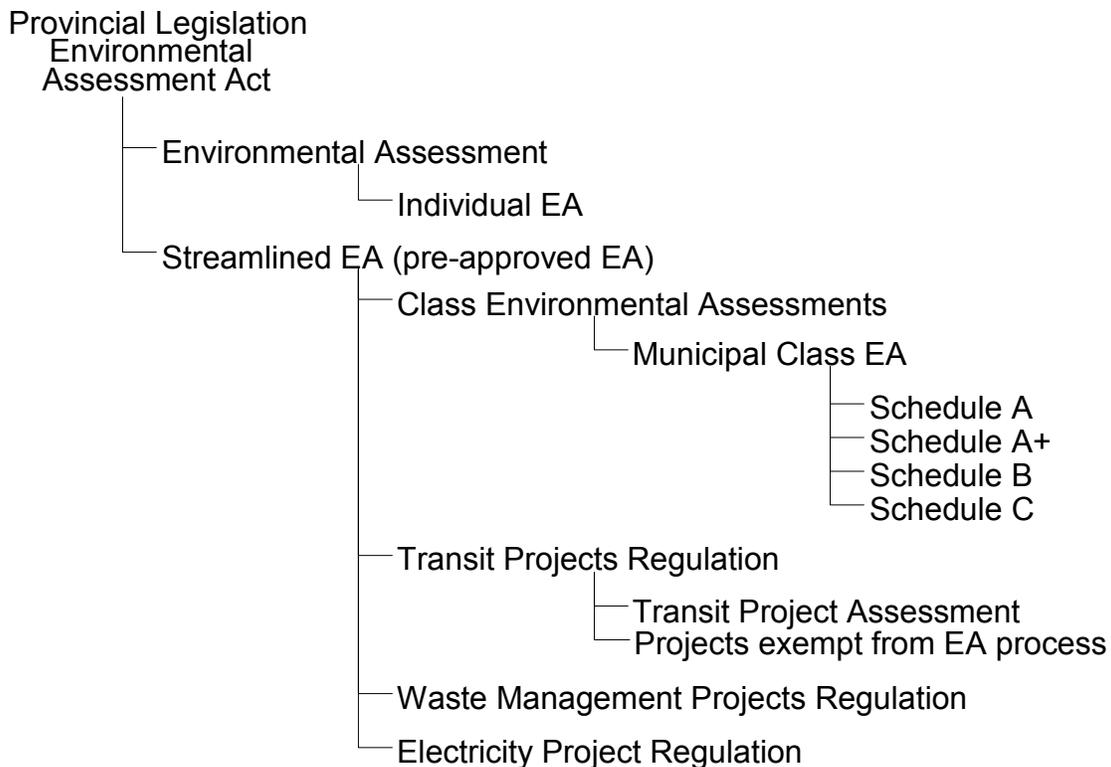
The Audit of Management of the Environmental Legislated Approval Process was included in the 2013 Audit Plan of the Office of the Auditor General (OAG), approved by Council on October 10, 2012.

Background

An Environmental Risk Assessment was conducted by the OAG in 2012. The objective was to identify and assess high-level risks for the City of Ottawa pertaining to environmental and sustainable development issues. One of the key risks identified in the risk assessment pertained to the environmental legislated approval process.

In accordance with the Ontario's Environmental Assessment Act, it is mandatory to undertake an environmental assessment (EA) for any major public project that might have significant environmental effects on ecological, cultural, economic and social aspects. The EA is part of the planning process for public projects and aims to identify potential environmental impacts at the early stages of the project development. It also takes into consideration technical aspects of the project as defined in the functional design stage. As a result of the EA, mitigation measures to avoid or minimize potential negative effects will be included in the detailed design stage of the project. Figure 1 provides an overview of the structure of the different types of EAs under provincial legislation. Specific details about the Municipal Class Environmental Assessment, and the Transit Project Assessment Process, are provided under their respective headings later in the report.

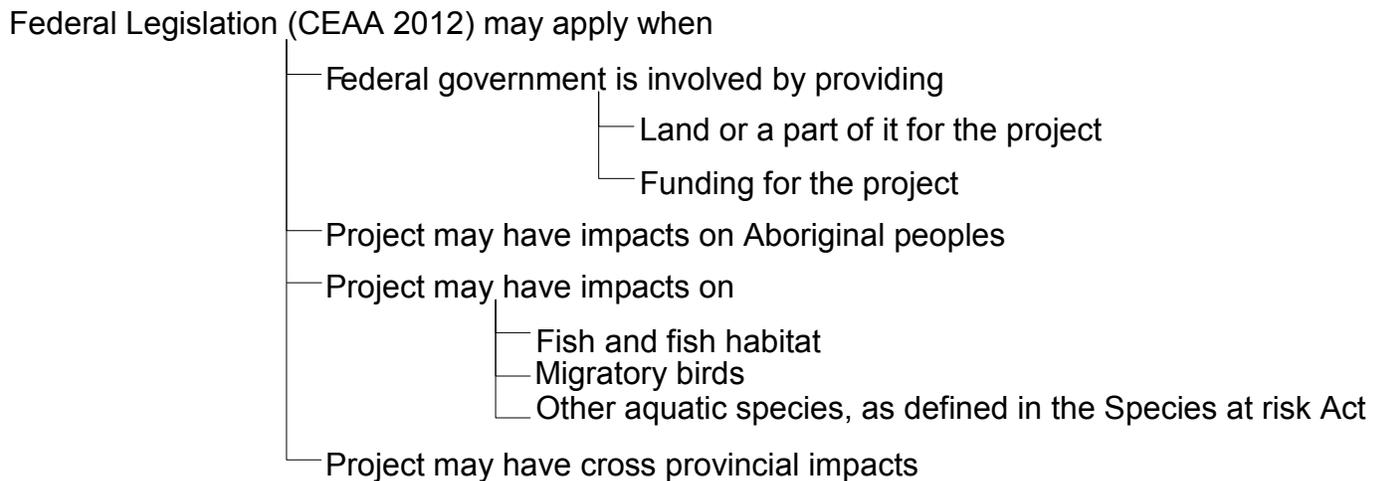
Figure 1: OAG's representation of the structure of an Environmental Assessment under provincial legislation



In accordance with the Environmental Assessment Act, the City is required to assess environmental impacts for various municipal projects, such as the construction of roads, watermains, sewers and related infrastructures. However, depending on the anticipated potential impacts, the level of effort required to undertake an EA can vary greatly.

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). This can occur when the federal government is providing the land, or a part of it, or when it is funding the project. Other issues prompting the involvement of the federal government include fish and fish habitat; other aquatic species (wildlife species that is a fish or a marine plant as defined by the Fisheries Act); migratory birds that may be affected by the project; or, if the project may have an impact on Aboriginal peoples. Lastly, an EA under the CEAA 2012 is also required when the project may have cross-provincial impacts.

Figure 2: OAG's representation of situations where an EA may be applicable under federal legislation



The provincial and federal environmental assessment processes cannot be performed at the same time. The provincial EA process needs to be completed before the federal EA can be initiated. To comply with the federal EA process, information concerning the preferred solution to be implemented needs to be specific at the detailed design stage, while information known at the functional design stage is sufficient to comply with the provincial EA process. As a result, there may be many months between completion of both EA processes.

Pre-approved EA

While large-scale, complex projects with potential for significant environmental impacts that are of major public interest are required to follow the regular environmental assessment process referred to as “Individual EA” under the provincial legislation; routine projects with predictable and manageable environmental impacts may follow a pre-approved EA process. Municipal infrastructure projects such as the construction of a new overpass for pedestrians, the widening of a road or the expansion of a water treatment plant can follow a streamlined approach. These projects have been pre-approved by Ontario’s Minister of the Environment (hereafter “the Minister of the Environment”). Consequently, municipal projects under this category can be approved directly by the City.

The pre-approved approach is applicable only if the City follows the requirements associated with the appropriate streamlined approach and if no Part II Order is requested and authorized by the Minister of the Environment at the end of the 30-day notification period.

A Part II Order is a mechanism that allows anyone having an objection or significant concerns associated with environmental issues related to a project to ask that the Minister of the Environment request the EA to be conducted at a higher level.

For example, a Part II Order could require that a project be conducted under Schedule C if it has been initially undertaken under Schedule B. A Part II Order could also require that a project be conducted under an Individual EA process that is following the full standard EA process as stated in the Environmental Assessment Act.

It should be noted, however, that the reasons to request a Part II Order must focus on impacts related to a matter of provincial importance or on a constitutionally protected Aboriginal or treaty right or on the EA process itself.

