

Enclosure 1: Federal Authority Advice Record

Response due by June 14, 2023

Marmora Clean Energy Hub Project

Agency File: 84597

All comments should be submitted via the **Submit a Comment** feature available on the Project's Canadian Impact Assessment Registry page¹. Letters and forms can be uploaded using this feature. If you have any difficulties submitting this way, please contact the Agency at Marmora@iaac-aeic.gc.ca.

Department/Agency	Transport Canada
Lead Contact	Jeremy Craigs
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Alternate Contact	David Zeit, David.Zeit@tc.gc.ca

1. (a) 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, specify the Act of Parliament and that power, duty or function.

There is a potential requirement for an approval under the Canadian Navigable Waters Act, however, based on the information provided it appears the main work is taking place on a waterway that is not considered navigable, and that OPG can use the public resolution process for the outfalls/intakes since they are on unscheduled waterways (or as OPG suggested, if they are designed in a way that meets the Minor Works they can proceed under the Minor Works provisions).

(b) Describe any Indigenous or public consultation that will be undertaken in relation to the exercise of that power, duty or function, including when it would take place.

If an approval is required, there is a 30-day public notice and advertising requirement as part of the approval process. Potential for consultation with Indigenous communities would be reviewed and determined by TC based on the nature of the project and potential effects.

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2. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to the conduct of an impact assessment of the Project?

Specify the specialist or expert information or knowledge.

Transport Canada can provide information and knowledge regarding the CNWA approvals process.

¹ Reference #84597 at <http://iaac-aeic.gc.ca/050/evaluations/document/147660?culture=en-CA>

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3. Has your department or agency considered 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 that would allow the Project to proceed in whole or in part?

Specify.

N/A

4. Has your department or agency had previous contact or involvement with the proponent or other party in relation to the Project? (for example: an enquiry about methodology, guidance, or data; introduction to the project)

N/A

5. Does your department or agency have additional information or knowledge not specified, above, including information on the geographic, environmental, economic or social context of the project? (e.g. location of protected or sensitive areas, previous history between local communities and proponent or similar projects, local or regional social or economic concerns)?

Specify as appropriate.

N/A

6. What are the key issues likely to be relevant to the public interest decision, based on the mandate and area(s) of expertise of your department, and which should be addressed in an impact assessment of the Project, should the Agency determine that one is required?

For each key issue:

- Describe the effect or the nature of the issue, including any relevant context;
- Provide the rationale and/or evidence for why it is a key issue;
- Identify briefly solutions to the issue, including any information or studies that should be required in the Tailored Impact Statement Guidelines, potential mitigation measures, and/or regulatory requirements relevant to the issue;
- Provide a concise, plain-language summary of the issue for inclusion in the Summary of Issues.

The information provided will be used by the Agency to determine if an impact assessment is required and where appropriate to develop project-specific draft Tailored Impact Statement Guidelines that focus on the key issues likely to be relevant to the public interest decision.

Please use **Table 1: Key Issues to inform decision-making** to respond to this question.

7. Where possible, identify any clarifications or additional information the Proponent could include in the Detailed Project Description or in the response to the Summary of Issues that would:

- give confidence that an issue or effect could be addressed and managed;
- inform the decision as to whether an impact assessment is required; or
- aid in tailoring the Impact Statement Guidelines, if an impact assessment is required.

These clarifications and additional information will be included as specific questions in the Summary of Issues provided to the proponent

Please use **Table 2. Clarifications or additional information the Proponent could include in the Detailed Project Description or in the response to Summary of Issues** to respond to this question.

8. For departments with information about local context²

- I. Provide contact details for local organizations or institutions, including municipal government officials, with expertise on economic and social issues in the local area

Name of Contact	Organization	Email Address	Area of Expertise (provide a brief explanation, including website)
N/A			

- II. Provide a list of reports or other sources of evidence (such as municipal plans, development plans) that might inform the Agency's understanding of the situational context of the region in which the Project is being proposed

Title of Report/Source of Information	Organization	Email address of key Contact (where available even if already listed in the table above)	Overview of the information that might be contained in the report/source of information (including website)
N/A			

- III. Provide any key programs administered by your department (e.g. Fed/Nor or Fed/Dev) in the area that may constitute complementary measures that the proponent may consider to resolve issues associated with its Project

Name of Fed/Nor or Fed/Dev Program	Purpose of Program	Key Contact	Web link(s)
N/A			

- IV. Provide any projects funded or likely to be funded by your department (e.g. Fed/Nor or Fed/Dev) in the area during the lifespan of the Project being proposed by the proponent.

Name of Project	Purpose of Project	Email Address of Recipient	Email address of Fed/Nor or Fed/Dev Project Administrator
N/A			

² This section is particularly important for departments that offer direct programs and services to local communities, non-government organizations, institutions etc. that could be viewed as complementary measures. Complementary measures, which are initiatives undertaken under federal programs or under the authority of a federal Minister or department, beyond those stated in the *Impact Assessment Act*, may also be considered by decision-makers, as applicable. Complementary measures may be used to address issues outside of the care and control of a proponent, for cross-cutting issues requiring an integrated response, or to accommodate impacts to section 35 rights held by Indigenous peoples. Examples of complementary measures may include skill development and training programs, social programs, etc.

