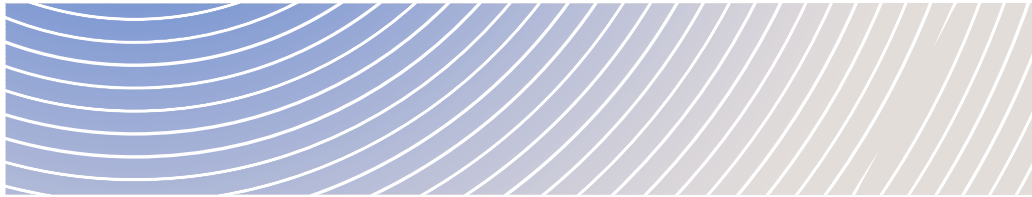


Analysis Report



WHETHER TO DESIGNATE THE **DRESDEN WASTE AND
RECYCLING FACILITY PROJECT** IN ONTARIO PURSUANT TO
THE *IMPACT ASSESSMENT ACT*

October 23, 2025

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This document has been issued in French under the title: Rapport d'analyse – Décision de désigner ou non le Projet d'installation de traitement de déchets et de recyclage Dresden, en Ontario, en vertu de la *Loi sur l'évaluation d'impact*



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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 Dresden Waste and Recycling Facility Project (the physical activities referred to as the project) proposed by York1 Environmental Waste Solutions Ltd. (the proponent) pursuant to section 9 of the *Impact Assessment Act* (the IAA).

Context of Request

On June 5, 2025, the federal Minister of Environment and Climate Change (the Minister) received a request to designate the project from the Canadian Environmental Law Association on behalf of Dresden Citizens Against Reckless Environmental Disposal (Dresden C.A.R.E.D.) (the requester). In its letter, the requester asserted that the project has the potential to cause adverse effects within federal jurisdiction, including to fish and fish habitat, aquatic species at risk, migratory birds, their nests and eggs, and Indigenous Peoples (including impacts to their rights). Other matters raised include concerns about, terrestrial species at risk, the natural environment, potential impacts to human health and the local community, the potential for further expansion of waste management activities, inadequate public consultation, and removal of the provincial environmental assessment requirement. On August 20, 2025, an additional request to designate the project was received from the Municipality of Chatham-Kent, with a letter of support from the Member of Parliament for Chatham-Kent-Leamington, and on October 17, 2025, from Gowling WLG on behalf of the Haudenosaunee Development Institute as the delegated authority of the Haudenosaunee Confederacy Chiefs Council² (with an initial correspondence on October 3, 2025). The concerns raised were similar to those in the initial request, as described below. IAAC also received correspondence from Walpole Island First Nation on June 4, 2025, Dresden Together on June 9, 2025, Canadian Environmental Law Association on behalf of Dresden C.A.R.E.D. on September 5 and October 9, 2025, the Municipality of Chatham-Kent on October 7, 2025, and members of the public (from September 17 to October 7, 2025).

From the receipt of the designation request in June 2025, IAAC engaged with the proponent till August 2025, to confirm the project scope and gather information needed to determine if any limitations under subsection 9(7) of the IAA would apply. Based on the available information, IAAC determined the subsection 9(7) limitations do not apply; thus, the designation request process began in August 2025.

On August 25, 2025, IAAC sent a letter to the proponent notifying them of the start of the designation request process and requesting information on the proposed project. The proponent provided the requested information on September 15, 2025, including information about the project, its potential adverse effects, proposed design and mitigation measures, and expressed its view that the project should not be designated. In addition, IAAC requested input from federal authorities, Ontario Ministry of the Environment, Conservation and Parks (MECP), the Municipality of Chatham-Kent, the St. Clair Region Conservation

¹ The Minister of the Environment delegated the powers under section 9 of the *Impact Assessment Act*, including the power to respond to a request or issue a designation Order, to the President of IAAC.

² IAAC received a letter from Gowling WLG on behalf of the Haudenosaunee Development Institute on October 3, 2025, which noted that comments would be submitted on October 17, 2025. IAAC ensured receipt of the October 17, 2025, letter from Gowling WLG on behalf of the Haudenosaunee Development Institute to the Minister and considered the additional comments in this Analysis Report.



Authority (SCRCA), Walpole Island First Nation, Moravian of the Thames – Delaware Nation, and the Métis Nation of Ontario (Region 9).

