

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	Transport Canada
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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?

As relevant,

- a) Specify the applicable Act of Parliament and that power, duty or function, or describe the financial assistance provided.
- b) Describe any associated Indigenous or public consultation, including timelines.
- 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.

Based on the information provided it is anticipated that a *Canadian Navigable Waters Act* (CNWA) approval may be required from Transport Canada (TC).

Additional Notes for consideration:

- CNWA applications require a fee payment for active review as well as a 30-day public notice period during the review phase.
- Public notice for comments can be coordinated with similar requirements by other agencies.

- There is no legislated timeline for the issuance of an approval.
- There could be a need for Indigenous consultation and Indigenous knowledge must be considered for any CNWA approval required for the project.

Providing the necessary information early during the IAA review process will support an efficient CNWA review and permitting process, if an approval is required.

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).

Additional guidance, specialist information, and knowledge are provided in Table 2 below.

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.

Additional guidance, specialist information, and knowledge are provided in Table 2 below.

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.

See Table 2 below.

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.

J. Jason Flanagan
Senior Environmental Advisor
Environmental Programs
Transport Canada, Atlantic Region

Name and Title of Departmental / Agency
Responder

February 6, 2025

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>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 include that reference.</p>	<p>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential effect or issue applies.</p>	<p>Provide a brief description of the issue and rationale for being a key issue.</p> <p>Include:</p> <ul style="list-style-type: none"> • whether it is an adverse effect within federal jurisdiction, or a direct or incidental adverse effect; • the pathway of effects; • nature and complexity of the issue • rationale and evidence on why it is a key project-specific issue; • if applicable, Indigenous or public concerns or perspective; • if applicable, potential for differential effects among diverse population groups; • scientific evidence or Indigenous Knowledge, including from past project experience, which supports inclusion as a key issue. 	<p>Where applicable, briefly provide solutions on how to address the potential issue or effects including:</p> <ul style="list-style-type: none"> • 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; • 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; • Commitments the proponent could make to respond to the issue; • Information or studies required to describe and characterize the potential effect; including any guidance for data collection 	<p>Provide a concise, plain language synopsis of the key issue and any questions or directions for the proponent. that IAAC may include in the Summary of Issues.</p>

				<p><i>and/or analysis or existing data sources to inform the assessment</i></p> <p><i>Where available, please refer to existing text in the Tailored Impact Statement Guidelines template.</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>Please identify comments by organization and comment number. e.g.: IAAC-01</p>	<p>If the comment is related to a specific section of the Initial Project Description, please provide a reference. You may also choose to copy the relevant text here.</p>	<p>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 .</p>	<p>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:</p> <ul style="list-style-type: none"> • Clarifications to elements of the project description (e.g. components, activities, locations or alternatives); • Proposed project design changes that could avoid effects; • Evidence that could be presented to demonstrate there is no effect pathway of effect or that effects would be negligible; • Evidence that standard mitigation measures will address potential adverse effects within federal jurisdiction and, if applicable, direct or incidental adverse effects; • Commitments the proponent could make to address the issue, including the implementation of federal operational policies or guidance documents. 	<p>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.</p>
TC-01	N/A	<p>Parsons Brook Diversion Channel - passive concrete intake control structure (i.e. not containing any movable gates requiring human-initiated operation) will regulate flow, ensuring drainage from Parsons Brook into the diversion channel occurs only during flood flows.</p> <p>Temporary works will include water control works as well as erosion and sediment control works along the northern bank of Parsons Brook during the construction of the intake control structure</p>	<p>When available, detailed design information is needed to appropriately determine the applicability of the <i>Canadian Navigable Waters Act</i> (CNWA) to aspects of this project.</p>	<p>While the diversion channel itself does not appear to implicate navigable waters, the intake structure at Parsons Brook, temporary water control structures along Parsons Brook as well as the discharge structure at Trout Creek may require <i>Canadian Navigable Waters Act</i> (CNWA) approval(s) if these structures are to be located below the ordinary high-water levels of Parsons Brook and Trout Creek.</p>

