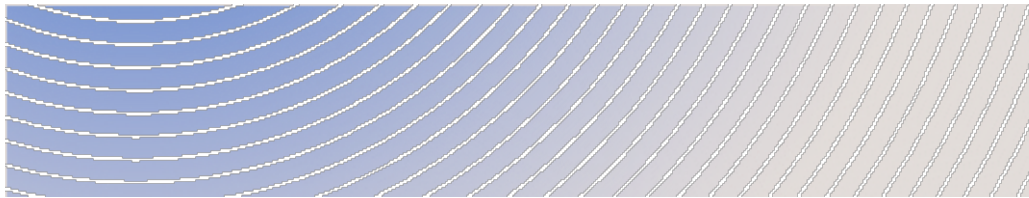


Analysis Report



WHETHER TO DESIGNATE THE **BILLY BISHOP TORONTO CITY AIRPORT
RUNWAY END SAFETY AREA PROJECT** IN ONTARIO PURSUANT TO THE
IMPACT ASSESSMENT ACT

JANUARY 24, 2025



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Purpose

The Impact Assessment Agency of Canada (IAAC) prepared this report for consideration by the President of IAAC¹ in his response to the request to designate the Billy Bishop Toronto City Airport (BBTCA) Runway End Safety Area Project (the Project) pursuant to section 9 of the *Impact Assessment Act* (IAA).

Context of Request

On November 14, 2024, the Minister of Environment and Climate Change received a request to designate the Project from Parks not Planes (the requester). In its letter, the requester asserts that the Project has the potential to cause adverse effects within federal jurisdiction and adverse direct or incidental effects. The letter expressed concerns about adverse effects on fish and fish habitat, aquatic species at risk, migratory birds, changes to the environment on federal lands, and changes to the environment that could affect Indigenous Peoples. Other matters raised included human health impacts, economic impacts, the adequacy of the environmental assessment as required by the City of Toronto's Official Plan, as well as the consideration of all Project alternatives, including not building the required runway end safety areas (RESAs).

On December 9, 2024, IAAC sent a letter to PortsToronto (the Proponent), formerly known as the Toronto Port Authority, notifying them of the designation request and requesting information on the proposed Project. The Proponent responded to IAAC's information requests on December 23, 2024, with information about the Project, its potential adverse effects, proposed design and expressed that the Project should not be designated. IAAC requested input from federal authorities, Ontario provincial ministries, the City of Toronto, the Toronto and Region Conservation Authority (TRCA) and three (3) potentially affected Indigenous communities: the Mississaugas of the Credit First Nation, Six Nations of the Grand River, and the Huron-Wendat Nation.

Advice on applicable legislative mechanisms and potential effects of the Project was received from Environment and Climate Change Canada (ECCC), Fisheries and Oceans Canada (DFO), Transport Canada (TC), PortsToronto, the City of Toronto, TRCA, and the Ontario Ministry of Natural Resources (MNR).

¹ On December 5, 2024, the Minister of Environment and Climate Change delegated the powers under section 9 of the *Impact Assessment Act* related to designation requests to the President of IAAC. Therefore, under subsection 9(1) of the *Impact Assessment Act* the President may respond to a request to designate a physical activity that is not prescribed in the Physical Activities Regulations (the Project List).



Project Context

Project overview

BBTCA, which began operations in 1939, is located on Toronto's Centre Island southwest of Toronto's downtown districts. BBTCA is Canada's ninth-busiest airport and provides flights to 20 cities in Canada and the United States, with additional connections to 80 international locations. BBTCA has one main east-west runway (Runway 08/26) and serves as a base for Ornge air ambulance services, two airline operators, and two flight schools. The Proponent is proposing the construction of RESAs for Runway 08/26 at the BBTCA, to ensure compliance with the *Canadian Aviation Regulations* (CAR) section 302.600 requirements (Figure 1).

On January 2022, Transport Canada published updates to the CARs, requiring airports serving 325,000 passengers or more annually for two consecutive years to establish RESAs with a minimum length of 150 metres to minimize the consequences of runway excursions.