As well, public organizations can, but are not required, to undertake a project following a streamlined approach. At their discretion, public organizations can also choose to undertake an Individual EA process, including a public hearing process and review by the Ministry of the Environment (this complete process is described in section 1.2.2.4 of the detailed audit report).

Based on the nature of the projects performed by the City for which EAs are required, two streamlined EA processes were reviewed in this audit: the Municipal Class Environmental Assessment; and, the Transit Projects Approval Process.

Municipal Class Environmental Assessment

The Ministry of the Environment has categorized projects based on the environmental significance and the effects on the surrounding environment. The Municipal Class Environmental Assessment (MCEA) describes the four paths that the planning and preliminary design processes may follow:

1. Schedule A: Projects are limited in scale and have minimal adverse environmental effects. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. The public cannot request a Part II Order for projects following a Schedule A. The following are examples of projects that can be performed following a Schedule A (based on the MCEA guidelines):
 - Normal or emergency operation and maintenance of linear paved facilities and related facilities;
 - Redesignation of an existing general purpose lane or a high occupancy vehicle lane through signage or pavement marking modifications;
 - Construction of local roads which are required as a condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act prior to the construction of the road;
 - Cleaning, relining, repairs and renovations to existing sewage collection system; and,

- Expansion of a buffer zone between a lagoon facility or a land treatment area and an adjacent use where the buffer zone is entirely on the proponent's land.
2. Schedule A+: Projects have a broader scale than in Schedule A but still with minimal adverse environmental effects. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. The proponent is invited to inform the public about the project. This information session is not a consultation period. The public cannot request a Part II Order for projects following a Schedule A+. The following are examples of projects that can be performed following a Schedule A+ (based on MCEA guidelines):
- Construction or operation of sidewalks or bicycle paths or bike lanes within existing right-of-way;
 - Reconstruction where the reconstructed road or other linear paved facilities will be for the same purpose, use, capacity and at the same location as the facility being reconstructed;
 - Increasing pumping station capacity by adding or replacing equipment and appurtenances, where new equipment is located in an existing building or structure and where its existing rate capacity is exceeded; and,
 - Expand, refurbish or upgrade water treatment plant up to existing rated capacity where no land acquisition is required.
3. Schedule B: Projects under Schedule B have limited potential adverse environmental effects. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. Proponents are required to undertake a screening process, involving mandatory consultation with affected public and relevant government agencies to ensure that they are aware of the project and that their concerns are addressed. There is a requirement for the Project File Report to be publicly available for a 30-day period at the end of the process. If a concern is raised during this period (i.e., a request for a Part II Order), the Minister of the Environment may decide to request a new EA following either a Schedule C or an Individual EA process. The following are examples of projects that can be performed following a Schedule B (based on MCEA guidelines)¹:
- Construction of new roads or other linear paved facilities, if the total costs of the project are under \$2.3 million;
 - Installation, construction or reconstruction of traffic control devices, if the total costs are under \$9.2 million;

¹ The cost limits presented in these examples are those that were in effect for 2012. Each year, the Municipal Engineer Association publishes updated cost limits.

- Construction of new interchanges between any two roadways, including a grade separation and ramps to connect the two roadways, if the total costs are under \$9.2 million;
 - Establish new stormwater retention or detection ponds and appurtenances or infiltration systems including outfall to the receiving water body; and,
 - Expansion of the buffer zone between a lagoon facility or land treatment area and adjacent uses, where the buffer zone extends onto lands not owned by the proponent.
4. Schedule C: Projects with potential significant environmental effects must proceed under the full planning and documentation procedures. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. This is the most exhaustive streamlined EA process. All relevant information must be compiled into a clear and understood Environmental Study Report that will be made publicly available for a 30-day period at the end of the process. Similar to Schedule B, a Part II Order might be requested during this period. The following are examples of projects that can be performed following a Schedule C (based on MCEA guidelines)²:
- Reconstruction or widening where the reconstructed road or other linear paved facilities will not be for the same purpose, use, capacity and at the same location as the facility being reconstructed, if the total costs are over \$2.3 million;
 - Construction of new interchanges between any two roadways, including a grade separation and ramps to connect the two roadways, if the total costs are over \$9.2 million;
 - Construction of a new sewage treatment plant or expansion of existing sewage treatment plant beyond existing rated capacity including outfall to the receiving water body;
 - Construction of a diversion channel or sewer for the purpose of diverting flows from one waterway to another; and,
 - Construction of a new water treatment plant or expansion of existing water treatment plant beyond existing rated capacity.

The MCEA guidelines states that while examples of projects are provided under each of the four Schedules, these examples do not represent an exhaustive list and, as such, the approach selected is the responsibility of the proponent. The rationale for the selection must be documented.

² The cost limits presented in these examples are those that were in effect for 2012. Each year, the Municipal Engineer Association publishes updated cost limits.

Transit Project Assessment Process

Environmental assessments for public transit projects in Ontario are performed in compliance with Ontario Regulation 231/08 Transit Projects and Metrolinx Undertaking project. Schedule 1 of this regulation lists the types of transit projects for which a municipality may follow the Transit Project Assessment Process (TPAP) instead of an Individual EA or a Class EA. For all other public transit projects not listed in Schedule 1, a municipality is unconditionally exempt from undertaking an Individual EA, a Class EA or TPAP.

Individual Environmental Assessment

In comparison with a pre-approved EA process, projects requiring a comprehensive environmental assessment (i.e., an Individual Environmental Assessment) must follow a seven-step process. This includes approval by the Minister of the Environment of the terms of reference submitted by the proponent, the preparation of an environmental assessment for which the proponent has to undertake consultations with interested parties such as government experts, Aboriginal communities and the general public, a review of the EA by the Minister, a public inspection of the Minister's review and finally, the approval of the project by the Minister.

Since the new TPAP approach was created for transit projects in 2009, few municipal projects need to follow an individual environmental assessment. The majority of projects can follow a streamlined approach.

Streamlined projects realized by the City

The Planning and Growth Management department (PGMD) and the Infrastructure Services department (ISD) are the two departments that conduct the majority of the City's EAs. For PGMD, these projects are under the responsibility of the Transportation Planning Branch. The EAs conducted by these two departments are performed following TPAP, Schedule B or Schedule C. As noted previously, projects for which an EA follows either Schedule A or A+ are related to normal operational activities or maintenance activities. Therefore, this audit focuses on EAs that were performed following a TPAP, Schedule B or Schedule C approach.

Audit Scope and Objectives

The objectives of the audit were to:

1. Determine whether the City has a clear understanding of the regulatory requirements for environmental assessments; and,
2. Assess whether the environmental assessment processes to oversee the realization of environmental assessments are effective and efficient.

In order to achieve these two objectives, some of the projects for which the City performed an EA between 2010 and 2012 were reviewed in determining the scope of the audit. The audit reviewed the approach followed by ISD and PGMD to assess the environmental effects of projects under their responsibility. The categorization of

projects under a specific pre-approved environmental assessment process was analyzed as well as the management practices used to oversee the conduct of environmental assessments.

It is important to note that the duration and cost of performing an EA are project specific. As such, the objective of this audit was not to determine maximum acceptable values for these parameters. However, both cost and duration of EAs were considered as indicators to identify whether or not the EA process for a project could have followed a different path, or if logical and justified rationales could be provided to clarify differences between EAs regarding these two parameters.

Approach

We selected five projects conducted by ISD and PGMD. The Environmental Study Report (ESR) and Project File Report which are the outputs of the EA, including appendices, were obtained for each project. Specific communications: between staff involved in the project and the consultant retained to perform the EA; between staff and some internal committees; and, between these committees and City Council were also reviewed. We reviewed the official EA procedures and guidelines from both the Municipal Engineers Association and the Ministry of the Environment of Ontario. Finally, we interviewed internal staff involved in these projects to have additional information on specific elements related to their projects. Our sample selection is based on two criteria: 1) having at least a project under the responsibility of each department, and 2) having at least a project under each of the streamlined EA approach (i.e., Schedule B, Schedule C and TPAP).

We subsequently added two additional projects to our sample although the EAs were performed prior to 2010. One project was added in order to review an individual environmental assessment which had not been covered in the original sample. The other project was added following concerns over project delays in the summer of 2013 after discovering a bird's nest, of a species considered at risk, under a structure scheduled to be demolished.

