

2.0 THE ENVIRONMENTAL ASSESSMENT PROCESS

2.1 The Ontario Environmental Assessment Act

The Ontario Ministry of Transportation's (MTO) *Class Environmental Assessment for Provincial Transportation Facilities* (Class EA) was approved under the Ontario Environmental Assessment Act (EA Act) in the Fall of 1999 and amended in 2000. This planning document defines groups of projects and activities, and the environmental assessment processes that MTO has committed to follow for these projects. Provided that this process is followed and its requirements are met, projects and activities included under the MTO Class EA do not require formal review and approval under the EA Act.

This study is following the Class EA process for Group 'B' projects, which generally include major road realignments, major improvements to existing highways and freeways, new interchanges or modifications to existing interchanges, new or modified water crossings or watercourse alterations, or new highway service facilities. Group 'B' projects are generally similar in nature, recur frequently, and have a generally predictable range of environmental effects for which standard mitigation can be used. The Class EA process for Group 'B' projects is shown in **Exhibit 2-1**. This study addresses the Functional Planning and Preliminary Design phases of the process and includes submission of this Transportation Environmental Study Report (TESR), as shown in **Exhibit 2-2**. This TESR has been filed for a 30-day public review period (see **Section 2.4** for additional information).

2.2 The Canadian Environmental Assessment Act

The former Canadian Environmental Assessment Act applied to projects when there was a federal "trigger", i.e. when the federal government had a decision in relation to the project as a proponent, land manager, source of funding, or regulator. Projects with "triggers" required an assessment unless specifically excluded by the former Act or by regulations. Under the former Act one or more federal "triggers" were anticipated. A meeting was held on September 22, 2011 to introduce the QEW Garden City Skyway project to potentially-interested federal agencies and to discuss the potential for Federal-Provincial coordination (see **Section 3.3** for meeting details).

The new Canadian Environmental Assessment Act, 2012 (CEAA 2012) and associated regulations came into effect on July 6, 2012.

Under CEAA 2012, a formal federal environmental assessment is required for "designated projects". A designated project is one that includes one or more physical activities that are set out in the regulations under CEAA 2012 or by order of the federal Minister of Environment. On October 24, 2013 the federal Minister of the Environment finalized the *Regulations Amending the Regulations Designating Physical Activities*. With consideration for transitional provisions, the Canadian Environmental Assessment Agency (CEA Agency) subsequently confirmed that this project is not subject to the amended regulations. As a result, under CEAA 2012 a formal federal environmental assessment is not required.

Portions of the proposed works are anticipated to be carried out on federal land. Section 67 of CEAA 2012 relates to projects that are not "designated projects" but will be carried out on federal lands and requires that Authorities¹ determine whether projects on federal lands are likely to cause significant adverse environmental effects. This obligation must be addressed prior to an Authority carrying out a project or exercising a power or performing a duty or function that could permit the project to proceed.

Additional details regarding determinations under Section 67 are provided in the CEA Agency Operational Policy Statement for Projects on Federal Lands and Outside Canada under the CEAA, 2012 available online at: <http://www.ceaa-acee.gc.ca/default.asp?lang=En&n=22CA364E-1&>.

The approach of how to conduct Section 67 determination is up to individual Authorities. With reference to Section 67 of CEAA 2012, the following federal agencies were requested to identify any information and consultation related requirements they may have beyond those being addressed through the MTO Class EA process:

- ▶ Canadian Transportation Agency
- ▶ Fisheries and Oceans Canada
- ▶ Environment Canada
- ▶ Health Canada
- ▶ Transport Canada

In requesting that feedback it was noted that the current Class EA study will complete the Preliminary Design of the Recommended Plan including the corresponding impact assessment and development of mitigation measures. It was also noted that although permits and approvals will not be sought during the Preliminary Design assignment it is important that federal interests and information requirements be identified and addressed to the extent possible during the development and documentation of the Preliminary Design. Following completion of Preliminary Design the design and mitigation measures will be refined as part of the development of the Detailed Design.

None of the above-listed federal agencies identified any specific information and/or consultation related requirements to support their requirements under Section 67 of CEAA 2012 during Preliminary Design.