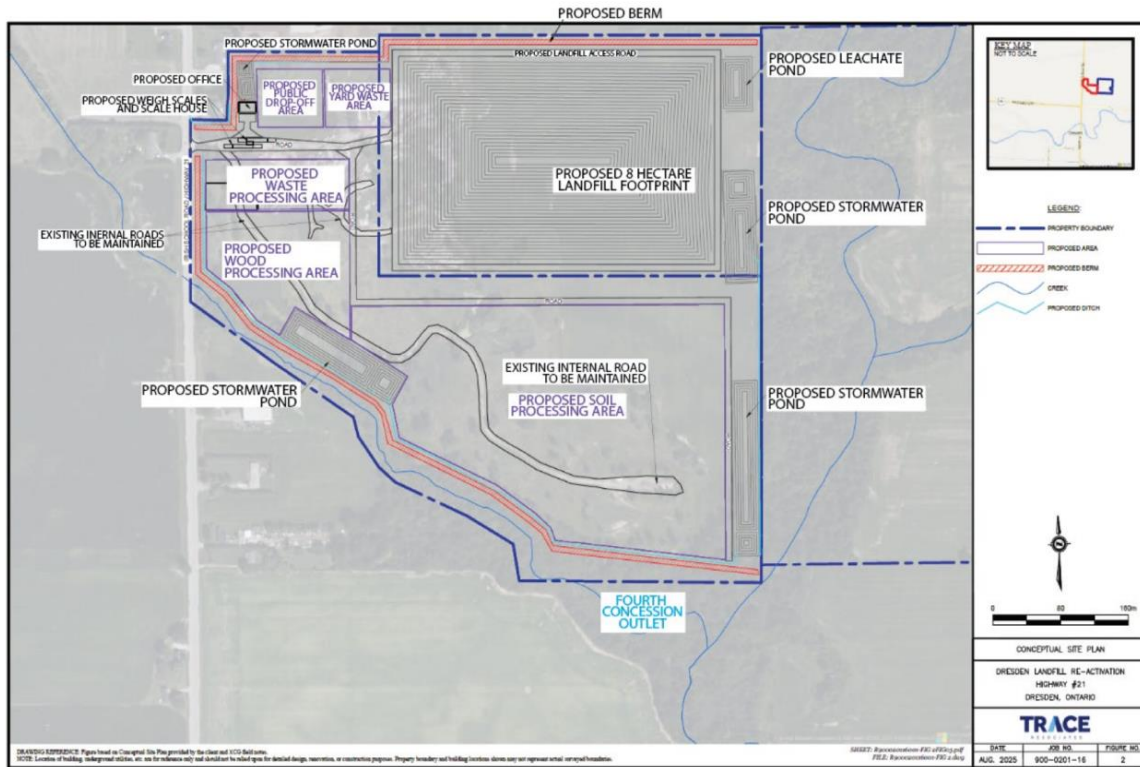
Advice on applicable legislative mechanisms and potential effects of the project were received from Environment and Climate Change Canada (ECCC), Fisheries and Oceans Canada (DFO), Natural Resources Canada (NRCan), MECP, the Municipality of Chatham-Kent and SCRCA.

Project Context

Project overview

The proponent is proposing to construct and operate a waste disposal and regenerative recycling facility, located in Dresden, Ontario. The proposed project is on a privately owned property. It includes alteration of an existing landfill that would hold up to 1.62 million cubic meters of non-hazardous solid construction and demolition waste within an 8-hectare footprint, with a maximum daily limit of 1,000 tonnes. It also includes the expansion and alteration of an existing waste transfer station from 0.8 hectares to 25 hectares, to accept a maximum of 3,000 tonnes per day of recyclable materials and 1,000 tonnes per day of non-hazardous solid waste materials, including construction and demolition wastes and uncontaminated soil and soil-like materials.

Figure 1: Project Location



Source: York1 Site Plan- York1's Submission to Impact Assessment Agency of Canada on September 15, 2025

Project components and activities

The two major project components and their associated project activities are briefly described below:

1) Expansion and alteration of the existing waste transfer station

An existing waste transfer station with a service area of all of Ontario, would have the following changes:

- Expand from 0.8 hectares to 25 hectares, within the 33-hectare property.
- Construct a new building for processing and sorting recyclable materials (the regenerative recycling facility)
- The waste handled at the station would be non-hazardous solid waste materials, such as construction and demolition wastes (including uncontaminated soil and soil-like materials), that are processable into recycled materials.
- The maximum amount of waste transferred to the station would increase from 75 tonnes/day (total) to 3,000 tonnes/day of recyclable materials, and 1,000 tonnes/day of non-hazardous construction and demolition waste (new total of 4,000 tonnes/day).

2) Alteration of existing landfill

An existing dormant landfill with a footprint of eight hectares, is proposed to be re-opened for operation with a maximum capacity of 1.62 million cubic metres, with maximum daily and annual fill rates of 1,000 tonnes/day and 365,000 tonnes/year. The following changes are proposed:

- The waste accepted would be non-hazardous solid construction and demolition waste (includes uncontaminated soil) from industrial, commercial, institutional, and municipal sectors.
- The service area would be the site (including residual waste materials from the waste transfer station) and the Town of Dresden. This includes residual waste materials from the Waste Transfer Station with a service area of all of Ontario.
- Other alterations include:
 - construction of a new engineered landfill in place of the current landfill area, with a compacted clay liner, a geomembrane liner, and a leachate collection and extraction system and pond;
 - construction of a stormwater management system with collection and conveyance ditches; and,
 - construction of berms along the south, west and north property boundaries.

Analysis of Designation Request

Authority to designate the project

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

56 The construction, operation, decommissioning and abandonment of a new facility that is not more than 500 m from a natural water body and is used exclusively for the treatment, incineration, disposal or recycling of hazardous waste.

57 The expansion of an existing facility that is not more than 500 m from a natural water body and is used exclusively for the treatment, incineration, disposal or recycling of hazardous waste, if the expansion would result in an increase in hazardous waste input capacity of 50% or more.

The proposed project will mainly accept non-hazardous construction, demolition waste and wood wastes, and no hazardous waste will be accepted at the proposed facility. Therefore, paragraphs 56 and 57 do not describe the proposed project.

Under subsection 9(1) of the IAA, the Minister may, by order, designate a physical activity that is not prescribed in the Project List. 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, 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 mechanisms that are or may be relevant to the project are summarized below. In addition, there are municipal mechanisms described below. Some mechanisms (authorizations, approvals and permits) include Indigenous consultation and public engagement.

Federal Legislative Mechanisms

Fisheries Act

The Fish and Fish Habitat Protection Program of DFO reviews projects for their impacts to fish and fish habitat by ensuring compliance with the *Fisheries Act* and *Species at Risk Act*. Through this program, DFO may provide information to the proponent in order for it to avoid and mitigate the negative impacts to fish and fish habitat from the project.

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. 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, and accommodation, where appropriate. If a *Fisheries Act* authorization is issued for any parts of the project, it will include conditions requiring avoidance and mitigation measures, offsetting, contingency measures, and monitoring.

In addition, subsection 36(3) 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.