Having met this threshold for passenger movements, PortsToronto, the owner and operator of BBTCA, is required, pursuant to subsection 302.600 of the CARs, to establish a compliant RESA by July 12, 2027. The purpose of a RESA is to provide an area at each end of a runway that is free of non-frangible objects, to reduce the severity of damage to an aircraft overrunning or undershooting the runway and to facilitate the movement of rescue and fire fighting vehicles. The Proponent indicated that the Project will not extend runways or have any effect on current operations, runway capacity, or aircraft types using the airport

The project lands are jointly owned by the Proponent, Transport Canada and the City of Toronto (Figure 2). The water lots in the location of the proposed Project are owned by the Proponent. Each of these parties are signatories to the Tripartite Agreement that acts as the lease and governance document for the BBTCA.

The Proponent conducted an alternatives study reviewing the feasibility of six RESA alternatives ranging from non-physical compliance methods to optimizing existing land and creating new landmasses with protection breakwater structures. The Proponent is conducting an environmental assessment as required by the City of Toronto's Official Plan for the Project and is undergoing analysis of three alternative RESA designs, with progressive levels of impact and increases to airfield utility. None of these alternatives are anticipated to alter the existing Marine Exclusion Zone².

² The Marine Exclusion Zone is a buoy-marked area of the lake where vessel entry is prohibited without PortsToronto's authorization.

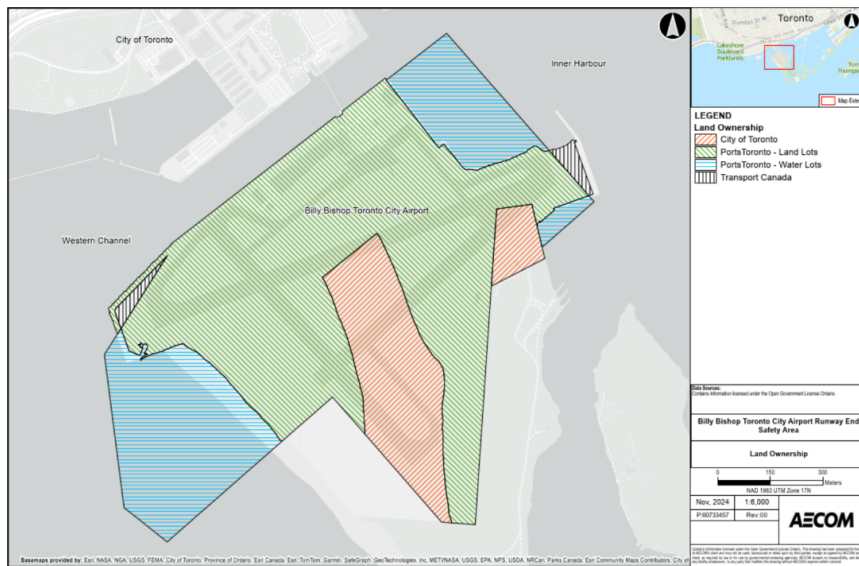


FIGURE 1: PROJECT LOCATION



Source: PortsToronto Public Consultation Presentation, July 17, 2024

FIGURE 2: LAND OWNERSHIP MAP OF BBTCA



Source: PortsToronto Submission, December 2024



Project components and activities

The preferred alternative for the Project would include landmass extensions in Lake Ontario on either side of the main runway (Runway 08/26). The total area that will be infilled is 88,250 m². The key project components would include:

- Landmass extension at the end of Runway 08 (west end footprint 30,380 m²);
- Landmass extension at the end of Runway 26 (east end footprint 57,870 m²);
- Breakwater structures;
- New Taxiway B;
- Relocation of Taxiway D;
- Airside road extensions;
- Landside road extensions;
- Relocation of Localizer 26 (navigational aid); and
- Noisewall.

According to the Proponent, it is anticipated that permitting, project delivery procurement, final design and staging of the Project would begin in 2025, followed by commencement of project construction in 2026 for completion by July 2027.



FIGURE 3: PROPOSED PREFERRED DESIGN



Source: PortsToronto Public Consultation Presentation, October 15, 2024

Analysis of Designation Request

Authority to designate the Project

The *Physical Activities Regulations* (the Regulations) identify the physical activities that constitute designated projects. The Project is not listed in the Regulations. The most comparable items to the Project in the Regulations are:

- 47(a):** the operation of an existing runway that was not capable of serving aircraft of Aircraft Group Number IIIA and becomes capable of serving aircraft of Aircraft Group Number IIIA or higher;
- 47(b):** The operation of an existing runway that was capable of serving aircraft of an Aircraft Group Number IIIA or higher and becomes capable of serving aircraft of any higher Aircraft Group Number; and
- 50:** The construction, operation, decommissioning and abandonment of a new permanent causeway with a continuous length of 400 m or more through navigable water.

