



357-2023-852

June 30, 2023

Reg Russwurm
Manager, Design and Construction
City of Guelph
1 Carden Street
Guelph ON N1H 3A1
reg.russwurm@guelph.ca

Dear Mr. Russwurm and Mr. Amos,

I am writing to you today about the Section 16 order Request the Ministry received regarding the City of Guelph's proposed Emma Street to Earl Street Pedestrian Bridge (Project).

The Project was subject to the requirements of the Municipal Class Environmental Assessment (MCEA). The MCEA applies to routine projects that have predictable and manageable environmental effects. Proponents of these types of projects follow a streamlined self-assessment and decision-making process. The projects to which the MCEA applies may proceed without seeking approval under the *Environmental Assessment Act* (EAA), provided that the project has been developed in accordance with the appropriate planning process requirements prescribed in the document.

In accordance with Section 16 of the EAA, a person who has concerns about potential adverse impacts a proposed project may have on Constitutionally protected Aboriginal or treaty rights can request a Section 16 order. The request may only be made on the grounds that an order may prevent, mitigate or remedy adverse impacts on existing Aboriginal and Treaty rights. Where such a request is made, I must decide whether an order under Section 16 of the EAA is warranted based on the factors set out in the EAA.

On September 16, 2022, the Ministry of the Environment, Conservation and Parks (ministry) received a Section 16 order request asking that the Project be bumped up from Schedule B to Schedule C. The concerns submitted in support of the Section 16 order request were related to the following:

- Inadequate Indigenous consultation
- Lack of public consultation
- Safety of the bridge
- Environmental impacts
- Species at risk
- Ecological harm

Reg Wusswurm, City of Guelph

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- The effectiveness of the bridge placement and possible alternatives to a pedestrian bridge
- Cost

Based on a review of the request, and the supporting concerns, I would like to take this opportunity to inform you that I have decided not to make an order pursuant to Section 16 of the EAA. This decision was made after giving careful consideration to the factors set out in subsection 16(5) of the EAA, the issues raised in the request, the City's response, the Project documentation, and the provisions of the MCEA.

The reasons for my decision are set out in the attached letter to the requester. In the interest of transparency, I encourage you to make my letter to the City available to the greater public on the City's website.

With this decision having been made, the City may now proceed with the Project, subject to any other permits or approvals required. The City must also ensure the Project is implemented in the manner it was developed and designed as part of the MCEA planning process and as set out in the Project documentation, inclusive of all mitigating measures, commitments, and environmental and other provisions therein.

Lastly, I would like to remind the City that failure to comply with the EAA, the provisions of the MCEA, and failure to implement the Project in the manner described in the MCEA planning documents, are contraventions of the EAA and may result in prosecution under section 38 of the EAA. I am confident that the City recognizes the importance and value of the EAA and will ensure that its requirements and those of the MCEA are satisfied.

Sincerely,



David Piccini
Minister of the Environment, Conservation and Parks
Attachment

c: Jackie Kay, Project Engineer, City of Guelph, Jackie.Kay@guelph.ca
Rob Amos, P.Eng., Project Manager, Aquafor Beech Limited,
amos.r@aquaforbeech.com
Kathleen O'Neill, Director, Environmental Assessment Branch, MECP,
Kathleen.oneill@ontario.ca

Ministry of the Environment,
Conservation and Parks

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de la Protection de la nature et des
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357-2023-852

June 30, 2023

[REDACTED]
Guelph Residents for a Safe Speedvale Avenue
[REDACTED]

Dear [REDACTED],

I have had an opportunity to review the September 16, 2022, Section 16 order request you submitted on behalf of the Guelph Residents for a Safe Speedvale Avenue. Your request was for a bump up from Schedule B to Schedule C of the Emma Street to Earl Street pedestrian bridge (the Project) being carried out by the City of Guelph (the Proponent) under the Municipal Class EA (MCEA).

In your letter, you raise concerns regarding Indigenous consultation, public consultation, safety, environmental impacts, species at risk, ecological harm, effectiveness of placement, and cost. Of these concerns, only the concerns regarding the adequacy of Indigenous consultation in the environmental assessment process carried out by the Proponent can be considered. After considering the concerns raised in your letter, I have determined that a Section 16 order is not warranted for the Project for the reasons set out below.

You raised concerns around the consultation efforts of the Proponent with the Mississaugas of the Credit First Nation (MCFN), the Six Nations of the Grand River – The Six Nations Elected Council (SNEC) and the Haudenosaunee Confederacy Chiefs (HCCC) Council through the Haudenosaunee Development Institute (HDI). After consultation with the MCFN and SNEC, the Proponent has resolved the concerns with these two communities and groups. Letters dated September 28, 2022, and October 8, 2022, from the MCFN and the SNEC respectively state that they are comfortable with the Project.

I am satisfied that the Proponent made reasonable efforts to engage and consult with the HCCC through HDI by providing Project information, offering meaningful opportunities to discuss the Project, and making meaningful attempts to understand the potential impacts the Project may have on the existing Aboriginal and Treaty rights of the HDI and HCCC.

In making this decision, I am required to consider the factors set out in subsection 16(5) of the *Environmental Assessment Act* (EAA). As part of the ministry's analysis, the Project documentation, the provisions of the MCEA, your request, and the Proponent's response to your request were considered.

The MCEA is a process by which proponents plan and develop projects of this type, including evaluating alternatives, assessing environmental effects, developing mitigation measures, and consulting with the public, without having to obtain approval from me and the Lieutenant Governor in Council for each individual project.

The MCEA has itself been subject to review and approval under the EAA, which determined, in part, that the application of the MCEA process would enable proponents to meet the intent and purpose of the EAA.

The Proponent has demonstrated that it has planned and developed this project in accordance with the provisions of the MCEA. I am satisfied therefore that the purpose of the EAA, "the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment", has been met for this Project.

I am satisfied that the issues and concerns have been addressed by the work done to date by the Proponent or will be addressed in future work that is required to be carried out.

With this decision having been made, the Proponent can now proceed with the Project, subject to any other permits or approvals required. The Proponent must ensure it implements the Project in the manner it was developed and designed, as set out in the Project documentation, and inclusive of all mitigating measures, and environmental and other provisions therein.

Again, I would like to thank you for participating in the Class EA process and for bringing the organization's concerns to my attention.

Sincerely,



David Piccini
Minister of the Environment, Conservation and Parks

c: Reg Russwurm, Manager of Design and Construction, City of Guelph, Reg.Russwurm@guelph.ca
Jackie Kay, Project Engineer, City of Guelph, Jackie.Kay@guelph.ca
Rob Amos, Project Manager, Aquafor Beech Limited, amos.r@aquaforbeech.com
Kathleen O'Neill, Director, Environmental Assessment Branch, MECP, Kathleen.oneill@ontario.ca