

**PROPOSED AMENDMENTS TO THE CONDITIONS OF THE
HARMONIZATION ORDER FOR THE MARATHON PALLADIUM PROJECT:
CONSOLIDATION OF CONDITIONS SHOWING SECOND SET OF
PROPOSED AMENDMENTS**

For Information Purposes Only

The following shows the second set of proposed amendments to the conditions of the Harmonization Order, if the proposed Amending Order is made. Underlined text shows proposed additions; struck text shows proposed deletions. These proposed amendments would come into force on such date that section 29 of Schedule 6 of the COVID-19 Economic Recovery Act, 2020, S.O. 2020, c. 18 may be proclaimed in force by the Lieutenant Governor.

~~1. The following requirements of the Act have been varied in order to facilitate the effective operation of the requirements of both jurisdictions, and shall apply to the Project:~~

~~(a) Section 1 is varied to delete the definition to "Tribunal" and substitute "Joint Review Panel" means a body established by the federal Minister of Environment and Climate Change which meets the requirements of the *Canadian Environmental Assessment Act, 2012* and the Ontario *Environmental Assessment Act*, the members of which are appointed by the federal Minister of Environment and Climate Change, based on the recommendations of both the Agency, on behalf of Canada, and the Minister of the Environment, Conservation and Parks, on behalf of Ontario. Section 1 is also varied to substitute "Project" for the word "undertaking" and to add a new definition for "Joint Review Panel's Report" means the report produced by the Joint Review Panel, which contains the Joint Panel's rationale, conclusions and recommendations to the provincial Minister of the Environment, Conservation and Parks and the federal Minister of Environment and Climate Change, with respect to the environmental assessment of the Project. This report will serve as recommendations to both the provincial Minister of the Environment, Conservation and Parks and the federal Minister of Environment and Climate Change.~~

~~(b) Subsections 5 (3) and 5 (4) are varied by replacing the references to "an undertaking" with "the Project" and by deleting the references to "the Tribunal", with any necessary modifications.~~

~~(b.1) Subsection 5 (5) is varied by replacing "an undertaking" with "the Project".~~

~~(b.2) Subsection 11.4 (1) is varied by replacing the reference to "an application" with "the Joint Review Panel's Report", by replacing the reference to "an undertaking" with "the Project" and by deleting the reference to "the Tribunal", with any necessary modifications.~~

~~(b.3) Subsection 11.4 (3.1) is varied by replacing the references to "the undertaking"~~

with "the Project" and by deleting the reference to "the Tribunal", with any necessary modifications.

~~(b.4) Subsection 11.4 (4) is varied by deleting the reference to "the Tribunal", with any necessary modifications.~~

~~(c) Section 34, subsection 35 (b) and section 37.1 are varied to remove reference to "the Tribunal" and replace it with "the Joint Review Panel", with any necessary modifications.~~

~~(d) Section 9(1) to (4) has been varied as follows:~~

~~9. (1) The Minister, with the approval of the Lieutenant Governor in Council, may:~~

~~(a) Give approval to proceed with the Project in accordance with the Joint Review Panel Report~~

~~(b) Give approval to proceed with the Project subject to such conditions as the Minister considers necessary and in particular requiring or specifying:~~

~~(i) The methods and phasing of the carrying out of the Project,~~

~~(ii) The works or actions to prevent, mitigate or remedy effects of the Project on the environment,~~

~~(iii) Such research, investigations, studies and monitoring programs related to the Project and reports thereof, as the Minister considers necessary,~~

~~(iv) Such changes in the Project the Minister considers necessary,~~

~~(iv.1) A process to be followed in respect of any changes to the Project that the proponent may wish to make after the approval is given, which process may include granting authority to the Director or Minister to,~~

~~— (A) require the proponent to engage in additional consultation, and
— to provide additional information, in respect of proposed changes,
— and~~

~~— (B) give approval, attach conditions to the approval or refuse to
— give approval to proceed with the changes,~~

~~(iv.2) That the process referred to in subclause (iv.1) is only available for specified changes or classes of changes to the Project,~~

~~(v) That the proponent enter into one or more agreements related to the Project with any person with respect to such matters as the Minister considers necessary,~~

~~(vi) That the proponent complies with all or any of the provisions of the Joint Review Panel Report that may be incorporated by reference in the approval,~~

~~(vii) The period of time during which the Project or any part thereof shall be commenced or carried out; or~~

~~(c) Refuse to give approval to proceed with the Project~~

~~9. A process mentioned in subclause (1) (b) (iv.1) may be set out in an approval or incorporated by reference into an approval. (2) The Minister shall consider the following matters when making the decision:~~

- ~~(a) The purpose of the Act;~~
- ~~(b) The Joint Review Panel's Report; and~~
- ~~(c) Such other matters as the Minister considers relevant to his or her decision.~~

