

1
TRANSPORTATION IMPROVEMENTS
MARKHAM BYPASS TO MORNINGSIDE AVENUE LINK
ENVIRONMENTAL ASSESSMENT

The Planning and Economic Development Committee recommends the following:

- 1. The presentation by Paul May, Director, Infrastructure Planning, be received; and**
- 2. The recommendations contained in the following report, May 1, 2006, from the Commissioner of Planning and Development Services and the Commissioner of Transportation and Works, be adopted subject to recommendation 2 being amended to read as follows:**

2. The Province of Ontario be requested to:

- (a) declare a Provincial interest in and intervene in this project.**
- (b) take an active role as co-proponent for this undertaking, given their long standing interest in protecting a high-order transportation corridor in this area and given the significant inter-regional implications of this project.**

1. RECOMMENDATIONS

It is recommended that:

- 1. Staff take all necessary steps to protect the corridor for the Markham Bypass to Morningside Avenue Link as determined through the Individual Environmental Assessment (EA) and to oppose any development application that will preclude the implementation of this undertaking.**
- 2. The Province of Ontario be requested to declare a Provincial interest in this project and to take an active role as co-proponent for this undertaking, given their long standing interest in protecting a high-order transportation corridor in this area and given the significant inter-regional implications of this project.**
- 3. The Ministry of the Environment (MOE) be advised that it is the Region's position that the Environmental Assessment has addressed, through avoidance, mitigation and best practices, all potential significant environmental effects, and that an EA Tribunal hearing is not warranted. Further, that the MOE make a final decision on the EA without imposing further significant delay and cost that would result from an EA Tribunal Hearing.**

4. The Region of Durham, Town of Markham and City of Pickering be requested to confirm their support for a continuous alignment for the Markham Bypass to Morningside Avenue Link and support the request that the Province of Ontario take an active role as co-proponent for the undertaking.
5. A copy of this report be sent by the Regional Clerk to the Premier of Ontario, Ministry of the Environment, Ministry of Transportation, Ministry of Municipal Affairs and Housing, Ministry of Public Infrastructure Renewal, the Greater Toronto Airport Authority and the Clerks at the City of Toronto, Town of Markham, Region of Durham and City of Pickering.

2. PURPOSE

The purpose of this report is to update Committee and Council on the status of the EA for the Markham Bypass to Morningside Avenue Link and to present a strategy to address the key substance in the City of Toronto's recent objection to the EA.

3. BACKGROUND

The Individual EA for the Markham Bypass to Morningside Avenue Link was completed and filed for public and agency reviews from December 23, 2005 to February 17, 2006 (8 week review). The EA Project Team are currently working to address all of the comments received during the review period and provide a detailed response to the Ministry of the Environment.

Once all of the issues have been addressed by the Region, the Ministry of the Environment will produce an EA Review and publish their report for a further 5 week public review period. The purpose of the MOE EA Review is to document the MOE staff position on the EA and provide the public an opportunity to comment before the Minister makes a final decision.

A detailed discussion on the background of this project can be found in the October 12, 2005 joint report to Transportation and Works Committee from the Commissioner of Transportation and Works and the Commissioner of Planning and Development Services.

The recommended alignment for the Markham Bypass to Morningside Avenue Link is shown on *Attachment 1*. *Attachment 2* shows the broader context of the Link and the important role it will serve to accommodate inter-regional travel.

4. ANALYSIS AND OPTIONS

4.1 City of Toronto Position

As reported previously, Toronto Council on June 14, 15 and 16, 2005 took a position formally opposing the continuous alignment for the Markham Bypass to Morningside Avenue Link, as developed through the EA.

