



Dec. 1, 2023

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Norm Di Pasquale and Ann-Elisabeth Samson:

Thank you for your letter of September 18, 2023, "Request for Designation of Ontario Place Redevelopment Project under s. 9(1) of the IAA", regarding the Ontario Place Spa Complex Project (Spa Project) proposed by Therme Canada and the Ontario Place Underground Parking Garage Project (Garage Project) proposed by the Ontario Ministry of Infrastructure. In your letter, you requested that I designate these projects under subsection 9(1) of the *Impact Assessment Act*, SC 2019, c 28, s 1 (IAA). A review of whether a designation would have been warranted had commenced prior to the Supreme Court of Canada's (SCC) issuance of its opinion on the constitutionality of the IAA.

Following the SCC's issuance of its opinion, the Government of Canada issued the *Statement on the Interim Administration of the IAA Pending Legislative Amendments* on October 26, 2023 (Interim Statement).¹ The guidance set out in the Interim Statement will be followed until amendments come into force to address the issues identified by the SCC.

With respect to designation requests, the Interim Statement provides that no decisions to designate projects will be taken under section 9 of the IAA and that consideration of any new designation requests will only resume, as appropriate, once amended legislation is in force. To this end, no designation decision will be made with respect to either project under section 9 of the IAA. Consideration of any new designation requests will take place as appropriate, once amended legislation is in force.

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¹ <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/statement-interim-administration-impact-assessment-act-pending-legislative-amendments.html>



The Interim Statement further sets out that, where I am of the opinion that designation of a project would not have been warranted under section 9 of the IAA, I would communicate that information to proponents.

After careful consideration of the information provided by the proponents; advice from federal authorities; input from provincial ministries, the City of Toronto, and the Toronto and Region Conservation Authority; comments from Indigenous communities; the concerns expressed in your letter; and the Analysis Report prepared by the Impact Assessment Agency of Canada (Agency), I am of the view that a designation of the Spa Project or the Garage Project would not have been warranted in any event.

In addition to project design and standard mitigation measures proposed by each proponent, existing legislative mechanisms applicable to the Spa Project and the Garage Project provide a framework to address potential adverse effects within federal jurisdiction, adverse direct or incidental effects, and concerns in relation to those potential effects. These mechanisms include:

- federal legislation (*Canadian Navigable Waters Act; Fisheries Act; Migratory Birds Convention Act, 1994; and Species at Risk Act*); and
- provincial legislation (*Endangered Species Act, 2007; Ontario Heritage Act; and Ontario Water Resources Act*).

The Agency's Analysis Report (enclosed), the request to designate, and this correspondence will be made available on the Canadian Impact Assessment Registry Internet site (Reference number 85951):
<https://iaac-aeic.gc.ca/050/evaluations/proj/85951>.

Further questions can be directed to Amy Sen, Acting Director of Ontario Region at the Agency, by email at ontarioregion-regiondontario@iaac-aeic.gc.ca.

I appreciate you bringing your concerns to my attention and trust that you find this information helpful.

Sincerely,

<Original signed by>

The Honourable Steven Guilbeault, P.C., M.P. (il/lui/he/him)

Enclosure