

Staff Report 2022-0181

Meeting Date: May 17, 2022

Subject: Ministry of Environment, Conservation and Parks Consolidated Linear Infrastructure Permissions Approvals Program for Low-risk Stormwater Management Infrastructure

Submitted By: Rita Juliao, Manager, Development Engineering, Engineering Services and Cassie Schembri, Senior Project Manager, Stormwater, Development Services

RECOMMENDATION

That the Mayor and Clerk be authorized to execute the Consolidated Linear Infrastructure Environmental Compliance Approval Agreement, substantially in the form attached as Schedule A to Staff Report 2022-0181, in connection with the Town's application for a Consolidated Linear Infrastructure Environmental Compliance Approval as approved by the Director of Engineering Services and the Town Solicitor; and

That the Director of Engineering Services be authorized to subsequently amend the Town's CLI-ECA application to establish, alter, extend, or replace new or existing drainage infrastructure in accordance with the terms and conditions of the executed CLI-ECA Agreement.

REPORT HIGHLIGHTS

- The Ministry of Environment, Conservation and Parks (MECP) has developed a new stormwater approvals program referred to as the Consolidated Linear Infrastructure Environmental Compliance Approval (CLI-ECA).
- Municipal participation in the CLI-ECA program is mandatory.
- Through the CLI-ECA program the Province is enabling municipalities to issue approvals for low risk publicly owned stormwater infrastructure projects on their behalf.
- The CLI-ECA program will create a more efficient approval process, enhance environmental protection, reduce processing timelines and provide clear, transparent consistent requirements across all Ontario municipalities.
- The CLI-ECA program primarily impacts Engineering Services and Operations; however, support from various other Town Departments will be necessary to support the program requirements. Additional resources will be necessary to fulfill all of the compliance requirements.

DISCUSSION

The purpose of this report is to inform Council of the recent changes to the regulatory framework guiding the approval process for stormwater infrastructure found within Section 53 of the Ontario Water Resources Act (OWRA).

Current Provincial Program

An Environmental Compliance Approval (ECA) is required from the Ministry of Environment, Parks and Conservation (MECP) for stormwater infrastructure works under Section 53 of the OWRA. Through this regulation municipalities and prescribed persons (e.g. developers) are required to obtain an ECA to use, operate, establish, alter, extend, or replace new or existing drainage infrastructure, such as storm sewer and stormwater management facilities. This requirement has been in place since the 1970s.

To date, the ECA permission framework has been onerous, results in lengthy approval timelines, and duplicates work efforts of the municipality. Historically, the Province has relied on a direct submission approval framework that is often referred to as a project-by-project or pipe-by-pipe approach. Through this framework, municipalities were required to conduct a thorough engineering review of the proposed infrastructure design and submit an application to MECP for review and approval for every public stormwater infrastructure project completed.

Over the last decade, the Province has undertaken initiatives to assist with streamlining approvals. As part of this commitment, the Province implemented the Transfer of Review Program (TOR) in which the Town of Caledon currently participates. The TOR program permits participating municipalities to review and recommend approval of an ECA application for eligible projects, eliminating the Province's role in completing technical review of engineering designs. While the program reduced duplication efforts and reduced approval times for linear storm sewer infrastructure projects (e.g. new storm sewers), many stormwater projects (e.g. stormwater management ponds) still require direct submission to the MECP for additional review, which can take up to eight months to receive approval adding significant time to project schedules.

Through the direct submission and TOR program, the Town has been issued over 129 individual ECAs for stormwater facilities (e.g. stormwater management ponds), and hundreds more for linear infrastructure (e.g. storm sewers).

The Province implemented a new Provincial Consolidated Linear Infrastructure Environmental Compliance Approval Program

In 2021, the Ministry of Environment, Conservation and Parks (MECP) adopted the CLI-ECA permissions approach for low-risk publicly owned stormwater infrastructure projects. Municipal participation in the CLI-ECA program is mandatory. The program is currently being rolled out across the province.

The program includes two primary components:

- (1) that all existing stormwater ECAs will be replaced by one consolidated approval under the CLI-ECA Agreement; and
- (2) the CLI-ECA Agreement can be amended to include new stormwater infrastructure that meets or exceeds the design criteria set out in the Agreement. Amendments to the CLI-ECA may be approved by the municipality without having to obtain individual ministry permission.

What This Means for the Town of Caledon

The CLI-ECA Program is an improved permissions program that provides many advantages to the Town including:

- Creating an efficient and timely approval process for low-risk stormwater projects;
- Enhanced environmental protection through a holistic approach to managing stormwater; and
- Consistent operation, maintenance, and monitoring requirements across the Town.

It is also important to recognize that the CLI-ECA Program will put new compliance pressures on the Town of Caledon including the need to:

- Develop an internal process to carry out the requirements of the CLI-ECA Agreement and respond to potential Provincial audit requests to demonstrate compliance;
- Update design standards to include Low Impact Development (LID) measures to achieve the new enhanced level of stormwater control that are being mandated by MECP;
- Develop operating procedures for routine inspections, maintenance and monitoring of SWM Ponds and LIDs; and
- Provide annual compliance reporting on the Town's drainage system to the Province and the Public.

Actions Taken

The Town has initiated the application process for the CLI-ECA. The following is an overview of the timeline and status:

- September 29, 2021 – Along with the Region of Peel, the City of Brampton and the City of Mississauga, the Town received a request from the MECP to participate in the CLI-ECA program.
- February 11, 2022 – Staff submitted the application and all required documentation.
- April 29, 2022 – The Town's application has been reviewed for completeness.

Next Steps

The Town expects to have a finalized CLI-ECA Agreement with the Province by Summer 2022. The Final CLI-ECA Agreement will be brought forward to the Mayor and Clerk for final approval and execution of the agreement. Staff have begun working cross-departmentally to develop an implementation plan that will outline a workplan and identify roles and responsibilities for administering the program.

In the future, the CLI-ECA Agreement will need to be amended routinely with each new stormwater infrastructure approval or change to the existing drainage system. The request for Director of Engineering Services to be authorized to subsequently amend the consolidated application in accordance with the terms and conditions of the executed Agreement is the most efficient way to administer the CLI-ECA Program.

Resourcing Implications

Participation in the CLI-ECA program is required to ensure compliance with Provincial Regulations (Section 53 of the OWRA). Participation is mandatory, though as indicated above provides significant overall benefit to the Town. These benefits will come with additional responsibilities and in turn the Town will require additional resources. Currently, the staffing and operational impacts on various departments are being reviewed, discussed and coordinated as part the development of an implementation plan. Staff will report further to Council through the 2023 annual budgeting process once the resulting impacts of implementing a stormwater program are fully understood. At this time, it is anticipated that additional resources will be needed in both the Engineering Services and Operations Departments.

FINANCIAL IMPLICATIONS

It is expected that the CLI-ECA will be issued in the summer of 2022. Once issued, there will be operational impacts and costs arising from CLI-ECA commitments including new and upgraded processes for inspection, monitoring, operation maintenance and reporting on the Town's stormwater infrastructure. The Town will be given a one-year transition period to implement the new program from the date the MECP issues the Town its CLI-ECA. As indicated above, Staff are currently developing an implementation plan and will report back to Council through the 2023 annual budgeting process with the resulting impacts of implementing a stormwater program that is fully understood.

COUNCIL WORK PLAN

Sustainable Growth: Advancing proactive infrastructure development solution for growth management.

Improved Service Delivery: Improve and innovate business processes for better customer service and service delivery.

ATTACHMENTS

Schedule A: Draft Environmental Compliance Approval For a Municipal Stormwater Management System Agreement