Toronto Council on December 5, 6 and 7, 2005, re-opened the issue and recommended the following:

- “1. City Council advise York Region that it strongly opposes and formally objects to any north/south road in York Region that will increase traffic congestion in the city of Toronto.
2. Advise York Region that it strongly opposes and formally objects to the extension of Morningside Avenue south of Steeles Avenue East, as developed in the EA.
3. Request York Region to re-evaluate the discontinuous alignment (utilizing existing Ninth Line and jogging across Steeles Avenue approximately 1.5 km) and conduct additional public consultation.
4. Inform York Region that:
 - a. The City intends to keep Steeles Avenue, east of Markham, at its current width of two traffic lanes in keeping with its rural surroundings.
 - b. The City neither intends nor has budgeted any funds to construct the recommended alignment south of Steeles Avenue.”

During the public and agency review of the EA, Toronto staff wrote to the MOE advising the Province of their Council's position (the correspondence dated February 14, 2006 from Toronto staff to MOE is included as *Attachment 3* and also includes the full recommendations from Toronto City Council on June 14, 15 and 16, 2005 and on December 5, 6 and 7, 2005).

In addition to advising the Province of Toronto's formal position, the correspondence sent to the MOE spoke directly to the protection of the road corridor south of Steeles Avenue and Toronto's position on a final decision on the EA by the MOE. The correspondence can be summarized into the following key points:

1. The EA study, provided for in the Official Plan Policies as ordered by the OMB when approving the creation of the Morningside Heights Community, has now been completed. The City is of the opinion that the policies have done their work and no longer apply from January 1, 2006 onwards. The City will not protect the lands covered by the range of alignment alternatives from now on (the area temporarily

reserved by the OMB Decision for development of alignment alternatives through the EA is shown on *Attachment 4*).

2. In light of the fact that there is no proponent for this undertaking with the jurisdiction to complete the project through the City of Toronto, and given City Council's repeated confirmation that it will not take proponentcy of the undertaking and is strongly opposed to the undertaking, Toronto requests that the Minister refuse this Environmental Assessment.

However, if the Minister is of the view that this matter should be considered by the EA Tribunal, the City of Toronto has requested an opportunity to be heard by the tribunal on the limited issue of whether or not the EAR should be accepted in the absence of a proponent within the City of Toronto.

On May 7, 2006, Toronto Works Committee reaffirmed staff comments to MOE requesting that the EA be denied or that an EA Tribunal hearing be ordered and recommended that an Official Plan amendment process be initiated to remove the policies from the Morningside Heights Secondary Plan and the Toronto Official Plan which protect for this road corridor (to be considered by Toronto City Council on April 25, 2006).

It is worth noting that one of the key advantages to Toronto of a continuous road alignment connecting Markham Bypass to Morningside Avenue is that it serves the planned Tapscott Employment District well. This was acknowledged by Toronto staff in their report to Works Committee in May 2005 as well as the need to complete the EA and end the uncertainty surrounding the alignment to enable the employment development to proceed.

4.2 Provincial Interest in the Corridor

4.2.1 History of Corridor Planning by MTO

In 1971 the MTO recommended a new north-south freeway from highway 401 in the east end of Metro north and around the east end of Lake Simcoe to south of Gravenhurst. The road was referred to as the East Metro Transportation Corridor (EMTC).

In 1976-1977, MTO reassessed the need for the EMTC and concluded that the section between Highway 401 and 407 is required. The EA and preliminary design reports for the EMTC were completed in 1982 which recommended a freeway.

In March 1990 the Province announced it's plans for the establishment of the Rouge Park and to not proceed with EMTC. The announcement stated that there would be no new roads within the 1990 Park boundaries south of Steeles Avenue. The announcement also stated that the Province would undertake a strategic planning study in cooperation with Metro, York, Durham, Scarborough and Pickering.

In May 1994, the Province announced a vision for northeast GTA. Among the contents of this announcement are the Rouge Park Management Plan and Northeast Metro Area Transportation Improvements. The transportation component of the announcement includes the following:

1. There is a need for a north-south transportation link between Highways 401 and 407 in the Morningside corridor to respond to increased traffic volume resulting from development in Northeast Metro and vicinity including Cornell.
2. The alignment has not been determined but will avoid the 1990 Rouge Park boundary, south of Steeles Avenue.
3. The road will be subject to an Environmental Assessment and the Province is encouraging Markham and Scarborough to proceed with it immediately. The province will provide technical and financial support.