Summary of Key Findings

1. Among the guidelines that are used by the City to determine the type of EA that should be undertaken for a project, both the MCEA and the Ontario's Transit Project Assessment Process guidelines are also used by staff.
2. The City clearly understands that the total cost of the project is a sensitive element in the selection of which Schedule to follow under the MCEA and knows that the Municipal Engineers Association reviews the cost limits associated with each type of Schedule and project on a regular basis.
3. For transit projects, the City clearly understands that the TPAP approach is only applicable for dedicated facilities or services that are used exclusively for transit. If a project is a combination of transit and a public road, it is required to follow an Individual EA or possibly a MCEA.

4. It may happen that a planned project does not fit perfectly into the guidelines proposed by either the MCEA or TPAP. In one specific case, to avoid following an inappropriate Schedule and running the risk that the EA could be rejected during the 30-day notification period (Part II Order), the City proactively consulted the Ministry of the Environment to determine whether the City should follow a Schedule B or a Schedule C approach.
5. Management has informed us that the City has always been able to complete projects planned under a Schedule A or A+ (pre-approved EA for regular activities, maintenance or emergency operational activities) as no unexpected environmental impacts have necessitated an EA under a Schedule B or C.
6. Management has indicated that the City has not needed to conduct a new EA following a Schedule B or C for a project that was first identified as fulfilling the criteria for a Schedule A or A+ if no modification occurred to the project.
7. The City has a holistic view of the different projects for which an EA is either completed, ongoing or to be conducted. In numerous cases, the City has been able to benefit from the knowledge gathered from one EA to perform another one. The City was able to either take into consideration recommendations associated with EAs performed previously in the same area, use information and data from studies realized before the EA (e.g., in a preliminary study), or benefit from the federal approval of another project realized at almost the same time and with similar infrastructures in four of the projects reviewed.
8. The City also has the ability to schedule projects in a specific order that will help in their execution. Due to physical proximity and similar study areas, two project EAs were carried out concurrently. The consultant was requested to produce only one version of specific detailed reports such as the Environmental Site Assessment report; the noise, vibration and air quality report; the archaeological report; the geotechnical report; and, the natural environment report. The City has also held combined public open houses for the two EAs. The contribution of one EA to another one has allowed the City to realize savings on public open houses, to retain only one consultant for two EAs, and to present only one series of recommendations to the Transportation Committee for approval by City Council.
9. The implementation of a project in the summer of 2013 was postponed because numerous nests of barn swallows were found under a structure. This species is, since 2012, considered a threatened species in Ontario. As the EA for this project was completed in 2008, this species had not been taken into consideration in the EA. When new species were added on the list of threatened species in 2012, the City did not analyse the impacts this could have on its ongoing projects.

10. The City holds more public consultations than the minimum required by the Municipal Engineers Association. We found that in half of the projects, where we compared the number of points of contact made by the City (public open houses and notice of completion) to the MCEA guidelines, the City exceeded the minimum number required.
11. The City considers that consultation and more specifically public consultation is one of the key elements for the success of an EA. The project manager determines the number of public open houses the City should hold for a specific EA by considering the complexity; the profile of the project; whether it is controversial; whether citizens are impacted by the current situation; or, if they have concerns with either the current or future situation. However, there are no internal guidelines or tools to assist the project manager in this evaluation prior to starting an EA. In cases where the EA process is expected to be lengthy, the City may decide to do additional consultations to keep the public informed of the project.
12. In the majority of projects reviewed as part of this audit, our analysis of the number of attendees at each public open house and the number of comments received after these meetings, demonstrates a pattern of decreased attendance at the second meeting. The general public is very interested in the process undertaken by the City at the first public open house. This interest then declines at the second meeting and seems to be renewed if the City holds a third open house.
13. The City has developed control mechanisms to ensure that information about projects and studies undertaken for the provincial EA are shared among the departments in charge of conducting, when required, a federal EA.
14. There is a wide range of costs associated with EAs for a specific type of streamlined approach. For example, to undertake a Schedule B in water management (ISD), the EA costs the City between \$25,000 and \$680,000. Alternatively, a study for stormwater management undertaken following a Schedule B cost more than other projects realized under a Schedule C. Many variables, such as the number of alternative solutions considered, the size of the area and the number of studies needed to give an appropriate overview of the existing conditions, can influence the cost of an EA. It is not unusual to observe some variability in the cost of an EA. Based on the projects we reviewed, we found that the costs to perform an EA were reasonable relative to the effort required to conduct the EA.

15. The Transportation Planning Branch within PGMD prepares a Statement of Work before undertaking an EA, which gives an overview of the project and its context, the study area, the project scope, and tasks and deliverables. The Statement of Work is presented to the Transportation Committee, one of the City's Standing Committees, for approval before starting the project. This approach is currently specific to PGMD and not followed by other departments, such as ISD. Preparing and presenting a Statement of Work to City Council, through a Standing Committee (e.g., Transportation Committee or Environment Committee) could be a good practice that would provide City Council with an opportunity to review the expected content of an EA.
16. Comments and questions related to a project are brought to the City's attention through several mechanisms (e.g., during a public open house; by email to the project manager after a public open house; through a Councillor; etc.). These comments have to be centralized, analyzed and discussed by the City and the consultant to determine how to take them into account in the project. However, there is no official tracking tool for the project manager to ensure this list includes all the comments received during the EA through the different mechanisms.

Recommendations and Management Responses

Recommendation 1

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.

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.

Recommendation 2

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

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.

Recommendation 3

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.

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 on-line surveys and feedback. Current consultation methods address the need for efficient and effective mechanisms for consulting with stakeholders.

Recommendation 4

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.

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.

Recommendation 5

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.

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.

Potential Savings

The City exceeds the minimum consultation of the general public and some agencies and public groups, required by legislation. While the consultation process is one of the most important parts of the EA, according to the MCEA guidelines and managers interviewed during this audit, there is often one public open house that is less attended than the other events in the series of consultations held for a project. Based on the detailed costs of some EAs for the preparation of material by the consultants and their attendance at the event, not holding that less attended public open house could represent on average savings of \$25,000 for the City.

Having observed that the City had held more public open houses than required by the MCEA for several projects reviewed as part of this audit, and considering the number of EAs performed each year, the City could realize significant savings by assessing the relevance of holding all these public open houses or by using, when it is appropriate, other consultation mechanisms. In our sample, we found that the City held two open houses in excess of the MCEA requirements. Based on our sample only, not holding these additional public open houses could potentially save approximately \$50,000 annually.

Conclusion

Overall, the City has a clear understanding of the environmental legislated approval process, and the application of the environmental assessment processes is adequate. The City applies the guidelines of different legislated bodies to perform an EA (e.g., MCEA or TPAP) and it seems unnecessary for the City to have its own internal procedure to undertake an EA.

The City's track record in the pre-approved environmental assessment process is that the Minister of the Environment has not requested the upgrading of an EA to a higher Schedule even when Part II Order requests have been made. However, as consultation is one of the keys to success for an EA, the City should have a monitoring mechanism, before publishing the notice of completion, that all the comments and questions received from different sources and points of entry have been taken into consideration in the Environmental Study Report (ESR) or the Project File Report, or have been directly responded to. This is currently the responsibility of the project managers, but without a tracking tool, they cannot assure the City that comments and questions have been considered and answered, prior to issuing the final report.

In recent years many projects, predominantly in the transportation sector, have been required to support the City's development. The City's holistic view of these projects, in terms of space and time, has created synergy between EAs. Where the EA shares a similar portion of a potentially affected area, the City has used information from one EA for another. When appropriate, the public has been consulted on related projects concurrently. In our opinion, the City carries out its environmental assessments efficiently.

Acknowledgement

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

The section that follows is the detailed audit report.

