

**Enclosure 2 – Federal Authority Advice Record – Designation Request under the IAA – Baldwin East Aerodrome Project**

**Response due by March 3, 2023**

Department/Agency	Fish and Fish Habitat Protection Program, Fisheries and Oceans Canada
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1. Has your department or agency considered whether it has an interest in the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part? Specify as appropriate.

Fisheries and Oceans Canada (DFO) has determined that we may have a regulatory role with this project. DFO has not yet exercised a power or performed a duty or function in relation to the Project or taken any course of action (including provision of financial assistance) that would allow the Project to proceed in whole or in part.

2. Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed?

If yes, please specify that power, duty or function and its legislative source.

A Fisheries Act paragraph 35(2)(b) Authorization will be required if the project is likely to cause the harmful alteration, disruption, or destruction to fish habitat and/or a Fisheries Act paragraph 34.4(2)(b) Authorization if the project is likely to result in the death of fish. The proponent should submit a Request for Review for DFO which outlines the specific impacts of the project on fish and fish habitat for review under the *Fisheries Act*.

DFO also reviews projects for effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the Species at Risk Act. It is unlikely that a permit will be required under the Species at Risk Act as there are currently no aquatic Species At Risk mapped for the project area as defined by this designation request. Aquatic Species at Risk are mapped in Lake Simcoe approximately 4-5km downstream of the project site though are unlikely to be impacted and no SARA permits would be required for fish relocation.

3. If your department or agency will exercise a power or perform a duty or function (including financial assistance) under any Act of Parliament in relation to the Project, will it involve public and Indigenous consultation?

If yes, please specify when and how public and Indigenous consultation would be undertaken.

Should DFO consider issuing a Fisheries Act s.34.4(2)(b) and/or 35(2)(b) authorization for the project, consultation with Indigenous groups would be undertaken.

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4. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to any potential adverse **effects in area of federal jurisdiction**, including direct or incidental effects, stemming from the Project, as defined in the section 2 of the IAA?

Specify as appropriate.

DFO can provide specialist or expert information or knowledge on assessment of impacts on fish and fish habitat. The Department may provide information to the proponent in order to avoid and mitigate the negative impacts of the proposed works, undertakings or activities. DFO will be able to evaluate the potential implications to our mandate as more details on the proposed project activities become available and are provided to DFO as part of the review process.

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5. Has your department or agency had previous contact or involvement with the Proponent or other parties in relation to the Project?

Provide an overview of the information or advice exchanged.

DFO has not had any previous contact or involvement with the proponent or other parties in relation to the Project.

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6. From the perspective of the mandate and area(s) of expertise of your department or agency, does the Project have the potential to cause adverse effects within federal jurisdiction or adverse direct or incidental effects as described in section 2 of the IAA?

- Could any of those effects be managed through legislative or regulatory mechanisms, or programs administered by your department or agency?
- If a licence, permit, authorization or approval may be issued, could it include conditions in relation to those effects?
- Based on the information provided by the Proponent, are the proposed mitigation measures appropriate to address the potential adverse effects?
- Are there norms that the Proponent would be reasonably expected to follow to manage effects (such as standard design features and mitigation, and existing guidance documents)?
- If you have a permit, license or authorization that is applicable to the Project, indicate how the Duty to Consult, as set out in section 35 of the *Constitution Act, 1982*, would be implemented.

*[When responding to these questions, please keep in mind the relevant factors listed in the Operational Guide: [Designating a Project under the Impact Assessment Act – Canada.ca](#)]*

Specify as appropriate.

DFO has reviewed the project information available at this time. There is insufficient information to determine whether the project will result in adverse effects; however, a project of this nature has the potential to result in the harmful alteration, disruption or destruction of fish habitat and/or the death of fish. As such, the project may require authorization under the *Fisheries Act*. If an authorization were to be issued, it would include conditions in relation to the aforementioned effects.

The proponent should submit a Request for Review for DFO which outlines the specific impacts of the project on fish and fish habitat for review under the *Fisheries Act*. The proponent should include all proposed measures to avoid and mitigate impacts in their Request for Review submission. Standard measures to protect fish and fish habitat can be found on the Projects Near Water website: [Measures to protect fish and fish habitat \(dfo-mpo.gc.ca\)](#).