IAAC understands that the Project would not lead to any change to the certification level of service for Runway 08/26, therefore there is no change to the type of Aircraft Group Number the runway is capable of serving. As such, paragraphs 47(a) and 47(b) do not describe the Project.

Paragraph 50 refers to a causeway which can be defined as a raised path, railway, or road across an expanse of low ground wetlands, or water. However, the Proponent is only adding landmass extensions and airside/landside road extensions to the east and west ends of the airport and not constructing a roadway that traverses a navigable water. Additionally, the roadway will be located within the Marine Exclusion Zone for the airport and is therefore not navigable water. Paragraph 50 does not describe the Project.

Under subsection 9(1) of the IAA the Minister may, by order, designate a physical activity that is not prescribed in the Regulations. The Minister may do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects.

In accordance with subsection 9(2) of the IAA, in making the decision on whether to designate the Project, if the Minister is of the opinion that the carrying out of the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects, the Minister may consider public concerns related to the adverse effects within federal jurisdiction, adverse impacts that the physical activity may have on the rights of Indigenous peoples, and whether a means other than an impact assessment exists that would permit a jurisdiction to address the adverse effects.

The Minister cannot designate a physical activity if the carrying out of the physical activity has substantially begun, or a federal authority has exercised a power or performed a duty or function in relation to the physical activity (subsection 9(7) of the IAA). Under subsection 154(1) of the IAA, the Minister may, subject to any terms and conditions that the Minister specifies, delegate to IAAC any powers, duties, or functions that the Minister is authorized to exercise or perform under the IAA. The Minister has delegated the powers under



section 9 of the IAA, including the power to respond to a request or issue a designation Order, to the President of IAAC.

IAAC is of the view that the President may consider designating the Project pursuant to subsection 9(1) of the IAA as the carrying out of the Project has not substantially begun and no federal authority has exercised a power or performed a duty or function that would permit the Project to be carried out, in whole or in part.

Existing Legislative Mechanisms

Key federal and provincial legislative mechanisms and provisions that are or may be relevant to the Project are summarized below. In addition, there are municipal policies described below. Some mechanisms (authorizations, approvals and permits) include Indigenous consultation and public engagement.

Federal Legislative Mechanisms

Aeronautics Act

The *Aeronautics Act* is the main piece of legislation that governs and oversees civil aviation in Canada. The Federal Parliament has exclusive jurisdiction over aeronautics and established a legal framework through the *Aeronautics Act* and CAR, which primarily sets safety and security requirements for the civil aviation industry, among other things. Under this legislation, the Minister of Transport is responsible for the promotion of aeronautics, and the *Aeronautics Act* provides authority to make regulations respecting activities at aerodromes, including the location, inspection, certification, registration, licensing and operations. It should be noted that the federal aeronautics regime does not absolve an aerodrome Proponent from complying with valid provincial or municipal laws of general application.

In response to safety concerns identified by the Transportation Safety Board of Canada, the CAR was amended in January 2022 to include regulatory requirements for airports that serviced more than 325,000 passengers per year during a period of two consecutive years to have a RESA that meets the requirements of section 302.602 of the CAR. This includes a RESA with a minimum length of 150 metres and conforming to the requirements respecting location, characteristics and objects in the runway end safety area set out in 3.2 of Chapter 3 of the document entitled *Aerodrome Standards and Recommended Practices*, TP 312E, published by the Department of Transport.

Canadian Navigable Waters Act

The *Canadian Navigable Waters Act* (CNWA) applies to projects that will interfere with navigable waters. Though infilling activities for the Project are anticipated to be contained within BBTC's existing Marine Exclusion Zone, infilling activities in Lake Ontario is considered a "work" as defined under the CNWA and may require approval by the Navigation Protection Program in TC's Ontario Region. A CNWA approval may include terms and conditions to mitigate impacts to navigation. The CNWA application process also includes mandatory advertising and a public comment period, where the public can submit navigation related information for consideration. The application process may also include Indigenous consultation. Once the



Proponent has finalized its detailed engineering design for the Project, a CNWA application can be submitted to TC to confirm whether an approval is required.

