

Legal Advice in response to Provincial Order Requiring Individual Environmental Assessment for new Multi-Use Trail

Date: March 8, 2023

To: City Council

From: City Solicitor

Wards: All Wards

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client and litigation privilege.

SUMMARY

In 2021, the City and Toronto and Region Conservation Authority ("TRCA") applied for approval to plan and carry out the construction of a multi-use trail under the Municipal Class Environmental Assessment ("MCEA") provisions of the Environmental Assessment Act (the "Act"). The particular project is to build an 800-metre trail to close a gap in the Humber River Recreational Trail (the "Trail") from Mallaby Park west of St. Phillip's road to the southern entrance to Crawford-Jones Memorial Park off Cardell Ave (the "Project").

On January 18, 2023, the Minister of Environment, Conservation, and Parks (the "Minister") issued an order requiring that the City and TRCA carry out an individual environmental assessment of the Project (the "Order"). The Order states that allowing the Project to proceed on the basis of the MCEA would not be consistent with the purposes of the Act.

Confidential Attachment 1 provides further information and advice regarding the Minister's decision.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in the Confidential Attachment;
2. City Council authorize the public release of the confidential instructions to staff contained in Confidential Attachment 1, at the discretion of the City Solicitor; and
3. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial impacts are identified in Confidential Attachment 1.

The Deputy City Manager and Chief Financial Officer have reviewed this report and Confidential Attachment 1 and agree with the financial impact information.

DECISION HISTORY

The City Solicitor has not previously reported on this matter.

City Council considered a report on the Project at its meeting of July 19, 2022, item IE31.11 - 2022 Mid Humber Gap Municipal Class Environmental Assessment. The item was adopted with amendments.

[Agenda Item History - 2022.IE31.11 \(toronto.ca\)](#)

COMMENTS

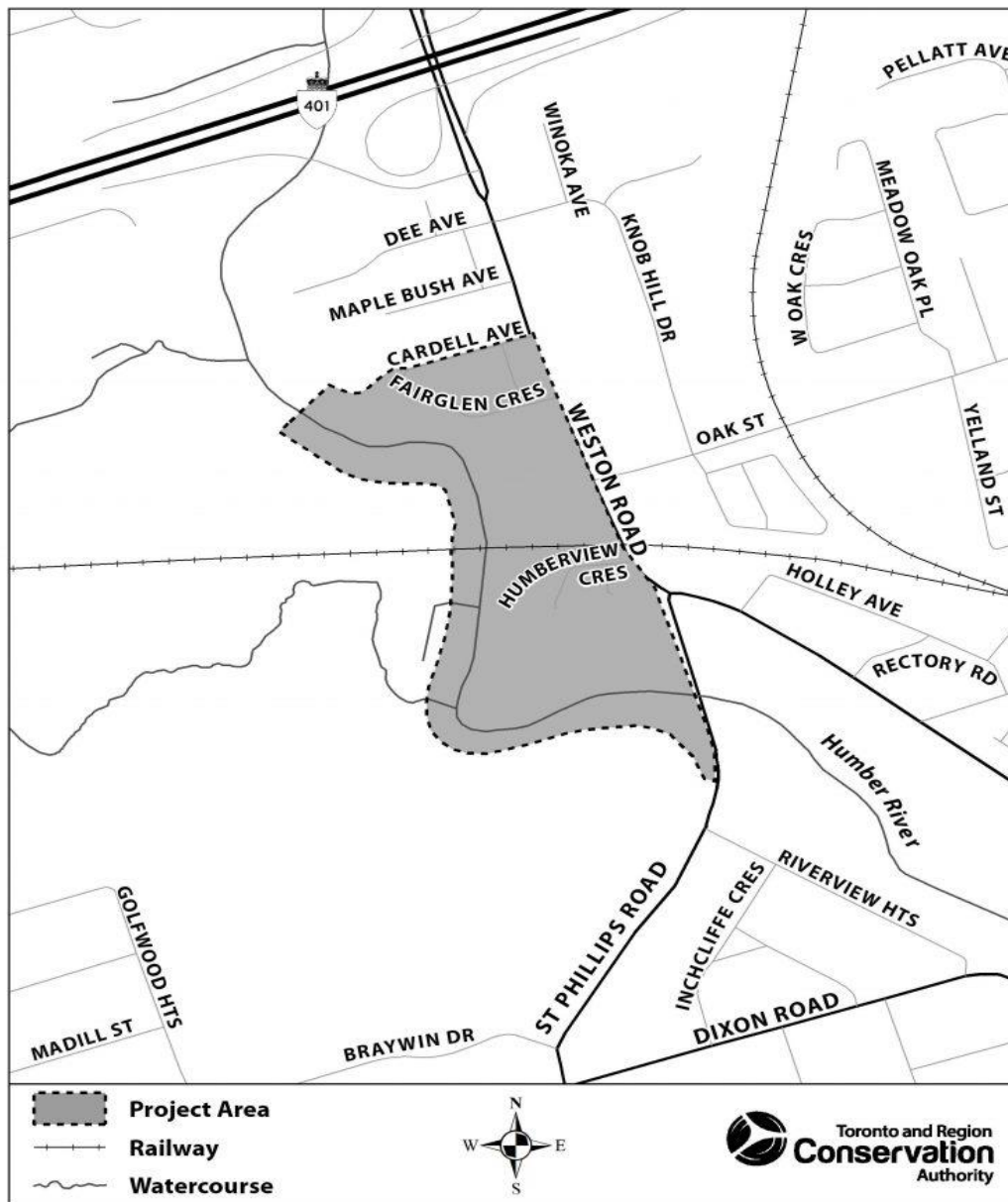
The Project to Close the Gap in the Humber River Trail