1.1 Detailed Audit Report

1.1.1 Introduction

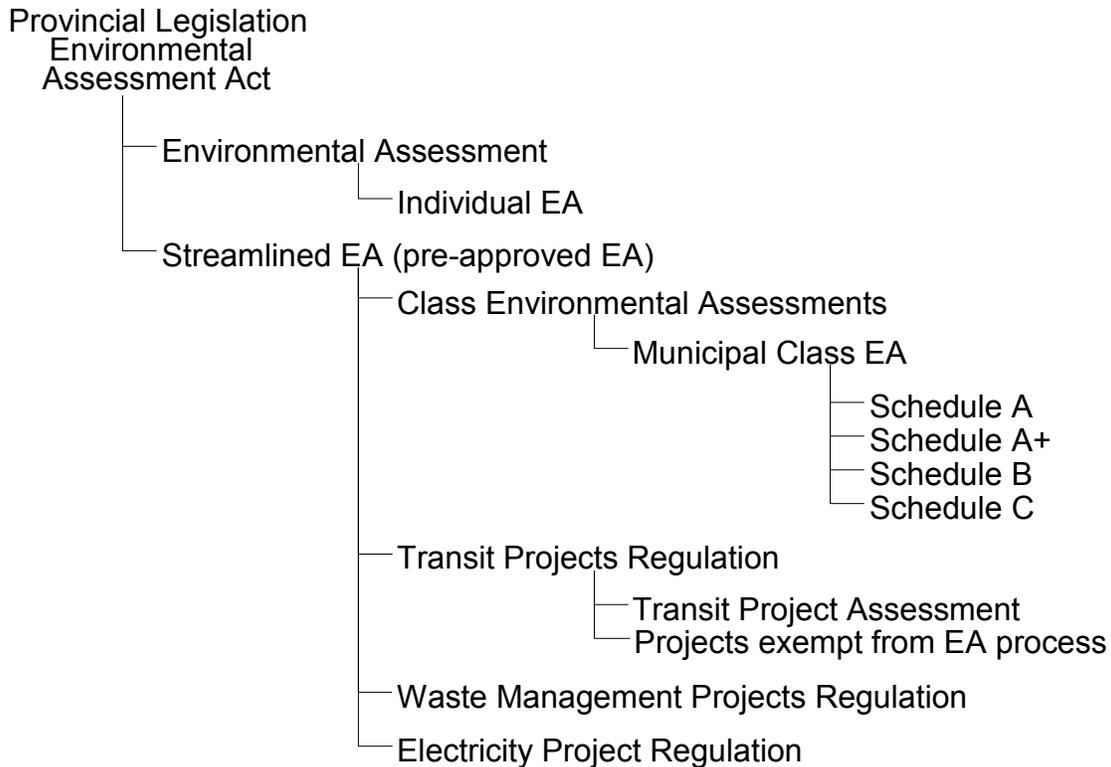
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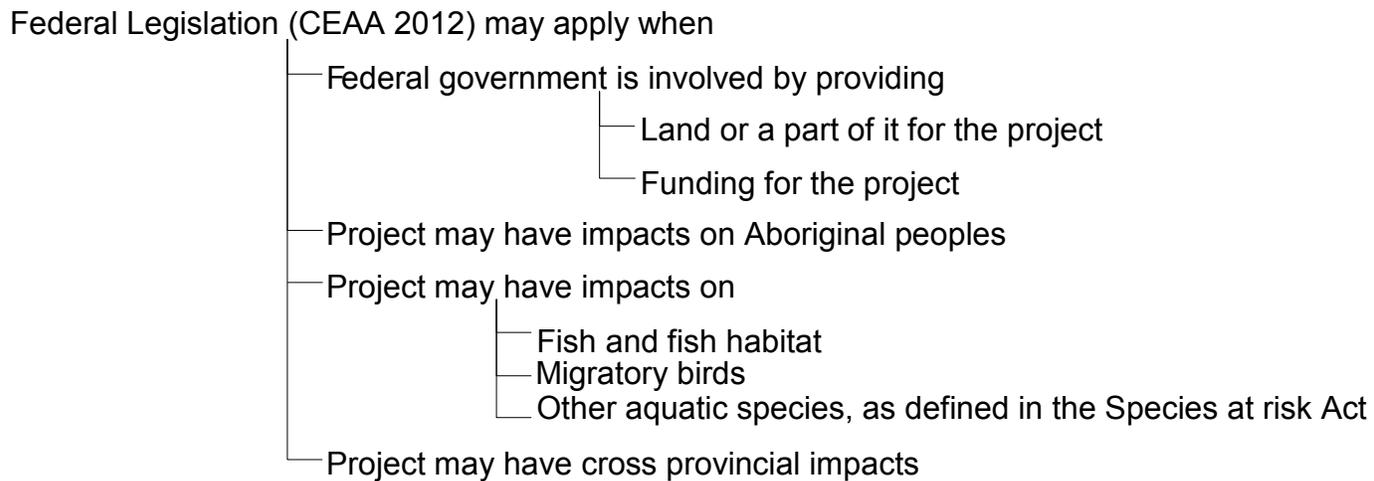
Figure 3: OAG's representation of the structure of an Environmental Assessment under provincial legislation (repeat of Figure 1 in Executive Summary)



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Figure 4: OAG's representation of situations where an EA may be applicable under federal legislation (repeat of Figure 2 in Executive Summary)



The provincial and federal environmental assessment processes cannot be performed at the same time. The provincial EA process needs to be completed before the federal EA can be initiated. To comply with the federal EA process, information concerning the preferred solution to be implemented needs to be specific at the detailed design stage, while the information known at the functional design stage is sufficient to comply with the provincial EA process. As a result, there may be many months between the completion of both EA processes.

1.1.2.1 Pre-approved EA

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It should be noted, however, that the reasons to request a Part II Order must focus on impacts related to a matter of provincial importance or on a constitutionally protected Aboriginal or treaty right or on the EA process itself.

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1.1.2.2 Municipal Class Environmental Assessment

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 - Construction of local roads which are required as condition of approval on a site plan, consent, plan of subdivision or plan of condominium which will come into effect under the Planning Act prior to the construction of the road;

- Cleaning, relining, repairs and renovations to existing sewage collection system; and,
 - Expansion of a buffer zone between a lagoon facility or a land treatment area and an adjacent use where the buffer zone is entirely on the proponent's land.
2. Schedule A+: Projects have a broader scale than in the Schedule A but still with minimal adverse environmental effects. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. The proponent is invited to inform the public about the project. This information session is not a consultation period. The public cannot request a Part II Order for projects following a Schedule A+. The following are examples of projects that can be performed following a Schedule A+ (based on MCEA guidelines):
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 - Reconstruction where the reconstructed road or other linear paved facilities will be for the same purpose, use, capacity, and at the same location as the facility being reconstructed;
 - Increasing pumping station capacity by adding or replacing equipment and appurtenances, where new equipment is located in an existing building or structure and where its existing rated capacity is exceeded; and,
 - Expand, refurbish or upgrade water treatment plant up to existing rated capacity where no land acquisition is required.
3. Schedule B: Projects under Schedule B have limited potential adverse environmental effects. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. Proponents are required to undertake a screening process, involving mandatory consultation with affected public and relevant government agencies to ensure that they are aware of the project and that their concerns are addressed. There is a requirement for the Project File Report to be publicly available for a 30-day period at the end of the process. If a concern is raised during this period (i.e., a request for a Part II Order), the Minister of the Environment may decide to request a new EA following either a Schedule C or an Individual EA process. The following are examples of projects that can be performed following a Schedule B (based on MCEA guidelines)³:
- Construction of new roads or other linear paved facilities, if the total costs of the project are under \$2.3 million;

³ The cost limits presented in these examples are those that were in effect for 2012. Each year, the Municipal Engineer Association publishes updated cost limits.

- Installation, construction or reconstruction of traffic control devices, if the total costs are under \$9.2 million;
 - Construction of new interchanges between any two roadways, including a grade separation and ramps to connect the two roadways, if the total costs are under \$9.2 million;
 - Establishment of new stormwater retention or detection ponds and appurtenances or infiltration systems including outfall to the receiving water body; and,
 - Expansion of the buffer zone between a lagoon facility or land treatment area and adjacent uses, where the buffer zone extends onto lands not owned by the proponent.
4. Schedule C: Projects with potential significant environmental effects must proceed under full planning and documentation procedures. These projects are pre-approved under the MCEA and may proceed with implementation without following the full Municipal Class EA process. This is the most exhaustive streamlined EA process. All relevant information must be compiled into a clear and understood Environmental Study Report that will be made publicly available for a 30-day period at the end of the process. Similar to Schedule B, a Part II Order might be requested during this period. The following are examples of projects that can be performed following a Schedule C (based on MCEA guidelines)⁴:
- Reconstruction or widening where the reconstructed road or other linear paved facilities will not be for the same purpose, use, capacity, and at the same location as the facility being reconstructed, if the total costs are over \$2.3 million;
 - Construction of new interchanges between any two roadways, including a grade separation and ramps to connect the two roadways, if the total costs are over \$9.2 million;
 - Construction of a new sewage system treatment plant or expansion of existing sewage treatment plant beyond existing rated capacity, including outfall to the receiving water body;
 - Construction of a diversion channel or sewer for the purpose of diverting flows from one waterway to another; and,
 - Construction of a new water treatment plant or expansion of existing water treatment plant beyond existing rated capacity.

⁴ The cost limits presented in these examples are those that were in effect for 2012. Each year, the Municipal Engineer Association publishes updated cost limits.

The MCEA guidelines states that while examples of projects are provided under each of the four Schedules, these examples do not represent an exhaustive list, and as such, the approach selected is the responsibility of the proponent. The rationale for the selection must be documented.