Federal Real Property and Federal Immovables Act - Tripartite Agreement

The Proponent operates the BBTCA based upon the terms of the 1983 Tripartite Agreement³ which is both a lease under the *Federal Real Property and Federal Immovables Act* and BBTCA's governance document. The signatories of the Tripartite Agreement (the Proponent, the City of Toronto, and TC) must negotiate amendments to the agreement to enable the Proponent to comply with the RESA regulatory requirements under the CAR by January 31, 2025. Additionally, the Proponent needs to secure a loan (non-federal funds) for construction that likely exceeds the current term of the Tripartite Agreement⁴, which is set to expire in June 2033. As part of this process, Indigenous consultation may be required.

Fisheries Act

The *Fisheries Act* provides protection for fisheries and their ecosystems. Through the Fish and Fish Habitat Protection Program, DFO reviews projects for their impacts to fish and fish habitat by ensuring compliance with the *Fisheries Act* and *Species at Risk Act* (SARA). Through this program, DFO may provide a Letter of Advice to the Proponent containing information to avoid and mitigate the negative, project-related impacts to fish and fish habitat.

A *Fisheries Act* authorization would be required if the Project is likely to cause the harmful alteration, disruption, or destruction to fish habitat and/or is likely to result in the death of fish. If required, *Fisheries Act* authorizations would include mitigation and offsetting measures to address potential adverse, project-related effects on fish and fish habitat including infilling of fish habitat. The regulatory processes for these authorizations would consider and require detailed project descriptions of the works to understand the potential effects and identify appropriate mitigation and offsetting measures. The application process for an authorization would include Indigenous consultation. This consultation may include accommodation on potential impacts to Indigenous Peoples.

Subsection 36(3) to (6) of the *Fisheries Act* is administered by ECCC and prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation.

Impact Assessment Act

The IAA includes provisions for projects on federal lands and outside Canada that are not considered "designated projects" under the *Physical Activities Regulations*. Sections 81 to 91 of the IAA set out requirements in relation to a "project" on federal lands or outside Canada, which apply to federal authorities and authorities set out in [Schedule 4](#). For projects on federal lands, section 82 of the IAA prohibits authorities from: carrying out a project; exercising any power or performing any duty or function conferred to it under any other Act of Parliament; or providing financial assistance to any person for the purpose of enabling the project

³ <https://porttoronto.wenginepowered.com/wp-content/uploads/Tripartite-Agreement-1983-original-1985-and-2003-amendments.pdf>

⁴ <https://www.safecleanquiet.ca/faqs>



to be carried out on federal lands. This prohibition applies unless the authority makes a determination that the carrying out of the project is not likely to cause significant adverse environmental effects; or the authority determines that the carrying out of the project is likely to cause significant adverse environmental effects, and the Governor in Council decides that those effects are justified in the circumstances. Section 81 of the IAA defines environmental effects as changes to the environment and the impact of these changes on the Indigenous peoples and on health, social or economic conditions.

As portions of the Project are on federal lands as noted in Figure 2, Transport Canada and the Proponent are required to complete a section 82 environmental assessment under the IAA for components on federal lands.

Migratory Birds Convention Act, 1994

The *Migratory Birds Convention Act, 1994* (MBCA 1994) protects migratory birds and their eggs and nests wherever they occur, regardless of land tenure. The MBCA 1994 prohibits the disturbance or destruction of migratory bird nests and eggs. It also prohibits the deposit of harmful substances into waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

A permit may be required for activities affecting migratory birds, with some exceptions detailed in the *Migratory Birds Regulations, 2022*. ECCC does not expect to exercise a power or perform a duty or function related to the Project, as proposed, to enable it to proceed.

Species at Risk Act

The purposes of SARA are to prevent wildlife species in Canada from disappearing, to provide for the recovery of wildlife species that are extirpated (no longer exist in the wild in Canada), endangered, or threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened.

For aquatic species at risk under SARA, a permit may be required from DFO for activities that may cause impacts to fish species that are listed as endangered or threatened, their critical habitat or residences.