Migratory Birds Convention Act, 1994

The *Migratory Birds Convention Act, 1994* protects migratory birds and their eggs and nests wherever they occur, regardless of land tenure. The *Migratory Birds Convention Act, 1994* and its *Migratory Birds Regulations, 2022* prohibit the following activities: capture, kill, injure or harass a migratory bird, as well as destroy, take or disturb their nests and eggs when they are considered to have a high conservation value, unless a permit specifically authorizing the activity has been granted. 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 is also prohibited. *Migratory Birds Regulations, 2022* also identify 18 species of birds whose nests are protected year-round. The proponent would be required to comply with the *Migratory Birds Convention Act, 1994* and its Regulations to ensure the protection of migratory birds.

Species at Risk Act

Species that are both a migratory bird protected under the *Migratory Birds Convention Act, 1994* and listed on Schedule 1 of *Species at Risk Act* as endangered, threatened or extirpated receive protections under both pieces of legislation. For some migratory bird species, their residences are protected year-round under *Species at Risk Act*.

Provincial Legislative Mechanisms

Environmental Assessment Act

The *Environmental Assessment Act* in Ontario, governs the process of evaluating the environmental impacts of proposed projects and integrating environmental considerations into decision-making processes.

On June 28, 2024, MECP issued a designation order under S.16(6) of the *Environmental Assessment Act*. This order required the proponent to complete a comprehensive Environmental Assessment before the project could proceed.

On April 17, 2025, as stated by the Environmental Registry of Ontario ([ERO 025-0389](#)), the provincial environmental assessment requirements for the project were removed with the Royal Assent of the *Protect Ontario by Unleashing our Economy Act, 2025*, to help provide additional waste capacity in Ontario, taking into consideration that the project would remain subject to provincial oversight and other regulatory requirements including Environmental Compliance Approvals (ECA) under the *Environmental Protection Act* and *Ontario Water Resources Act*.

Environmental Protection Act

The *Environmental Protection Act* is administered by MECP. This Act governs environmental protection and liability, including the issuance of ECAs which permit the operation of a facility or site with environmental controls that protect human health and the natural environment. Activities that have the potential to impact the public or natural environment must obtain approval of an ECA through the *Environmental Protection Act* before construction, operation or upgrades of a facility or site can commence.

Under the *Environmental Protection Act*, an ECA must be obtained prior to establishing or operating any waste management system or waste disposal site. Currently, the project holds two ECAs issued by MECP for the site: the "Waste Transfer ECA" (No. A020401) and the "Landfill ECA" (No. A021304). The proponent indicated that applications to amend the two existing ECAs for the project have been submitted to MECP. The Waste Transfer ECA amendment seeks to permit the receipt of up to 1,000 tonnes per day of non-hazardous construction and demolition waste and 3,000 tonnes per day of recyclable materials at the waste transfer station. The Landfill ECA amendment seeks to permit environmental upgrades such as installing a composite liner and leachate collection system, new monitoring wells, and other improvements to bring the dormant landfill up to current standards.

The project would also need to comply with *Ontario Regulation 232/98*, applicable to expansion, alterations or changes to the site operations approved in the existing ECAs, which sets out the technical standards and approval requirements for the design, construction, operation, closure, and post-closure care of landfill sites in Ontario.

MECP indicated that the project may also be subject to ECA requirements for air, noise emissions, and waste management activities under the EPA. The proponent may self-register for an Environmental Activity and Sector Registry for air emissions to demonstrate compliance with air quality, noise and vibration criteria.

Under the *Environmental Protection Act*, the application processes for the ECA described above require Indigenous and public consultation.

Ontario Water Resource Act

The *Ontario Water Resources Act*, administered by MECP, provides for the conservation, protection and management of Ontario's water and its efficient and sustainable use to promote Ontario's long-term environmental, social, and economic well-being.

At the site level, Section 53 of the *Ontario Water Resources Act* would regulate all works related to the collection, conveying, treatment, or disposal of stormwater, and industrial waste to ensure compliance with environmental protection standards.

Some of the technical requirements of a Stormwater Management ECA includes stormwater runoff analysis, design details for each stormwater management component, capacity of receiving stormwater management works, design flow calculations, water balance and phosphorus budget and monitoring and maintenance plans.

A sewage works ECA, distinct from a stormwater management ECA, may be required if the proposed landfill leachate collection system will include a treatment and discharge component for treated leachate to be discharged to the natural environment. These requirements generally include a project description (e.g. leachate collection and treatment system), identification of the source of leachate, treatment process and discharge location, hydrogeological and surface water impact assessment (required if discharging), effluent quality and monitoring plan and environmental mitigation measures.

Under the *Ontario Water Resources Act*, the application processes for the ECAs described above require Indigenous and public consultation.



Endangered Species Act, 2007 / Species Conservation Act, 2025

Ontario's *Endangered Species Act, 2007*, administered by 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.

A permit under the *Endangered Species Act, 2007* may be required for activities of the project that could adversely impact species at risk listed under the *Endangered Species Act, 2007*. An Information Gathering Form would be submitted to the MECP to initiate consultation and determine whether further permitting may be required. Should an *Endangered Species Act, 2007* 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.

On June 5, 2025, *Protecting Ontario by Unleashing our Economy Act, 2025* received royal assent, which included amendments to the *Endangered Species Act, 2007* that are now in force, and the creation of the *Species Conservation Act, 2025* which is not yet in effect. Under the amended *Endangered Species Act*, any potential effects on aquatic species, migratory birds or terrestrial species that are listed as endangered or threatened on the Species at Risk in Ontario List will need to be assessed to determine whether an impact will occur and what type of authorization under the *Endangered Species Act* is needed. Once the *Species Conservation Act, 2025* is in force, migratory birds and aquatic species (fish and mussels) listed as threatened, endangered, or extirpated on Schedule 1 of the federal *Species at Risk Act*, would not receive provincial protections under the *Species Conservation Act, 2025*.

