

**Federal Authority Advice Record (FAAR)****FAAR Response must be submitted by February 6, 2025**

Sussex Region Flood Diversion Project – Town of Sussex.

Registry File: 89179

Department/Agency	Housing, Infrastructure and Communities Canada (HICC), formerly Infrastructure Canada (INFC)
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1. Is it probable that your department or agency exercise a power, perform a duty or function, or provide financial assistance, related to the project to enable it to be carried out in whole or in part?

Yes. HICC is providing financial assistance related to the project to enable it to be carried out in whole or in part.

As relevant,

- a) Specify the applicable Act of Parliament and that power, duty or function, or describe the financial assistance provided.

As part of the Government of Canada National Adaptation Strategy, HICC is providing financial assistance to the project through the Disaster Mitigation and Adaptation Fund (DMAF). The DMAF is a national, competitive, and merit-based contribution program intended to support infrastructure projects designed to mitigate current and future climate-related risks and disasters triggered by natural hazards, such as floods, wildland fires, droughts and seismic events.

b) Describe any associated Indigenous or public consultation, including timelines

The Recipient of HICC's funding (Town of Sussex) is required to consult with Indigenous groups since Aboriginal and/or Treaty rights under section 35 of the Constitution Act, 1982 could be adversely impacted by this Project. To this effect, HICC requested that the Town of Sussex notify the following Indigenous communities in the province of New Brunswick of the project and inform them that HICC may be providing financial support for the project:

1) The six (6) Wolastoqey communities represented by the Wolastoqey Nation in New Brunswick (WNNB) in matters of consultation, according to the Draft Consultation Protocol between Canada and the Wolastoqey Nation (WNNB):

- Kingsclear First Nation (Pilick);
- Madawaska Maliseet First Nation (Matawaskiye);
- Oromocto First Nation (Welamukotuk);
- St. Mary's First Nation (Sitanisk);
- Tobique First Nation (Negotkuk); and
- Woodstock First Nation (Wotstak).

2) The eight (8) Mi'kmaq communities represented by the Mi'gmawe'l Tplu'taqnn Incorporated (MTI) in matters of consultation, according to the Amending Agreement to Mi'gmag Wolastoqiyik/New Brunswick/Canada Interim Consultation Protocol:

- Buctouche MicMac First Nation (Tjipögtötjg);
- Eel Ground First Nation (Natoaganeg);
- Eel River Bar First Nation (Ugpi'Ganjig);
- Esgenoôpetitj First Nation;
- Fort Folly First Nation (Amlamgog);
- Indian Island First Nation (L'Nui Menikuk);
- Metepenagiag First Nation; and
- Pabineau First Nation (Oinpegitjoig L'Noiegati).

3) The Elsipogtog community and the Kopit Lodge.

4) The Peskotomuhkati Nation at Skutik.

On June 7, 2024, the Town of Sussex proceeded with notifying these Indigenous groups of the project and asked if they have any questions or concerns regarding impacts to Aboriginal rights or title, or any other concerns with the proposed project.

On June 10, 2024, the MTI responded that Mi'gmaq Aboriginal and Treaty Rights are potentially affected by this project and as a prerequisite, a Mi'gmaq Rights Impact Assessment (MRIA) must be completed, to determine whether consent will be given by MTI. In addition, the Regional Development Consultation Coordinator (RDCC) for Welamukotuk (Oromocto First Nation) responded that they do not have concerns at present but more information is needed for them to advise if project impacts Welamukotuk or any other Wolastoqey community along the Wolastoq (Saint John River).

On June 25, 2024, the Lead Negotiator for the Peskotomuhkati Nation at Skutik, on behalf of the Chief, responded that their community defers consultation to the Mi'kmaq Nation communities because it's in their territory.

Furthermore, no feedback was received from the WNNB and the Elsipogtog community / Kopit Lodge pursuant to initial engagement and therefore, HICC would require that the Town of Sussex follow-up with these groups to confirm that they do not wish to proceed with consultation on the project.

Finally, the MTI's request to proceed with the MRIA remains outstanding.

- c) Describe any associated requirements (e.g., alternative means, offsetting) that may be coordinated with the impact assessment process, if an impact assessment is required, to meet the target of five years or less to complete any required federal impact assessment and permitting.

Not Applicable.

