

## Enclosure: Provincial 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 page<sup>1</sup>. 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*.

<b>Ministry/Agency</b>	<b>Ministry of Natural Resources and Forestry</b>
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### 1. Expertise

Identify and describe the area of expertise within your ministry that is relevant to an assessment of the Project.

#### Natural Heritage

Natural heritage features and areas provide important environmental and social values . Natural heritage features and areas include significant wetlands, significant coastal wetlands, other coastal wetlands in Ecoregions 5E, 6E and 7E, fish habitat, significant woodlands and significant valleylands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River), significant wildlife habitat, and significant areas of natural and scientific interest.

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

## Mineral and Petroleum

Minerals and petroleum resources within MNRF's mandated interests include oil, gas and salt resources of Ontario, which are regulated under the Oil, Gas and Salt Resources Act (OGSRA). These particular resources are largely concentrated in Southwestern Ontario, and commercial production of oil, gas and salt occurs largely in this area of the province. It is noted that minerals, as defined by the Provincial Policy Statement (PPS), other than salt fall within the mandate of Ministry of Mines.

## Mineral Aggregate Resources

Mineral aggregate resources are typically sand, gravel, clay, earth and bedrock that are suitable for construction, industrial, manufacturing and maintenance purposes. Mineral aggregates are a non-renewable resource, found only where there are naturally occurring deposits. The quality and type of aggregate varies considerably depending on the geology of the area. Some areas of the province have large quantities of aggregate, while other areas have very little. Accordingly, it is important that the use of mineral aggregate deposits is not impeded by inappropriate land use development.

## Natural Hazards:

Natural hazards are understood to be natural, physical environmental processes that occur at or near the earth's surface, producing unexpected events of unusual magnitude or severity. The Emergency Management and Civil Protection Act (EMCPA) provides the provincial legal basis and framework for protecting the health, safety and welfare of Ontario's people in times of emergency. By Order-in-Council 1157/2009 of the EMCPA, the Minister of Natural Resources and Forestry is responsible for emergencies relating to natural hazards including: forest fires, floods, drought/low water, erosion; and soil and bedrock instability. The Minister of Natural Resources and Forestry has delegated the responsibility for representing the provincial interest for most natural hazards to conservation authorities (CAs). Special Policy Areas and Wildland Fire are exceptions not delegated to CAs

## Human-made Hazards

MNRF is the lead provincial ministry responsible for human-made hazards to do with oil, gas and salt operations (including former operations) and former mineral aggregate operations. In this role, MNRF provides policy advice and technical support to MMAH and municipalities, where required.

Pursuant to Order-in-Council 1039/2022 of the Emergency Management and Civil Protection Act, MNRF has the mandate responsible for human-made hazards of provincial interest associated with:

- oil and natural gas exploration and production;
- natural gas and hydrocarbon underground storage;
- salt solution mining;
- former mineral aggregate operations; and
- former petroleum resource operations.
- Dam failures

## 2. Key issues and solutions

Respond to the following **Table 1: Key Issues to inform decision-making** on the last page.

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 ministry or agency, 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 any clarifications or commitments the Proponent could make in its Detailed Project Description and Response to the Summary of Issues that would build confidence that issues can be addressed and managed without further impact assessment;
- 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 and 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.

## 3. Provincial policies, operational guidance, and permits and approvals

Within the mandate and area(s) of expertise of your ministry, list, along with a brief description, specific operational policies or guidance documents that could help address issues and manage effects relevant to the project context.

**Lakes and Rivers Improvement Act (LRIA):** Administrative Guide - provides an overview of the LRIA, its application and the process for seeking MNR approval to construct, alter, improve or repair dam infrastructure, including temporary dams and other works (e.g. water crossings, channelizations, enclosures, cables and pipelines) subject to LRIA approval. The Administrative Guide outlines the types of works requiring LRIA approval and the types of works that do not require LRIA approval.

**Aggregate Resources Act (ARA):** [Aggregate resources | ontario.ca](https://www.ontario.ca/laws/statute/97f41) provides an overview of how the province regulates aggregate extraction and information on how to apply for an aggregate authorization.

**Fish and Wildlife Conservation Act:**

<https://www.ontario.ca/laws/statute/97f41>. <https://www.ontario.ca/laws/statute/97f41>.

Background information on the licence to collect fish for sampling fish communities in a

waterbody or fish salvage during construction activities may be found at the Ontario website <https://www.ontario.ca/page/licence-collect-fish-scientific-purposes>. The collection of wildlife is also not permitted except under a wildlife scientific collection authorization please see: [https://nrip.mnr.gov.on.ca/s/nrip-busline?language=en\\_US&businessLine=FishAndWildlife](https://nrip.mnr.gov.on.ca/s/nrip-busline?language=en_US&businessLine=FishAndWildlife), for the application and information. Applications may be submitted through the Natural Resources information Portal: [https://nrip.mnr.gov.on.ca/s/?language=en\\_US](https://nrip.mnr.gov.on.ca/s/?language=en_US) [https://nrip.mnr.gov.on.ca/s/?language=en\\_US](https://nrip.mnr.gov.on.ca/s/?language=en_US) [https://nrip.mnr.gov.on.ca/s/?language=en\\_US](https://nrip.mnr.gov.on.ca/s/?language=en_US), or you may contact the MNRF.