Species that are both a migratory bird protected under the *Migratory Birds Convention Act, 1994*, and listed on Schedule 1 of SARA as endangered, threatened or extirpated receive protections under both pieces of legislation. For some migratory bird species, their residences are protected year-round under SARA. ECCC does not expect to exercise a power or perform a duty or function related to the Project, as proposed, to enable it to proceed.

Provincial Legislative Mechanisms

Endangered Species Act, 2007

Ontario's *Endangered Species Act, 2007* (ESA 2007), which is administered by the Ontario Ministry of the Environment, Conservation and Parks (MECP), provides protections for provincially listed species at risk and their habitats, which include authorizations (such as permits, agreements and exemptions) for activities that could adversely impact endangered or threatened species at risk or their habitats.



The Proponent noted that a permit under the ESA may be required for activities of the Project that could adversely impact species at risk listed under the ESA 2007, namely the removal of potential piping plover habitat. An Information Gathering Form would be submitted to the MECP to initiate consultation and determine whether further permitting may be required. Should an ESA permit (i.e., Overall Benefit Permit) be required, an Avoidance Alternatives Form and official Permit Application Form would be prepared and submitted to the MECP.

Fish and Wildlife Conservation Act

The *Fish and Wildlife Conservation Act* is administered by MNR. This Act governs use of fish and wildlife resources in Ontario, and regulates hunting, trapping, fishing and related activities. To meet the requirements under this Act, a proponent may apply for a Licence to Collect Fish for Scientific Purposes. This licence allows for relocation of fish and for research, assessment, maintenance and restoration activities. This licence may be required for relocation of fish and mussels outside of the isolated work area during project construction.

Ontario Heritage Act

The *Ontario Heritage Act* is administered by the Ontario Ministry of Citizenship and Multiculturalism. The ministry's mandate involves conserving, protecting and preserving Ontario's cultural heritage. Its programs include guidance for archaeological studies and discoveries, and they require Indigenous consultation regarding discoveries of importance to Indigenous Peoples.

Planning Act

The *Planning Act* is administered by the Ministry of Municipal Affairs and Housing. The *Planning Act* establishes rules for land use planning in Ontario to promote sustainable development and requires the municipalities establish official plans that set out objectives and policies to manage physical changes brought about by growth on the social, economic, and natural environment.

The City of Toronto developed the Official Plan (2024) that sets out the City's objectives and policies to manage and direct physical change and its effects on the social, economic and natural environment.

Public Lands Act

The *Public Lands Act* (PLA) is administered by the MNR. The *Public Lands Act* provides for the creation and management of restricted areas by the Minister of Natural Resources in areas of the province without municipal organization. In a restricted area, permits from MNR are required for the erection of buildings or structures, whether the work is on Crown or private lands. Activities that require a permit from MNR are identified in the development plan or guidelines that are prepared for each restricted area. A work permit issued under the PLA may be required for filling shorelands.

Municipal Policies

City of Toronto Approvals

The Project does not trigger municipal class environmental assessment regulations. However, the City of Toronto's Official Plan⁵ establishes municipal policies that are intended to address changes to the natural environment. Chapter 3 of the City of Toronto's Official Plan specifically outlines natural environmental policies to address infilling projects in Lake Ontario, indicating that such will only be supported where:

- the land created will be used for natural habitat, public recreation or essential public works;
- the project has been the subject of an environmental assessment which ensures that water quality and quantity and terrestrial and aquatic habitat will be protected or enhanced; and,
- the project does not create new or aggravate existing natural hazards.

To ensure that the requirements in the Official Plan are met, the Proponent is conducting an environmental assessment. Subject to consultation with the City of Toronto, an Official Plan Amendment may be required to alter the current delineated boundary of BBTCA and the Toronto Island as per Chapter 7 (Site and Specific Area Policies 192 and 194) of the Official Plan.

The Toronto Municipal Code provides guidance on land use planning, building permits, and environmental approvals. Toronto City Council provided conditional approval for amending the Tripartite agreement and for one of the RESA alternatives under consideration. However, City Council's approval required that the proponent follows the City's municipal code and submit a construction management plan that will incorporate best practices for noise and sound induced mitigation similar to the City's noise bylaw. City Council's approval is also conditional on a traffic management plan for all construction related activities and the Proponent collaborating with and incorporating the TRCA expertise on shorelines and aquatic habitat restoration.

