



environmental
defence

October 21, 2024

The Honourable Steven Guilbeault
Minister of the Environment and Climate Change
House of Commons
Ottawa, Ontario K1A 0A6

Dear Minister Guilbeault,

Re: Highway 413 – Request for designation under s.9 of the Impact Assessment Act

I am writing on behalf of Environmental Defence, to request that the Highway 413 Project and associated transmission infrastructure be designated for a federal Impact Assessment pursuant to s.9(1) of the *Impact Assessment Act* (IAA). The Highway 413 Project and associated transmission infrastructure would result in adverse environmental effects within federal jurisdiction as well as adverse and incidental effects and meets the criteria for public concern. The 413 Project is now (as of October 21, 2024) proposed to be exempted from the provincial EA process and would entail “early works” which would include bridge crossings that would impact values under federal jurisdiction.¹

Under subsection 9(1) of IAA the Minister may, by order, designate a physical activity that is not prescribed in the Regulations. The Minister may do this, if, in the Minister’s opinion, the “physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects”..

The 413 Project has not substantially begun, nor has a federal authority exercised a power or performed a duty or function that will permit the Project to be carried out, in whole or in part. Consequently, the Minister is not prohibited from designating this Project pursuant to subsection 9(1) of IAA.

Overview of the project

The 413 Project is a proposed fully separated 400 series highway in the northwest Greater Toronto Area. The proponent is the Ontario Ministry of Transportation

1

https://news.ontario.ca/en/backgrounder/1005212/the-reducing-gridlock-saving-you-time-act?utm_campaign=%2Fen%2Frelease%2F1005211%2Fontario-tackling-gridlock-to-save-drivers-time&utm_medium=email&utm_source=newsroom&utm_term=public



(MTO). The highway would have freeway-to-freeway connections at Highways 401, 407, 410, 427 and 400. The 413 Project also includes highway widenings and expansions along existing highway corridors.

The new highway corridor would extend from Highway 400 (between Kirby Road and King-Vaughan Road) in the east to the Highway 401/407 ETR interchange area in the west, and would feature a 400-series highway . The project would consist of 8.8 million square metres of new paved surfaces. The paved surface would be approximately 170 metres wide (110 m for vehicle lanes, 60 for transit lanes) and approximately 52 km long. The 413 Highway would stretch across four municipalities from Highway 401 northeast to Highway 400 including from west to east: Halton Hills, Brampton and Vaughan. It would bisect the sensitive headwaters of four watersheds from west to east, including the easternmost Sixteen Mile Creek, a stretch of the Credit River, the entire width of Etobicoke Creek, and the Humber River.²

The 413 Project is also proposed to be co-located with a Northwest Greater Toronto Area Electricity Transmission Corridor.³ The proponent of the associated transmission corridor is the Ontario Ministry of Northern Development and Mines (ENDM). The proposed corridor would potentially include a 60 metre or wider right of way with two double-circuit 239kV transmission lines. No environmental assessment for the transmission corridor has been undertaken to date.

While the previous designation for a Federal Impact Assessment under the previous version of the Impact Assessment Act. That Assessment was cancelled out of concerns with regard to the constitutionality of the Act itself as identified by a ruling by the Supreme Court. However, the Act has been subsequently amended and updated but retains the attributes that permit and necessitate permit re-designation of the Highway 413 project for Impact Assessment.

Overview of environmental effects

The 413 Project would, if permitted to proceed as proposed, cause significant adverse environmental effects, both direct, and incidental that fall squarely and unambiguously within federal jurisdiction. Most obviously, the Minister cannot reasonably fail to form the opinion, for the purposes of s. 9(1) of the amended *Impact Assessment Act*, that carrying out the 413 Project “may cause adverse effects” for inland fish species (s. 91(12) of the *Constitution Act*, 1867, for the federal jurisdictions which underlie the *Endangered Species Act* and *Migratory Birds*

² GTA West at a glance (February 2015)

https://www.gta-west.com/wp-content/uploads/2018/10/GTA-West-at-a-Glance_February-2015.pdf

³ ERO posting 019-1503 <https://ero.ontario.ca/notice/019-1503> also see attached map

https://prod-environmental-registry.s3.amazonaws.com/2020-03/2.%20MTO%202019%20Focused%20Analysis%20Area%20vs%20Proposed%20Tx%20Narrowed%20Area%20of%20Interest_0.png



Convention Act, 1994, for navigation and shipping (s. 91(10)), and for indigenous nations and indigenous treaty rights (s. 91(24), among others.

That is in large part because of its location and environmental setting. Both “direct[ly]”, through the construction and presence of the highway structures themselves, and “incidental[ly]” through the radical land use changes it would induce in the surrounding areas, 413 would destroy one of most significant remaining rural area within an ecological region and watershed where most other land has been urbanized. It would cut a swathe through areas protected under the Greenbelt Plan. The 413 Project works themselves will directly bisect a number of features such as significant woodlands, many federally listed endangered species habitat and wetlands which are designated as protected “natural heritage features”. They would bisect and seriously compromise a number of major river corridors in and outside of the Greenbelt Plan that provide critical wildlife connections north to the major natural areas of the Oak Ridges Moraine and the Niagara Escarpment. These would include two major crossings of the Humber River and the adjacent East Humber River valleys, another three crossings of East Humber valleys, four crossings of West Humber valleys, two crossings of Etobicoke Creek and a major crossing of the main Credit River valley.

The 413 Project would have “extensive and widespread impacts on the natural heritage system,” including significant loss in the number, form and function of natural features and species. There would be significant fragmentation of valleylands, conservation lands, and the few remaining natural corridors in the eastern portion of the project area.⁴

Even setting aside the large-scale urbanization and paving of permeable uplands and natural cover which the 413 Project would cause along its route, the proposed highway and its corridor would directly destroy a combined 5.95 km length of forests, which support many sensitive forest bird species, and other wildlife and plants. This would include direct destruction of seven entire woodlots, portions of other woodlots, and bisecting numerous forested valleys. For example, this would include a 1.5 km stretch of forests around the twin valleys of the Humber and East Humber Rivers in Vaughan.⁵

Over 1,000 ha of land identified as important for local wildlife movement, some of which is also important at a regional scale, would either be directly removed or directly intersected by the proposed highway. Of note is the section located to the

⁴ TRCA, Staff Report: GTA West Transportation Corridor Individual EA – Stage 2 Update (January 24, 2020) [“TRCA Jan 2020 Report”] <https://pub-trca.escribemeetings.com/filestream.ashx?DocumentId=5418>, p.7-9.

