

## 9.0 OTHER APPROVAL REQUIREMENTS

### 9.1 Approvals Required for the Undertaking

As the study has followed the Class EA process, formal approval under the Ontario Environmental Assessment Act is not required. However, there are a number of other provincial, federal, municipal and utility approvals / permits required to implement the Recommended Plan. The following provides an overview of the permits and approvals requirements identified during Preliminary Design. All permit and approval requirements will be confirmed during Detail Design.

#### 9.1.1 Federal

The Canadian Environmental Assessment Act, 2012 (CEAA) and associated regulations came into effect on July 6, 2012. The only anticipated federal assessment requirements for this project would be associated with Section 67 of CEAA. However given CEAA 2012 is undergoing federal review, the requirements of the Canadian Environmental Assessment Act must be reviewed during Detail Design.

The final assessment of the risk of the proposed works to fish and fish habitat will be completed once the design details are confirmed during Detail Design to determine if serious harm to fish are anticipated, and if authorization under the *Fisheries Act* is required. A request-for-review will be submitted to the Department of Fisheries and Ocean (DFO) if required and applicable permits and mitigation will be implemented, as required by DFO. All work will be undertaken in accordance with the current version of the MTO/DFO/MNRF Protocol for Protecting Fish and Fish Habitat on Provincial Transportation Undertakings.

Potential Species at Risk Act (SARA) Permit requirements will be reviewed during Detail Design. If required, a SARA permit will be obtained prior to construction. If a SARA permit is required, it is expected that Environment Canada would be required to conduct a CEAA Section 67 review prior to issuance.

Seven federal properties administered by Transport Canada will be impacted by the Recommended Plan. As a result, it is anticipated that Transport Canada will have assessment requirements under CEAA Section 67.

An approval from the St. Lawrence Seaway Corporation will also be required, refer to Section 9.1.6 for details.

The Welland Canal is a scheduled navigable water requiring authorization under the *Navigation Protection Act* (NPA) prior to construction. Transport Canada will be contacted during Detail Design to determine the requirements under the NPA. All necessary permits and approvals under the NPA will be obtained prior to construction.

#### 9.1.2 Provincial

Approvals and/or requirements may be necessary from the Ministry of the Environment and Climate Change (MOECC), Ministry of Natural Resources and Forestry (MNRF), Ministry of Tourism, Culture and Sport and Hydro One Networks for the Recommended Plan.

##### 9.1.2.1 Ministry of the Environment and Climate Change

The Ministry of the Environment and Climate Change (MOECC) is the approval authority for activities requiring temporary water takings that exceed the threshold of 50,000 L/day. There are certain surface water diversion activities which are exempt from PTTW requirements and registration on MOECC's EASR even if a project requires dewatering in excess of 50,000 litres per day. PTTW and EASR registration requirements will be confirmed in Detail Design.

##### 9.1.2.2 Ministry of Natural Resources and Forestry

Potential Endangered Species Act (ESA) Permit requirements will be reviewed during Detail Design relative to known species in the context of the most current list of regulated species and results of updated field work.

##### 9.1.2.3 Ministry of Tourism, Culture and Sport

All archaeological fieldwork will be conducted by a consultant archaeologist holding a valid archaeological license issued by MTCS under the Ontario Heritage Act. MTCS acts as reviewer of the investigations conducted by licensed archaeologists, manages the resources documented by those investigations, and develops and implements operational policies, technical standards, and guidelines regulating the practice of archaeological conservation in Ontario. Once archaeological resources that may be disturbed by highway design investigations, construction, operation or maintenance have been identified and conserved to the satisfaction of the MTCS, in accordance with the Ontario Heritage Act, MTCS will provide written notification of concurrence with recommendations and acknowledgement that Provincial concerns for archaeological resources have been met. Receipt of this notification from MTCS will fulfill MTO's obligations with respect to archaeological resources under the EA process for the Recommended Plan.

MTO and MTCS are currently developing proper guidance to assist in the preparation of Strategic Conservation Plans that can be employed for MTO projects. This may result in additional documentation requirements for future design phases.

The Recommended Plan will require the relocation of the existing MTCS Travel Information Centre to a new site. Preliminary meetings to discuss the relocation have occurred as part of the Preliminary Design and Class EA Study (see **Sections 3.2** and **3.3**). Relocation plans will be developed as part of a separate study.

#### 9.1.3 Municipal

If it is determined during Detail Design that the construction works will not adhere to municipal noise by-laws (City of St. Catharines and/or Town of Niagara-on-the-Lake), noise bylaw exemption(s) will be sought during Detail Design.

#### 9.1.4 Utility Agreement Requirements

Discussions have occurred with all potentially affected utility companies / authorities within the study area. The Recommended Plan requires some utilities to be relocated. During Detail Design, formal notification and consent will be obtained from relevant authorities including Hydro One, Bell Canada, Enbridge Gas Distribution, Niagara-on-the-Lake Hydro, Niagara-on-the-Lake Public Works, Alectra Utilities (formerly Horizon Utilities), Rogers Cable, Cogeco Cable and the City of St. Catharines. Utility Agreement requirements are outlined in **Table 9-1**. Refer to Section 7.4 for further details.