Potential adverse effects within federal jurisdiction

IAAC's analysis identified that the carrying out of the Project may cause potential adverse effects within federal jurisdiction and direct or incidental adverse effects, as defined in subsection 2(1) of the IAA, taking into account input received from the requester, Proponent, federal authorities, provincial ministries, City of Toronto, Toronto and Region Conservation Authority and Indigenous communities. As outlined below, IAAC is of the view that existing legislative mechanisms provide a framework to address those potential adverse effects within federal jurisdiction and direct or incidental adverse effects. Federal and provincial legislative and regulatory mechanisms, as well as municipal policies, relevant to the Project described above were considered in IAAC's analysis.

⁵ Ontario's *City of Toronto Act, 2006* provides the City of Toronto the power to adopt an official plan or amend an official plan under Ontario's *Planning Act*.

Fish and Fish Habitat

The requester and ECCC expressed concerns about effects on fish and fish habitat from the infilling of an area of up to 88,250 m² in Lake Ontario, and sediment and erosion from the construction of the proposed landmass extensions, breakwater structures, road and taxiway extensions.

DFO stated that a *Fisheries Act* paragraph 35(2)(b) Authorization will be required if the Project is likely to cause the harmful alteration, disruption, or destruction to fish habitat. A *Fisheries Act* paragraph 34.4(2)(b) Authorization will also be required if the project is likely to result in the death of fish. If required, *Fisheries Act* authorizations would include mitigation and offsetting measures to address potential adverse, project-related effects on fish and fish habitat including infilling of fish habitat. According to DFO, if the Proponent engages with DFO through the regulatory processes for review of the Project, it would be sufficient to address potential adverse effects to fish and fish habitat.

MNR stated that a licence to collect fish for scientific purposes under the *Fish and Wildlife Conservation Act*, 1997, may be required if the Project would involve isolating work areas, dewatering and/or fish removals.

TRCA indicated that the Proponent has retained their aquatic monitoring and management staff to act as aquatic habitat subject matter experts to support the environmental assessment study team and for pre-consulting DFO on permitting related to fish and fish habitat.

The Proponent expressed that they would employ standard mitigation measures, including the implementation of erosion and sediment control measures, the use of acoustic deterrents to minimize fish presence, and the isolation of work zones and avoiding work below the high water mark during specific timing windows to protect sensitive life stages of fall and spring-spawning fish species. IAAC understands that the Proponent is planning on engaging DFO and MNR to address effects on fish and fish habitat. In addition, the Proponent notes that it would leverage TRCA's experience in habitat compensation within the area to ensure that affected habitats are appropriately managed and restored.

IAAC considered the input received and is of the view that the application of standard mitigation measures and existing legislative mechanisms such as the *Fisheries Act* and the *Fish and Wildlife Conservation Act* provide a framework to address effects to fish and fish habitat.

Aquatic Species at Risk

The Requester also expressed concern about effects to aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*. The Project is not expected to affect the marine environment or marine plants.

In relation to aquatic fish species at risk, DFO confirmed that aquatic species at risk mapped for the area near the Project include shortnose cisco (endangered), lake sturgeon (under consideration), and american eel (under consideration). Despite these species mapped for the area, it is unlikely that a permit will be required under the SARA as shortnose cisco is a deepwater species and believed to be extirpated from Lake Ontario, and the prohibitions do not apply to species that are not listed under Schedule 1 of SARA (i.e. lake sturgeon and the american eel).



The Proponent noted that the shortnose cisco (*Coregonus reighardi*), listed as endangered under SARA, has the potential to occur near the project area. Shortnose cisco prefer to frequent deeper water (>22m in depth). As the project area reaches a maximum depth of 12m, according to the Proponent, it is unlikely to be used by shortnose cisco.

IAAC is of the view that the Project is unlikely to cause adverse effects to aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*.

Migratory Birds

The Proponent indicated that the piping plover (*Charadrius melodus circumcinctus*), a migratory bird species listed under Schedule 2 of the *Migratory Birds Convention Act*, has the potential to occur in the project area. However, according to the Proponent, it is unlikely for the piping plover to nest near active runways. ECCC noted that it has expertise related to migratory birds but did not express concerns about migratory birds. IAAC understands that the Proponent will engage the Ministry of Environment, Conservation and Parks to determine whether a permit is required under the *Endangered Species Act* for potential impacts to the piping plover.