⁵ AECOM, GTA West Natural Environment Existing Conditions Map <https://www.gta-west.com/wp-content/uploads/2018/11/Section-04-Natural-Environment-Existing-Conditions-Map.pdf> Also derived from MNR Natural Heritage Mapping tool: https://www.gisapplication.lrc.gov.on.ca/mamnh/Index.html?site=MNR_NHLUPS_NaturalHeritage&viewer=NaturalHeritage&locale=en-US.



east of Bramalea Road, through an area classified as important for regional wildlife movement.⁶

The exact number of affected stream crossings involved in the 413 Project is indicated by the proponent to be 95⁷, and of these even the proponent admits that at least 24 are navigable⁸. The Toronto Region Conservation Authority (TRCA) has estimated 85 crossings are required within its jurisdiction.⁹ Of these crossings, TRCA ranks 10 as “high priority” locations ecologically, as they are in deep valleys with relatively high quality existing or potential habitat, high regional connectivity, or high local connectivity. Of the remaining crossings, 58 are ranked as “medium priority” locations located in shallow valleys that have high quality existing or potential habitat, high regional connectivity, or high local connectivity.¹⁰ Details are not known for crossings in Credit Valley Conservation Authority (CVCA) or Halton Conservation (HC) jurisdiction.¹¹

The project is near a threshold set out in the project list

Under the updated *Impact Assessment Act*, major highways continue to be a subset of projects that are expected to have effects within federal jurisdiction sufficient to warrant a federal impact assessment. Indeed, even without existing evidence of likely adverse effects, as exists in respect of the Highway 413 Project, many highways are automatically designated under the amended *Impact Assessment Act* for federal impact assessment, through the operation of s. 7(1), s. 2 and s. 109(b) of the *Impact Assessment Act*, and the *Physical Activities Regulations*. Section 51 of the *Physical Activities Regulations* (SOR/2019-285), which continue in force following this spring’s amendments to the *Impact Assessment Act*, designates “The construction, operation, decommissioning and abandonment of a new all-season public highway that requires a total of 75 km or more of new right of way. “New right of way” is described as land that “is not alongside and contiguous to an area of land that was developed for an...all season highway”.

While the length of the new corridor portion of the 413 highway is approximately 52 kilometres, with a new 110-metre wide right of way, falls a little short of automatic designation, the sensitive context of Highway 413 demonstrably engage the considerations that mark highways as especially deserving of assessment. . The

⁶ TRCA Jan 2020 Report, p.7-9; also AECOM map of NH features located at <https://www.gta-west.com/wp-content/uploads/2018/11/Section-04-Natural-Environment-Existing-Conditions-Map.pdf>.

⁷ GTA West Transportation Corridor Route Planning and Environmental Assessment Study. Response to the Impact Assessment Agency of Canada #3 <https://www.highway413.ca/wp-content/uploads/2021/05/GTA-West-IAAC-Response-to-Request-3-Report.pdf>

⁸ MTO 2024, 413 Project website: <https://www.highway413.ca/theenvironment-2/#NW>

⁹ TRCA Jan 2020 Report, p.7-9.

¹⁰ TRCA 2020 <https://pub-trca.escrimetings.com/filestream.ashx?DocumentId=5418> p.7-9.

¹¹ Credit Valley Conservation Authority, Board of Directors Meeting Agenda (October 16, 2020) https://cvc.ca/wp-content/uploads/2020/10/Agenda-Package-Redacted-BOARD-OF-DIRECTORS-MEETING_Oct16_2020-1.pdf p.24-29.



transitway is another 52 kilometres in length and would, if actually constructed, be a separate corridor with a new 60-metre right of way. The width of the associated transmission right of way is unknown but also extends for 50 km. Taken together, the highway and transitway portions of the GTA West Project independently meet the definition of a new right of way, for a total of approximately 100 kilometres. The transmission corridor also requires a new right of way. The right of way runs through a rural, undeveloped area for most of its route.

The “project” as defined in the EA also includes associated highway widenings along unknown lengths of other 400 series highways. Associated highway expansions along the 410 and 427 corridors to connect them with the new 413 highway would bring the 413 highway project to over 60 kilometres of new, undeveloped right of way.

When all components are included, the project is at or approaching the Project list threshold of 75 kilometres under the *Impact Assessment Act*. To the extent that it does not meet this threshold, this relates at least in part to project-splitting of the main corridor from the connections between the 413 to other 400 series highways and widenings of other public highways. There is also project splitting as between the highway and the associated transmission corridor, and the highway and associated transitway, each of which requires an entirely new 50 km long right of way.

There are proposals for multiple activities within the same region that may be a source of cumulative effects.

The 413 Project has the potential to exacerbate the cumulative effects of sprawl and climate change, as well as to create cumulative effects with other highway proposals along the same vulnerable natural corridors. This includes the extension of Highways 410 and 427 to the 413 Highway, as well as widening and expansion projects impacting major north-south natural waterways and corridors along the 401 and 407 corridors.¹² These related projects would impact 129 watercourses in the same region and on the same natural corridors such as the Humber River and Credit River along existing highway crossings.¹³

In addition to this the Regions of York (City of Vaughan) and Peel (Town of Caledon) have expanded their settlement and employment area boundaries in the vicinity of 400 series highways, including the 413 corridor. Peel has made official plan amendments to this effect, including approval of developments in Mayfield in Caledon which would expand urban areas north from Brampton up towards the 413 corridor through prime agricultural lands.¹⁴ Peel has also expanded areas of Bolton

¹² AECOM Assessment of alternatives report, p.53.

¹³ *Ibid.*, p.53.

¹⁴ Caledon official plan Schedule A

https://www.caledon.ca/en/town-services/resources/Documents/business-planning-development/Official_Plan_Sche



westward towards the Humber River along the 413 corridor.¹⁵ There has been no examination of the cumulative effects of the development of the highway along with other anticipated development of rural/agricultural and natural heritage areas adjacent to the Highway.

Additionally, the associated transmission corridor would entail an unknown number of additional crossings of watercourses and disruption of natural corridors. The cumulative effects of the transmission corridor and the GTA West Project have not been considered, nor are they included within the scope of the current provincial EA processes.

Public Concern

Section 9 (2) of the amended *Impact Assessment Act* prescribes “public concerns related to the adverse effects within federal jurisdiction” as a central factor to be considered by the Minister in designating a physical activity for federal Impact Assessment. There has been significant public concern about the 413 project. During the first provincial review process, there was so much public concern that the project was halted and the proponent hired an advisory panel to advise on alternatives. Ultimately that panel recommended against the project. The project has received considerable media coverage particularly regarding opposition to the project.¹⁶

More recently, over 119,000 (38,758 Environmental Defence, 74,705 David Suzuki Foundation and 6,483 Ontario Nature) people have requested that the 413 project be cancelled.

[dule_A.pdf](#). Also see “Highway 413 opposition reloads” cited above
<https://www.inthehills.ca/2020/11/highway-413-the-opposition-reloads/>

¹⁵ Region of Peel Official Plan.

https://www.peelregion.ca/planning/officialplan/pdfs/ropdec18/ROPConsolidationDec2018_TextSchedules_Final_SCHEDULES_Part12.pdf.