**TABLE 9-1: UTILITY AGREEMENT REQUIREMENTS**

Authority	Regulation	Agreement Requirements	
		Approvals	Design / Relocation
Hydro One	Provincial	Required	Yes. To be confirmed in Detail Design.
Bell Canada	Private	Required	Yes. To be confirmed in Detail Design.
Enbridge Gas Distribution	Private	Required	Yes. To be confirmed in Detail Design.
Niagara-on-the-Lake Hydro	Regional	Required	Yes. To be confirmed in Detail Design.
Alectra Utilities (formerly Horizon Utilities)	Private	Required	Yes. To be confirmed in Detail Design.
Rogers Cable	Private	Required	Yes. To be confirmed in Detail Design.
Cogeco Cable	Private	Required	Yes. To be confirmed in Detail Design.
Town of Niagara-on-the-Lake Public Works	Regional/Municipal	Required	Yes. To be confirmed in Detail Design.
City of St. Catharines	Regional/Municipal	Required	Yes. To be confirmed in Detail Design.

**9.1.5 Niagara District Airport – Airport Zoning Regulations Exemption**

As described in **Section 4.2.6** and **Section 7.2**, the existing Skyway encroaches into the airport’s Outer Surface: an obstacle limitation surface established for the protection of aircraft conducting a circling procedure or maneuvering in the vicinity of the airport. As the structure was built before the Outer Surface was established, the structure is considered ‘grandfathered’ and therefore void of Airport Zoning Regulation (AZR) exemption from the airport. The profile of the new bridge will similarly encroach into the Outer Surface and will therefore require exemption from the airport.

The AZR exemption process has numerous steps and will involve the proponent (in this case, MTO), the airport concerned, NAV CANADA and Transport Canada. Transport Canada is the ruling authority of the process, however input and review from NAV CANADA is required. AZRs are federal regulations that include height restrictions and other provisions to ensure that development of subject lands is compatible with the safe and viable continued operations of an airport. For the new Skyway, a permanent exemption to the AZR will be required and Transport Canada will not consider an AZR exemption request without the agreement from the airport. To obtain the airport’s agreement, an Aeronautical Assessment was conducted to identify the impacts of a new twin Garden City Skyway bridge to the north and the potential mitigations.

The Aeronautical Assessment concluded that if the new bridge were to be restricted to a maximum build height of 528 ft. (161m) ASL, it would not pose a significant impact to the long-term usability or economic viability of the Niagara District Airport. The penetrations that would occur to the AZRs and required Operational Zoning would be limited to specific areas of Outer Surface that can be mitigated through changes to circling procedures and official amendments to the Registered Zoning. If the new bridge were to be constructed to the maximum build height of 630 ft. (192.1m), the height required for cable-stayed bridge type alternatives, the impacts to existing Instrument Approach Procedures would be significant and negatively impact the Airport’s usability. By restricting the height to the aforementioned maximum of 528 ft. (161m) ASL, these impacts can be almost fully mitigated.

Unavoidable impacts would be to the NDB Runway 06 Approach and both RNAV and NDB Circling Approach Procedures however these can be resolved through a various mitigation strategies. The most significant change would be to the Circling Approaches which, depending on the mitigation option chosen, could either raise the MDA a maximum of 100 ft. (30.48 m) or restrict circling to avoid overflight of the new bridge. In a limited number of cases this may reduce the usability of the Airport but only slightly and only for aircraft unable to execute a straight-in approach to Runway’s 06 or 24.

The Project Team has been in correspondence with the Niagara District Airport throughout the study and on May 4 2017, the project team received a formal “Letter of No Objection” to the Recommended Plan. The next steps of the AZR exemption process have to occur within Detail Design, when the final design of the bridge will be identified. The next steps include establishing a second agreement between the Airport and MTO, in consultation with NAV CANADA, to identify a proposed rectification schedule and an estimate of associated costs to be borne by MTO. After which, a formal application will be prepared with accompanying documentation and letters of support from the Airport and the municipalities, and submitted to Transport Canada for AZR exemption.

**9.1.6 St. Lawrence Seaway Management Corporation Requirements**

The existing Garden City Skyway and the proposed twin structure cross the Welland Canal, which is operated by the St. Lawrence Seaway Management Corporation (SLSMC). The SLSMC have been consulted with throughout the study and should be consulted with throughout the Detail Design and construction phases.

SLSMC approval will be required for construction over the canal as operations on the canal cannot be impacted. The SLSMC identified a number of stipulations in regards to construction, and these include but are not limited to the following:

- The SLSMC does not typically allow cast-in-place construction over the Seaway during the navigational season. Cast-in-place construction could be permitted during the navigational season, provided special mitigation measures are taken and a risk analysis yields an acceptable risk level; even in this case, approval will not necessarily be granted.
- Should pier protection be required, the design needs to meet the Guidelines for the Safe Design of Commercial Shipping Channels published by the Department of Fisheries and Oceans Canada.
- Non-navigational season is from December 31 to March 20, however the closing and opening of the canal can be delayed by one to two weeks in a given year. Dewatering during the non-navigational period can take one week.
- During navigational season, shipping cannot be affected or delayed in any way, and shipping volumes and daily schedules cannot be predicted in advance.