4. The Agency understands that in accordance with the *Electricity Projects Regulation* (O. Reg. 116/01) of Ontario's *Environmental Assessment Act*, new waterpower projects greater than 200 MW in capacity must undergo an Individual Environmental Assessment (EA). Therefore, based on the Initial Project Description, this project would be subject to an Individual Provincial EA.

When your ministry or agency undertakes the technical analysis (e.g. potential environmental effects) related to this Project, would you be willing to cooperate with the Agency on this analysis?

The MNRF is regularly a commenting agency under the EA process and are willing to cooperate with the Agency on future analysis completed within the Ministry's mandated interests.

5. (a) List and provide a short description of provincial permits or regulatory approvals that might be applicable to the Project.
- (b) For each provincial permit or regulatory approval that would be required for the Project, please provide the following information:
- i. Explain any associated framework to address effects on valued components within your mandate.
  - ii. Describe any Indigenous consultation activities that would occur, potential timelines for Indigenous participation, and how potential impacts to Indigenous communities are addressed by your ministry.
  - iii. Describe any public participation opportunities that would occur, and potential timelines for public participation.

	<p>Lakes and Rivers Improvement Act (LRIA)</p> <p>Based on the draft project description, it appears that the proposed closed-loop pump storage facility will not be located on the bed of a river, lake, pond or stream and as such LRIA approval is not likely to be required for the upper reservoir as the facility would be considered offline. The project may require LRIA approval for the transfer of water between watersheds depending on if discharge into receiving bodies is considered a channelization, and whether the project is within Conservation Authority jurisdiction.</p>
	<p>Sustainable Water Resources Act (SWRA) is a non-binding good faith agreement between 8 US Great Lake States, Ontario, and Quebec</p> <p>Based on the draft project description this project does not constitute a transfer out of the Great Lakes basin or an Intra-basin transfer as defined in the SWRA. It also does not constitute a significant (greater than 19 million liters/day) consumptive use as defined in the SWRA. Therefore, regional review and/or prior notice and comment commitments under the SWRA are likely not triggered.</p>
	<p>Aggregate Resources Act (ARA)</p> <p>The proposed project site does not appear to overlap with an existing licence issued under the ARA, therefore site plan or licence amendments (mentioned on page 27 of the IPD) under the ARA will not be required to support the proposal (note: information about existing authorizations under the ARA can be found at Pits and Quarries Online). The ministry recommends the circulating the project to the Ministry of Mines for comment.</p> <p>When evaluating alternative methods for access to an aggregate source for the project, note that Method A (Development of a dedicated aggregate resource on or near the Project Development Area) will require a new aggregate licence application under the ARA if a currently unlicensed site is obtained for this purpose. Information on how to apply can be found at <a href="https://www.ontario.ca/en/gov/service/aggregate-resources">Aggregate resources   ontario.ca</a>. An Aggregate Licence application has technical reporting and consultation requirements.</p>
	<p>Indigenous Relations</p> <p>Prior to preparing messaging to proponents, MNRF would need to understand whether and how authorizing ministries will coordinate consultation and any delegation of procedural aspects of the duty to consult. MNRF suggests MECP coordinate a meeting with ministries to confirm consultation processes.</p> <p>MNRF must be satisfied that any consultation obligations associated with its authorizations and permits have been fulfilled and have supporting records to document the information shared with Indigenous communities about MNRF authorizations/ permits, any responses from communities and steps take to respond to any concerns raised.</p>

	<p>If MECP is leading consultation, Indigenous communities would need to be made aware that MNRF will be relying upon the MECP-led consultation process as part of fulfilling its consultation requirements.</p> <p>If MECP is not leading this process, MNRF would delegate procedural aspects of the duty to consult once the proponent submits applications</p>
	<p>Fish and Wildlife Conservation Act</p> <p>Please note, that should the project require:</p> <p>The relocation of fish outside of the work area, or sampling to establish fish community in the area, a Licence to Collect Fish for Scientific Purposes under the Fish and Wildlife Conservation Act will be required.</p> <p>The relocation of wildlife outside of the work area (including amphibians, reptiles, and small mammals), or for the purpose of surveys, a Wildlife Collector's Authorization under the Fish and Wildlife Conservation Act will be required.</p> <p>Timing windows and other conditions may be included in consideration of impact to fish, spawning areas, etc during dewatering and construction activities.</p>
	<p>Oil, Gas and Salt Resources Act</p> <p>Based on information provided, there are no licencing requirements under the Oil, Gas and Salt Resources Act. Although there are no records of petroleum wells in the project area, a possibility of natural gas in the bedrock should be considered. Should you wish to consult with experts about the potential of natural gas, please refer to the Ontario Petroleum Institute (OPI) directory for listing of industry contractors. The OPI may be a good resource if you are looking to connect with contractors experienced in encountering oil and gas in the subsurface.</p>

*Add rows as needed*

6. Is there any additional information related to the geographic context of the Project (e.g. potential effects to natural heritage features, Indigenous protected and conserved areas, provincial species at risk, provincial policy statements on planning or zoning in the area) for which your ministry has information or authority?