¹⁶ Paul Webster, “Highway 413: The Opposition Reloads” *In the Hills* (Nov 24 2020)

<https://www.inthehills.ca/2020/11/highway-413-the-opposition-reloads/>; Tabitha Wells, “GTA West does not align with Orangeville’s Priorities: council opposes Highway 413 through Caledon, Vaughan, Milton” *Orangeville Banner* (Nov 13, 2020)

<https://www.orangeville.com/news-story/10265191--gta-west-does-not-align-with-orangeville-s-priorities-council-opposes-highway-413-through-caledon-vaughan-milton/>; Laura Broadly “It’s just going to ruin everything” *King Connection* (Oct 15 2020)

<https://www.yorkregion.com/news-story/10217411--it-s-just-going-to-ruin-everything-king-vaughan-groups-team-up-to-fight-hwy-413/>; Opinion “Highway plan raises many questions” *Independent Free Press* (Oct 1 2020)

<https://www.insidehalton.com/opinion-story/10212505-highway-plan-raises-many-questions/>; Isaac Callan “Halton leaders are fighting against Ford’s GTA West Highway” *Toronto Star* (Oct 3 2020)

<https://www.thestar.com/news/canada/2020/10/03/halton-leaders-are-fighting-against-fords-gta-west-highway-brampton-refuse-to-condemn-it.html>



The municipality of Halton Hills, which lies along the western portion of the route, has passed a resolution opposing the highway.¹⁷ The City of Brampton has unanimously endorsed a local boulevard option instead through its portion of the corridor/route through “Heritage Heights.” However to-date the MTO has refused to consider this alternative. Concerns about effects turn on the destruction of natural heritage areas, climate change, and moving away towards single occupant passenger vehicle transportation models to enhance complete communities. The City of Orangeville also passed a motion opposing the project.

The TRCA, which is normally the regulatory authority for developments in floodplains, wetlands and valleylands has objected to the potential impact of the highway and the proposed streamlined regulatory process for early works (described in more detail below).

Adverse effects cannot be adequately managed through other existing legislative or regulatory mechanisms

Under the circumstances, it would be entirely unreasonable for the Minister to conclude that there are “means other than an impact assessment” that would in fact “address the adverse effects within federal jurisdiction” sufficiently to warrant deciding not to designate the 413 Project for an independent federal impact assessment. While s. 9 (2)(d) of the federal *Impact Assessment Act* permits the Minister to *consider* the existence of provincial mechanisms, the *Act* does not indicate that the mere existence of such mechanisms can be a justification for foregoing federal assessment.

Foregoing a federal designation of the Highway 413 Project based on the existence of “means other than an impact assessment” is utterly supportable where the relevant provincial decision-maker has already committed to proceed with the project (rather than with alternative routes or approaches), and even identified a final route, thus excluding from the outset the process outcomes that would most reliably avoid adverse impacts within federal jurisdiction.

Foregoing a federal designation on such a basis would also be unreasonable where - as here - the provincial process in question does not reliably prioritize the same considerations or produce the same outcomes as a federal process, focused on federal jurisdiction.

The provincial regulatory process is grossly inadequate

In Ontario until 2020 the strategic planning of highways was subject to a full environmental assessment but the site specific impacts of individual projects are

¹⁷ Isaac Callan, Toronto Star (October 3, 2020) “Halton leaders are fighting against Ford’s GTA West Highway; Brampton’s refuse to condemn it”



not fully assessed. Individual highway projects are assessed under the Ministry of Transportation Class Environmental Assessment Process.

As described below, the 413 (formerly GTA West) Highway proposal was subject to an EA process that was heavily criticized on need and alternatives by the proponent's own Advisory Panel. As a result, the EA was terminated in 2015. An Advisory Panel was appointed by the proponent to review the EA. The Advisory Panel concluded that the EA was fundamentally flawed, particularly on need and alternatives. Despite these critiques the EA was recommenced in 2019 and a preferred route was identified. Now, the Ontario Government proposes to exempt the project from completing the EA process.

Proposed exemption from Provincial EA

In July 2020, the Ontario Government proposed to exempt the GTA West highway from completing its environmental assessment before commencing what it referred to as "early works." The nature of these early works were not defined. As noted by other regulatory agencies, it remains unclear how natural heritage features including Fish and Migratory Bird habitat would be identified and protected before early works commence under the proposed exemption. The proposal suggested that early works could include bridges over water courses.¹⁸ Despite proposing to rapidly develop water crossings there have been no communications with the federal Department of Fisheries and Oceans regarding potential fish habitat destruction. Ontario also proposes to exempt all highways less than 75 kilometres from provincial individual EA under recent legislative changes.¹⁹

TRCA has expressed concerns with this exemption, noting that in its view, the usual environmental development permit requirements for floodplains under s.28 of the Conservation Authorities Act does not apply to this proponent and that the proposed exemption would fail to protect natural heritage features (i.e. significant wetlands, woodlands, species habitat):

- As MTO is exempt from the regulatory requirements of the CA Act, TRCA has significant concerns **there is no mechanism in place for the protection of life and property or the management of natural resources at the detailed design stage of the GTA West**, which fails to fulfill the objects of the EA Act. The mandate of CAs strongly aligns with provincial objectives for resilient public infrastructure and meeting the intent of the EA Act to provide for the protection, conservation and wise management of Ontario's environment. Accordingly, TRCA's Board of Directors have recommended that MTO commit to receiving VPR signoff at the design stage as it relates to

¹⁸ Proposed Regulation for a streamlined environmental assessment process for the Ministry of Transportations' Greater Toronto Area West Transportation Corridor project (July 8, 2020) <https://ero.ontario.ca/notice/019-1882>

¹⁹ Proposed Project List for comprehensive Environmental Assessment <https://ero.ontario.ca/notice/019-2377>



TRCA's regulatory and policy interest, as well as provincially delegated responsibilities.

- This project will have significant, unavoidable and permanent impacts to the existing natural heritage system and the Humber River and Etobicoke Creek watersheds and could exacerbate risks to natural hazards, and negatively impact drainage patterns, wildlife habitat and the surrounding landscape.
- Early works, including bridge works drive many impacts on the natural environment. It is not appropriate to allow construction to proceed prior to the completion of the Environmental Impact Assessment Report. This, in effect, will render the EIAR ineffective as it will not have an opportunity to identify and avoid impacts.²⁰

Similarly the Credit Valley Conservation Authority has commented that: "it is unclear how the proposed streamlined approach [to the GTA West EA] allows for an appropriate level of regulation of the proposed project components..."²¹ The full implications of the proposed exemption are not yet clear because no draft regulation was provided for public consultation.

Other provincial regulatory processes are inadequate

The Ontario *Endangered Species Act* does not adequately protect species at risk from the project. Under Regulation O.Reg 242/08, the laying down of highways and activities authorized under the Class Environmental Assessment for Provincial Transportation Facilities are exempt from the prohibitions under ss.9 and 10 of the Act pursuant to s.23(1) of the Regulation. Further, s.23.1(1) may exempt the GTA West project from permitting requirements under the *Endangered Species Act* to the extent that it is carrying out an undertaking under the Class Environmental Assessment for Provincial Transportation Facilities. This exemption applies specifically to the protections in ss.9 and 10 of the Ontario Endangered Species Act for Redside Dace, the species at risk that is affected by a large number of proposed watercourse crossings. There are a variety of other regulatory exemptions which may reduce or eliminate protections for a variety of other federally listed species at risk (for example Bobolink) within the project area.