MTO undertook the Strategic Transportation Review Northeast Metro, Southeast York & West Durham, in cooperation with Metro, York, Durham, Scarborough and Pickering. The technical report for the study was completed in June 1993. The summary report was released in August 1995 and identified the 401/407 Link in the Morningside Corridor as being of special importance. (See *Attachment 5* - Excerpt from Strategic Transportation Review showing inter-regional infrastructure needs).

4.2.2 OMB Hearing for the Morningside Heights Secondary Plan

The Ministry of Transportation (MTO) was an active participant during the OMB hearing for the Morningside Heights Community and provided strong support for transportation improvements in the Markham Bypass to Morningside Avenue Link Corridor.

A copy of the witness statement presented by MTO staff at the OMB hearing is included as *Attachment 6* and concludes that there is a well documented need for a high order continuous arterial link between Highway 401 and 407 in the Morningside Corridor.

4.3 Impact from the Seaton Development

Staff have reported previously to Committee and Council regarding the impact of the planned Seaton Development, including the transportation impacts in York Region and the need for related infrastructure including the Markham Bypass to Morningside Avenue Link.

Regional Council on April 21, 2005 adopted Clause 6 of Report No. 4 of the Planning and Economic Development Committee recommending that:

“ The Ministry of Municipal Affairs and Housing and Durham Region be requested to initiate a combined and coordinated transportation infrastructure review that will consider the impacts of the new Seaton community and the GTAA’s plans for the Pickering Airport on Durham and York Regions and the City of Toronto, specifically addressing the improvements identified in the York Region Staff Report, as well as any other necessary improvements.

The transportation review contain an implementation plan which addresses phasing and funding from the Province and/or a mechanism to enable York Region to construct and pay for the work required to accommodate the growth in Durham Region, including a commitment from the Province to expedite the Environmental Assessment review and approval process for the Markham By-pass Highway 407 – 401 Link.”

Subsequently, the Planning and Economic Development Committee on April 5, 2006 adopted “Report No.2- Central Pickering (Seaton) Development Plans” recommending that Regional Council request the Province to:

- Acknowledge the importance of the Markham Bypass/Morningside Avenue Link to the Seaton Development Planning Area and support the Regions of York and Durham in their efforts to have this vital link constructed.
- Enter into a Memorandum of Understanding with the Regions of York and Durham and the City of Toronto on transportation infrastructure that is located outside of but having a direct impact on the Seaton Development Planning Area, including a funding commitment to construct the Markham Bypass/Morningside Avenue Link.

The Markham Bypass Link will also create an important link from Toronto to the proposed Pickering Airport.

4.4 Next Steps

As noted in section 4.1, the City of Toronto has indicated that the EA does not bind the City in any manner with respect to development in the area or implementation of the recommended road alignment. Toronto has also indicated that they will not protect the lands for this planned road link from here on.

Staff will continue to monitor development applications in this area to ensure that development with potential to impact or preclude the planned road link does not proceed until a final decision is reached on the EA and the final outcome is protected for within all development proposals. In this regard, staff are seeking authorization to take all steps necessary to protect the road corridor, including referring development matters to the Ontario Municipal Board should the City of Toronto proceed with approving development applications that do not protect for this corridor or if Toronto proceeds with an Official Plan Amendment to remove the protection for the Markham Bypass/Morningside Avenue Link.

As reported to Committee on April 5, 2006 (Report No. 2 – Central Pickering (Seaton) Development Plan), comments have been forwarded to the Ministry of Municipal Affairs and Housing (MMAH) regarding modifications to the Seaton Development Plan to ensure that all required infrastructure will be in place to support the development. The

comments included a request that the Province acknowledge the importance of the Markham Bypass/Morningside Avenue (Highway 407-401 Link) to the Seaton Planning Area and support York's efforts to have this link constructed.

