

Summary of Issues

Sussex Region Flood Diversion Project

Table 1 – Issues to Inform Impact Assessment Agency of Canada’s Decision on Whether an Impact Assessment is Required

The following table provides a high-level summary of key issues within areas of federal jurisdiction that were submitted to the Impact Assessment Agency of Canada (IAAC) about the Sussex Region Flood Diversion Project (the Project) during the public comment period on the Summary of the Initial Project Description, submitted by Town of Sussex (the Proponent). In addition to issues raised by federal and provincial authorities, Indigenous communities, and the public, IAAC also included issues it considers relevant in this table. The issues included below relate to information that will support decision making by IAAC on whether an impact assessment is required under section 16 of the *Impact Assessment Act*. The original submissions are available online, on the Canadian Impact Assessment Registry Internet site for the Project (Reference Number [89179](#)).

Where there are cross-cutting issues relating to multiple areas of federal jurisdiction, IAAC has included these issues under the heading for the primary effect pathway and noted the other areas of federal jurisdiction that would apply.

The proponent must provide IAAC with a response that sets out how it intends to address the issues provided in the table below. Please provide a detailed and meaningful response to inform IAAC’s decision on whether to require an impact assessment for the Project.

Issues
Fish and Fish Habitat
Provide clarification on the presence of fish species in Trout Creek and in Parsons Brook, which are the proposed diversion channels. Provide clarification on any fish and fish habitat downstream of the proposed diversion channels that could be impacted. If present, describe how the Project would be designed to manage potential adverse effects on fish and fish habitat (e.g., spawning, nursery, foraging, including timing windows of importance) in these watercourses, and describe measures that will be taken to address any potential adverse effects.
Provide information (e.g., maps) on changes to water levels downstream of the diversion channels, including the Kennebecasis River and tributaries. Clarify consideration of 1-in-100-year events and combined flows from the Parsons Brook and Trout Creek. Describe the capacity downstream of the proposed diversion channel to handle the potential changes to flows, and water levels downstream of the proposed diversion channels.
Provide information on changes to water quality, including contaminants that could be transported downstream through soil, surface and groundwater during and after flood events, along with the potential sources of these contaminants. Describe: <ul style="list-style-type: none"> - measures that will be taken to avoid or reduce these contaminants; - any potential adverse effects on fish and fish habitat from these contaminants; and - measures that will be taken to address any potential adverse effects on fish and fish habitat.
Migratory Birds and their Habitat
Provide information on measures that will be in place to manage potential adverse effects (e.g. due to wetland habitat or nest loss, sensory disturbance) to migratory birds, including avifauna that are species at risk (SAR) or species of conservation concern (SOCC). Clarify

how the Project will comply with the *Migratory Birds Convention Act* (MBCA), the *Species at Risk Act* (SARA) and their respective regulations.

Structures, Sites, or Things of Historical, Archaeological, Paleontological, or Architectural Significance to Indigenous Peoples

Provide details on the methodology that will be used for archaeological studies, including timing on when they will be conducted. Describe mitigation measures, including avoidance and protection measures, that will be taken in the event of any archaeological findings. Describe how Indigenous communities will be involved in the process. Provide details on legislation or guidance that will be followed.

Engagement with Indigenous Peoples

Provide details of engagement efforts that will be carried out with potentially impacted Indigenous communities who may be impacted by the Project or have interests in the area. Describe how communities will identify activities and preferences on how they wish to be engaged as the Project is developed, and in operation.

Indigenous Peoples' Current Use of Lands and Resources for Traditional Purposes, and Exercise of Aboriginal and/or Treaty Rights

Describe potential impacts of the Project on the rights of the Indigenous Peoples of Canada, as recognized and affirmed by section 35 of the *Constitution Act, 1982*, and proposed mitigation measures to address these impacts. Include a summary of key issues or concerns and any issues that relate to the adverse impact that the designated project may have on the rights of the Indigenous Peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*, and on the current use of lands and resources for traditional purposes by Indigenous Peoples.

Describe how Indigenous perspectives will be considered in identifying plant species of significance to the Mi'gmaq First Nations and/or the Wolastoqey Nations within 5 km of the Project area. Describe measures that could be taken to address potential adverse effects to species that are identified.