TRCA takes the position that the usual permits for development and site alteration under section 28 of the *Conservation Authorities Act* are not applicable to projects undertaken by MTO. Accordingly, the usual environmental protections of that permitting process, which applies to regulated lands (typically valleys and water

²⁰ TRCA, letter to Ministry of the Environment on proposed exemption for GTA West (August 21, 2020). <https://pub-trca.escribemeetings.com/filestream.ashx?DocumentId=6188> (emphasis added).

²¹ CVCA, letter to Ministry of the Environment on proposed exemption for GTA West (August 21, 2020) https://cvc.ca/wp-content/uploads/2020/09/Agenda-Package-BOARD-OF-DIRECTORS-MEETING_Sep11_2020_Redacted.pdf



crossings) is not likely to be applied to protect sensitive natural heritage features such as fish habitat and migratory bird habitat.

Predicted adverse effects on core areas of federal jurisdiction

Federal Approvals

The project has the potential for direct and incidental effects arising from the exercise of a federal power or authority. Based on the project description to date the project would likely require authorization by Fisheries and Oceans Canada under the Fisheries Act. It may also require authorization by Environment and Climate Change Canada under the *Species at Risk Act* and the *Migratory Birds Convention Act*. There may also be navigable waterways and rail infrastructure permits required. The full suite of approvals required is not known as the project is at an early stage of design.

Fish and Fish Habitat

The project would cause adverse effects on fish and fish habitat as well as aquatic species and species at risk. The 2018 Natural Environment Report indicates that the highway corridor study area includes numerous locations representing high quality cold water habitat for fish, including federal species at risk such as Redside Dace.²² The assessments conducted to date note that the project has the potential to impact fish communities along existing corridors as well as 24 water crossings containing species at risk.²³ Approximately 85-100 stream crossings are implicated in the preferred route. Accordingly, the project would also cause adverse effects that are directly related or incidental to a federal authority to authorize harmful alteration, destruction or disruption of fish habitat under s.35(1) of the *Fisheries Act*.

The highway would destroy or partially destroy 75 wetlands, 28 of which are designated by the Province as provincially significant. These wetlands are critical to the ecological health of the Humber, Etobicoke and Credit River Watersheds. They support numerous breeding amphibian ponds, significant swamps and marshes and many rare plant and animal species. TRCA predicts that approximately 220 wetlands covering 130 ha, would be impacted.²⁴

According to TRCA, the proponent's Comparative Evaluation of Net Effects and Ranking of alternatives does not appear to consider the significance, sensitivities, or quality of all the natural heritage features within the alternative routes, which significantly diminishes the weighting of individual natural features. All natural heritage features should be evaluated using these criteria so that the review of

²² AECOM alternatives assessment, pp.36-42.

²³ AECOM alternatives assessment, p.53.

²⁴ TRCA Jan 2020 Report, p.7.



alternatives considers natural heritage features equally and ensures overall impacts for each evaluation criterion is weighted appropriately.

- Some unevaluated wetlands may in fact be Provincially Significant Wetlands (PSW) but may not have been classified as such in the table. Once they have been evaluated, the significance of each natural feature can better inform the Route Evaluation.
- Woodlands should be assessed using standardized criteria for significance in such a way that they are compared on equal footing. Many of the unevaluated woodlands may in fact prove to be significant, particularly the larger features connected to valleys.
- There are several locations where natural features have not been identified. For example, there are extensive riverine wetlands located adjacent to Airport Road where segments 6-1 and 6-2 are located. The proposed intersection 6-1 will remove a large proportion of these wetlands.²⁵

The project would also traverse several key natural aquatic habitat features including but not limited to the Humber River, Credit River, Sixteen Mile Creek, Fletcher's creek, Mullet Creek, Spring Creek, Levi Creek and Etobicoke Creek. It would also impact Greenbelt Plan areas and the Niagara Escarpment as well as significant prime agricultural lands.²⁶ The project would also traverse a large conservation area, the Nashville Conservation Area managed by the Toronto Region Conservation Authority (TRCA).²⁷

In July 2020, the Ontario Government proposed to exempt the GTA West highway from completing its environmental assessment before commencing what it referred to as "early works." The nature of these early works were not defined. As noted by other regulatory agencies, it remains unclear how natural heritage features including Fish and Migratory Bird habitat would be identified and protected before early works commence under the proposed exemption. The proposal suggested that early works could include bridges over water courses.²⁸ Despite proposing to rapidly develop water crossings there have been no communications with the federal Department of Fisheries and Oceans regarding potential fish habitat destruction.²⁹

²⁵ TRCA Jan 2020 Report, p.8.

²⁶ AECOM, GTA West Executive Summary, <https://www.gta-west.com/wp-content/uploads/2018/11/Executive-Summary-November-2012-1.pdf>, p.xx; AECOM, GTA West Existing Conditions Report, https://www.gta-west.com/wp-content/uploads/2018/11/GTA_West_Env_Existing_Conditions_Report_Jan_27_11-Appendices.pdf; AECOM, GTA West Chapter 2 – Natural Environment, <https://www.gta-west.com/wp-content/uploads/2018/11/Chapter3NaturalEnvironment.pdf>, pp.33-36

²⁷ TRCA Jan 2020 Report, pp.10-13

²⁸ Proposed Regulation for a streamlined environmental assessment process for the Ministry of Transportation's GTA West Transportation Corridor Project (July 8, 2020) <https://ero.ontario.ca/notice/019-1882>

²⁹ Ceasar Kagame, DFO to Charlotte Ireland, Ecojustice (Oct 7, 2020).



While the proposed exemption would require the proponent to prepare a “draft” Environmental Conditions Report, this would just be a collection of documentation already completed up to the preliminary design phase. Detailed design would entail preparing a draft EIA only for those components of the project that are not subject to early works approvals.³⁰ The exemption appears to permit construction of early works such as bridges before these reports are completed.

Migratory Birds

Highways cause significant adverse impacts to birds in four ways: direct mortality, indirect mortality (such as habitat loss and habitat sinks), habitat fragmentation and disturbance.³¹ No mitigation can remove the impacts of highways to wildlife.³² The well-known direct effects of roads on birds include habitat loss and fragmentation, vehicle-caused mortality, pollution, and poisoning. Nevertheless, indirect effects may exert a greater influence on bird populations. These effects include noise, artificial light, barriers to movement, and edges associated with roads. Moreover, indirect and direct effects may act synergistically to cause decreases in population density and species richness. Of the many effects of roads, it appears that road mortality and traffic noise may have the most substantial effects on birds relative to other effects and taxonomic groups.³³ The project also has the potential to cause cumulative effects when considered in relation to the transmission line which is proposed for the corridor.