Ontario Heritage Act

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

The *Protecting Ontario by Unleashing our Economy Act, 2025* also included amendments to the *Ontario Heritage Act* which came into force upon royal assent. The amendments to the *Ontario Heritage Act* were to address matters related to archaeology requirements, including updates to enforcement and compliance tools as well as the introduction of an exemption authority. The Minister of the Ontario Ministry of Citizenship and Multiculturalism now has the authority to make an order, subject to conditions, to require an archaeological assessment be undertaken if the Minister is of the opinion that land, or land under water, in the province may contain an artifact or an archaeological site.

Planning Act

The *Planning Act* is administered by the Ontario 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.

Permits under this legislation may be required to operate the project related to land use designations, detailed land use, layout and design planning, which are discussed in more details below.

Conservation Authorities Act

The SCRCA regulates Section 28 of the *Conservation Authorities Act*. *Ontario Regulation 41/24* requires landowners to obtain the permission of the SCRCA prior to the commencement of a development activity within a regulated area. Regulated areas include river or stream valleys, Great Lakes and Large Inland Lakes' shorelines, hazardous lands and wetlands. The project is located adjacent to the Fourth Concession Drain Outlet (a municipal drain) and Molly Creek (a natural watercourse), which both outlets directly into the Sydenham River. Portions of the property are within the regional storm floodplain; therefore, it is regulated under *Ontario Regulation 41/24*. A permit under Section 28 of the *Conservation Authorities Act* may be required for any development including: construction, reconstruction, or placement of a structure, placement or removal of fill, re-grading, altering a shoreline or watercourse, or interfering with the hydrology of a wetland.

Clean Water Act, 2006

The *Clean Water Act, 2006* protects drinking water at the source, as part of an overall commitment to safeguard human health and the environment through a multi-barrier approach. Failure to comply with the *Clean Water Act, 2006* may result in fines and additional court orders.

Policies and regulations designed to protect municipal drinking water sources from potential threats under the *Clean Water Act, 2006*, may apply for projects situated within protected vulnerable areas. According to the SCRCA, portions of the property have been identified as being within a vulnerable area or an area where drinking water threat policies apply. The SCRCA has an appointed Risk Management Official (RMO) to ensure that requirements under the *Clean Water Act, 2006* and the Thames-Sydenham and Region Source Protection Plan are met. Under the *Clean Water Act, 2006*, local source protection plans have been developed and contain policies to protect municipal sources of drinking water. The RMO provides necessary notifications, negotiates risk management plans for certain activities of concern, develops and distributes information packages for property owners and ensure information about activities in the vulnerable areas is accurate.

Municipal Mechanisms

Municipality of Chatham-Kent Official Plan and Zoning By-law

The Chatham-Kent Official Plan sets out the objectives and policies to guide the short-term and long-term physical development of all lands within the Municipality of Chatham-Kent. Zoning By-laws establish and regulate the use of land by implementing the policies of the Municipality's Official Plan. Official Plan Amendment and Zoning By-law Amendment permit applications may be required for the project and would be assessed against provincial and local planning policies.

An application for a Zoning By-law Amendment would require public consultation. Subsections 34(12) and 34(13) of the *Planning Act* require public notice to be given followed by a public meeting regarding the application. Section 3 and paragraph 5(9)18 of *Ontario Regulation 545/06* also requires consultation with

Indigenous communities within one kilometre of the project. In addition, section 41 of the *Planning Act* allows the council of a local municipality to control certain matters on and around a site proposed for development, such as: access for pedestrians and vehicles, walkways, lighting, waste facilities, landscaping, drainage and exterior design. However, the *Planning Act* does not provide authority to impose conditions on Official Plan Amendment approvals or Zoning By-law Amendment approvals.

The proponent indicated its willingness to enter into a host community agreement with the Municipality of Chatham-Kent to formalize community benefits. The proponent indicated that it will coordinate with the Municipality of Chatham-Kent on any required permits (such as building permits for the new processing facility, prior to construction). The Municipality of Chatham-Kent has indicated that it has had no contact with the proponent since March of 2024.

Adverse effects within federal jurisdiction

IAAC's analysis identified that the carrying out of the project may cause 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, Ontario Ministry of the Environment, Conservation and Parks, Municipality of Chatham-Kent, St. Clair Region Conservation Authority and Indigenous communities and organizations.

As outlined below, IAAC is of the view that existing federal and provincial, mechanisms provide a framework to address those potential adverse effects within federal jurisdiction and direct or incidental adverse effects. Federal, provincial, and municipal mechanisms relevant to the project described above were considered in IAAC's analysis.

Fish and Fish Habitat

The requester expressed concerns about effects on fish and fish habitat from potential landfill leachate or other toxic substances discharges from the site into surface watercourses via overland runoff or groundwater flow. Two surface watercourses (Molly's Creek and Fourth Concession Drain) exist in close proximity to the site, and both flow into the Sydenham River, which is less than one kilometre downstream. The requester also expressed concerns about aquatic species listed under the *Species at Risk Act*, and their critical habitat in the Sydenham River and its tributaries, including several fish and mussels species.

DFO indicated that the Fish and Fish Habitat Protection Program reviews projects for their impacts to fish and fish habitat, by ensuring compliance with the *Fisheries Act* and the *Species at Risk Act*. Through this program, DFO may provide information to the proponent, through a Request for Review from the proponent, in order to avoid and mitigate the negative impacts. DFO stated that a *Fisheries Act* paragraph 35(2)(b) Authorization will be required if the project is likely to cause harmful alteration, disruption, or destruction to fish habitat, including spawning grounds. A *Fisheries Act* paragraph 34.4(2)(b) Authorization would 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.

