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9. EA Amendment Process

Phases 1 and 2 of the DMNP are anticipated to be completed in ten years. Phase 3 will follow. Phase 4 naturalization activities will be secured when the property owner of 54 Polson Street decides to redevelop the property or agrees to sell this property to the City of Toronto. Should funding become available, the DMNP could be built in its entirety all at once. Following full build-out, the DMNP 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 funding) that require design or scheduling modifications. The dynamism inherent with naturalization projects (see **Chapter 8**) suggests that there will likely be project modifications (i.e., adaptive measures) between the time of the Environmental Assessment (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 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 established.

This chapter outlines the proposed approach through which post-approval EA modifications can be made, including review of modifications proposed for the DMNP.

9.1 The Ontario *EA Act* Provisions for Post EA Modifications

Currently, post EA approval modifications to a project occur on a project specific basis through amendment provisions included in an EA application or approval documents. Post-approval modifications will be subject of the amending procedures included in the EA.

Section 9.2 describes the process through which adaptive measures and design modifications will be submitted for approval. This section also presents a DMNP-specific approach to post EA modifications based on these existing regulatory provisions.

9.2 DMNP Approach to Post EA Modifications

Chapter 8 outlines a comprehensive monitoring program that will be implemented to guide the AEM strategy for the DMNP. The AEM strategy may trigger proposed modifications to the project if monitoring results indicate that project objectives are not being achieved. In addition to AEM measures, there may be design modifications that result from changing circumstances over the extended period between EA approval and the establishment phase for the project. A clear and detailed method is needed to identify the types of modifications that will trigger further environmental approval or permit requirements.

TRCA is responsible for reviewing monitoring data and identifying opportunities to alter or improve the project management, design, construction phasing and operations. TRCA, Waterfront Toronto and the City of Toronto may also identify modifications to project design or construction scheduling based on other factors such as project funding status. When a need to modify the project is identified, an internal effects assessment will be conducted by TRCA to assess the impact of the modifications on environmental components (as predicted in the EA) and 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 appropriate regulatory body, such as the MOE.

When project modifications are identified through the AEM process, the co-proponents 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 the monitoring program, funding changes, 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 of the 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 drafted by the TRCA in consultation with Waterfront Toronto and the City of Toronto. The memorandum will be circulated to appropriate stakeholders, including the Director, Environmental Approvals Branch at the Ministry of the Environment (MOE) for review. For the purposes of this EA, consultation with Waterfront Toronto and the City for the purposes of a DMNP amendment refers to:

1. TRCA's intent is to strive for consensus with Waterfront Toronto and City of Toronto regarding proposed amendments to the DMNP EA; and,
2. However, where consensus is not possible, TRCA will reserve the right to proceed or not to proceed with an amendment in absence of consensus if TRCA deems that the ecological or hydraulic function of the DMNP would be negatively affected, or if the proposed amendment is counter to TRCA's regulatory function or role.

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 appropriate regulatory body (e.g., 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 negative 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.