Jeremy Craigs

Name of Departmental / Agency Responder

Environmental Officer

Title of Responder

2023-06-05

Date

Table 1: Key Issues to inform decision-making

The Agency asks that federal authorities align expert advice with the Agency’s approach to tailoring, which focuses on key issues or effects that are likely to be relevant to the public interest decision. In identifying key issues, federal authorities should be mindful of the Project’s context (size, scope, location), Indigenous knowledge and perspectives, and public concerns. Key issues that may be relevant to the public interest decision include:

- effects that may be significant, based on federal experts’ knowledge and experience with past projects;
- effects that may impact Indigenous peoples and their rights, based on Indigenous knowledge and perspectives or experience with past projects;
- effects on key species or habitats (e.g. at risk, important to Indigenous communities, commercial importance, provide important ecosystem function);
- issues or effects that may result from novel project activities, components or technology;
- effects with large uncertainties, including in the effectiveness of mitigation measures;
- transboundary effects where mitigation measures are limited;
- positive effects, including where project may support other governmental priorities, including reconciliation with Indigenous peoples; and
- key concerns raised by Indigenous or local communities.

Effects that are anticipated to be minor or which can be managed using well understood mitigation measures, existing guidance, and/or other regulatory processes may have simplified information requirements or may be removed entirely. Measured advice from federal authorities on key issues and solutions —and on the scope and detail of any required information and studies — will enable the Agency to focus assessments on issues that are important to participants and to decision-makers.

Comment ID	Valued Component or Factor to Consider	Description of Key Issue (Context and Rationale)	Solutions	Plain language summary for inclusion in Summary of Issues
<p><i>Please identify comments by organization and comment number.</i></p> <p><i>e.g.: IAAC-01</i></p>	<p><i>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the effect or issue applies.</i></p>	<p><i>Provide a brief description of the issue and rationale for being a key issue.</i></p> <p><i>Include, where relevant:</i></p> <ul style="list-style-type: none"> • <i>the pathway of effects;</i> • <i>social, economic or environmental context which are relevant to it being a key issue;</i> • <i>key uncertainties that should be addressed in the impact assessment;</i> • <i>Indigenous or public concerns or perspective;</i> • <i>potential for differential effects among diverse subgroups;</i> • <i>scientific evidence or traditional knowledge, including from past project experience, which supports inclusion as a key issue.</i> 	<p><i>Where applicable, briefly identify solutions to address the potential issue or effects including</i></p> <ul style="list-style-type: none"> • <i>Information or studies required to describe and characterize the effect, should an impact assessment be required; including any guidance for data collection and/or analysis or existing data sources to inform the assessment;</i> • <i>Any powers, duties or functions that your department or agency has that may mitigate, manage, or set conditions related to the effect;</i> • <i>Guidance or policies for mitigating effects or any standard and well-understood mitigation measures that would address the effect, including follow-up monitoring activities; and/or</i> • <i>Commitments the proponent could make to respond to the issue.</i> 	<p><i>For issues to be included in the Summary of Issues, provide a concise, plain language synopsis of the key issue and any questions or directions for the proponent.</i></p>
<p>TC-01</p>	<p>Navigation</p>	<p><i>Parts of the project could potentially affect navigation, however, based on the information provided to date these effects are not likely to include “key issues or effects that are likely to be relevant to the public interest decision”</i></p>	<p><i>N/A. The navigation effects will either be addressed through the CNWA approval process, application of the Minor Works guidelines, or the public resolution process of the CNWA.</i></p>	<p>N/A</p>

Table 2. Clarifications or additional information the Proponent could include in the Detailed Project Description or in the response to Summary of Issues

Comment ID	Relevant section of the Initial Project Description	Description of Issue, Concern or Uncertainty	Clarification or additional information	Plain language summary for inclusion in Summary of Issues
<p>Please identify comments by organization and comment number.</p> <p>e.g.: IAAC-01</p>	<p>If the comment is related to a specific section of the Initial Project Description, please provide a reference.</p> <p>You may also choose to copy the relevant text here.</p>	<p>Provide a description of the issue, concern or uncertainty the proponent could address in their detailed project description that would give confidence that the issue will be addressed and managed, or which could aid in tailoring the Guidelines</p>	<p>Provide recommended clarification or additional information to be included in the Detailed Project Description to address the issue, concern or uncertainty, for example</p> <ul style="list-style-type: none"> • Clarifications to project description (e.g. components, activities, locations or alternatives); • Project design changes that could avoid effects; • Evidence that could be presented to demonstrate there is no effect pathway or that effects will be negligible; • Evidence that standard mitigations will address potential effects; • Commitments the proponent could make to respond to the issue, including the implementation of federal operational policies or guidance documents. 	<p>For issues to be included in the Summary of Issues, provide a concise, plain language synopsis of the issue and of the question or direction for the proponent.</p>
<p>TC-01</p>	<p>Table 2-1</p>	<p>Proponent notes that a CNWA approval for the project is “Unlikely – provided design avoidance strategy taken into consideration.” but approval “May be required if the intake/outfall for dewatering is considered to have the potential to interfere with navigation.”</p>	<p>Proponent should provide detailed information regarding the aspects of the project that potentially require approval under the CNWA, and their planned approach to CWNA approval (e.g. application for approval, public resolution, application of Minor Works)</p> <p>If the works are taking place on a scheduled waterway or are a major work, an approval is required under the CNWA.</p> <p>If the works are taking place on an unscheduled waterway and are not a Major Work, the Owners have the option to:</p> <ol style="list-style-type: none"> 1. Apply for approval under the Act or; 2. Create a notification of work on a non-scheduled waterway (public resolution), in which they will deposit information about the work, create a public notice and invite the public to comment on the project. Public Resolution does not require review by the Navigation Protection Program. <p>More information about the Public Resolution Process and Application for Approval Process can be found at https://www.tc.gc.ca/eng/programs-623.html</p> <p>Both options can be submitted by creating an account and following the procedures/directions found at http://canada.ca/navigable-waters-submissions.</p> 	<p>Proponent should provide detailed information regarding the aspects of the project that potentially require approval under the CNWA, and their planned approach to CWNA approval (e.g. application for approval, public resolution, application of Minor Works)</p>