

Ontario Place Redevelopment: Underground Parking Garage Project

Provincial Advice Record – Designation Request under the IAA
Ministry of Infrastructure Response
Response requested by October 18, 2023

Ministry	Ministry of the Environment, Conservation and Parks
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On October 13, 2023, the Supreme Court of Canada found the designated project provisions of the federal *Impact Assessment Act* to be unconstitutional. Accordingly, there is no constitutional basis for the Minister to designate the Project. Even if there were, the project should not be designated because of the reasons outlined in this submission.

- 1. In general terms, please confirm and describe your ministry's role (if applicable) in the review of the Project.**

The Ministry of the Environment, Conservation and Parks (MECP) is responsible for the administration and enforcement of the *Environmental Assessment Act* (EAA) and provides guidance to proponents regarding both individual and class environmental assessment (EA) requirements. MECP is also responsible for the administration and enforcement of a comprehensive suite of legislation and regulations that regulate a broad range activities in Ontario in order to protect the natural environment and human health, including the *Environmental Protection Act* (EPA), *Ontario Water Resources Act* (OWRA), and *Endangered Species Act* (ESA).

MECP has been regularly engaged with the Ministry of Infrastructure (MOI) as the Ontario Place redevelopment project has evolved.

2. Please provide the contact information of the person or persons responsible for managing your ministry's oversight of the Project (if different from lead contact above).

N/A

3. Describe the provincial legislative or regulatory process or approvals administered by your ministry that may assess or manage the potential adverse effects of the Project. For each mechanism or approval, please provide information regarding the following:

- **Name of the process or authorization (e.g. certificate, licence, permit or approval) and the associated legislative framework;**
- **Whether (for each) the authorization would set conditions and if yes, what issues would those conditions address;**
- **Whether (for each) the authorization would require public and/or Indigenous consultation and if yes, provide information on the approach to be taken; and**
- **Whether (for each) your ministry has guidance material that would be helpful to the Proponent or the Agency (please provide these as attachments or hyperlinks in your response).**

MOI consulted with MECP in order to ensure compliance with the *Environmental Assessment Act*, which sets out a planning and decision-making process so that potential environmental effects are considered before a project is implemented.

Please be advised that Site Servicing was subject to Category B of the Ministry of Infrastructure (2012) Public Work Class EA (PW Class EA) process. This environmental assessment process was completed June 30, 2022.

As part of the redevelopment, MOI has also undertaken a Category C Public Work Class EA under the PW Class EA process. The Class EA is for the future public spaces and parkland (the public realm), which includes shared parking structure activities.

The PW Class EA process for the Category C project was initiated in March 2021 with issuance of the Notice of Commencement and was substantially completed on September 2, 2023 with completion of a 60-day comment period on the draft Environmental Study Report (ESR). The Final ESR is anticipated to be released in Fall 2023 which will conclude the PW Class EA process for the Category C project and then the project can proceed to implementation.

MECP participated in a review and provided comments to MOI regarding the Class EA process for the Category C project, including comments about air emissions, surface water, groundwater and source protection. MOI has addressed MECP's comments.

MECP authorization(s) required is dependent on factors such as the type of activities being proposed, potential environmental impacts and the previous zoning/designated land use of the site. As the project advances, MECP will be able to identify what authorization(s) will be required for the project.

For large parking lots, environmental authorizations under the *Environmental Protection Act* (EPA), *Ontario Water Resources Act* (OWRA), and *Endangered Species Act* (ESA) may be required.

4. Confirm whether any authorization listed above would contemplate the following matters and if yes, discuss, in general, the benchmarks or standards to which a project of this nature may be held (be specific in relation to each point below that may be applicable to your ministry's mandate):

- **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, including matters related to vegetation and habitat,**
- **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 *Please refer to Section 6 of the Draft ESR-Consultation*

- **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.**

For large parking lots, environmental authorizations under the EPA and OWRA include:

Environmental compliance approvals for sewage works such as stormwater management infrastructure and subsurface sewage disposal works.

Depending on the volume of water taking per day, Permit to Take Water or Registrations would be required for any water takings from surface and groundwater, including for construction dewatering and/or domestic use.

Please note: if the Project will be municipally serviced (e.g., wastewater and water), the municipality would need to ensure they have the appropriate permissions in place (e.g., amendment to current permit to take water, if applicable).

A Record of Site Condition may need to be filed with Ontario to demonstrate the soils and lands are safe for the intended use of the property. This may include a Risk Assessment for any contaminated soils.

In light of the nature of the activities outlined above (potential environmental impacts are known and mitigatable), the planning level controls imposed by the EAA and the detailed design controls imposed by approvals issued under the EPA and OWRA, designating this proposal to an additional environmental regulatory process is unnecessary.

Furthermore, the requestor has not identified any clear area of federal jurisdiction in relation to this project that is in the planning stages and is wholly within Ontario.

For information related to the aforementioned PW Class EA process, please see IO's submission.

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- 5. Have you received public comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.**

See IO's submission.

6. Have you received Indigenous community comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.

See IO's submission.

7. Do you have any other information about the Project in relation to potential adverse effects or impacts to the public, or Indigenous peoples and their rights as protected under section 35 of the Constitution Act, 1982?

N/A