The project would likely cause adverse effects to migratory birds. The project would traverse large areas of significant woodlands including important ravine corridors and protected areas (for example the Nashville Conservation Area). It does not appear that breeding bird or other terrestrial wildlife surveys have been completed. The preferred alternative impacts numerous evaluated wetlands, five along existing corridors that would be widened and eight along the new corridor. The project would traverse approximately 17 linear km of woodlots that are each over 40 hectares in size.³⁴ The area of Nashville Conservation Area which contains the Humber River Valley that would be traversed by the project includes two e-bird birding “hotspots” in proximity to the proposed corridor. Another birding hotspot is located at the proposed 413/400 highway interchange. At these birding hotspots,

³⁰ Proposed Regulation for a streamlined environmental assessment process for the Ministry of Transportation’s GTA West Transportation Corridor Project (July 8, 2020) <https://ero.ontario.ca/notice/019-1882>.

³¹ Sandra L Jacobson, Mitigation Measures for Highway-caused impacts to birds, (2002) <https://www.fws.gov/migratorybirds/pdf/management/jacobsen2005highwaymeasures.pdf>

³² Ibid.; also see A V Kociolek et al, “effects of road networks on bird populations” *Conservation Biology* (February 2011); and see US Environmental Protection Agency *Evaluation of Ecological Impacts From Highway Development* (April 1994)

https://www.epa.gov/sites/production/files/2014-08/documents/ecological-impacts-highway-development-pg_0.pdf

³³ Kociolek et al, Ibid.

³⁴ AECOM alternatives assessment, p.54.



e-bird reports contain approximately 100 species of migratory birds.³⁵ Wildlife surveys have been requested from the proponent, however the proponent has not produced any wildlife surveys for the preferred route. As noted elsewhere in this submission, the province proposes to exempt the proponent from completing the environmental assessment before commencing work that would adversely affect migratory birds. No beneficial management practices have been incorporated into the project and no mitigation measures have been proposed to address potential significant adverse effects on migratory birds.

Species at Risk

A complete list of species at risk in the project area is not available from the proponent. It appears that no terrestrial or aquatic wildlife surveys are available.³⁶ No known mitigation measures have been proposed for fish or fish habitat, species at risk or migratory birds.

However, TRCA predicts that over 110 occurrences (representing 10 different species) of federal and/or provincial species at risk have been found in the study area: these species are found in a variety of habitat types including meadow (e.g., Bobolink), forest (e.g., Eastern Wood-Pewee, Butternut), wetland (e.g., Snapping Turtle) and within specific watercourses.³⁷ The project would impact 35 different fauna species of local concern (with approximately 240 separate occurrences) have been found inhabiting the project study area.³⁸

In the three birding hotspots on e-bird that would be destroyed by the proposed route, there are numerous migratory birds that are also species at risk including Chimney Swift, Bank Swallow, Barn Swallow, Bobolink, Eastern Meadowlark, Eastern Wood-Pewee, Loggerhead Shrike, Wood Thrush and Grasshopper Sparrow. No terrestrial wildlife surveys have been prepared for the location and no mitigation measures have been proposed for the protection of these species.

There are aquatic species at risk (Redside Dace) at 31 different watercourse crossings along the existing highway corridor and the new corridor section has aquatic species at risk along approximately 24-31 water crossings.³⁹ According to the proponent's documentation Middle Sixteen Mile Creek within the new corridor may potentially support several species at risk (Bridle Shiner, Deepwater Sculpin). As well as recently species such as American Eel and Western Chorus Frog, Atlantic Salmon and Lake Sturgeon with recent COSEWIC assessments.⁴⁰ Nashville

³⁵ E-Bird hotspot listing, Nashville Conservation Reserve, Vaughan-Huntington Road Bridge, Highway 400 storm water ponds.

³⁶ These were requested from the proponent but not provided.

³⁷ TRCA Jan 2020 Report, pp.7-9

³⁸ *Ibid.*, pp.7-9

³⁹ AECOM alternatives assessment, p.53.

⁴⁰ *Ibid.*, p.53.



Conservation Area is also reportedly home to Eastern Milksnake (SARA Special Concern).⁴¹

There has not been a public assessment of the potential impacts on species at risk (either aquatic or terrestrial) along the preferred route. Given the proposed exemption, this would likely not be required prior to construction. There are no proposed mitigation measures and there may not be any prior to construction.

The project threatens to extirpate Redside Dace, a species listed as endangered under the federal *Species at Risk Act*. The project impacts stream crossings and adds impervious surfaces in some of the last remaining potential Redside Dace habitat in the northern reaches of the Greater Toronto Area, the region where most Canadian Redside Dace habitat is located. Redside Dace is found primarily in heavily populated regions of Ontario. The provincial Recovery strategy for the Redside Dace identifies headwaters such as those found extensively in the GTA West project area as essential for survival and recovery.⁴² It identifies urban development as the primary cause of habitat loss and population decline.⁴³ In particular, the cumulative effects of development adjacent to the highway along with the highway itself could destroy what few healthy Redside Dace populations remain.

The integrity of headwater areas upstream of reaches currently occupied by Redside Dace is also extremely important. Headwater streams, groundwater discharge areas and wetlands play an important physical role in augmenting and maintaining baseflows, coarse sediment supply and surface water quality, and the protection of headwater systems should be given a high priority in freshwater conservation efforts (Saunders et al. 2002). It is recommended that headwater streams, groundwater discharge areas and wetlands that physically support the reaches occupied by Redside Dace also be regulated as habitat of the species.⁴⁴

The provincial Redside Dace recovery strategy recommended that all upstream headwaters (natural heritage features and supporting functions) be protected.⁴⁵ There has been no assessment of the cumulative impacts of stormwater from the highway and associated infrastructure and development on the Redside Dace. The 413 project is incompatible with the provincial Recovery Strategy recommendation to maintain impervious cover at less than 10% of a stream's catchment area.⁴⁶

⁴¹ Inaturalist reptile and amphibian atlas: <https://www.inaturalist.org/observations/50445025>.

⁴² Ministry of Natural Resources and Forestry, Redside Dace Recovery Strategy (2010) <https://www.ontario.ca/page/redside-dace-recovery-strategy>.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*, executive summary.

⁴⁶ *Ibid.*



Additionally, TRCA has indicated that 35 different fauna species of local concern (with approximately 240 separate occurrences) have been found inhabiting the proposed study area. 74 different flora species of local concern (with approximately 275 separate occurrences) have been found inhabiting the proposed study area.⁴⁷ Because we do not have access to TRCA's full assessment, it is not known how many of these may be listed federal species at risk.