<p>Dewatering</p> <p>The Project requires dewatering of the open pit prior to operations</p> <ul style="list-style-type: none"> <li>•Current water level: 179.37 masl(metresabove sea level)</li> <li>•Operations water level: 72.96 masl</li> <li>•The location(s) to convey the water have not been finalized</li> <li>•Potential discharge locations include Moira Lake, Crowe River (into Trent Lake) and Mud Lake</li> </ul>
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The timing, duration, and total amount of water to be dewatered and when and how will a location be determined. MNRF would have to review for potential impact to fish, herpetofauna and fish habitat as well as DFO on the chosen watercourses.

#### Wildland Fire Hazardous Forest Types

The project study area may contain hazardous forest types for wildland fire.

The MNRF supports planning authorities with technical support in relation to provincial policies for wildland fire.

Data to identify potential areas that may meet this definition can be found in LIO here: <https://geohub.lio.gov.on.ca/documents/fire-potential-hazardous-forest-types-for-wildland-fire/about>. Note that this data is based on forest type data that may be out of date and field verification is recommended.

More information about wildland fire can be found in the [Wildland Fire Risk Assessment and Mitigation Reference Manual](#).

We recommend you review local official plans and the online data sources provided to screen for wildland fire hazards in your project study area.

Jeffrey Dennis

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**Name of Departmental / Agency Responder**

Resource Development Planning Coordinator

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**Title of Responder**

June 14<sup>th</sup>, 2023

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**Date**

**Table 1: Key Issues to inform decision-making**

The Agency asks that provincial ministries or agencies 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, provincial 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 provincial 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 provincial 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 ministry 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"> <li>• <i>the pathway of effects;</i></li> <li>• <i>social, economic or environmental context which are relevant to it being a key issue;</i></li> <li>• <i>key uncertainties that should be addressed in the impact assessment;</i></li> <li>• <i>Indigenous or public concerns or perspective;</i></li> <li>• <i>potential for differential effects among diverse subgroups;</i></li> <li>• <i>scientific evidence or traditional knowledge, including from past project experience, which supports inclusion as a key issue.</i></li> </ul>	<p><i>Where applicable, briefly identify solutions to address the potential issue or effects including</i></p> <ul style="list-style-type: none"> <li>• <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></li> <li>• <i>Any powers, duties or functions that your department or agency has that may mitigate, manage, or set conditions related to the effect;</i></li> <li>• <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></li> <li>• <i>Commitments the proponent could make to respond to the issue.</i></li> </ul>	<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>MNRF- 01</p>	<p><i>MNRF – risk of failure/breach (area of public concern)</i></p>	<p><i>As outlined in the LRIA Administrative Guide, not all dams that are constructed or altered require LRIA approval. If the dam is not constructed or altered in the circumstances set out in the Act and regulation, it does not require approval. Specifically:</i></p> <ul style="list-style-type: none"> <li>• <i>The dam is not constructed in a lake, river, pond or stream (as required by LRIA Section 14); and</i></li> <li>• <i>The dam does not hold back water in a lake, river, pond or stream to raise the water level, create a reservoir to control flooding or divert the flow of water (Clauses 2(1)(a) and (b) of O. Reg 454/96).</i> <p><i>LRIA policy/administrative guidance describes these dams as being “offline”, and states that they do not require LRIA approval.</i></p> </li></ul>	<p><i>The Ministry is seeking to understand how OPG plans to assess and quantify the risk of failure/breach and what steps will be taken by OPG to ensure such risks are managed to an appropriate level.</i></p>	<p><i>Man-made reservoirs have a potential risk of failure/breach which is an area of public concern. The Ministry is seeking to understand how OPG plans to assess and quantify the risk of failure/breach and what steps will be taken by OPG to ensure such risks are managed to an appropriate level.</i></p>



		<p><i>While MNRF does not have any specific guidelines, requirements or approvals associated with pump storage facilities that are offline, such projects are still of concern to the Ministry from a potential risk of failure/breach perspective. The degree of risk associated with any such reservoir will depend on a number of factors, including the volume of storage, upstream drainage area, height of the structure and the presence of property/infrastructure downstream that could be flooded in the event of a failure or breach.</i></p>		

*Please insert additional rows as necessary.*