Although Species at Risk Act (SARA) prohibitions only apply to Threatened and Endangered species, per Section 79 of SARA, any CEAA 2012 Section 67 review is required to assess, avoid and mitigate impacts to all listed species and critical habitat, including Special Concern, Threatened and Endangered species. Section 79 of SARA reads as follows:

79. (1) Every person who is required by or under an Act of Parliament to ensure that an assessment of the environmental effects of a project is conducted, and every authority who makes a determination under paragraph 67(a) or (b) of the Canadian Environmental Assessment Act, 2012 in relation to a project, must, without delay, notify the competent minister or ministers in writing of the project if it is likely to affect a listed wildlife species or its critical habitat.

(2) The person must identify the adverse effects of the project on the listed wildlife species and its critical habitat and, if the project is carried out, must ensure that measures are taken to avoid or lessen those effects and to monitor them. The measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

"Person" includes an association, an organization, a federal authority as defined in subsection 2(1) of the CEAA 2012, and anybody that is set out in Schedule 3 to that Act.

Based on the existing conditions assessed during the Preliminary Design Study, it is anticipated that the removal of 2 Butternut (SAR) trees will be required. However, given the Butternut trees occur on MTO lands (not federal lands), the trees are not protected under SARA and will not require approval under SARA. SAR shall be reviewed and confirmed during Detail Design.

¹ Federal authorities under CEAA 2012 and any other body defined in Schedule 3 of CEAA 2012

2.3 Study Process

The study's overall Class EA planning process approach, key study tasks and Public Information Centres are illustrated in **Exhibit 2-2**. The generalized flow chart details the various activities completed in the two study phases: Functional Planning and Preliminary Design.

2.4 Purpose of the Transportation Environmental Study Report

This Transportation Environmental Study Report (TESR) documents the environmentally significant aspects of the planning and design of the Recommended Plan for the QEW Garden City Skyway. The TESR includes; a description of the project and its purpose; the existing natural, social, economic and cultural environmental factors; the analysis and evaluation of alternatives that were considered; the anticipated environmental effects and proposed mitigation measures; a summary of the stakeholder consultation undertaken; key public and agency comments; and commitments to further work.