The Trail is a 29-km multi-use trail that stretches from the Waterfront all the way to Brampton. It is an important trail for people walking and cycling alike. The Mid Humber Gap constitutes a significant barrier to a continuous trail system from Toronto's northwest boundary to Lake Ontario. Improving park and trail connectivity is a key feature of the City's Parkland Strategy and the City's Ravine Strategy. The Project was identified and prioritized in the City's Bikeway Trails Implementation Plan (2012) and Cycling Network Plan Update (2021) to expand and enhance Toronto's bikeway network. The purpose of the Project is to connect segments of the existing Trail so

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users can travel between Crawford-Jones Memorial Park and Mallaby Park, near Weston Road and the 401, without leaving the Trail.

The Project area is shown here:



Currently, users of the Trail must go on the street via a large staircase to get from one point on the Trail to the other. The gap is considered unsafe for Trail users and the necessity for stairs means the Trail cannot be accessed by some users.

The City and TRCA are working together on this Project because it is within a watershed area governed by the Conservation Authorities Act. In addition, the Project was identified as part of the TRCA Trails Strategy.

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Environmental Assessment Process the City Proposed to Follow

The purpose of the MCEA process is to provide a streamlined environmental assessment process for municipal infrastructure projects that are undertaken regularly. Class environmental assessments are intended to provide a more efficient and consistent process compared to individual environmental assessments, which are for large-scale, complex infrastructure projects with the potential for significant environmental effects.

The study for the Project was carried out under Schedule 'B' of the MCEA, which is an approved planning process under the Ontario Environmental Assessment Act. In accordance with MCEA process, on March 31, 2021, the City and TRCA issued a notice to relevant agencies including the Ministry, the public and potential stakeholders advising that the Project was being undertaken and soliciting input on the potential trail alignment. The City considered a number of options and, after conducting numerous technical studies and completing public consultations, it decided on a preferred "in-valley" alignment that would run primarily along the west side of the Humber River ("Concept 1A"). The City's public consultation process included virtual public meetings, Stakeholder Advisory Group sessions, online questionnaires, and individual meetings with property owners.

On July 19, 2022, following a report from the General Manager, Transportation Services and General Manager, Parks, Forestry and Recreation, City Council endorsed Concept 1A as the preferred trail alignment concept for the Mid Humber Gap, and requested staff to prepare the Final Report, issue the Notice of Completion, and put the Final Report in the public record in accordance with the requirements of the MCEA process.

On October 20, 2022, the City and TRCA issued a notice to the public and stakeholders advising of the completion of the MCEA process for the Project and the Final Report was available for a 30-day review period from October 20 to November 19, 2022.

Further details regarding the Project can be found on the City's website:

[Mid Humber Gap Trail Study – City of Toronto](#)

Order Requiring Individual Environment Assessment

On January 18, 2023, the Minister issued the Order requiring that the City and TRCA carry out an individual environmental assessment of the Project.

This report in response has been prepared in consultation with the General Managers of Transportation Services and Parks, Forestry & Recreation, who agree with the recommendations.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential instructions from the City Solicitor