IAAC considered the input provided and is of the view that the Project may cause adverse effects to migratory birds, their nests and eggs; however, existing legislative mechanisms, such as the *Migratory Birds Convention Act, 1994* and the *Endangered Species Act* provide a framework to address these effects.

Indigenous Peoples

The requester expressed concern that Indigenous Peoples should be consulted as the Mississaugas of the Credit First Nation have an outstanding claim related to the waters of Lake Ontario and Toronto Harbour, which include the project location.

The Project is within the territory of Treaty 13 (the Toronto Purchase), signed with Mississaugas of the Credit First Nation. IAAC contacted the Mississaugas of the Credit First Nation, Six Nations of the Grand River, and the Huron-Wendat Nation for comment on the Project. IAAC met with Mississaugas of the Credit First Nation, who expressed support for the Project and noted extensive engagement by the Proponent. Six Nations of the Grand River advised IAAC that it did not have the capacity to provide input on this designation request process. The Huron-Wendat Nation did not respond.

The Project is located at the BBTCA that is operated on these lands including the federal lands where pavement work will be conducted and the Marine Exclusion Zone currently restricts the fishing and navigation in that area.

The Proponent has been and continues to engage with three (3) potentially affected Indigenous communities for the Project: Mississaugas of the Credit First Nation, Six Nations of the Grand River, and the Huron-Wendat Nation. The Proponent has informed the Indigenous communities that it is completing Marine Archeological, Terrestrial Archeological and Cultural Heritage Assessment reports, and has committed to continue collaborating with Indigenous communities where possible and to share findings (including the draft and final reports) with the communities.

Given that the Project will be undertaken with the Marine Exclusion Zone, IAAC is of the view that the Project is unlikely to cause adverse impacts on Indigenous Peoples, and that existing legislative mechanisms and associated requirements for Indigenous consultation would provide a framework to address any impacts identified.

Federal Lands

The BBTCA is comprised of multiple land parcels within its overall property limits. TC owns two of these land parcels, known as PART 2 and PART 5, that will be affected by the Project (see Figure 2). Site preparation proposed on these federal lands will include concrete removals, asphalt milling, common excavation, and topsoil stripping. This will be followed by new construction involving subgrade preparation, granular placement, and asphalt work for the pre-threshold pavement rehabilitation. Topsoil restoration will be undertaken post-construction. The Proponent and Transport Canada will complete a section 82 environmental assessment under the IAA for components on federal lands described above. Following the 30-day public posting period, as co-authorities for the section 82 process, both Transport Canada and PortsToronto will make a determination on whether the activities on federal lands will cause significant adverse environmental effects as defined under the IAA.

Other Considerations

Transboundary Effects

The Proponent indicated that the Project is limited in scale and is distant from any interprovincial or international boundaries. Thus, IAAC is of the view that the Project is unlikely to cause adverse changes from pollution to the marine environment and transboundary waters, as defined in section 2 of the IAA.

Potential adverse direct or incidental effects

Direct or incidental effects refer to effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that project to be carried out, in whole or in part.

IAAC understands that there will be no federal funding for the Project and the Proponent will be seeking private loans to fund it. Part of the Project is located on federal lands as noted in the above section. In addition, the Project may require a *Fisheries Act* authorization, an approval under the CNWA, and will require an amendment to the Tripartite Agreement under the *Federal Real Property and Federal Immovables Act*.

IAAC understands that the construction phase will be of short duration during which there could be potential increase in noise levels and changes in air quality. Based on the localized extent of the works within the Marine Exclusion Zone, the short duration of the construction phase and the Proponent's proposed mitigation measures such as traffic and construction management plans, communications protocol and a complaints protocol to address any air quality concerns during construction, it is anticipated that the direct or incidental

adverse effects would be limited, if a federal authorization or approval is issued or the amendments to the Tripartite Agreement are approved. IAAC is of the view that existing legislative mechanisms and municipal policies, as noted above, may provide a framework to address them.

Public concerns

Outside of the concerns raised by the requester, outlined above, IAAC did not receive any public concerns related to adverse effects within federal jurisdiction or direct or incidental adverse effects.