1.1.2.3 Transit Project Assessment Process

Environmental assessments for public transit projects in Ontario are performed in compliance with the Ontario Regulation 231/08 Transit Projects and Metrolinx Undertaking project. Schedule 1 of this regulation lists the types of transit projects for which a municipality may follow the Transit Project Assessment Process (TPAP) instead of an Individual EA or a Class EA. For all other public transit projects not listed in Schedule 1, a municipality is unconditionally exempt from undertaking an Individual EA, a Class EA or TPAP.

1.1.2.4 Individual Environmental Assessment

In comparison with a pre-approved EA process, projects requiring a comprehensive environmental assessment (i.e., an Individual Environmental Assessment) must follow a seven-step process. This includes approval by the Minister of the Environment of the terms of reference submitted by the proponent, the preparation of an environmental assessment for which the proponent has to undertake consultations with interested parties such as government experts, Aboriginal communities and the general public, a review of the EA by the Minister, a public inspection of the Minister's review and finally, the approval of the project by the Minister.

Since the new TPAP approach was created for transit projects in 2009, few municipal projects need to follow an individual environmental assessment. The majority of projects can follow a streamlined approach.

1.1.2.5 Streamlined projects realized by the City

The Planning and Growth Management department (PGMD) and the Infrastructure Services department (ISD) are the two departments that conduct the majority of the City's EAs. For PGMD, these projects are under the responsibility of the Transportation Planning Branch. Table 1 lists the active projects between 2010 and 2012 undertaken by these two departments. This list includes only EAs performed following TPAP, Schedule B or Schedule C. As noted previously, projects for which an EA follows either a Schedule A or A+ are related to normal operational activities or maintenance activities. Therefore, this audit focuses on EAs that were performed following a TPAP, Schedule B or Schedule C approach.

Table 1: Projects requiring an EA between 2010 and 2012

Project	Streamlined EA Approach	Department Responsible
Kanata North Transitway – Highway 417 to Carp Road	TPAP	PGMD
Country Club Village EA	Schedule C	PGMD
West Transitway Connection – Terry Fox to Fernbank	TPAP	PGMD
West Transitway Planning Study – Pinecrest to Southwest Transitway	TPAP	PGMD
Western Corridor LRT – Bayview Station to Baseline Station	TPAP	PGMD
Baseline Transit– Bayshore Station to Prince of Wales	TPAP	PGMD
Kanata South – Eagleson to Highway 416	Schedule C	PGMD
Barrhaven - Riverside South Rapid Transit – Greenbank to Leitrim	TPAP	PGMD
Prince of Wales Drive Widening – Woodroffe to Fisher	Schedule C	PGMD
Bank Street Widening – Leitrim to Rideau	Schedule C	PGMD
Hospital Link and Cumberland Transitway Westerly – Southeast Transitway to Navan Road	TPAP	PGMD
Ottawa Road 174/ County Road 17 – 417 Split to Clarence Rockland	Schedule C	PGMD
Rideau Canal (Fifth-Clegg) MUP Bridge	Schedule C	PGMD
Rideau River MUP Bridge (between Donald Street and Somerset Street East)	Schedule C	PGMD
Hickory Street Multi-Use Bridge (over the O-Train at Hickory Street)	Schedule B	PGMD
Main Street Renewal	Schedule C	ISD
Orleans/Beausejour – 300mm High Level Storm Sewer	Schedule B	ISD
Trim Road Realignment (Ottawa Road 174 to Innes Road)	Schedule C (addendum only)	ISD
St. Joseph Blvd. Street scaping	Schedule B	ISD

Project	Streamlined EA Approach	Department Responsible
McEwen Creek Stormwater Management Facility	Schedule B (addendum only)	ISD
SW Transitway Extension Stage 2B, between Strandherd Drive and Jockvale Road (Sewer outlet through Minto Lands)	Schedule B	ISD
Federal Class EA for Pinecrest Creek Storm Water Outlet	Schedule B	ISD
Churchill Avenue Reconstruction	Schedule B	ISD
Foster Stormwater Management Facility	Schedule C	ISD
West End Flood Mitigation – Richey Place Berm	Schedule B	ISD
Glen Cairn flood investigation	Schedule B	ISD
Combined sewage storage	Schedule C	ISD
Ottawa River sewer outfalls	Schedule B	ISD
Highway 417 WM Relocation	Schedule B	ISD

1.1.3 Audit Scope Objectives and Criteria

The objectives of the audit were to:

1. Determine whether the City has a clear understanding of the regulatory requirements for environmental assessments; and,
2. Assess whether the environmental assessment processes to oversee the realization of environmental assessments are effective and efficient.

In order to achieve these two objectives, some of the projects for which the City performed an EA between 2010 and 2012 were reviewed in determining the scope of the audit. The audit reviewed the approach followed by ISD and PGMD to assess environmental effects of the projects under their responsibility. The categorization of projects under a specific pre-approved environmental assessment process was analyzed as well as the management practices used to oversee the conduct of environmental assessments.

It is important to note that the duration and cost of performing an EA are project specific. As such, the objective of this audit was not to determine maximum acceptable values for these parameters. However, both cost and duration of EAs were considered as indicators to identify whether or not the EA process for a project could have followed a different path, or if logical and justified rationales could be provided to clarify differences between EAs regarding these two parameters.

1.1.3.1 Audit Objective 1 and Criteria:

Objective:

Determine whether the City has a clear understanding of the regulatory requirements with respect to environmental assessments.

Criteria:

Determine if the City has appropriate management practices and processes in place to ensure compliance with applicable laws, legislation, regulations, and internal policies and procedures with respect to environmental assessments.

1.1.3.2 Audit Objective 2 and Criteria:

Objective:

Assess whether the City's processes to oversee the realization of environmental assessments are effective and efficient

Criteria:

- Determine whether the level of application of the environmental assessment processes is adequately applied amongst projects;
- Determine whether the City is going above the regulatory requirements with respect to environmental assessments;
- Determine if there exists any overlap of duties with other legislated bodies;
- Determine if the total costs to perform an environmental assessment are representative of the effort to perform the study and identify any potential savings; and,
- Determine whether the governance structure is appropriate to oversee the management of the environmental legislated approval process.

1.1.4 Approach

We selected five projects conducted by ISD and PGMD. The Environmental Study Report and Project File Report, including appendices, which are the outputs of the EA, were obtained for each project. Specific communications: between staff involved in the project and the consultant retained to perform the EA; between staff and some internal committees; and, between these committees and City Council were also reviewed. We also reviewed the official EA procedures and guidelines from both the Municipal Engineers Association and the Ministry of the Environment of Ontario. Finally, we interviewed internal staff involved in these projects to obtain additional information on specific elements related to their projects.

Table 2 lists the original five sample projects selected. Our sample selection was based on two criteria: 1) having at least a project under the responsibility of each department; and, 2) having at least a project under each of the streamlined EA approach (i.e., Schedule B, Schedule C and TPAP).

We subsequently added two additional projects to our sample although the EAs were performed prior to 2010 (these are not listed in Table 1). One project was added in order to review an individual environmental assessment which had not been covered in the original sample. The other project was added following concerns over project delays in the summer of 2013 after discovering a bird’s nest, of a species considered at risk, under a bridge scheduled to be demolished.

Table 2: Projects reviewed as part of this audit

Project	Streamlined EA approach	Department Responsible	Federal EA undertaken
Prince of Wales Drive Widening – Woodroffe to Fisher	Schedule C	PGMD	Yes
Hospital Link and Cumberland Transitway Westerly – Southeast Transitway to Navan Road	TPAP	PGMD	Yes
SW Transitway Extension Stage 2B, between Strandherd Drive and Jockvale Road (Sewer outlet through Minto Lands)	Schedule B	ISD	No
Foster Stormwater Management Facility	Schedule C	ISD	No
Glen Cairn flood investigation	Schedule B	ISD	No
Jockvale Road widening	Schedule C	PGMD	Yes
SW Transitway Extension: From Strandherd Drive to Cambrian Road	Individual EA ⁵	PGMD	Yes

⁵ At the time the EA of this project started, the TPAP approach did not exist and the City had to follow a complete EA approach (Individual EA).

1.1.5 Detailed Findings, Observations and Recommendations

1.1.5.1 Objective 1, Criteria 1:

Objective: Determine whether the City has a clear understanding of the regulatory requirements with respect to environmental assessments.