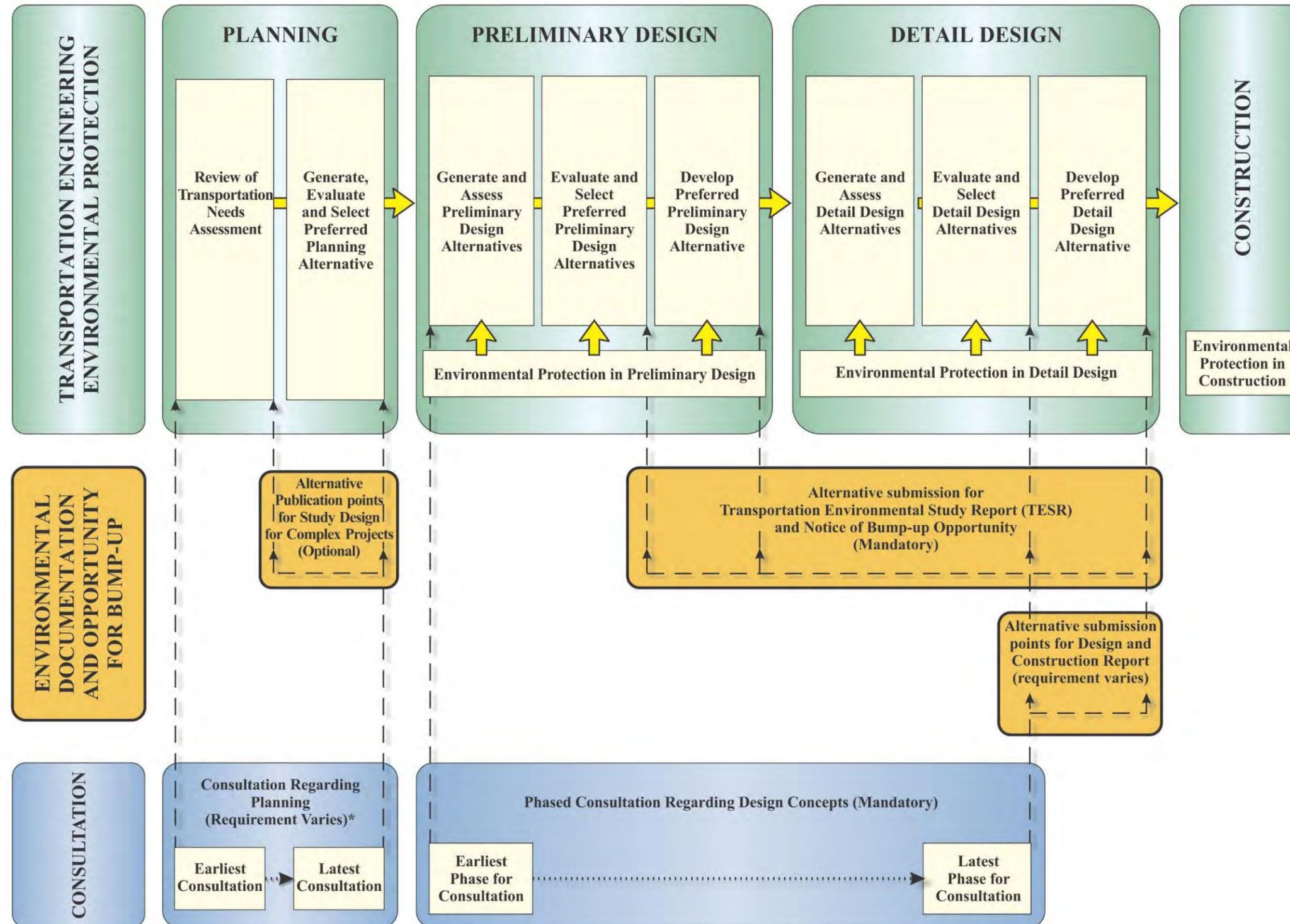
Additional information about the Class Environmental Assessment process for Group 'B' projects is contained in the MTO *Class EA for Provincial Transportation Facilities (2000)*. Readers interested in this information are encouraged to refer to that document which is available online at: www.mto.gov.on.ca/documents/english/engineering/Class_EA_2000.pdf

This TESR is being made available for a 30-day public review period from **September 14, 2017 to October 16, 2017** as required under the MTO Class EA. During the review period, stakeholders are encouraged to bring issues or concerns to the attention of the MTO's consultants and staff so that they may be resolved. Please send comments to the following:

Mr. Bill Cung, P.Eng. Project Manager Ontario Ministry of Transportation 159 Sir William Hearst Avenue, 4th Floor Toronto, ON M3M 0B7 Phone: 416-235-5438 Fax: 416-235-3576 Email: project-team@qewgcs.ca	Mr. J.A. (Sandy) Nairn Consultant Environmental Planner WSP Canada Group Limited 610 Chartwell Road, Suite 300 Oakville, ON L6J 4A5 Toll Free: 1-877-562-7947 Phone: 905-829-6264 Fax: 905-823-8503 Email: project-team@qewgcs.ca
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If, after consulting with MTO's consultant and staff, you have serious unresolved concerns, you have the right to request that the Minister of the Environment and Climate Change (in writing to **77 Wellesley Street West, 11th Floor, Ferguson Block, Toronto, Ontario M7A 2T5**) issue a Part II Order for this project. This may lead to the preparation of an Individual Environmental Assessment. A copy of the Part II Order request should be forwarded to MTO and WSP at the addresses above. If there are no outstanding concerns after **October 16, 2017**, the project will be considered to have met the requirements of the MTO Class EA.

EXHIBIT 2-1: MTO CLASS EA PROCESS FOR GROUP 'B' PROJECTS



*Mandatory if a Study Design is prepared.

Source: Class Environmental Assessment for Provincial Transportation Facilities (2000)

EXHIBIT 2-2: STUDY PLANNING PROCESS AND KEY TASKS