The habitat impacts of the proposed project suggest that species at risk may be more broadly affected. Approximately 220 wetlands, many of which have never been evaluated, covering 130 ha, would be impacted. Approximately 680 ha of habitat representing 224 separate habitat patches (forest, wetland, meadows) would be directly removed or indirectly impacted. This includes 240 ha (representing 40 separate habitat patches) of high-quality habitat (based on TRCA's landscape analysis model assessing size, shape and surrounding land use) and over 300 ha (representing 206 separate habitat patches) of habitat deemed highly vulnerable to impacts of climate change.⁴⁸

Lack of need and alternatives assessment

The GTA West Highway stage 1 environmental assessment commenced under the Ontario *Environmental Assessment Act* in 2008 and was completed in 2012 with the release of a Transportation Development Strategy. A notice of commencement for Phase 2 was released in February 2014.⁴⁹ In December 2015, the Ministry of Transportation temporarily suspended the EA due to public concerns. An independent panel, the 2017 GTA West Advisory Panel appointed by the Ministry of Transportation to peer review the environmental assessment documentation that was prepared to that date.⁵⁰

The Advisory Panel recommended that the GTA West EA be discontinued and that the Ministry of Transportation look at transportation alternatives on a regional basis.⁵¹ The Advisory Panel found that the EA's recommended alternatives did not conform to provincial policies for the optimization of existing infrastructure, protection of valuable lands, and encouragement of transit use and complete communities.

The Advisory Panel found that the EA also did not demonstrate that a new highway corridor which crosses protected agricultural lands, key natural heritage and hydrologic features was the only option to address regional transportation needs. The Advisory Panel found that other alternative actions were capable of providing benefits equivalent or greater than a new highway including congestion pricing,

⁴⁷ TRCA Jan 2020 Report.

⁴⁸ TRCA Jan 2020 Report, pp.7-9

⁴⁹ Ontario Government, Notice of commencement – GTA West Transportation corridor Route Phase 2 Study.

⁵⁰ GTA West Advisory Panel Report (May 29, 2017).

⁵¹ GTA West Advisory Panel Report (May 29, 2017).



better use of existing highway infrastructure and growth management.⁵² More specifically, the Advisory Panel concluded that “In the Panel’s view, the GTAW EA considered but did not apply the complete policy test requiring demonstration of need and no reasonable alternative/alternative location in order to cross key natural heritage and key hydrological features (Greenbelt Plan 2005) and in order to exclude prime agricultural areas from long-term agricultural use (Provincial Policy Statement 2005).”⁵³ The Advisory Panel Report also criticized the EA for using an inconsistent and unclear approach to the evaluation of need, which it conflated with opportunity and that the EA failed to evaluate the do nothing alternative.⁵⁴

The Panel also found that the EA reached different conclusions in different sections about the same topics and did not follow a clear logic.⁵⁵ The report noted that there is a much higher uncertainty about future travel demand than when the EA was initiated 10 years ago. This includes uncertainties in transportation technology (e.g. automated vehicles, shared mobility), economic changes (e-commerce and working from home/remote office, different manufacturing centres, a bigger service economy) and policy changes (climate change mitigation, protection of valuable land, complete communities). With the advent of COVID-19 and increases in people working from home, the need to re-evaluate proceeding with large highway expansions that was originally identified by the Advisory Panel is only increased.

These critiques have not been addressed. In June 2019, the GTA West EA was recommenced and proceeded to identify a preferred route for a new highway corridor relying on the prior analysis that the Advisory Panel was critiquing. A preferred route was identified in August 2020. The Provincial assessment is not yet complete.

Climate Change

The potential greenhouse gas emissions associated with the project may hinder the Government of Canada’s ability to meet its commitments in respect of climate change, including in the context of Canada’s 2030 emissions targets and forecasts. Under the Paris Agreement, Canada committed to reducing its greenhouse gas emission by 30% below 2005 levels by 2030. This requires a reduction in emissions of 142 Mt CO₂e. Current projections rely on a reduction of transportation emissions. For example, to meet the Paris Agreement targets, Ontario must reduce transportation emissions by 26 Mt CO₂e by 2030 and by 63 Mt CO₂e by 2050.⁵⁶

⁵² GTA West Corridor Advisory Panel Report (2017).

⁵³ *Ibid.*, Chapter 5, “policy context”.

⁵⁴ *Ibid.*, Chapter 6.

⁵⁵ *Ibid.*

⁵⁶ Environmental Commissioner of Ontario, 2018 Greenhouse Gas Emissions Report, p.116 [ECO 2018] <http://docs.assets.eco.on.ca/reports/climate-change/2018/Climate-Action-in-Ontario.pdf>.



The environmental review of the project to date has not considered the potential for the project to cause significant increases in greenhouse gas emissions.⁵⁷ Climate change was not a factor in the identification of preferred alternatives, although the assessment of alternatives noted that the chosen alternative resulted in higher vehicle kilometres travelled.⁵⁸ The 2017 Advisory Panel Report found that the proposed highway would not have a significant impact on reducing congestion and would only save drivers 30-60 seconds per trip.⁵⁹

Transportation emissions are the largest greenhouse gas emissions sector in Ontario and the fastest growing source of greenhouse gases in Ontario. Ontario is the second-largest greenhouse Gas emitter jurisdiction in the country.⁶⁰ From 1990 to 2018, greenhouse gas emissions from transportation grew from 40.8 Mt of CO₂e to 57.4 Mt of CO₂e.⁶¹ Much of this was fueled by increases in both passenger and freight transportation.⁶² Transportation accounts for approximately 33% of all emissions in the GTA. York and Halton Regions, through which the proposed highway would pass, have the highest proportion of their emissions from transportation at 47% each.⁶³ Nearly 98% of all transportation emissions in Ontario were sourced to fossil fuel use in vehicles.⁶⁴

GHG emissions can be roughly estimated by multiplying additional vehicle kilometres travelled by an average emissions factor per vehicle.⁶⁵ The increase in vehicle kilometres travelled can be estimated using the “fundamental law of road congestion”.⁶⁶ Vehicle kilometres travelled is known to increase “in exact proportion

⁵⁷ GTA West April 2020 Meeting Minutes, <https://www.gta-west.com/wp-content/uploads/2020/04/02-GTAG-Meeting-Minutes-November-14-2019.pdf>, p.4.

⁵⁸ AECOM Alternatives assessment.

⁵⁹ GTA West Advisory Panel Report (May 29, 2017).

⁶⁰ ECO 2018, p.83.

⁶¹ Government of Canada, National Inventory Report 1990-2018: Greenhouse Gas Sources and Sinks in Canada, 2020, Table A-12, http://publications.gc.ca/collections/collection_2020/eccc/En81-4-2018-3-eng.pdf.

⁶² Natural Resources Canada, Energy Use Statistics, Transportation Sector (Ontario) GHG Emissions by Transportation Mode.

<https://oee.nrcan.gc.ca/corporate/statistics/neud/dpa/showTable.cfm?type=CP§or=tran&juris=on&rn=8&page=0>.

⁶³ Environmental Defence, Is building highway 413 the best option? (August 2020)

https://d36rd3gki5z3d3.cloudfront.net/wp-content/uploads/2020/08/IsBuildingHighway413TheBestOption_Report_Final.pdf?x38078, p.6.

⁶⁴ ECO 2018, p.43.