Criteria: Determine if the City has appropriate management practices and processes in place to ensure compliance with applicable laws, legislation, regulations and internal policies and procedures with respect to environmental assessments

1.1.5.1.1 *Provincial compliance*

The City of Ottawa need to have a good understanding of the regulations it must comply with at the provincial level in order to submit EAs that fulfil regulatory requirements. If the proponent (i.e., the City), does less than what is required, the project may face a Part II Order request during the 30-day notification period at the end of the EA process. If such a request is accepted by the Minister of the Environment, the proponent is required to perform additional work which may lead to additional costs and some delays in the project. Conversely, if the proponent adopts a conservative approach and exceeds the requirements of the EA, the proponent will minimize the risk of having a Part II Order request approved by the Minister of the Environment, but the costs and duration of the EA will probably be greater than necessary.

The guidelines used by the City to determine the type of EA that should be undertaken for a project include both the MCEA and the Ontario's Transit Project Assessment Process guidelines. Based on our interviews with City personnel and the projects reviewed, we believe that the City has a clear understanding of the requirements and the criteria that must be fulfilled to decide which process should be followed (A, A+, B and C). The knowledge the City has about the Municipal Class EA is also supported by the participation of the City to continuous improvement of the methodology. For example, in 2011, the City and other municipalities have contributed to a consultation⁶ for the Municipal Engineers Association regarding some amendments to this streamlined approach, allowing the municipalities to be more efficient in the way they do environmental assessment.

Although a project is expected to have limited potential adverse environmental effects, its total cost may prompt the City to perform a Schedule C environmental assessment. In 2007, the Municipal Engineers Association established the limit for projects to qualify as Schedule B for the "*reconstruction or widening where the reconstruction of the road or other linear paved facilities (e.g. high-occupancy vehicle lanes) will not be for the same purpose, use, capacity or at the same location as the facility being reconstructed (e.g. additional lanes, continuous turn*

⁶ Delcan Corporation (2011). Municipal Engineers Association- 2010 Amendments to Municipal Class Environmental Assessment (2007) / Consultation Report.

lane)⁷ at \$2.3 million. This cost limit is reviewed periodically by the Association. For one of the projects reviewed as part of this audit, one of the reasons given by the project manager for undertaking a streamlined approach under Schedule C was that the total costs exceeded the established limit for that type of project.

For transit projects, the City clearly understands that the TPAP approach is only applicable for dedicated facilities or services that are used exclusively for transit. If a project is a combination of transit and a public road, it is required to follow an Individual EA or possibly a MCEA. The TPAP approach is a relatively recent option for public organizations which has been in effect since 2009. For one of the projects reviewed, because it started before 2009, the City followed an Individual EA even if it was a transit project.

On occasion, a planned project does not fit perfectly into the guidelines proposed by either the MCEA or TPAP. In one specific case, to avoid following an inappropriate Schedule and running the risk that the EA be rejected during the 30-day notification period (Part II Order), the City proactively consulted the Ministry of the Environment to determine whether it should follow a Schedule B or a Schedule C approach. Although EAs performed under the streamlined process are approved by the City, the City's approach, which is strongly recommended by MCEA for complex projects, was prudent. For example, in a section concerning municipal sewage, stormwater management and water systems, the MCEA guidelines states that "*technical consultation with the Ministry of the Environment is recommended for all complex projects involving construction of water supply and treatment, and sewage treatment and disposal systems*".

Projects related to regular activities, maintenance or emergency operational activities can be performed following either a Schedule A or A+. The City is required to publish a notice to inform the public about the work to be done (see section 1.1.2.2. for examples of projects pre-approved under Schedule A or A+). Management has informed us that the City has always been able to complete projects planned under a Schedule A or A+ as no unexpected environmental impacts have necessitated an EA under a Schedule B or C. Management also informed us that the City has not been required to perform a new EA following a Schedule B or C for a project that was first identified as fulfilling the criteria for a Schedule A or A+ if no modification occurred to the project.

Based on how the City is using the guidelines proposed by both MCEA and TPAP, we found that the City has appropriate management practices and processes in place to minimize the risk of having an unclear understanding of the regulatory requirements with respect to environmental assessments.

1.1.5.1.2 Federal compliance

At the beginning of the provincial EA process, the City is able to identify whether or not discussions with federal agencies are needed to determine if an approval under the Canadian Environmental Assessment Act (CEAA) will be necessary and this is

⁷ Municipal Class EA Guidelines, Appendix 1- Project Schedules

communicated to the consultant tasked with preparing the EA. Three projects reviewed as part of this audit, required federal involvement as the project area was either on National Capital Commission lands or the infrastructure to be built crossed a river. For each of these projects, federal agencies were already involved in the provincial EA process. Furthermore, the Environmental Study Reports for all three projects indicated that after completing the provincial EA, the City would have to undertake a federal screening approach. For one of these projects, one of the recommendations of the Transportation Committee to City Council was to “*direct staff to work with the National Capital Commission to fulfill the requirements of the Canadian Environment Assessment Act in accordance with the principles of the Environmental Study Report*”.

In one specific case, the City had performed two EAs, one for a road project and one for a transit project within the same area. The project was subject to federal approval (screening approach) as it involved a new bridge over a river. Only one federal screening report was necessary for both projects (the one for the road project) as the approval under CEAA could also apply for the transit project.

Based on how the City involves federal agencies into provincial EAs, the City has a clear understanding of the requirements that need to be followed under the federal legislation.

1.1.5.2 Audit Objective 2, Criteria 1:

Objective: Assess whether the City’s processes to oversee the realization of environmental assessments are effective and efficient.

Criteria 1: Determine whether the level of application of the environmental assessment processes is adequately applied amongst projects.

As noted in section 1.1.5.1, the City has a clear understanding of the requirements for an EA. This understanding is accompanied by an appropriate application of the requirements amongst the projects. As explained in section 1.1.6.1, the costs for the City to undertake an EA can range from a few thousand dollars to more than a million dollars. The differences in the scope of these EAs and the amount of work to be performed explain this significant cost disparity.

In addition to an appropriate application of the EA processes, the City has a holistic view of the different projects for which an EA is either completed, ongoing or to be conducted. In numerous cases, the City has been able to benefit from the information gathered from one EA to perform another one. In four of the projects reviewed, the City was able to either take into consideration recommendations associated with EAs performed previously in the same area, use information and data from studies realized before the EA (e.g., in a preliminary study), or benefit from the federal approval of another project realized at almost the same time and with similar infrastructure.

In addition to this holistic view of what has been done in the past, the City can schedule projects strategically to expedite their completion in a specific order. Due to physical proximity and similar study areas, the two project EAs were carried out

concurrently following an Individual EA (transit project assessed before 2009) and a MCEA (road project). Even if two EAs were performed, a single Statement of Work has been presented to the Transportation Committee. Only one version of specific detailed reports, such as the Environmental Site Assessment report; the noise, vibration and air quality reports; the archaeological report; the geotechnical report; and, the natural environment report were prepared and used in both EAs. The City has also held public open houses for these two EAs at the same time. A total of four public consultations have been held by the City. However, if these two EAs had been performed separately, six to eight public open houses would have been necessary. According to PGMD, the contribution of one EA to another has enabled the City to realize savings on public open houses, as noted previously, but also to retain only one consultant for the two EAs, and to present only one series of recommendations to the Transportation Committee for City Council approval.

In the summer of 2013, the demolition of a bridge was postponed because numerous nests of barn swallows, a threatened species in Ontario, were found under the structure. Many questions were raised regarding the postponement of the project for an environmental purpose. Ontario's Ministry of Natural Resources added the barn swallow to the list of species at risk in 2012, a year before demolition of the bridge was to take place. The EA was completed and approved by City Council in 2008. Therefore, there was no reason for the EA, at the time it was conducted, to take into consideration that specific bird species.

We concluded that the level of application of the EA process has been adequate amongst the projects. The planning of the projects have given the City the opportunity to use efficiently the information generated by an EA and may generate savings by combining different works or activities necessary to more than one EA.

Recommendation and Management Response

Recommendation 1

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.

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.

1.1.5.3 Audit Objective 2, Criteria 2:

Determine whether the City is going above the regulatory requirements with respect to environmental assessments.

MCEA and TPAP are guidelines for a public organization presenting the minimum elements that are required to perform an EA. For example, the MCEA guidelines identify [in the consultation section] *“the timing and type of mandatory notification requirements. These are a minimum only. Proponents must tailor the consultation program to address the needs of a specific project and its stakeholders”*.