Should DFO consider issuing a Fisheries Act s.34.4(2)(b) and/or 35(2)(b) authorization for the project, consultation with Indigenous groups would be undertaken.

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7. Does your department or agency have an oversight mechanism, policy, guidance, program or additional authority (or know of any) that may be relevant and could serve as a means to address the concerns expressed about the Project?

In particular, consider ways to address any of the following issues that have been raised by the requestor, that fall within your mandate:

- Potential impacts to fish and fish habitat (e.g., surface water contamination from runoff into Lake Simcoe via the Burnie Creek);
- Potential impacts to species at risk and/or their habitat (e.g., from changes to, or loss of, critical habitat);
- Potential impacts to migratory birds and/or their habitat (e.g., from changes to, or loss of, habitat);
- Potential impacts to wetlands and wetland function;
- Potential impacts to surface water and/or groundwater quality, including drinking water;
- Potential impacts from the use of contaminated soil fill, including on human health;
- Potential impacts on air quality, including on human health; and
- Potential impacts on Indigenous peoples on the following:
  - health, social or economic conditions;
  - current use of lands and resources for traditional purposes (e.g. hunting, fishing, trapping, gathering); and
  - any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.

If yes, please specify the oversight mechanism, policy, guidance, program or authority and how it could be applied to the Project.

The Fish and Fish Habitat Protection Program of DFO reviews projects for their impacts to fish and fish habitat and aquatic species at risk, by ensuring compliance with the Fisheries Act and Species at Risk Act. Through this program, DFO may provide information to the proponent in order to avoid and mitigate the negative impacts of the proposed works.

There are currently no aquatic Species At Risk mapped for the project area as defined by this designation request. Aquatic Species at Risk are mapped in Lake Simcoe approximately 4-5km downstream of the project site though are unlikely to be impacted and no SARA permits would be required for fish relocation.

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*Please see Annex I, for questions directed to your specific federal department.*

8. Does your department or agency have information knowledge of any applicable oversight mechanism, policy, guidance, or programs for this Project administered by any other levels of government?

If yes, please specify.

No.

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9. If your department has guidance material that would be helpful to the Proponent or the Agency, please include these as attachments or hyperlinks in your response.

N/A

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Rick Kiriluk  
Name of departmental / agency responder

A/Team Leader, Triage and Planning  
Title of responder

March 2, 2023  
Date

## ANNEX I – ADDITIONAL FEDERAL AUTHORITY SPECIFIC QUESTIONS

### **Environment and Climate Change Canada:**

- 1) The requester indicated (Enclosure 1) that there are federally listed species at risk. Please confirm the presence or absence of critical habitat for species at risk, and identify the specific species at risk of concern. Discuss the specific actions, or policies and guidance administered by your department, if any, pursuant to the *Species at Risk Act* to address any potential effects of the Project to federal species at risk.
- 2) The requester indicated (Enclosure 1) that there are federally listed migratory birds. Please confirm the presence or absence of migration routes and/or habitat for migratory birds, and identify the specific migratory birds of concern. Discuss the specific actions, or policies and guidance administered by your department, if any, pursuant to the *Migratory Birds Convention Act, 1994* or the *Migratory Bird Regulations, 2022* to address any potential effects of the Project to migratory birds.

### **Fisheries and Oceans Canada:**

- 1) Based on the proponent's information<sup>1</sup>, clarify any concerns with any potential impacts to fish and fish habitat in waterbodies on the Proponent's project site and surrounding water bodies.

### **Transport Canada:**

- 1) The Agency understands that the Proponent's revised summary report dated May 2022 (Version 3), underwent Transport Canada's regulatory review and the report was determined to be compliant with applicable requirements of the

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<sup>1</sup> Information regarding the Proponent's final summary report submitted to Transport Canada can be found at the following link:  
<https://www.newaerodromeontario2021.ca/>

Canadian Aviation Regulations 307 on July 6, 2022. Please reconfirm this statement? Please indicate if there are any additional requirements under Transport Canada's mandate that the Proponent must follow?

- 2) Discuss any role that Transport Canada would have during the life of the Project, including in addressing any comments or concerns by members of the Public or Indigenous communities.