ECCC indicated that the project may cause potential adverse effects to fish and fish habitat through various water quantity mechanisms, such as discharge of surface water runoff, stormwater runoff, release of wastewater or leachate to the receiving environment, among others, if not appropriately managed. In addition, ECCC administers section 36 (3) of the *Fisheries Act*, which prohibits the deposit of deleterious substance into water frequented by fish, unless authorized by regulation. ECCC noted that it does not expect that it will be required to exercise a power or perform a duty or function related to the project to enable it to proceed.

MECP indicated that groundwater protection is fundamental for designing a landfill. MECP indicated that amendments to the proponent's existing Waste Transfer ECA and Landfill ECA under the *Environmental Protection Act* are required for the project. The approvals would set requirements that the project must meet to protect groundwater quality with the intent that the landfill design will meet MECP's Reasonable Use Guideline limits for groundwater protection at the property boundary. Both approvals would set requirements for groundwater and surface water monitoring and reporting as well as a leachate contingency plan.

MECP indicated that the project may require a Stormwater Management ECA pursuant to the *Ontario Water Resources Act* to manage stormwater systems that discharge to surface water or groundwater. The approval would set requirements that the project must meet to minimize impacts on groundwater and surface water quality. MECP indicated that a sewage ECA would be required for the Project pursuant to the *Ontario Water Resources Act*, to set requirements on leachate collection, treatment process and discharge location to protect the water quality of the receiving environment. Both approvals would set requirements for monitoring and reporting. MECP noted that their application processes for the approval include consultation that aim to resolve issues raised by Indigenous communities and the public.

DFO indicated that it is unlikely that a permit would be required under the *Species at Risk Act* as there are currently no aquatic Species at Risk mapped for the project area as per current project description. MECP stated that under the amended ESA, any potential effects on aquatic species that are listed as Endangered or Threatened on the Species at Risk in Ontario List will need to be assessed to determine whether an impact will occur and what type of authorization under the *Endangered Species Act* is required.

The proponent indicated that studies on site have not identified any species at risk or fisheries proximate to the site; however, a number of studies on the site are undergoing, including species at risk studies. The proponent is of the view that any impacts on fisheries or species at risk that may be identified, could be managed through the provincial ECAs noted above, with any federal permits sought, if needed.

The proponent expressed that best management practices (e.g. sediment and erosion controls) will be implemented to ensure fish habitat is protected, consistent with *Fisheries Act* requirements and would apply for any necessary federal permits. In addition, the proponent indicated that all surface water runoff from the Property will be managed via engineered controls (ditches, containment and a stormwater management pond) following MECP approvals through the Stormwater Management ECA, which is required for the project to prevent any off-site discharge of leachate or contaminants into local watercourses. The proponent committed to upgrade the landfill with an engineered liner (compacted clay

and geomembrane) and a leachate collection system, meeting MECP landfill standards, and also committed to meet Provincial Water Quality Objectives for any water released.

IAAC considered the input received and is of the view that the project design and existing federal and provincial mechanisms such as the *Fisheries Act*, *Species at Risk Act*, *Ontario Water Resources Act*, *Environmental Protection Act* and the *Endangered Species Act* would provide a framework to address effects to fish and fish habitat.

Aquatic Species at Risk

The project would not result in a change to aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, other than fish: i.e., marine plants, as the project is not located in or near a marine environment. Aquatic species at risk (i.e., fish and mussels) are described in the Fish and Fish Habitat section above.

Migratory Birds

The requester expressed concerns about the effects that the project may cause to migratory birds, noting that the Sydenham watershed and Chatham-Kent area are important bird and lifecycle areas. The requester noted several migratory bird species including waterfowls (e.g., geese, ducks, tundra swans), sandhill cranes, rails and shorebirds (e.g., avocets, dowitchers, phalaropes, sandpipers, snipe and yellowlegs), migratory insectivorous birds (e.g., bobolink, chickadees, cuckoos, flickers, flycatchers, grosbeaks, hummingbirds, nuthatches, orioles, robins, shrikes, swallows, swifts, titmice, thrushes, vireos, warblers, waxwings, whippoorwills, woodpeckers, and wrens) and migratory non-game birds (e.g., bitterns, grebes, gulls, herons, loons, and terns) rely on the Sydenham watershed or are known to frequent the area.

The requester further indicated there are several at risk migratory bird species that utilize the Sydenham watershed for their life cycle needs (e.g. feeding, mating, nesting, staging, migrating) some of which are listed on *Species at Risk Act* Schedule 1 (e.g., loggerhead shrike, burrowing owl, piping plover, great blue heron, barn swallow, Acadian flycatcher, bank swallow, bobolink, chimney swift and eastern woodpeewee). The requester expressed concerns about loss, degradation, contamination, or fragmentation of the various habitat types used by migratory birds living in, or passing through, the lands, watercourses, and wetlands in proximity to or downstream of the project.

ECCC indicated that species that are both a migratory bird protected under the *Migratory Birds Convention Act, 1994* and listed on Schedule 1 of *Species at Risk Act* as endangered, threatened or extirpated, receive protections under the *Migratory Birds Convention Act, 1994* and *Species at Risk Act*. Permits may be required under the *Migratory Birds Regulations, 2022* (under *Migratory Birds Convention Act, 1994*) and section 73 of *Species at Risk Act* for activities that affect migratory bird species afforded protected by the Regulations and/or listed under Schedule 1 of *Species at Risk Act* as endangered, threatened or extirpated, any part of its critical habitat, or the residences of its individuals. For some migratory bird species listed under *Species at Risk Act*, the residence prohibition (section 33) will protect nest and/or roost sites that are not active, for example when a species reuses these sites in subsequent years (e.g., Chimney Swift, Barn Swallow), noting that the protection afforded may differ between the two pieces of

legislation, though both pieces of legislation/protection apply. ECCC noted that it does not have sufficient information to determine whether a *Species at Risk Act* permit is required.