Consultation with the general public, referred herein as a *point of contact* as it is referred to in the MCEA guidelines, can be carried out according to several methods, including notification, information made available to the public at City Hall and public open house. Table 3 presents the number of points of contact between the City and the public based on the type of MCEA. These values are taken from the MCEA guidelines which distinguish between mandatory points of contact and other points of contact (discretionary) that may occur from time to time during the four phases of the streamlined EA process. Some mandatory points of contact are specific. For example, in Schedule B and C, the last mandatory point of contact must be a notice of completion. The other mandatory points of contact can be made following different mechanisms, including a public open house. There is no equivalent for an EA under the TPAP streamlined approach; consultation is required but there is no minimum. The MCEA guidelines only require the City to make some contact with the public, as well as with governmental agencies at specific stages of the EA process.



Table 3: MCEA requirements regarding the quantity of points of contact for each type of streamlined EA

EA Schedule	Type of Point of contact (POC)	Phase 1 Problem and opportunity	Phase 2 Alternative solution	Phase 3 Alternative design concepts for preferred solution	Phase 4 Environmental Study Report	Total
A	Mandatory POC	0	n/a	n/a	n/a	0
A	Discretionary POC	1	n/a	n/a	n/a	1
A+	Mandatory POC	1	n/a	n/a	n/a	1
A+	Discretionary POC	1	n/a	n/a	n/a	1
B	Mandatory POC	0	1 during phase 2; 1 at the end (Notice of completion)	n/a	n/a	2
B	Discretionary POC	1	0	n/a	n/a	1
C	Mandatory POC	0	1 during phase 2	1 during phase 3	1 at the end (Notice of completion)	3
C	Discretionary POC	1	0	1 between phase 3 and phase 4	n/a	2

Table 4 presents the different types of points of contact with the City in the considered projects undertaken under the MCEA (there is no minimum number of consultations required for TPAP approach). For each project listed, the City has published in local newspapers a notice of commencement and a notice of completion. The latter is the starting point for the 30-day period of notification at the end of the EA. The notice of commencement is not one of the mandatory points of contact listed in the MCEA guidelines while the notice of completion is mandatory. For the test performed in this audit, only the notice of completion and the public open houses have been considered in the calculation of the number of mandatory points of contact with the City. Half of the projects listed in Table 4 demonstrate that the City has made more points of contact than the minimum required. In addition to these points of contact, for each project, the City held meetings with agency groups and public advisory committees on a regular basis, created a website as well as a mailing list to keep interested parties informed of the project.

Table 4: Points of contact during an EA process under MCEA by the City

Project	First Public Open House (POH) ⁸	Second POH	Third POH	POC Minimum required based on Schedule	POC Held (POH + notice of completion)	Extra POC held compared to the minimum required
Glen Cairn Flood Investigation (Schedule B)	139 attendees and 14 comments	82 attendees and 2 comments	n/a	2	3	1
Foster Stormwater Management Facility (Schedule C)	20 attendees and no comments	6 attendees and no comments	n/a	3	3	0
Prince of Wales Drive Widening (Schedule C)	73 attendees and 36 comments	54 attendees and 24 comments	197 attendees and 27 comments	3	4	1
SW Transitway Extension Stage 2B, between Strandherd Drive and Jockvale Road (Sewer outlet through Minto Lands) (Schedule B)	unknown ⁹	n/a	n/a	2	2	0

⁸ The public open house is one type of *points of contact* considered in the MCEA guidelines.

⁹ The number of attendees for this public open house was not mentioned in the environmental study report.

Based on the number of points of contact made for each project and the additional consultations, it appears that the City is doing more than the minimum required by the MCEA guidelines. Management has indicated that the consultation, and more specifically the public consultation, is one of the key elements for the success of an EA. They also indicated that in the case of a Part II Order, the Minister of the Environment would take into consideration the number of consultations with the public that the City carried out. The project managers determine the number of public open houses the City should hold for a specific EA by considering the complexity, the profile of the project, whether it is controversial, whether citizens are impacted by the current situation or if they have concerns with either the current or future situation. However, there are no internal guidelines or tools to assist the project manager in this evaluation prior to starting the EA. In cases where the EA process is expected to be lengthy, the City may choose to do additional consultations to keep the public informed about the project.

In the majority of projects reviewed as part of this audit, our analysis of the number of attendees at each public open house and the number of comments received after these meetings, demonstrates a pattern of decreased attendance at the second event. The general public is very interested in the process undertaken by the City at the first public open house. This interest declines at the second event and seems to be renewed if the City holds a third open house. For one project completed in 2006, for which the City held a total of four public open houses (this EA was under an Individual EA approach), a similar pattern was observed for the number of attendees at the second event. The first public open house had 66 attendees and received 20 comments; the second was of interest to only 44 attendees and received three comments only. The last two events had 76 and 196 attendees and generated 17 and 22 comments respectively. PGMD have indicated that during recent years, they have reduced the number of public open houses from four to three by grouping together subjects covered in the first and second events.

A public open house is one type of consultation the City has to receive comments from the public. MCEA states that “there are a number of ways in which the public may be involved in the project. It is the proponent’s responsibility to determine the most suitable and effective means of involving the public”. Having observed, when several public open houses were held for a project, that one event was often less attended than the others, the City should consider combining several public open houses or replacing a public open house with another information mechanism (e.g., a combination of information available on the City’s website plus providing an email address and phone number to leave a comment or to ask a question about the project) to involve the public and receive comments on specific parts of the EA.

In one specific case, the City combined the public open houses of two EAs that were related (i.e., transit project and road project). The City held only four consultation events, saving between \$50,000 and \$100,000. Considering that six to eight public open houses would have been required if held separately for the two EAs, this is a good initiative by the City.

The City holds more public consultations than the minimum required by the Municipal Engineers Association. We found that in half of the projects where we compared the number of points of contact made by the City (public open houses and notice of completion) to the MCEA guidelines, the City exceeded the minimum number required.

Recommendations and Management Responses

Recommendation 2

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

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.

Recommendation 3

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.

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.

1.1.5.4 Audit Objective 2, Criteria 3:

Determine if there exists any overlap of duties with other legislated bodies.

Environmental assessments are required by both provincial and federal legislated bodies for specific projects. These EAs must be performed in sequence as the provincial study has to be carried out while the project is still at the functional design stage, while the federal study requires the project to be developed at the detailed design stage. In this context, the City must be efficient in the way EAs are planned and managed in order to avoid any overlaps in the work that is performed by the City or the consultants.

At the provincial level, the EAs are conducted either by PGMD or ISD (Asset Management branch). When the project is at the detailed design stage, it is under the responsibility of ISD (Design and Construction branches). The City has developed control mechanisms to ensure information concerning the project and the studies completed for the provincial EA are shared among the departments concerned. For all the projects reviewed as part of this audit for which a federal EA was required, ISD involvement in the federal EA was, during the provincial EA, part of the agency consultation group as well as the federal bodies involved in the EA, such as the National Capital Commission and the Department of Fisheries and Oceans. Having participated in several meetings with the agency consultation group during the provincial EA, ISD was already familiar with the project when it was transferred from the team responsible for the provincial EA to them.

Before starting work on the federal EA, the City held a transition meeting with the teams involved in the provincial and the federal EAs. The objective of this meeting was to ensure that the team working on the federal EA had a complete overview of the work performed by the provincial EA team and the available information (e.g., studies and data). At this stage, changes in policies and required updates to the studies were identified, when necessary.

Based on these controls mechanisms and the participation of the federal EA team in the provincial EA, we conclude that the risk of duty overlap due to the requirements of the provincial and federal legislated bodies is minimized by the City.

1.1.5.5 Audit Objective 2, Criteria 4:

Determine if the total costs to perform an environmental assessment are representative of the effort to perform the study and identify any potential savings.

As projects differ, each EA is specific with respect to its scope and costs. It is difficult to determine how much a Schedule B or a Schedule C Environmental Assessment should cost. However, the City should be able to explain the cost of each EA undertaken as the cost should relate to the work required.

Table 5 lists the costs for several EA projects undertaken by the City. It is important to note that these costs are for the total EA process which involves the functional design by the engineering team and analysis of possible alternatives for the project. There is a wide range of costs associated with EAs for a specific type of streamlined approach. For example, to undertake a Schedule B in water management (ISD), EAs had cost the City between \$25,000 and \$680,000. Alternatively, a study for stormwater management undertaken following a Schedule B had cost more than other projects realized under a Schedule C.

Many variables, such as the number of alternative solutions considered, the size of the area and the number of studies needed to give an appropriate overview of the existing conditions, can influence the cost of an EA. It is not unusual to observe some variability in the cost of an EA. For example, the *Orleans/Beausejour 300mm High Level Storm Sewer* EA and the *Ottawa River sewer outfalls* EAs were both conducted under a Schedule B by ISD, even if the second EA had cost more than 20 times the value of the first one. The first EA considered only one specific stormwater outfall while the second EA was for the preparation of a master plan to identify the most effective rehabilitation program for 29 outfalls.