IAAC is of the view that standard mitigation measures and existing legislative mechanisms provide a framework to address the concerns related to the adverse effects within federal jurisdiction or direct or incidental adverse effects of the Project.

The requester and the public also raised other concerns related to the operation of the existing airport and the Proponent's methodology for conducting their environmental assessment. IAAC understands that the Project will not change airport operations, and thus concerns related to airport operations are out of scope of the analysis for this designation request. The concerns raised include:

- potential impacts to human health from air quality and noise levels;
- potential economic impacts;
- forecasted increase in aircraft movement enabled through RESA installation;
- potential safety risk due to continued operation of the airport in cases of aircraft crashes or aircrafts overshooting the runway;
- potential impacts on traffic flow, pedestrian and cyclist safety from vehicular traffic servicing the airport;
- concerns about the Proponent's environmental assessment methodology;
- the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change and greenhouse gas emissions;
- lack of appropriate public process before spending public funds by the Proponent;
- concern about Proponent not assessing the option of not building the RESA in its environmental assessment;
- lack of transparency in relation to the Proponent's environmental assessment;
- potential for a conflict of interest for the Proponent to conduct its own environmental assessment;
- lack of or insufficient public and Indigenous communities engagement in the planning of the environmental assessment being conducted by the Proponent; and
- lack of adequate time for public participation in the environmental assessment process.

Potential adverse impacts on the rights of Indigenous Peoples

The Project is within the traditional and treaty territory of the Mississaugas of the Credit First Nation. The Project area is within the primary archaeological area of interest for the Huron-Wendat Nation. The Project is within an area of interest for Six Nations of the Grand River.

The Proponent engaged the potentially impacted Indigenous communities since July 2017 as part of the 2018 Airport Master Plan consultation. The Proponent is continuing consultation with the Mississaugas of the Credit First Nation, Six Nations of the Grand River, and the Huron-Wendat Nation as part of the environmental assessment as required by the City of Toronto's Official Plan for the Project. IAAC understands that the Proponent has engaged Indigenous communities and is committed to working collaboratively where possible, including sharing the draft and final marine archaeological, terrestrial archaeological and cultural heritage assessment reports with the communities.

Given that the Project will be undertaken with the Marine Exclusion Zone, IAAC is of the view that the Project is unlikely to cause adverse impacts on the rights of the Indigenous Peoples that are recognized and affirmed by section 35 of the *Constitution Act, 1982* (Section 35 rights) including impacts on rights from potential adverse effects within federal jurisdiction.

Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93 or 95 of the IAA that are relevant to the Project.

Conclusion

IAAC considered the information it received as part of the designation request process for the Project to inform its analysis. Input was sought and received from the Proponent, federal authorities (ECCC, TC and DFO), the Ontario Ministry of Natural Resources, the City of Toronto, and TRCA.

The Project has the potential to cause adverse effects in federal jurisdiction. Only negligible direct or incidental adverse effects are anticipated;

IAAC considered the factors in subsection 9(2) of the IAA and is of the view that:

- a) the requirements under the following legislative and policy mechanisms, some of which include consultations with Indigenous communities and public engagement, provide a framework for addressing public concerns related to the potential adverse effects within federal jurisdiction or the direct or incidental adverse effects that may be caused by the carrying out of the project and adverse impacts that the project may have on the rights of Indigenous Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*; and
- b) there are means other than an impact assessment including the application of standard mitigation measures and existing legislative and policy mechanisms, such as the environmental effects determination pursuant to section 82 of the *Impact Assessment Act*, *Canadian Navigable Waters Act*, *Federal Real Property and Federal Immovables Act – Tripartite Agreement*, *Fisheries Act*, *Migratory Birds Convention Act, 1994*, *Endangered Species Act, 2007*, the *Fish and Wildlife Conservation Act, 1997*, *Ontario Heritage Act* as well as the City of Toronto's Official Plan and Municipal Code, that provide a framework to address the potential adverse effects within federal



jurisdiction and direct or incidental adverse effects, as described in subsection 9(1) of the IAA. Several of these mechanisms include public engagement and Indigenous consultation.

IAAC also acknowledge all other concerns raised by the requester related to the operation of the existing airport and the Proponent's methodology for conducting their environmental assessment. IAAC understands that the Project will not change airport operations, and thus concerns related to airport operations are out of scope of the analysis for this designation request.