Effects to water quality and quantity that could cause harm to migratory birds would be covered by provincial legislations such as *Environmental Protection Act* and *Ontario Water Resources Act*, as described in Fish and Fish Habitat section above.

MECP stated that under the amended *Endangered Species Act*, any potential effects on migratory birds that are listed as Endangered or Threatened on the Species at Risk in Ontario List will need to be assessed to determine whether an impact will occur and what type of authorization under the *Endangered Species Act* is required.

IAAC considered the input received and is of the view that existing federal and provincial mechanisms, such as the *Migratory Birds Convention Act, 1994*, *Species at Risk Act*, *Endangered Species Act*, *Ontario Water Resources Act*, and *Environmental Protection Act*, provide a framework to address these effects.

Indigenous Peoples

The project site is located within the traditional territory of the Anishinaabe and Lenape peoples, known today as Walpole Island First Nation and Moravian of the Thames First Nation (i.e. Lunaapeew of Delaware Nation). No part of the project is located on or immediately adjacent to any First Nation reserves. Both Nations' reserves are less than 25 kilometres from the project site, with the closest reserve being Walpole Island First Nation (approximately 20 kilometres southwest). The project is also located within the area identified by the Métis Nation of Ontario (Region 9).

The Métis Nation of Ontario has a Consultation Protocol, which identifies regions in Ontario to guide how Métis Nation of Ontario are consulted on projects that may affect their Aboriginal rights. The project is located within Region 9 of the Consultation Protocol; however, it is not located within a harvesting area identified in Métis Nation of Ontario Traditional Harvesting Territories Map. Thus, impacts to the Métis Nation of Ontario are not anticipated.

Current Use of Lands and Resources for Traditional Purposes

IAAC recognizes that Walpole Island First Nation identifies its traditional territory and Aboriginal rights in relation to water stewardship responsibilities over the Sydenham River and its surrounding watershed. The proposed project site is located approximately 500 meters from Molly's Creek, a natural spring-fed creek that flows directly into the Sydenham River and drains into Lake St. Clair. Walpole Island First Nation indicated that they actively engage in fishing, hunting, and cultural practices within the watercourses of their traditional territory, including tributaries near the project site that flow into these areas.

Walpole Island First Nation raised concerns that project activities have the potential to cause significant impacts to species that support recreational and Indigenous fisheries in Molly's Creek and the Sydenham River, along with potential impacts on water quality (i.e. changes to pH and salinity). Walpole Island First Nation indicated that landfill leachate or other discharged substances from the project site may increase contamination, thereby impacting traditional hunting, fishing and gathering areas in the Sydenham River and other surrounding watercourses.

SCRCA noted that a permit under Section 28 of the *Conservation Authorities Act* may be required for certain activities on portions of the property that are within the regional storm floodplain, which is regulated by *Ontario Regulation 41/24*. These permits may address effects to adjacent shoreline and watercourses.

DFO indicated that consultation with Indigenous communities would be conducted should DFO consider issuing a *Fisheries Act* s.34.4(2)(b) and/or 35(2)(b) authorization for the project. When making a decision under the *Fisheries Act*, the Minister of Fisheries and Oceans shall consider any adverse effects that the decision may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act*, 1982.

MECP indicated that if a proposed project under an ECA has the potential to adversely impact Aboriginal or treaty rights, the ministry has a legal duty to consult Indigenous communities. While the ministry is responsible to ensure this duty is met, procedural aspects – such as sharing project details, gathering input, and documenting consultation – may be delegated to the applicant. The level of consultation depends on the potential impact, ranging from simple notification to full dialogue and accommodation. If concerns are raised, the Crown and/or applicant must work to reasonably avoid, prevent or mitigate impacts. The ministry may step in directly if consultation is inadequate or unresolved.

Consultation with Indigenous communities may be necessary prior to the issuance of a permit under the *Endangered Species Act* if the impacts may have the potential to adversely impact any existing or credibly asserted Aboriginal or treaty rights. MECP will complete an assessment on whether the Duty to Consult is triggered once a list of species impacts is assessed.

IAAC considered the input received and is of the view that existing federal and provincial mechanisms outlined in the sections above to address effects to fish, fish habitat, and migratory bird species, including species at risk, provide a framework to address effects that the project may cause on the current use of lands and resources for traditional purposes by Walpole Island First Nation and the Delaware Nation – Moravian of the Thames. This includes mechanisms such as the *Fisheries Act*, *Species at Risk Act*, *Endangered Species Act*, *Ontario Water Resources Act*, *Conservation Authorities Act* and *Environmental Protection Act*. Requirements for Indigenous consultation are associated with the *Fisheries Act* authorization, Environmental Compliance Approvals under the *Ontario Water Resources Act*, and *Environmental Protection Act*, and the *Endangered Species Act* permit process.

Physical and cultural heritage and structures, sites, or things of historical, archaeological, paleontological or architectural significance

Delaware Nation – Moravian of the Thames have raised concerns related to the adverse effects on cultural heritage, including disturbing sites of archaeological importance. The requester also raised concerns about impacts to Indigenous Peoples cultural heritage.

Walpole Island First Nation raised concerns that the proposed project is located near lands of historical and cultural significance to the community, including those used for hunting, fishing, trapping, foraging, and gathering, and potential significant burial sites. Molly's Creek and the Sydenham River are considered sites of historical and spiritual importance to the community.

The proponent has indicated that there are no known Indigenous physical or cultural heritage sites on, or in the immediate vicinity of, the project site due to agricultural use prior to use for waste management

operations and preliminary archaeological assessments. The proponent also noted that no information has been received on traditional land use, heritage, or archaeological matters. However, the proponent noted that they are open to sharing and receiving information from Indigenous communities through consultation.