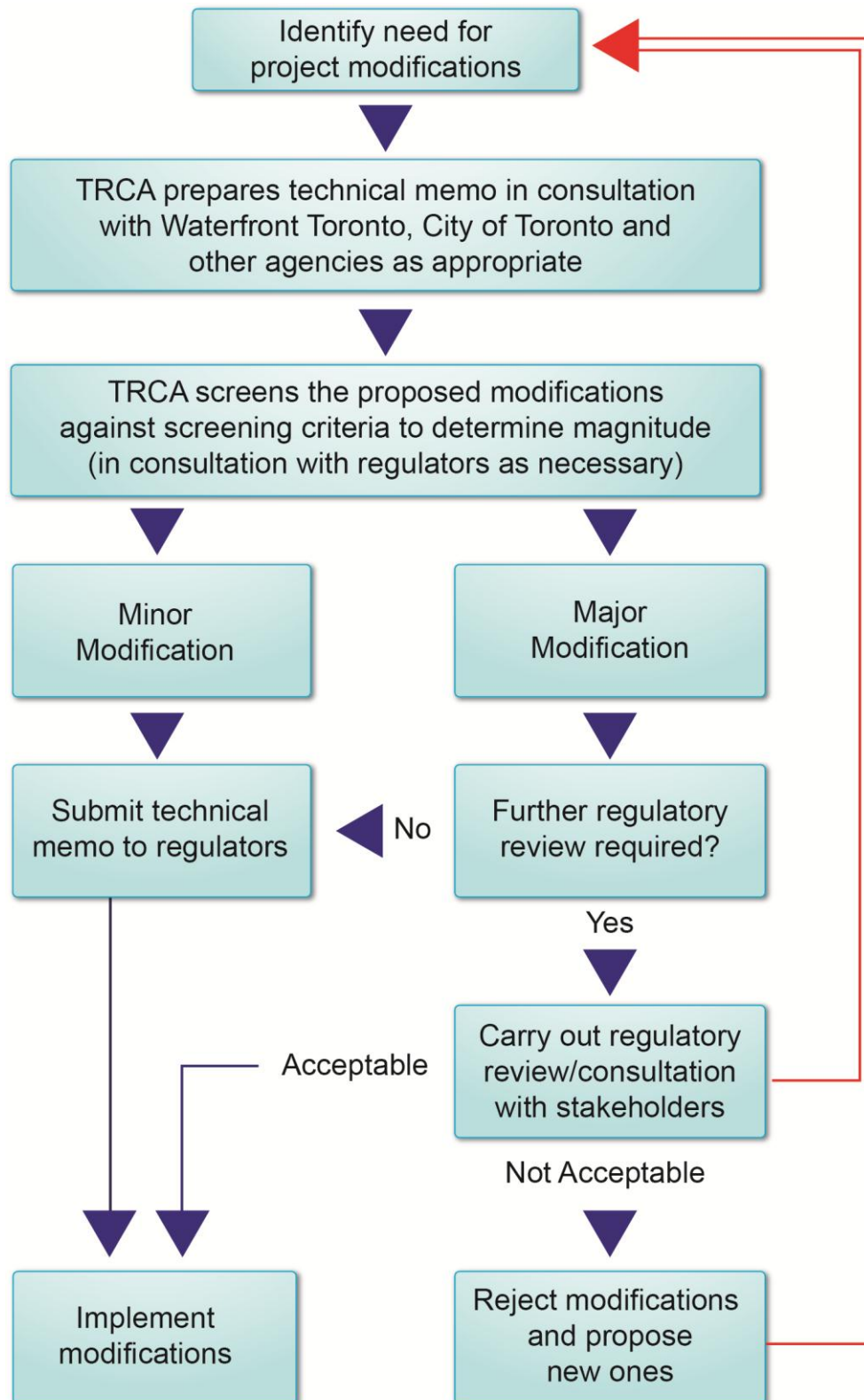


Figure 9-1 Approval Process for Proposed Modifications to the DMNP

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 the TRCA will use to determine magnitude relate directly to the project objectives identified in **Chapter 1**. **Table 9-1** includes proposed screening criteria that will be finalized by TRCA prior to detailed design.

Table 9-1 Proposed Screening Criteria

Does the change alter the spatial extent of the floodplain, spillway or low flow channel such that flood conveyance may be affected?	
YES – TRCA, in consultation with regulators, will determine if further regulatory action is required	NO – proceed if all other screening criteria are met.
Does the change alter the type of crossing of the floodplain, spillway or low flow channel such that flood conveyance may be affected?	
YES – TRCA, in consultation with regulators, 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 – Co-proponents, in consultation with regulators, 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 – Co-proponents, in consultation with regulators, will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met.
Does the change adversely affect the function of river management controls?	
YES – Co-proponents, 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 – Co-proponents, 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 (including phasing), is the change likely to cause nuisance effects to interim uses such as businesses and recreational users and / or permanent uses such as future area residents that were not assessed in the EA?	
YES – Co-proponents, in consultation with regulators, will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met.
For modifications to sediment, debris and ice management activities during establishment (including changes to the technology that is used), is the change likely to cause nuisance effects to interim uses such as businesses and recreational users and / or permanent uses such as future area residents that were not assessed in the EA?	
YES – TRCA, in consultation with regulators, will determine if further regulatory action is required.	NO – proceed if all other screening criteria are met.
Is the change likely to result in adverse effects related to increased turbidity within the Keating Channel or Inner Harbour?	
YES – Co-proponents, 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 the TRCA will submit to the appropriate stakeholders for review (in consultation with appropriate regulators). 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 a list of examples of major versus minor modifications. These are only provided as general examples. A final determination of magnitude will follow screening and consultation with regulatory agencies.

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

Minor Modification	Major Modification
<ul style="list-style-type: none"> • Adjustment or alteration of mechanisms to control water flow into wetlands • Replanting / seeding vegetation in problem areas • Re-grading the floodplain in its existing alignment • Adjusting the layout of recreational trails • Construction activity required outside the anticipated construction footprint of the new river valley system • Diversion of river floodlines into new areas / channels • Disturbance of contaminated soils below capped fill areas 	<ul style="list-style-type: none"> • Realignment of the new river valley system resulting in new property takings • Relocation / addition of an discharge point

This information indicates that if modifications to the project do not worsen the predicted impacts / 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. If this is not the case, a new EA may be required to specifically address these changes.