

## 9. EA Amendment Process

The SWP will take approximately 12 years to construct and will exist in perpetuity as part of the Toronto waterfront. The extended duration of construction may result in changes in circumstances (e.g., availability of fill, access options, and adjustment of constructed features) that require design or scheduling modifications. This suggests that there may be Project modifications between the time of EA approval and the end of construction.

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 final Detailed Design will be screened by TRCA 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 proposed.

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 SWP.

### 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 and Climate Change 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 amendment mechanism proposed in this chapter will be used to assess design modifications proposed for the SWP. **Section 9.3** describes the process.

### 9.2 Screening Criteria for Post-EA Modification

Proposed Project modifications will be screened against a set of criteria to determine if there are changes to the environmental effects predicted in the EA as well as on desired Project outcomes. The screening questions TRCA will use to determine change in effects relate directly to the SWP Objectives identified in **Chapter 1. Table 9-1** includes proposed screening criteria.

**Table 9-1: Screening Criteria**

<b>Does the change alter the ability to provide a multi-use trail outside of the risk line?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met
<b>Does the change reduce the spatial extent of the naturalized area?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met
<b>Does the change reduce the anticipated quality and/or function of the new aquatic habitat?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met
<b>Does the change affect a condition of approval of the EA or any other approval or permit?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met
<b>For modifications to construction activities, is the change likely to cause an additional nuisance to residents and recreational users?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met
<b>Does the change result in changes to traffic flow within the Project Study Area?</b>	
<b>YES</b> → TRCA in consultation with MOECC will determine if further regulatory action is required	<b>NO</b> → Proceed if all other screening criteria are met

This screening process will guide the preparation of a technical memorandum that TRCA will submit to the appropriate Stakeholders for review (in consultation with the MOECC). 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 versus minor modifications. These are only provided as general examples and a final determination of magnitude will follow screening and consultation with the MOECC.

**Table 9-2: Examples of Minor vs. Major Project Modifications**

<b>Minor Modification</b>	<b>Major Modification</b>
Changes to the size or spacing of headlands	Construction activity required outside of existing Project boundary
Replanting/seeding vegetation in problem areas	Moving the proposed nature and/or locations of shoreline protection works
Adjusting the layout of recreation trails	Selecting an additional construction access route
	Changing the toe to top of bluffs transition from a structure to a trail in East Point Park

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.

### 9.3 SWP Approach to Post-EA Modifications

**Chapter 8** outlines a comprehensive monitoring program that will be implemented to guide the AEM strategy for the SWP. The AEM strategy may trigger proposed modifications to the Project if monitoring results indicate that SWP 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 operation/establishment phase for the SWP. Thus, a clear method to identify the types of modifications that will trigger further environmental approval is needed.

TRCA is responsible for reviewing monitoring data and identifying opportunities to alter or improve the project management, design and/or construction phasing. TRCA 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 MOECC.

When Project modifications are identified, TRCA will prepare a technical memorandum to document the proposed modifications and their potential effects. The technical memorandum 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 memorandum will include the following information:

1. The need for modifications (e.g., new information from monitoring program, change in access, change in funding, 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 memorandum will be circulated to the appropriate Stakeholders, including MOECC, 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 MOECC. 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, or change the type of effect, 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 MOECC 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 MOECC review. **Figure 9-1** summarizes the process for approving post-EA modifications.

**Figure 9-1: Approval Process for Proposed Modifications to the SWP**