IAAC considered the input received and is of the view that existing provincial mechanisms such as the *Ontario Heritage Act* provides a framework to address potential effects on sites of historical, architectural, and archaeological interest. Their programs include guidance for archaeological studies and discoveries. This process requires Indigenous consultation regarding discoveries that matter to Indigenous Peoples.

Health, social, and economic conditions

Delaware Nation – Moravian of the Thames raised potential health and social impacts from increased waste processing, truck traffic, and emissions resulting in effects to air quality, noise levels, and public health. The community also noted existing and proposed industrial developments and cumulative impacts on lands and water.

The requester expressed concerns about potential contamination of wells for drinking water purposes and noted that Walpole Island First Nation raised concerns on drinking water quality. In addition, Walpole Island First Nation raised similar concerns including air and water pollution affecting community health, as well as devaluing nearby lands, long-term sustainability, regional equity, and cumulative impacts.

SCRCA noted that a portion of the project property is within a vulnerable area or an area where drinking water threat policies apply. The RMO appointed by SCRCA would ensure that the requirements under the *Clean Water Act, 2006* and the Thames-Sydenham and Region Source Protection Plan are met to protect municipal sources of drinking water.

In addition to the ECAs noted in the Fish and Fish Habitat section above, MECP indicated that the project may require ECAs pursuant to the *Environmental Protection Act* to manage air quality, noise, and vibration, and may require environmental monitoring. MECP may impose conditions or require modifications to address concerns before ECAs are issued.

IAAC considered the input received and is of the view that existing federal and provincial mechanisms outlined in the sections above provide a framework to address effects that the project may cause on the health, social, and economic conditions of Walpole Island First Nation and the Delaware Nation – Moravian of the Thames. This includes mechanisms such as a *Fisheries Act*, *Ontario Water Resources Act*, *Clean Water Act, 2006* and *Environmental Protection Act* and the Thames-Sydenham and Region Source Protection Plan. Requirements for Indigenous consultation are associated with the *Fisheries Act* authorization, *Ontario Water Resources Act*, and *Environmental Compliance Approval* permit processes. The proponent has indicated that as part of its activities, it would continue to share information and participate in meaningful consultation with Indigenous communities.

Federal Lands

The project is not located on federal land, as defined in the IAA. The site is owned and operated by York1 Environmental Waste Solutions Ltd.

Pollution of Boundary, Interprovincial or International Waters

The project is limited in scale and is distant from any interprovincial or international boundaries. Any discharges to water or air emissions from the project would have to meet provincial regulatory requirements outlined in the *Ontario Water Resources Act* and the *Environmental Protection Act*, respectively.

IAAC is of the view that the project is unlikely to cause non-negligible adverse changes from pollution to the marine environment and transboundary waters, as defined in section 2 of the IAA. As well, federal and provincial mechanisms such as the *Fisheries Act* and the *Ontario Water Resources Act* provide a framework to address such adverse effects within federal jurisdiction and protect water quality.

Direct or incidental adverse effects

Direct or incidental adverse effects refer to non-negligible adverse 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.

The project as described may require the exercise of the following federal powers, duties, or functions:

- Authorization pursuant to 34.2(2)(b) and 35(2)(b) of the *Fisheries Act* (DFO);
- Permit under the *Migratory Birds Regulations, 2022* (ECCC); and
- Permit under the *Species at Risk Act* (ECCC).

IAAC understands that there will be no federal funding for the project. The project is not located on federal lands as noted in the above section. The direct or incidental adverse effects related to the described powers duties or functions would be limited or addressed through the due diligence of the federal authority.

Public concerns

IAAC is aware of public concerns related to adverse effects within federal jurisdiction, including from members of the public, and the non-profit group Dresden Together, that are described above (i.e., fish and fish habitat, migratory birds and Indigenous Peoples).

The Ontario ECA applications, when received, are posted on the Environmental Registry of Ontario for a 45-day public consultation. In addition, an application for the Official Plan Amendment and a Zoning By-law Amendment would require public engagement. Subsections 34(12) and 34(13) of the *Planning Act* require public notice to be given followed by a public meeting regarding the application. The proponent is also committed to ongoing public engagement through all phases of the project, including establishing a community liaison committee to meet regularly to discuss project progress, monitoring results and community concerns.

IAAC considered the input received and is of the view that existing federal and provincial mechanisms such as *Fisheries Act*, *Migratory Birds Convention Act, 1994*, *Environmental Protection Act*, and *Ontario Water Resources Act* provide a framework to address the public concerns related to the adverse effects within federal jurisdiction or direct or incidental adverse effects of the project. In addition, requirements for public engagement are associated with, the *Environmental Protection Act*, *Ontario Water Resources Act* and *Planning Act*.

Adverse impacts on the Section 35 Rights of Indigenous peoples

IAAC considered views from the Indigenous communities who provided comments with respect to impacts on Section 35 rights.

Walpole Island First Nation expressed concern that the project would cause potential adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act*, 1982. Specifically, from the potential contamination of nearby waterway and ecosystems (Molly's Creek and Sydenham Watershed) Walpole Island First Nation noted that its community relies on the Sydenham watershed for sustenance, livelihood, and cultural practices. Walpole Island First Nation expressed concern about the proponent's engagement with its community and is of the view that the community had not been adequately consulted. Delaware Nation – Moravian of the Thames expressed similar concerns that the project may cause potential adverse impacts on rights from potential contamination to the Thames River watershed. Both Nations expressed concerns about impacts to hunting, fishing, trapping, gathering, foraging, and other culturally significant uses from industrial development and pollution.

The proponent may be required to obtain a *Fisheries Act* authorization and consult with the potentially affected communities to address impacts to fish and fishing activities.