Given that the City of Toronto has indicated that they have no intention of being proponents for the continuous road alignment developed through the EA and that the EA should not be approved without a proponent south of Steeles Avenue, the Province must take on an active role in addressing infrastructure needs in this boundary area, including proponency for the Markham Bypass to Morningside Avenue Link. In addition to circulation of this report to MMAH, the report will also be circulated to MTO, PIR, and MOE and to the Premier of Ontario for consideration of all Provincial interest in this transportation corridor.

As noted in section 3.0, the next major step in the EA process is for the Region's Project Team to address all of the public and agency comments received and for the MOE to publish their review of the EA. At this time, it would be premature for the MOE to publish the EA Review without addressing the issue raised by the City of Toronto regarding proponency. Therefore, the Project Team will request that MOE defer publication of their EA review until this issue is addressed.

Further, Toronto has requested that MOE refuse the EA, and as an alternative, should an EA Tribunal hearing be ordered, the City of Toronto has requested an opportunity to be heard by the tribunal on the limited issue of whether or not the EA should be accepted in the absence of a proponent south of Steeles Avenue. Staff position is that the EA has addressed all significant environmental effects through avoidance, mitigation and best practices and that an EA Tribunal is not warranted.

Further, given the current and historic Provincial interest in the corridor, an EA Tribunal would not be able to directly address a Provincial policy decision on proponency. Therefore, a recommendation has been included requesting the Province of Ontario to directly acknowledge their interest in this corridor by agreeing to proponency, or co-proponency of this critically important transportation link. Given MTO's historic involvement, they would likely become the lead provincial agency in this matter. When the Greater Toronto Transportation Authority is created as recently announced by the Province, they may also play a lead role.

4.5 Relationship to Vision 2026

Goal 7 of Vision 2026 states: "In 2026, York Region will have effective, efficient and environmentally sensitive transportation, waste management and water systems." Action areas for Goal 7 include:

- "Developing an integrated transportation network."
- "Ensuring that our transportation network coordinates with development."

The recommendations of this report are consistent with these action areas.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications as a result of this report.

Should the City of Toronto proceed to approve any development applications or OPAs that will preclude the planned road link, there will be staff and financial resources required to protect the corridor at the Ontario Municipal Board.

6. LOCAL MUNICIPAL IMPACT

Town of Markham Council on October 25, 2005 endorsed the recommended alignment for the Markham Bypass to Morningside Avenue Road Link subject to three conditions as follows:

1. The Region report back to Markham Transportation Committee with an accelerated implementation plan, including any phasing requests.
2. The Region include in the EA report a noise study addressing issues as they relate to residents on Rouge River Circle and Ridgevale Drive.
3. The Region include in the EA report the evaluation of bridge type options for the bridge over the Rouge River, including a single span option.

The first condition cannot be addressed at this time given the uncertainty with the final outcome of the EA. Conditions 2 and 3 were addressed in the Final EA report.

7. CONCLUSION

The EA for the Markham Bypass to Morningside Avenue Link was completed and submitted to the MOE for review on December 23, 2005, prior to the December 31, 2005 deadline identified by the Ontario Municipal Board as part of the Morningside Heights decision.

The City of Toronto has reaffirmed their position that they formally oppose the continuous alignment for the Markham Bypass to Morningside Avenue Link, as developed through the EA. They have notified the MOE that they have no intentions of assuming proponentcy for the Link south of Steeles Avenue and are no longer bound by the OMB imposed policies to protect for the corridor.

Given the City of Toronto's position, it is important that the issue of proponentcy be clearly addressed at this stage before the EA proceeds to a final decision by the MOE. Given the Province's long history of interest in this transportation corridor, it is critical that the Province take an active role in the protection and implementation of this project.

In the absence of a final decision by the Province on the issue of proponentcy and on the EA itself, York will continue to monitor development in the area and take all steps necessary to protect the corridor.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are included with this report.)