<https://www.auditor.on.ca/en/content/reporttopics/envreports/env18/Climate-Action-in-Ontario.pdf>

⁶⁵ National Academies of Science “Modelling on-road transport greenhouse gas emissions under various land use scenarios, <https://trid.trb.org/view/1393792>; According to the EPA the average passenger vehicle emits approximately 0.25 kg of CO₂ per 1 km see US EPA “Greenhouse Gas Emissions from a Typical Passenger Vehicle” <https://www.epa.gov/greenvehicles/greenhouse-gas-emissions-typical-passenger-vehicle>

⁶⁶ G. Duranton and M. Turner, University of Toronto, Department of Economics, Working paper 370 “The fundamental law of road congestion: Evidence from US cities” (September 8, 2009).

<https://www.economics.utoronto.ca/workingPapers/tecipa-370.pdf>; S. Handy and M. Boarnet (Sept 30, 2014) Impact of Highway Capacity and Induced Travel on Passenger Vehicle Use and Greenhouse Gas Emissions, Policy Brief.



to” percent increase in additional lane kilometres on highways.⁶⁷ Accordingly, building roads “elicits a large increase in vehicle kilometres travelled,”⁶⁸ in addition to generating significant construction-related greenhouse gas emissions.

In the assessment of alternatives, the chosen alternative represented higher estimated network-wide vehicle kilometres travelled than some of the other alternatives.⁶⁹ The assessment does not provide the total estimate of increase to vehicle kilometres travelled. However, it estimates that the capacity of each of the six lanes is 2,200 vehicles per hour, and a daily capacity for the total of the six lanes of 120,000 vehicles.⁷⁰ Based on the 52 km road length and an average passenger vehicle emission factor of 0.25kg/1km VKT,⁷¹ this results in a potential greenhouse gas contribution of approximately 0.57Mt of CO₂e per year. Over the lifetime of the highway, this could represent a significant increase in Ontario’s GHG emissions. Understood in the context of rapidly ballooning transportation emissions in Ontario the proposal represents a long-term entrenched policy decision to continue allowing transportation emissions to increase by continuing to increase road capacity which in turn induces further demand.

Both the Environmental Commissioner of Ontario and the proponent’s own 2017 independent Advisory Panel recommended road pricing as an alternative that was more consistent with provincial and federal climate goals.⁷² The City of Brampton has also proposed a boulevard alternative that is not currently under consideration by the proponent that would reduce greenhouse gas emissions. Without a Federal EA it would not be known if the project is compatible with Canada’s climate change commitments or what the impact of the project would be on the long-term ability of Canada to meet its climate targets.

Air Quality and Health

Traffic related air pollution from highways entails contamination from a variety of air pollutants including nitrogen oxides, carbon monoxide, sulphur dioxide, particulate matter and volatile organic compounds. The health effects of these pollutants include asthma, allergies and reduced lung function as well as lung cancer and heart disease. Children are more sensitive to air pollution than people in other age

https://ww2.arb.ca.gov/sites/default/files/2020-06/Impact_of_Highway_Capacity_and_Induced_Travel_on_Passenger_Vehicle_Use_and_Greenhouse_Gas_Emissions_Policy_Brief.pdf

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ AECOM, 2012 GTA West Transportation Demand Study Report p.62

http://madgic.library.carleton.ca/deposit/govt/ca_prov/on/on_mto_GTA_west_corridor_2012.pdf

⁷⁰

<https://www.gta-west.com/wp-content/uploads/2018/11/GTA-West-Travel-Demand-Backgrounder-v1-Chp-3-4-red.pdf>, pp.48-49.

⁷¹ US EPA “Greenhouse Gas Emissions from a Typical Passenger Vehicle”

<https://www.epa.gov/greenvehicles/greenhouse-gas-emissions-typical-passenger-vehicle>

⁷² ECO 2018 p.128; GTA West Advisory Panel Report (May 29, 2017).



groups, because children breathe in more air in relation to their body weight and less developed lungs.⁷³ Emerging evidence links air pollution to pre-term births and low birth weight,⁷⁴ cognitive impairment and other illnesses,⁷⁵ as well as increased vulnerability to COVID-19.⁷⁶ Canadian studies have documented that the induced demand and higher vehicle densities from new highways result in increased nitrogen dioxide concentrations in close proximity to new highways and on arterials and access roads in the vicinity of a new highway.⁷⁷ A 2014 report estimated that traffic-related air pollution was responsible for approximately 700 premature deaths and over 2,800 annual hospitalizations due to heart and lung conditions in the GTHA each year with an annual economic impact of over \$4.6 billion.⁷⁸

The Region of Peel has been experiencing an increasing number of smog days,⁷⁹ and Peel's numerous major highways and airports contribute to close to 200 estimated premature deaths every year – more than Halton, York, or Durham region.⁸⁰ Transportation is the most significant source of nitrogen oxides and carbon monoxide emissions throughout Ontario.⁸¹ Region of Peel staff have requested a health impact assessment of the GTA West project that would evaluate cardiovascular and respiratory health, cancers associated with traffic-related air pollution as well as other health issues.⁸² Specifically, staff at the Region of Peel raised concerns that the air pollution impacts of the proposal were not clearly included in the streamlined EA process that was proposed by the Province, and asked for clarification that a traffic analysis and health impact assessment would be

⁷³ Health Canada, Road traffic an air pollution

<https://www.canada.ca/en/health-canada/services/air-quality/road-traffic-air-pollution.html>; Region of Peel, Effective Interventions to Mitigate Adverse Human Health Effects from Transportation-Related Air pollution (2015) <https://www.peelregion.ca/health/library/pdf/Rapid-Review-TRAP%20Mitigation.pdf>

⁷⁴ Marie Lynn Miranda et al. “Proximity to roadways and pregnancy outcomes” *Journal of Exposure Science and Environmental Epidemiology* 23:32 (2013) <https://www.nature.com/articles/jes201278>

⁷⁵ Weiran Yuchi et al, “Road Proximity, air pollution, noise, green space and neurologic disease incidence: a population-based cohort study” *Environmental Health*, 9:18 (2020) <https://ehjournal.biomedcentral.com/articles/10.1186/s12940-020-0565-4>.

⁷⁶ Andrea Pozzer et al, “Regional and global contributions of air pollution to risk of death from COVID-19”, *Cardiovascular Research*. doi:[10.1093/cvr/cvaa288](https://doi.org/10.1093/cvr/cvaa288)

⁷⁷ Shohel Reza Amin et al, “Understanding Air pollution from Induced Traffic during and after the Construction of a New Highway: Case Study of Highway 25 in Montreal” *Journal of Advanced Transportation* (2017) <https://www.hindawi.com/journals/jat/2017/5161308/>

⁷⁸ Dr. David Mowat et al, Improving Health by Design in the Greater Toronto Hamilton Area - A Report of Medical Officers of Health in the GTHA. 2nd Edition, May 2014, <https://www.peelregion.ca/health/resources/healthbydesign/pdf/moh-report.pdf>.

⁷⁹ Region of Peel, Air Quality Discussion Paper <https://www.peelregion.ca/health/library/pdf/Rapid-Review-TRAP%20Mitigation.pdf> p.5.