TC-02	N/A	Trout Creek Diversion Channel - A passive concrete intake control structure will regulate flow, ensuring drainage from Trout Creek into the diversion channel occurs only during flood flows. The Trout Creek diversion channel will require the construction of two bridge/overpass structures on New Brunswick Route 1 where the highway intersects the channel as well as a culvert or bridge structure at Leonard Drive. The concrete intake control structure will be located on the north bank of Trout Creek. Temporary works will include water control works as well as erosion and sediment control works along the north bank of Trout Creek during the construction of the intake control structure and within the Kennebecasis River floodplain north of Route 1 during the construction of the diversion channel.	When available, detailed design information is needed to appropriately determine the applicability of the <i>Canadian Navigable Waters Act</i> (CNWA) to aspects of this project.	While the diversion channel itself does not appear to implicate navigable waters, the intake structure at Trout Creek, temporary water control structures along Trout Creek may require <i>Canadian Navigable Waters Act</i> (CNWA) approval(s) if these structures are to be located below the ordinary high-water levels of Trout Creek.
TC-03	N/A	<p>Bridge Deck Raising: Route 890 and Salmon Covered Bridge</p> <p>The proposed diversion channels will result in minor water level increases in the Kennebecasis River between the discharge point of the Trout Creek diversion channel and the natural confluence of Trout Creek and the Kennebecasis River. Temporary water level increases in the Kennebecasis River during flood events will be addressed by raising of the bridge deck elevations at Route 890 and the adjacent covered bridge.</p> <p>Temporary in-water works may include construction and traffic by-pass trestles, and sediment and erosion control measures will be used to mitigate water quality impacts in the Kennebecasis River.</p>	When available, detailed design information is needed to appropriately determine the applicability of the <i>Canadian Navigable Waters Act</i> (CNWA) to aspects of this project.	<p>The Kennebecasis River is not a Scheduled watercourse under the CNWA, however, the proposed bridge alterations and temporary by-pass trestles may require CNWA approval(s).</p> <p>**Note, that any <u>bridges with piers placed below the high water mark of a watercourse, always require an approval as outlined in the Major Works Order. (and an application for approval would be required)</u></p> <p>Major Works Order https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-320/index.html</p> <p>If a proposed bridge is not a Major Work, the proponent can assess the individual watercourse crossings against the criteria in the Minor Works Order (Section 34 – Watercourse Crossings):</p> <p>Minor Works Order https://laws.justice.gc.ca/eng/regulations/SOR-2021-170/index.html</p> <p>IF a specific watercourse crossing meets ALL the criteria in that section, they are considered Minor Works and do not require a Canadian Navigable Waters Act approval and would only be required to follow the Deposit and Publication requirements in sections 3(2), 3(3) and 4 of the Minor Works Order.</p> <p>IF a specific watercourse crossing does NOT meet ALL the criteria, the proponent may be required to submit an application for approval.</p> <p>Under the Canadian Navigable Waters Act (CNWA), owners of works – (other than a minor work or a major work) – including culverts, bridges and watercourse crossings - that are <u>located on navigable waterways not listed in the schedule</u>, have the option to:</p>

				<p>1. either apply to the Minister of Transport for an approval; (approval review process and advertising and 30 day registry public review)</p> <p>or</p> <p>2. seek authorization through the public resolution process, and deposit specific information regarding their work on the new Common Project Search (online registry) inviting any interested party to comment.</p> <p>(advertising and 30 day registry public review)</p> <p>Both the application process and the public resolution process on the Registry can be accessed at the following link: External Submission Site for the Navigation Protection Program (create an account first if needed)</p> <p>Additional guidance information and links for the NPP regulatory process can be found here:</p> <p><i>Canadian Navigable Waters Act</i> https://www.tc.gc.ca/eng/programs-632.html</p> <p>https://www.tc.gc.ca/eng/canadian-navigable-waters-act.html</p> <p>Navigation Protection Program, Transport Canada http://www.tc.gc.ca/eng/programs-621.html</p> <p>NPP Contact coordinates:</p> <p>Navigation Protection Program Programme de protection de la navigation</p> <p>Transport Canada - Atlantic Region / Heritage Court, 6th Floor, 95 Foundry Street, Moncton, N.B. E1C 5H7 Transports Canada - Région de l'Atlantique / Place Héritage, 6^e étage - 95 rue Foundry, Moncton, N.-B. E1C 5H7 Tel Tél. : 506-851-3113 / Fax Téléc. : 506-851-7542 Email / Courriel : NPPATL-PPNATL@tc.gc.ca</p> <p> Transport Canada  </p> <p>Transport Canada has introduced new fees for services, under the <i>Canadian Navigable Waters Act</i>, as part of the Fee Modernization initiative. Find out more at: Canada Gazette, Part 2, Volume 158, Number 14: Canadian Navigable Waters Act Fees Regulations</p> <p>Transports Canada introduit une nouvelle structure de redevances, en vertu de la <i>Loi sur les eaux navigables canadiennes</i>, dans le cadre de l'initiative de modernisation des frais. Plus d'informations ici: La Gazette du Canada, Partie 2, volume 158, numéro 14 : Règlement sur les droits relatifs à la Loi sur les eaux navigables canadiennes</p>
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Please insert additional rows as necessary.