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2. Is your department or agency in possession of specialist or expert information or knowledge with respect to the project beyond what is described in the [Memorandums of Understanding with IAAC?](#)

As relevant,

- a) Specify the specialist or expert information or knowledge that is specifically related to the project and may be relevant to the conduct of an impact assessment of the project, 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).
- b) Provide an overview of any information received or exchanged with the proponent or other party in relation to the project (e.g., about methodology, guidance, or data).

N/A

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3. Based on the mandate and expertise of your department or agency as well as information and knowledge in its possession, including the Initial Project Description, are you of the opinion that the project may cause adverse effects within federal jurisdiction or direct or incidental adverse effects?

- a) Identify adverse effects within federal jurisdiction that may be caused by the project.
- b) Identify any non-negligible adverse effects directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function, or to a federal authority's provision of financial assistance to a person for the purpose of enabling the project to be carried out, in whole or in part.
- c) Identify any adverse impact that the designated project may have on the rights of Indigenous groups.
- d) Identify and describe means other than an impact assessment that may address the adverse effects within federal jurisdiction — and the direct or incidental adverse effects — that may be caused by the carrying out of the project, including how these effects would be addressed. Other means may include any power, duty or function exercised by your department or agency, as well as existing legislations, regulations, standards, processes, or guidelines by any jurisdiction that your department or agency has knowledge of.
- e) Identify whether and how an impact assessment would provide added value to understand and address adverse effects within federal jurisdiction — and the direct or incidental adverse effects — that may be caused by the project, including supporting federal authorizations that may be required.

N/A

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4. Based on the mandate, experience and expertise of your department or agency, and on the Initial Project Description, what are the **key issues** related to the project?

Please use Table 1 to respond to this question.

If IAAC decides an impact assessment is required, IAAC will consider the information to develop project-specific draft Tailored Impact Statement Guidelines focused on key issues, establish the scope of the impact assessment, and develop plans.

N/A

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5. What additional information the proponent could provide that would give confidence that concerns or uncertainty regarding potential effects can be addressed through means other than an impact assessment, or that available means and evidence can be relied upon to simplify information requirements of the proponent, if an impact assessment is required?

Please use Table 2 to respond to this question.

These clarifications and additional information may be asked of the proponent in the Summary of Issues. The proponent's response on how it intends to address the issues may be used by IAAC to decide if an impact assessment is required and, if so, develop simplified project-specific draft Tailored Impact Statement Guidelines, and develop plans.

N/A

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*Marc Simard*

\_\_\_\_\_  
Name of Departmental / Agency  
Responder

Senior Environmental Review and Approvals  
Officer

\_\_\_\_\_  
Title of Responder

\_\_\_\_\_  
Date

**Table 1: Key Issues to inform the impact assessment process**

This table should outline key issues to inform the impact assessment process, including whether an impact assessment is required and, if so, the scope of the assessment.

IAAC asks that federal authorities align expert advice with IAAC’s approach to scoping and tailoring to key issues based on the project-specific context, and clearly focus on the prevention and mitigation of significant adverse effects within federal jurisdiction. Measured advice from federal authorities on key issues and solutions — and on the scope and detail of any recommended information and studies — will enable IAAC to focus assessments on issues that are important to participants and to decision-makers.

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 and material to decision-making include:

- adverse effects within federal jurisdiction and direct or incidental adverse effects that may be to some extent significant, based on available evidence, including federal experts’ knowledge and experience with past project assessments;
- potential impacts on Indigenous peoples and their rights, based on Indigenous Knowledge and perspectives or experience with past project assessments;
- effects on key species or habitats (e.g. at risk, important to Indigenous communities, commercial importance, provide important ecosystem function);
- issues or adverse effects within federal jurisdiction or direct or incidental adverse effects that may result from novel project activities, components or technology;
- effects within federal jurisdiction or direct or incidental adverse effects with large uncertainties, including in the effectiveness of mitigation measures;
- adverse effects within federal jurisdiction and direct or incidental adverse effects where known and effective mitigation measures are limited or unproven;
- positive effects, including where project may support other governmental priorities, including reconciliation with Indigenous peoples; and
- key concerns raised by Indigenous groups or local communities.