IAAC acknowledges the concerns from both communities. The Proponent may require ECAs under the *Environmental Protection Act*, and the *Ontario Water Resources Act*, which have requirements to protect air and water quality. SCRCA noted that a permit under Section 28 of the *Conservation Authorities Act* may be required for certain activities on portions of the property that are within the regional storm floodplain, which is regulated by *Ontario Regulation 41/24*. These permits may address effects to adjacent shoreline and watercourses.

IAAC considered the input received and is of the view that the project may cause adverse impacts on rights that are recognized and affirmed by section 35 of the *Constitution Act*, 1982. However, existing federal and provincial mechanisms such as the *Fisheries Act*, *Species at Risk Act*, *Migratory Birds Convention Act, 1994*, *Endangered Species Act*, *Ontario Water Resources Act*, *Environmental Protection Act*, *Conservation Authorities Act*, and the *Ontario Heritage Act* provide a framework to address the effects that could result in the potential adverse impacts on rights. Notably, the *Fisheries Act*, *Environmental Protection Act*, *Ontario Water Resources Act*, and the *Ontario Heritage Act* include consultation with potentially impacted Indigenous communities to address concerns about potential impacts to the rights of Indigenous People.

Other considerations

Cumulative Effects

The requester expressed concerns about the effects of the project combined with the site history. The Conservation Authority's Source Protection Committee established under Ontario's *Clean Water Act, 2006* has concluded that most aquifers in the Municipality of Chatham-Kent are highly vulnerable to contamination. Recent surface water sampling in Molly's Creek and the 4th Concession Drain conducted by the proponent's consulting firm (XCG) in 2022- 2023 found exceedances of the Provincial Water Quality Objectives for various metals (e.g. iron, total boron, total copper, lead, and zinc) and inorganic substances (e.g. total phosphorous, phenols, and chloride), which demonstrates that existing water resources in the area are under stress and potentially vulnerable to additional impacts from the project if approved. Under the *Clean Water Act, 2006* the Thames-Sydenham and Region Source Protection Plans have been developed to protect municipal drinking water sources. The SCRCA ensures that the policies and requirements of these plans are met to safeguard water quality.

Walpole Island First Nation expressed concerns about effects of the project combined with the history of leachate from the various activities that has occurred on the property over the last one hundred years, including tile yard operation, gun range and bomb disposal site, disposal of broken clay farm drainage tiles (which had been manufactured on-site) and fly ash from the now-defunct incinerator that operated in the area.

Walpole Island First Nation raised concerns of the project effects on the St. Clair River and its tributaries, which are already downstream from significant petrochemical operations in Sarnia's Chemical Valley and are affected by industrial effluents, wastewater discharge, and the presence of forever chemicals (PFAS) have now been detected in sand and aquatic ecosystems throughout the watershed.

DFO indicated that cumulative effects are taken into account as part of the *Fisheries Act* authorization process, including consideration of other projects and activities occurring in the vicinity of the proposed Project, impacts on fish and fish habitat and the proposed project's contribution. The *Fisheries Act* authorization process also considers cumulative effects on Indigenous rights.

ECCC and NRCan noted that the [Open Science Data Platform \(OSDP\)](#) provides information relevant to cumulative effects and development activities across Canada. OSDP also provides access to regulatory registries that list government authorizations of other developments (e.g., *Fisheries Act* Registry), which can be useful in understanding the cumulative pressures on an area. It may be of value to persons preparing and reviewing projects assessments, including cumulative effects assessments.

MECP indicated that the assessment of the surface water conditions on and in the vicinity of a landfilling site, and of any surface water features is required in determining the suitability, design and monitoring requirements for the site. Under the *Environmental Protection Act, Ontario Regulation 232/98* requires a surface water assessment to assess the suitability of the site for waste disposal after considering the area in which the site is located, on-site and receiving surface water features, the design of the site, and the contingency plan for the control of leachate. It also requires that the concentration of any contaminant in

surface water being discharged from the site to a waterbody shall meet MECP's Guideline B-1, Water Management, dated July 1994, and Procedure B-1-1, Water Management, dated July 1994.

IAAC considered the input received and is of the view that existing federal and provincial mechanisms outlined in the sections above to address effects to fish and fish habitat, migratory birds and Indigenous peoples, provide a framework to address effects that the project may cause. This includes mechanisms such as the *Fisheries Act*, *Clean Water Act, 2006*, *Environmental Protection Act* and the associated requirements for Indigenous consultation and public engagement.

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, DFO and NRCan), the Ontario Ministry of the Environment, Conservation and Parks, the Municipality of Chatham-Kent, SCRCA, Walpole Island First Nation, and Moravian of the Thames – Delaware Nation. In addition, comments were received from the Haudenosaunee Development Institute as the delegated authority of the Haudenosaunee Confederacy Chiefs Council and members of the public.

The project has the potential to cause adverse effects within federal jurisdiction or direct or incidental adverse effects.

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

- a) the requirements under the following 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, adverse impacts that the project may have on the rights of Indigenous Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, other relevant factors identified in this report; and
- b) there are means other than a federal impact assessment such as existing federal and provincial mechanisms, such as the *Fisheries Act*, *Migratory Birds Convention Act, 1994*, *Species at Risk Act*, *Environmental Protection Act*, *Ontario Water Resources Act*, *Clean Water Act, 2006*, *Conservation Authorities Act*, *Endangered Species Act*, or *Species Conservation Act, 2025* (once proclaimed), *Ontario Heritage Act*, and *Conservation Authorities Act* that provide a framework to address the potential adverse effects within federal jurisdiction and direct or incidental adverse effects that may be caused by the project. Several of these mechanisms include public engagement and Indigenous consultation.

IAAC also acknowledges all other concerns raised by the requesters related to the project that are outside of federal jurisdiction, and therefore out of the scope of analysis for this designation request.