Based on the definition of the projects we analysed and their streamlined EA approaches, we found that the costs to perform an EA are reasonable relative to the effort required to conduct the EA.

Table 5: Cost for different EAs undertaken by the City and different departments

Project	Streamlined EA approach/Department	Type of project	Value EA ¹⁰
Prince of Wales Drive Widening – Woodroffe to Fisher	Schedule C/PGMD	Transport project	\$1,200,000
Southwest Transitway Extension: From Strandherd Drive to Cambrian Road	Individual/PGMD	Transit project	\$960,000
St. Joseph Blvd. Street scaping	Schedule B/ISD	Street infrastructures	\$20,000
Main Street Renewal	Schedule C/ISD	Street infrastructures	\$143,245
Highway 417 water main relocation	Schedule B/ISD	Water infrastructures	\$209,128
Orleans/Beausejour – 300mm High Level Storm Sewer	Schedule B/ISD	Sewer infrastructures	\$29,330
SW Transitway Extension Stage 2B, between Strandherd Drive and Jockvale Road (Sewer outlet through Minto Lands)	Schedule B/ISD	Sewer infrastructures	\$25,245
Ottawa River sewer outfalls	Schedule B/ISD	Sewer infrastructures	\$680,911
Combined sewage storage	Schedule C/ISD	Sewer infrastructures	\$745,126
West End Flood Mitigation – Richey Place Berm	Schedule B/ISD- part of a larger design assignment	Stormwater management	\$8,000*
Glen Cairn flood investigation	Schedule B/ISD	Stormwater management	\$851,500
Foster Stormwater Management Facility	Schedule C/ISD	Stormwater management	\$675,000*

* Approximate cost

¹⁰ These costs are for the total EA process which involves the functional design and analysis of possible alternatives for the project.

1.1.5.6 Audit Objective 2, Criteria 5:

Determine whether the governance structure is appropriate to oversee the Management of the Environmental Legislated Approval Process

Roles and responsibilities of the City

1. **Definition of the needs for an EA:** Environmental assessment studies are generally performed by external consultants. This is common practice. Because of the number of active projects running simultaneously, the City resources are not sufficient to conduct their own EA. Management advised us that their teams have the knowledge and expertise necessary to perform an EA, however they do not have the time to carry out all the EAs needed to support the development of the City. In such circumstances, it is important to ensure that the City has control over the EA process as they are ultimately, responsible for the decision to go ahead with the project. Therefore, the City must exert its control over the content of the EA and the scope of the work to be accomplished before submitting either the Environmental Study Report or the Project File Report to City Council for approval. The Terms of Reference used by the City in a Request for Proposal contains many details and requirements that the consultant must follow. The streamlined EA approach is specified before selecting the consultant and identifying the different alternative solutions to take into consideration. Detailed studies (e.g., air quality, noise and vibration, geotechnical and environmental site assessment, and aquatic habitat) needed to give an overview of the current situation are also identified. The Terms of Reference also lists potential members for the public consultation group as well as for the agency consultation group.
2. **Project oversight by the City:** As previously noted, the City uses guidelines developed by the Ministry of the Environment in Ontario (TPAP) and the Municipal Engineers Association (MCEA guidelines) to determine whether an EA should be undertaken and what it should include.

In addition to these guidelines, the Transportation Planning Branch within PGMD prepares a Statement of Work before undertaking an EA. Many parts of the Statement of Work are similar to the content of the Terms of Reference included in the Request for Proposal that is published to retain the services of an external consultant. This Statement of Work gives an overview of the project and its context, the study area, the project scope, and the tasks and deliverables. The Statement of Work is presented to the Transportation Committee, one of the City's Standing Committees, for approval before starting the project. The Committee may modify or change parts of the Statement of Work before approval.

By completing a Statement of Work and presenting it to a Standing Committee of Council prior to starting the project, the City appears to exceed regulatory requirements. Conversely, this process of tabling the Statement of Work at a Standing Committee of Council ensures that Councillors are informed of the purpose of the project and the level of work the department will undertake to analyse any possible negative environmental effects of the project.

Presenting the Statement of Work to a Standing Committee is currently specific to PGMD (i.e., Transportation Planning Branch) and not followed by other departments, such as ISD. We consider that preparing and presenting a Statement of Work to a Standing Committee of Council could be a good practice and would give City Council the opportunity to review the expected content of an EA

3. **Environmental assessment oversight:** During the EA process, the City's project manager meets the consultant team on a regular basis to discuss both technical and management issues associated with the EA. The consultant has to submit and justify any changes in the scope of the projects and it is the responsibility of the manager to approve or refuse those changes since they often have a direct impact on the cost of the EA. For the projects reviewed as part of this audit, we observed several situations where decisions having a significant impact on the rest of the EA have been taken by the City. In one case, the final amount of consultation with different groups was twice that initially planned. The consultant had considered during the project that additional consultations would benefit the project. The recommendation was submitted and approved by the City's project manager. In another case, the City's project manager approved the addition of a sanitary pumping station to the preferred solution while it was not initially planned. Finally, in another case, the City decided to separate the project into two EAs as the initial project was for two distinct areas and the project progressed faster in one area than in the other. The City wanted to carry on with the project for one area without being slowed by the constraints of the other area. Finally the City's project manager made the decision to separate the projects, and therefore the EA. Based on the information reviewed, the City ensures appropriate oversight of the projects.
4. **Public comments monitoring:** As noted in section 1.1.5.3, many groups (e.g., agencies, public groups, and the general public) are consulted during an EA. For the City, the consultation process is an important element for the acceptance of the project by all stakeholders. It is therefore necessary for the City to ensure that each comment has been taken into consideration before the completion of an EA or that a response has been provided directly to the author of the comment.

Comments and questions related to a project are brought to the City's attention through several mechanisms (e.g., during a public open house; by email to the project manager after a public open house through a Councillor, etc.). These comments have to be centralized, analyzed and discussed by the City and the consultant to determine how to take them into account in the project. The Environmental Study Report submitted by consultants to the City at the end of the EA process generally lists the comments received during the project and how they have been taken into consideration. However, there is no official tracking tool for the project manager to ensure this list includes all the comments received during the EA from the different points of entry.

Recommendations and Management Responses

Recommendation 4

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.

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.

Recommendation 5

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.

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.

1.1.6 Potential Savings

Section 1.1.5.3 demonstrates that the City exceeds the minimum consultation, of the general public and some agencies and public groups, required by legislation. While the consultation process is one of the most important parts of the EA, according to MCEA guidelines and managers interviewed during this audit, there is often one public open house that is less attended than the other events in the series of consultations done for a project. Based on the detailed costs of some EAs for the preparation of material by the consultants and their attendance at the event, not holding the less attended public open house could represent on average savings of \$25,000 for the City.

Having observed that the City held more public open houses than required by the MCEA for several projects reviewed as part of this audit, and considering the number of EAs performed each year, the City could realize significant savings by assessing the relevance of holding all these public open houses or by using, when it is appropriate, other consultation mechanisms. In our sample, we found that the City held two open houses in excess of the MCEA requirements. Based on our sample only, not holding these additional public open houses could potentially save approximately \$50,000 annually.

1.1.7 Conclusion

Overall, the City has a clear understanding of the environmental legislated approval process, and the application of the environmental assessment processes is adequate. The City applies the guidelines of different legislated bodies to perform an EA (e.g., MCEA or TPAP) and it seems unnecessary for the City to have its own internal procedure to undertake an EA.

The City's track record in the pre-approved environmental assessment process is that the Minister of the Environment has not requested the upgrading of an EA to a higher Schedule even when Part II Order requests have been made. However, as consultation is one of the keys to success for an EA, the City should have a monitoring mechanism before publishing the notice of completion that all the comments and questions received from different sources and points of entry have been taken into consideration in the Environmental Study Report (ESR) or the Project File Report, or have been directly responded to. This is currently the responsibility of the project managers, but without a tracking tool, they cannot assure the City that comments and questions have been considered and answered, prior to issuing the final report.

In recent years many projects, predominantly in the transportation sector, have been required to support the City's development. The City's holistic view of these projects, in terms of space and time, has created synergy between EAs. Where the EA shares a similar portion of a potentially affected area, the City has used information from one EA for another. When appropriate, the public has been consulted on related projects concurrently. In our opinion, the City carries out its environmental assessments efficiently.

1.1.8 Acknowledgement

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