Provide information on the potential cumulative environmental, social, health, and economic effects of past, present, and reasonably foreseeable future projects within the vicinity of the Project (and particularly in the Kennebecasis River and its associated watershed), in combination with project effects, and their potential to affect public and Indigenous Peoples' health and impact on Indigenous Peoples' rights.

Indigenous Peoples' Health, Social, and Economic Conditions

Describe studies that will be undertaken to understand potential adverse effects of the Project on health, social, and economic conditions of Indigenous Peoples, measures that could be taken to address potential adverse effects, and how Indigenous communities will be involved in the studies.

Project Activities and Design

Provide information on how the Project would be designed, including where possible identifying applicable mitigation measures, to:

- avoid impacts existing septic tanks and groundwater wells, including during and after a flood event;
- avoid erosion and runoff at the Kennebecasis River due to loads from Trout Creek;
- prevent water from the Kennebecasis River returning through the Trout Creek channel;
- prevent the Parsons Brook diversion channel from flooding the Provincially Designated Wellfield zone and pumping station, and the Sussex Corner Elementary School;

- prevent downstream discharge of the Trout Creek diversion channel on neighboring communities, local residents and business owners, agricultural lands, municipal bridges, NB transmission line, and the Canada National Railway Agency's train bridge around the proposed outlet; and,
- consider climate change assumptions for potential annual precipitation, in consideration of local and regional factors, man-made alterations to the landscape, and loss of vegetation cover that accelerate runoff at the surface, that contribute to flooding events within the area.

Table II – Other Comments, Advice, and Recommendations

IAAC is providing the following table for consideration by the Proponent. The table includes other comments, advice, and recommendations received from participants on the summary of the Initial Project Description. The issues identified below may relate to areas of federal jurisdiction; however, IAAC is of the view that they are not necessary to inform its determination on whether an impact assessment is required at this time. The issues below will be considered should an impact assessment be required. The Proponent can respond to the following comments as part of its response to the Summary of Issues (Table I) noting that any responses may support the tailoring of the Impact Statement Guidelines and other Planning phase documents, as appropriate. IAAC encourages the Proponent to review and consider all original participant comments available online, on the Canadian Impact Assessment Registry Internet site for the Project (Reference Number [89179](#)).

Issues
Alternative Means
Concerns about how cost-benefit analyses were considered in the assessment of alternative means of the project, including consideration of any potential financial losses due to property damage within and outside of the town limits during a flood event.
Health, Social and Economic Conditions
Importance of security measures to prevent unauthorized access to the diversion channels.
Navigation
Importance of consulting with Transport Canada about the applicability of the <i>Canadian Navigable Waters Act</i> (CNWA) to project components on Parsons Brook, Trout Creek and of bridges and the overpass.
Public Engagement
Describe further engagement plans with potentially affected landowners within and outside the town borders, neighbouring municipalities, business owners and stakeholders, and how concerns about the comprehensiveness of public engagement conducted by the proponent to date, including the way information has been communicated to potentially affected stakeholders, will be addressed.
Species at Risk
Importance of including plans to obtain additional baseline information (i.e., the desktop review and surveys, including detailed survey methodology) for finding species at risk (SAR) and species of conservation concern (SOCC) in the Project area. Importance of including tables of biophysical survey results, figures, or maps, where relevant.
Concerns about the potential adverse effects to wildlife SAR and SOCC, including from accidental events, habitat loss, sensory disturbance from light, worker presence, etc. Importance of describing how the Project will comply with the <i>Species at Risk Act</i> (SARA) and other relevant federal or provincial legislation, and describe measures to avoid or mitigate potential adverse effects on wildlife SAR and SOCC, and any relevant follow-up or monitoring programs, particularly after a flood event.
Vulnerable Population Groups (GBA+)
Importance of describing how Gender-Based Analysis Plus would be applied to understand potential adverse social and health effects on various population groups, including Indigenous peoples living in the Town of Sussex and Kings County, and that may be disproportionately affected as a result of the carrying out of the Project.