⁸⁰ Environmental Defence & the Ontario Public Health Association, June 2020, “Clearing the Air: Stakeholder Report,” (p.18), <https://clearingtheair.ca/wp-content/uploads/2020/06/Clearing-The-Air-Stakeholder-Report.pdf>.

⁸¹ *Ibid*, p.17.

⁸² Region of Peel (undated) staff concerns on preferred route. <https://pub-peelregion.escribemeetings.com/filestream.ashx?DocumentId=6311>



included.⁸³ Although the GTA West highway has been planned for many years, there is as of yet no analysis of potential health impacts. This is despite the location of the proposed highway adjacent to or even through significant planned residential areas, for example Heritage Heights in Brampton and Mayfield in Caledon, as well as areas in Bolton and Vaughan. The province has not made a clear commitment to addressing the health impacts of increases in vehicle kilometres travelled in terms of regional air quality nor has it committed to a health impact assessment on adjacent communities. The Ontario Public Health Association has raised concerns that traffic related air pollution causes 900 premature deaths annually in the greater Toronto area and that more information is needed about the potential health effects of the GTA West highway specifically, noting support for a health impact assessment.⁸⁴

An estimate from modelling commissioned by Environmental Defence calculated that for a Business-As-Usual case, by 2050, vehicles using Highway 413 would emit over 700,000 tonnes of greenhouse gases each year for a 30 year total of over 17 million tonnes.

For an Optimistic Electrification scenario, by 2050, vehicles using Highway 413 would emit over 350,000 tonnes of greenhouse gasses each year, with emissions over 400,000 tonnes per year until after 2040, for a 30 year total of nearly 13 million tonnes.

Finally, if the 2020 mix of vehicles does not change over the lifetime of the highway, the damage costs from air pollution could be approximately CAD\$8.8 billion.⁸⁵

First Nation Consultation

Based on a TRCA analysis there is high potential for both Indigenous and Euro-Canadian archaeological sites and artifacts specifically in the Nashville Conservation Area, and potentially in other TRCA-owned lands.⁸⁶ The highway corridor traverses the Gunshot Treaty, Williams Treaties and Toronto Purchase specific claim. The area is historically home to a number of First Nations including Huron-Wendat, Mississauga, Chippewa, Six Nations and Haudenosaunee territory.

⁸³ Region of Peel (Aug 21, 2020) Comments on Proposed regulation for streamlined environmental assessment

⁸⁴ Ontario Public Health Association, (Aug 22, 2020) comments on proposed streamlined EA for GTA West <https://opha.on.ca/getattachment/813cbc13-cd03-4688-a405-3973f00bf6be/ERO-019-1882-OPHA-Submission-GTA-West-Transportation-Project-Aug-22-2020.pdf.aspx?ext=.pdf> p.2

⁸⁵ Environmental Defence, 2021, Paving Paradise: The Impact of Highway 413 on Greenhouse Gas Emissions, Air Pollution and Suburban Sprawl. https://environmentaldefence.ca/wp-content/uploads/2021/04/Highway-413-Paving-Paradise-Report_Environmental-Defence.pdf

⁸⁶ TRCA Jan 2020 Report, p.12.



At this time it is not known how the project may impact First Nations harvesting and Treaty rights or cultural claims.⁸⁷

The Chiefs of Ontario and several individual First Nations and First Nations coalitions have publicly opposed Ontario's efforts to weaken provincial environmental assessments. These changes include Ontario's proposed exemptions for the GTA West Highway.⁸⁸

Previously Identified Impact Assessment Agency Concerns

The Highway 413 project was designated previously for an Impact Assessment by former Minister John Wilkinson. This Assessment was terminated based on concerns with regard to the Constitutionality of the Impact Assessment Act which have now been addressed with the passage of revised Act. During the period the Assessment designation was in place the Province prepared a draft Initial Project Description. ATIP records show that IACC staff had serious concerns about the project in terms of how it planned to address areas of federal responsibility. These include species at risk, navigable waters and indigenous consultation.⁸⁹ There is nothing in Ontario's behaviour to date to suggest that these issues would be addressed in the absence of redesignation of the project by the federal government.

Conclusion

In the absence of an independent and thorough Federal Impact Assessment there would be inadequate assessment of water crossings and their impact on both terrestrial and aquatic wildlife including fisheries, migratory birds, species at risk and indigenous values. Such works may commence under the provincial regulatory system before proper surveys or mitigation are conducted related to impacts on these features. The same issue would arise if other elements of the project are exempted as "early works" as the scope of potential early works that would proceed without further assessment of environmental effects has not yet been defined.

⁸⁷ AECOM, GTA West Environmental Existing Conditions Report (Jan 27, 2011) Chapters 4-6.

https://www.gta-west.com/wp-content/uploads/2018/11/GTA_West_Env_Existing_Conditions_Report_Jan_27_11-Chp-4.pdf

And

https://www.gta-west.com/wp-content/uploads/2018/11/GTA_West_Env_Existing_Conditions_Report_Jan_27_11-Chp-5-6.pdf

⁸⁸ CBC News "Ontario using COVID-19 as a 'smokescreen' to trample treaty rights, chiefs say" (Sept 5, 2020)

<https://www.cbc.ca/news/canada/thunder-bay/bill-197-first-nations-1.5712623>

⁸⁹ Environmental Defence ATIP Media Release on October 16th, 2024:

<https://environmentaldefence.ca/2024/10/16/federal-impact-assessment-staff-voiced-significant-concern-over-ontarios-approach-to-protecting-key-values-threatened-by-highway-413-project/>

including ATIP Documents: [ATIP - October 16, 2024](#)



In the absence of a Federal IA the need and alternatives defects in the EA identified by the proponent's 2017 Advisory Panel would not be addressed – particularly alternatives that would lower greenhouse gas emissions and avoid the need for land use change in protected areas.

In the absence of a Federal IA there would be no assessment of the cumulative effects of the project through any provincial or federal regulatory process.

Because of the proposed exemption (which has not been finalized since being announced in 2020) it appears that there would never be a final report on the environmental impacts of the project carried out by Ontario prior to construction of early works and that a final report may never be required to assess fish habitat, species at risk, and migratory bird impacts. Mitigation measures have not been proposed for federal effects.

There has been no detailed public assessment of the potential impacts on species at risk, fish or fish habitat or migratory birds for the project along the preferred route.

The Impact Assessment Agency found significant concerns with regard to this project when reviewing Ontario's draft Initial Project Description when the project was previously under Impact Assessment review.

We ask that you designate the 413 Highway project for a federal IA pursuant to the Minister's power under s.9(1) of the *Impact Assessment Act*. We will be pleased to provide you with any information or materials that we have available to us at any time.

Sincerely,

Tim Gray
Executive Director

CC:

Hon. Diane Lebovillier, Minister of Fisheries, Oceans and Canada Coast Guard
Mr. Terence Hubbard, President of the Impact Assessment Agency of Canada