If an impact assessment is required, it will be focused on key federal issues anticipated to be material to decision-making. Potential effects that do not represent key issues, may not be within the scope of the impact assessment or may require simplified information requirements for proponents. In identifying key issues and providing advice on whether additional information or studies are required, federal authorities should consider whether potential effects can be managed using well understood mitigation measures or existing guidance, whether a mean other than an impact assessment exists to address and manage the effects and of any gaps in the existing body of evidence.

Comment ID	Relevant section of the Initial Project Description	Valued Component or Factor to Consider	Description of Key Issue (Context and Rationale)	Advice	Plain language summary that could be included in the Summary of Issues
<p><i>Please identify comments by organization and comment number.</i></p> <p>e.g.: IAAC-01</p>	<p><i>If the comment is related to a specific section of the Initial Project Description, please include that reference.</i></p>	<p><i>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential 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:</i></p> <ul style="list-style-type: none"> <li>• <i>whether it is an adverse effect within federal jurisdiction, or a direct or incidental adverse effect;</i></li> <li>• <i>the pathway of effects;</i></li> <li>• <i>nature and complexity of the issue</i></li> <li>• <i>rationale and evidence on why it is a key project-specific issue;</i></li> <li>• <i>if applicable, Indigenous or public concerns or perspective;</i></li> <li>• <i>if applicable, potential for differential effects among diverse population groups;</i></li> <li>• <i>scientific evidence or Indigenous Knowledge, including from past project experience, which supports inclusion as a key issue.</i></li> </ul>	<p><i>Where applicable, briefly provide solutions on how to address the potential issue or effects including:</i></p> <ul style="list-style-type: none"> <li>• <i>Any mean, including powers, duties or functions that your department or agency has or any regulatory framework of a jurisdiction that may mitigate, manage, or set conditions related to the issue;</i></li> <li>• <i>Standards, guidance or policies for mitigating effects or any standard and well-understood mitigation measures that would address the effect, including follow-up monitoring activities;</i></li> <li>• <i>Commitments the proponent could make to respond to the issue;</i></li> <li>• <i>Information or studies required to describe and characterize the potential effect; including any guidance for data collection and/or analysis or existing data sources to inform the assessment</i></li> </ul> <p><i>Where available, please refer to existing text in the Tailored Impact Statement Guidelines template.</i></p>	<p><i>Provide a concise, plain language synopsis of the key issue and any questions or directions for the proponent. <del>that</del> IAAC may include in the Summary of Issues.</i></p>

Please insert additional rows as necessary.

**Table 2. Clarifications or additional information the proponent could provide**

This table should outline clarifications or information the proponent could provide to address areas of concerns or uncertainty during the Planning phase to support the decision on whether an impact assessment is required and, if an impact assessment is required, to support simplified information and studies that would be required in the Tailored Impact Statement Guidelines.

Comment ID	Relevant section of the Initial Project Description	Description of concern or uncertainty	Clarification or additional information	Plain language summary that could be included in the 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>If the comment is related to a specific section of the Initial Project Description, please provide a reference.</i></p> <p><i>You may also choose to copy the relevant text here.</i></p>	<p><i>Provide a description of the area of concern or uncertainty the proponent could address (e.g. in their response to Summary of Issues, and, if IAAC requires it, in their Detailed Project Description) that would demonstrate or increase confidence that the issue will be addressed through a mean other an impact assessment such as existing regulatory frameworks (from any jurisdiction), clear measures or existing guidelines or tools .</i></p>	<p><i>Provide recommended clarification or additional information to be included in their response to the Summary of Issues and, if IAAC requires it, in their Detailed Project Description as to how they intend that could be provided to address the concern or uncertainty, for example:</i></p> <ul style="list-style-type: none"> <li><i>• Clarifications to elements of the project description (e.g. components, activities, locations or alternatives);</i></li> <li><i>• Proposed project design changes that could avoid effects;</i></li> <li><i>• Evidence that could be presented to demonstrate there is no effect pathway of effect or that effects would be negligible;</i></li> <li><i>• Evidence that standard mitigation measures will address potential adverse effects within federal jurisdiction and, if applicable, direct or incidental adverse effects;</i></li> <li><i>• Commitments the proponent could make to address the issue, including the implementation of federal operational policies or guidance documents.</i></li> </ul>	<p><i>Provide a concise, plain language synopsis of the issue and of the question or direction for the proponent that IAAC may include in the Summary of Issues.</i></p>

*Please insert additional rows as necessary.*