

9.0 EA AMENDMENT PROCESS

The LWC Project will take approximately 7-10 years to construct and will exist in perpetuity as part of the Mississauga/Toronto waterfront. The extended duration of construction may result in changes in circumstances (e.g. availability of fill, access options, adjustment of constructed features) that require design or scheduling modifications. The dynamism inherent with naturalization projects (see Chapter 8) suggest that there will likely be project modifications (i.e. adaptive measures) between the time of EA approval and the achievement of project objectives.

The AEM approach outlined in Chapter 8 will identify the need for project modifications where necessary. Adaptive measures and other changes identified during the period between EA approval and detailed design will be screened by the Region of Peel, TRCA and CVC to determine if additional regulatory approval (e.g. EA addendum, public consultation) is required before proceeding. To facilitate this process, a project-specific approach for assessing modifications to design or construction phasing has been established.

This chapter outlines the existing regulatory tools through which post-approval EA modifications can be made and describes the project specific approach that will be used for post approval review of modifications proposed for the LWC Project.

9.1 REGULATORY PROVISIONS FOR POST EA MODIFICATIONS

Section 11.4 of the *EA Act* includes provisions for amending a project design in situations where there is a change in circumstances or new information becomes available following EA approvals. Currently, post-approval modifications to a project occur on a project specific basis through amendment provisions included in an EA application or approval documents. The Minister of Environment can approve amendments to an approved undertaking when post-approval modifications are proposed where provisions for amendments have been included in the EA document.

Under the current Ontario *EA Act*, there is no formal process for review and assessment of post-approval modifications to the project. The existing mechanism where amendment provisions are built into the EA will be used to assess AEM measures and other design modifications proposed for the DMNP. Section 9.2 describes the process through which adaptive measures and design modifications will be submitted for approval.

9.2 LWC APPROACH TO POST EA MODIFICATIONS

Chapter 8 outlines a comprehensive monitoring program that will be implemented to guide the AEM strategy for the LWC Project. The AEM strategy may trigger proposed modifications to the project if monitoring results indicate that LWC Project Objectives are not being achieved. In addition to AEM measures, there may be design modifications that result from changing circumstances over the time between EA approval and the establishment phase for the LWC

Project. Thus, a clear and detailed method to identify the types of modifications that will trigger further environmental approval is needed.

Region of Peel, TRCA and CVC are responsible for reviewing monitoring data and identifying opportunities to alter or improve the project management, design and/or construction phasing. Region of Peel, TRCA and CVC may also identify modifications to project design or construction scheduling based on other factors such as fill availability, alternative access opportunities and project funding status. When a need to modify the project is identified, an internal effects assessment will be conducted to assess the impact of the modifications on desired project outcomes. Wherever possible, any proposed modifications will minimize adverse environmental effects and/or maximize Project benefits. This effects assessment will determine the need (or lack thereof) for further review by the MOE.

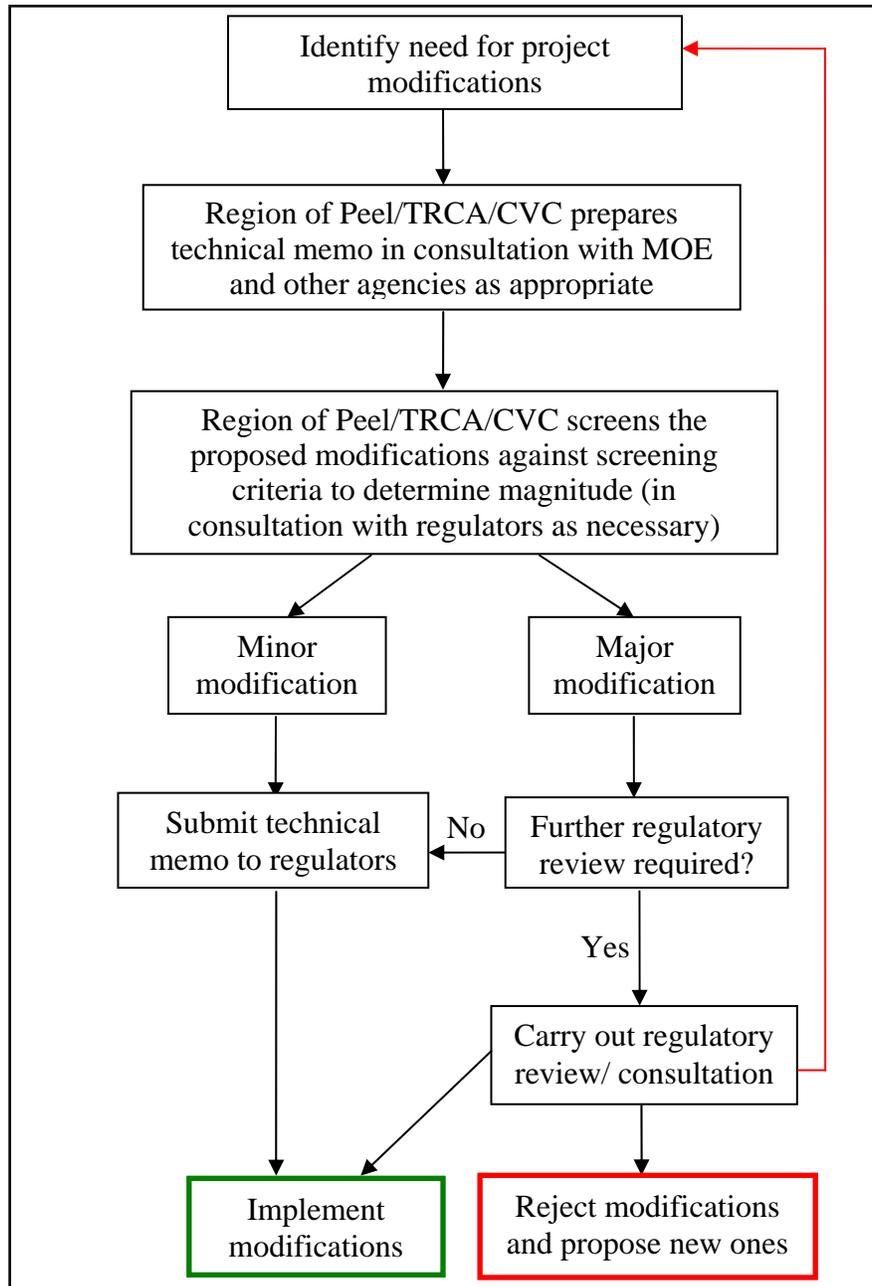
When project modifications are identified through the AEM process, Region of Peel, TRCA and CVC will prepare a technical memorandum to document the proposed modifications and their potential effects. The technical memo will draw upon the appropriate expertise to determine the effects of proposed modifications in relation to the predicted effects outlined in the EA. This will form the basis from which the magnitude (i.e. minor or major) of the proposed modifications can be determined. The technical memo will include the following information:

1. The need for modifications (e.g., new information from monitoring program, fill availability, etc.);
2. A description of the design and functions;
3. A description of the proposed modifications;
4. An assessment of how modifications will affect project outcomes;
5. An assessment of the predicted effects on the environment;
6. A comparison of the anticipated effects from proposed modifications to the effects predicted from the original design; and
7. A conclusion on the magnitude of the proposed modification (minor or major).

The technical memo will be circulated to the appropriate stakeholders, including MOE, for review. The technical memorandum will assess the magnitude of the proposed change in relation to the predicted effects outlined in the EA and the desired project outcomes by screening the proposed modifications against a set of criteria. The final determination of magnitude (major modification vs. minor modification) will be done in consultation with the MOE. If the proposed modification increases the likelihood of achieving desired project outcomes and/or does not change or reduces the environmental effects identified in the EA, then the modification will be considered minor and will not trigger any further action. Where there is the potential to increase the environmental effects identified in the EA, then the modification may be considered major and the appropriate regulatory body will determine the need for any additional regulatory requirements. In addition, there may be the need for additional consultation with the broader

stakeholder community. All technical memoranda and/or addenda will be submitted to the MOE for inclusion in the project files as part of the public record. Documentation and compliance with modification procedures and clarification of the assessment of any proposed changes may be subject to MOE review. Figure 9.1 summarizes the process for approving post-EA modifications.

Figure 9.1 Approval Process for Proposed Modifications to the LWC Project



9.2.1 Screening Criteria for Post EA Modification

Proposed project modifications will be screened against a set of criteria to determine the magnitude (minor or major) of modifications on the environmental effects predicted in the EA and on desired project outcomes. The screening questions that Region of Peel, TRCA and CVC will use to determine magnitude relate directly to the LWC Project Objectives identified in Chapter 1. Table 9.1 includes proposed screening criteria.

Table 9.1 Screening Criteria

Does the change alter the Serson or Applewood Creek in a way that flood conveyance may be affected?	
YES – CVC/Region of Peel in consultation with MOE will determine if further regulatory action is required	NO – proceed if all other screening criteria are met
Does the change reduce the spatial extent of the naturalized area?	
YES – CVC/Region of Peel in consultation with MOE will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met
Does the change reduce the anticipated quality and/or function of the naturalized area?	
YES – CVC/Region of Peel in consultation with regulators will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met
Does the change affect a condition of approval of the EA or any other approval or permit?	
YES – CVC/Region of Peel in consultation with regulators will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met
For modifications to construction activities, is the change likely to cause an additional nuisance to businesses and recreational users?	
YES – CVC/Region of Peel in consultation with regulators will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met
Does the change negatively affect water quality in the nearshore of Lake Ontario?	
YES – CVC/Region of Peel in consultation with regulators will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met

This screening process will guide the preparation of a technical memorandum that CVC/Region of Peel will submit to the appropriate stakeholders for review (in consultation with the MOE). If the desired change results in an increase or worsening of the identified effects, further regulatory action may be required to assess the effects and identify appropriate mitigation. Any further regulatory action may require public consultation and/or broader agency consultation.

Table 9.2 provides examples of major vs. minor modifications. These are only provided as general examples and a final determination of magnitude will follow screening and consultation with the MOE.

Table 9.2 Examples of Minor vs. Major Project Modifications

Minor Modification	Major Modification
Adjustment or alteration of wetland control structures	Construction activity required outside of existing project boundary
Replanting/seeding vegetation in problem areas	OPG waterlots not being available for construction
Re-grading the landform	Moving the current location of the groyne structure to the north
Adjusting the layout of recreation trails	Selecting an alternate access route
Removing the groyne structure from the design	
Relocating the groyne further west	

Given this information, it is apparent that if modifications to the project do not worsen the predicted effects and do not represent a major perceived change from the perspective of the public and/or agencies, they can be implemented through the existing regulatory process.