~~9. (3) The Minister shall notify the proponent of his or her decision and shall give the proponent written reasons for it.~~

~~9. (4) The Minister shall also provide a copy of the decision to the federal Minister of the Environment and shall provide notice to participants of the Joint Review Panel process that the decision is available and published on the public registry.~~

1. The following requirements of the Act have been varied in order to facilitate the effective operation of the requirements of both jurisdictions, and shall apply to the Project:

(a) Section 1 of the Act is varied by,

i. deleting the definition of "Tribunal" and replacing it with the following:

"Joint Review Panel" means a body established by the federal Minister of Environment and Climate Change which meets the requirements of the *Canadian Environmental Assessment Act, 2012* and the Ontario *Environmental Assessment Act*, the members of which are appointed by the federal Minister of Environment and Climate Change, based on the recommendations of both the Agency, on behalf of Canada, and the Minister of the Environment, Conservation and Parks, on behalf of Ontario.

ii. adding the following definition:

"Joint Review Panel's Report" means the report produced by the Joint Review Panel, which contains the Joint Panel's rationale, conclusions and recommendations to the provincial Minister of the Environment, Conservation and Parks and the federal Minister of the Environment, with respect to the environmental assessment of the project. This report will serve as recommendations to both the provincial Minister of the Environment, Conservation and Parks and the federal Minister of the Environment.

(b) Subsections 17.2 (4) and (5) of the Act are varied by deleting the reference to "the Tribunal", with any necessary modifications.

(c) Section 17.15 of the Act is varied by deleting subsections (1) to (5) and replacing them with the following:

17.15 (1) The Minister, with the approval of the Lieutenant Governor in Council, may:

(a) Give approval to proceed with the Part II.3 project in accordance with the Joint Review Panel's Report;

(b) Give approval to proceed with the Part II.3 project subject to such

conditions as the Minister considers necessary and in particular requiring or specifying:

(i) The methods and phasing of the carrying out of the Part II.3 project,

(ii) The works or actions to prevent, mitigate or remedy effects of the Part II.3 project on the environment,

(iii) Such research, investigations, studies and monitoring programs related to the Part II.3 project and reports thereof, as the Minister considers necessary,

(iv) Such changes in the Part II.3 project as the Minister considers necessary,

(v) A process to be followed in respect of any changes to the project that the proponent may wish to make after the approval is given, which process may include granting authority to the Director or Minister to,

(A) require the proponent to engage in additional consultation, and to provide additional information, in respect of proposed changes, and

(B) give approval, attach conditions to the approval or refuse to give approval to proceed with the changes,

(vi) That the process referred to in subclause (v) is only available for specified changes or classes of changes to the project,

(vii) That the proponent enter into one or more agreements related to the Part II.3 project with any person with respect to such matters as the Minister considers necessary,

(viii) That the proponent complies with all or any of the provisions of the Joint Review Panel's Report that may be incorporated by reference in the approval,

(ix) The period of time during which the Part II.3 project or any part thereof shall be commenced or carried out; or

(c) refuse to give approval to proceed with the Part II.3 project.

(2) A process mentioned in subclause (1) (b) (v) may be set out in an approval or incorporated by reference into an approval.

(3) The Minister shall consider the following matters when making the decision:

(a) The purpose of the Act;

(b) The Joint Review Panel's Report; and

(c) Such other matters as the Minister considers relevant to his or her decision.

(4) The Minister shall notify the proponent of his or her decision and shall

give the proponent written reasons for it.

(5) The Minister shall also provide a copy of the decision to the federal Minister of Environment and Climate Change and shall provide notice to participants of the Joint Review Panel process that the decision is available and published on the Canadian Impact Assessment Registry, being the registry established under section 104 of the *Impact Assessment Act*.

(d) Subsection 17.24 (1) of the Act is varied by:

(i) deleting the reference to “an application” and replacing it with “the Joint Review Panel’s Report”; and

(ii) deleting the reference to “the Tribunal”, with any necessary modifications.

(e) Subsections 17.24 (4) and 17.24 (5) of the Act are varied by deleting the references to “the Tribunal”, with any necessary modifications.

(f) Section 34, clause 35 (b) and section 37.1 of the Act are varied by deleting references to “the Tribunal” and replacing them with “the Joint Review Panel”, with any necessary modifications.

2. Except for the requirements of the Act as varied above, and the following requirements: Part I of the Act, ~~sections 12 and 12.2~~, subsection 17.2 (6), section 17.27, Part IV, sections 28, 31, 31.1, and 32, subsection 35 (a), sections 36, 37, 37.2, ~~38 and 38.1~~, 38, 38.1 and 38.3 and Part VI of the Act; the remaining sections of the Act are dispensed with for the purposes of this order.

[END]