

**Enclosure: Federal Authority Advice Record – Designation Request under the IAA
Response due by **October 18, 2023****

Ontario Place Redevelopment: Spa Complex Project

Department/Agency	Transport 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?

To date, Transport Canada has not had any role in this Project, has not exercised any power or performed a duty or function in relation to the Project, nor taken any course of action that would allow the Project to proceed in whole or in part. However, based on information provided in association with the designation request, we anticipate that if the Project were to proceed, compliance with the Canadian Navigable Waters Act (CNWA) will be required.

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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?

Based on information provided in association with the designation request, we anticipate that if the Project were to proceed, compliance with the Canadian Navigable Waters Act (CNWA) will be required. (e.g. “near-shore lake infilling”, and “a multipurpose bridge connecting the island to the mainland”).

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

Specify as appropriate.

Should Transport Canada have a role in this project under the Canadian Navigable Waters Act or other regulatory process, the department will conduct a pre-consultation assessment to determine if there will be the potential for adverse impacts to Section 35 Aboriginal and/or Treaty rights and/or Title as a result of the project and TC’s Crown Conduct. In TC’s pre-consultation assessment, TC may use existing consultation and/or regulatory processes to assist in its duty to consult assessment. Should TC determine that consultation is required, the department prefers to coordinate with other departments/ministries where possible to streamline the consultation process. If coordination is not feasible, TC will consult independently with Indigenous communities to address questions or concerns

related to TC's role in the project.

The CNWA approval process includes a public registry posting and advertising requirements. The Navigation Protection Program Officer will consider public comments received through the CNWA process.

4. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to any potential adverse effects within federal jurisdiction caused by the Project or adverse direct or incidental effects stemming from the Project?

Specify as appropriate.

The Navigation Protection Program can provide expert knowledge in relation to potential effects related to navigation.

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.

To our knowledge, Transport Canada has had no involvement in relation to this Project to date.

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 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?

Specify as appropriate.

The Project has the potential to cause adverse effects to navigation, however these can be readily mitigated through proper design of the bridges and adherence to appropriate construction practices. The CNWA review and authorization process will ensure that effective conditions are applied to the Project to prevent significant impacts to navigation.

7. Does your department or agency have a program or additional authority that may be relevant and could be considered as a potential solution to concerns expressed about the Project? In particular, the following issues have been raised by the requestor or are described in section 2 of the IAA:
- fish and fish habitat, including matters related to surface and groundwater,
 - migratory birds, including matters related to vegetation and habitat,
 - federally listed species at risk,
 - effects on Indigenous people of Canada, including on physical and cultural heritage, the current use of lands and resources for traditional purposes, or any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or on communities' health, social or economic conditions,
 - adverse changes to the environment that would occur on federal lands, including federal water-lots, and lands outside Ontario or Canada, including transboundary effects of greenhouse gas emissions as well as air emissions.

If yes, please specify the program or authority.

The CNWA approval process considers Indigenous use of waterways for navigation.

8. Does your department or agency have information about the interests of Indigenous groups in the vicinity of the Project; the exercise of their rights protected by section 35 of the *Constitution Act, 1982*; and/or any consultation and accommodation undertaken, underway, or anticipated to address adverse impacts to the section 35 rights of the Indigenous groups?

If yes, please specify.

Transport Canada has previously consulted with Indigenous Communities on other projects in the vicinity of this Project, and the department has some understanding of the concerns related to TC's mandate for this project area.

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.

Additional information about the CNWA can be found here: <https://tc.canada.ca/en/marine/about-canadian-navigable-waters-act>

Any construction equipment, buildings, installations must comply with the **Toronto Island Airport Zoning Regulations (SOR/85-515)** (<https://laws-lois.justice.gc.ca/eng/regulations/SOR-85-515/index.html>). There will be applicable zoning requirements on allowable heights, natural growth and disposal of waste.

Also, it is highly recommended that the proponent consult with PortsToronto (operator of BBTCA) to ensure there are no adverse impacts on the airports operations/items required for certification. Also, NAV CANADA's Land Use Program (<https://www.navcanada.ca/en/aeronautical-information/land-use-program.aspx>) should be consulted. NAV CANADA will evaluate any potential impacts to instrument flight procedures, which could greatly affect the usability of the airport.

Jeremy Craigs

Name of departmental / agency
responder

Environmental Officer
Title of responder

2023-10-18