

# **VOLUNTARY PROJECT REVIEW – PHASE 1**

June 26, 2020 CFN 61359

## BY MAIL AND E-MAIL (Leila.Sotoudeh@metrolinx.com)

Leila Sotoudeh Environmental Project Manager Metrolinx 10 Bay Street Toronto ON M5J 2R8

Dear Ms. Sotoudeh,

Re: Response to Request for Voluntary Project Review

Lakeshore East, West Corridor Expansion between Pape Avenue (Mile 330.96) and Kennedy Road

(Mile 325.76)

**Small's Creek Culvert Replacement and Retaining Wall** 

Don River Watershed; City of Toronto - East York Community Council Area

### **PURPOSE**

On April 15, 2019, TRCA received the documents and request for a Voluntary Project Review (VPR) for the Lakeshore East, West Corridor Expansion Project (hereafter the LSE-West Project) to undertake track expansion along the Lakeshore East Corridor between Eastern Avenue (Mi. 331.89) and Kennedy Road (Mi. 325.76) in the City of Toronto, on the Kingston Subdivision. Since the initial submission, the project limits have been reduced to now extend from Pape Avenue (Mi. 330.96) to Kennedy Road. The proposed works within the TRCA regulated areas includes the addition of a fourth track (i.e. clearing/grubbing, grading, and retaining wall installation), culvert replacement at Small's Creek (Mi. 329.50) adjacent to the current location, realignment of Small's Creek north of the corridor to accommodate the new culvert design, and post-construction restoration. On May 15, 2020 TRCA received the revised documents for the above-noted request.

The works for this LSE-West Project will take place on property owned by Metrolinx. A total of 590 trees have been identified for removal as a part of the LSE-West Project. Within the TRCA regulated area, approximately 267 trees have been identified for removal and 22 trees are considered to be impacted by the proposed construction and will require root and/or canopy pruning by a qualified arborist. The remaining 188 trees will be preserved and protected with hoarding. One butternut was identified within the study area and requires further consultation with the MNRF, though no impacts to the tree are anticipated. Small's Creek is a permanent watercourse conveying local drainage features that are connected to the Municipal storm water system. Neither the upstream nor downstream portions of Small's Creek meet the definition of fish habitat; however, works will be conducted in the dry.

#### **PROJECT REVIEW**

Development activities within regulated areas on lands owned by, and/or conducted by, a provincial or federal agency, are exempt from the regulatory approval process under Section 28 of the Conservation Authorities Act and under Ontario Regulation 166/06 – Toronto and Region Conservation Authority (TRCA) Regulation of Development, Interference with Wetlands and Alteration to Shorelines and Watercourses.

Recognizing this exemption, and in the absence of the formal permitting approval process, at the request of the proponent, TRCA has reviewed the detailed design for this construction project based on its expertise as a watershed management agency, and its interests related to natural hazards, natural heritage, including aquatic and terrestrial species and habitats, and water management.

The LSE-West Project is a Design-Build-Finance (DBF) project under the Alternative Financing and Procurement (AFP) model. In AFP projects, the Contractor (Project Co.) will develop and implement both design and construction components, including environmental management plans. As such, several of the components that would typically be submitted under the VPR process (e.g. erosion and sediment control plan, groundwater management and dewatering plan, construction staging/laydown/access design details, and construction schedules) will be the responsibility of Project Co. to develop and submit to TRCA for review and approval prior to construction. An update on anticipated submission dates for these items shall be provided following Contract Award in early 2021.

TRCA has completed a comprehensive review of the design of the track expansion, culvert and retaining wall. While we have no objection to the designs, a Phase 2 Voluntary Project Review will be necessary to confirm that the policies and objectives of TRCA's permit requirements under **Ontario Regulation 166/06** have been satisfied. This process is being conducted in two phases; for the process to be considered complete, both a Phase 1 and Phase 2 VPR letter must be obtained.

## **PROJECT DETAILS**

It is TRCA staff understanding that the proposed works under this VPR application includes:

- 1. Addition of a fourth track;
- 2. Culvert replacement;
- 3. Dewatering/unwatering;
- 4. Retaining wall installation; and,
- 5. Tree removal and restoration.

Metrolinx has proposed a track expansion along the LSE-West Corridor to accommodate increased demands and facilitate 15-minute service for Regional Express Rail. The proposed works include the addition of a fourth track between Pape Avenue and Kennedy Road adhering to GO Transit mainline standards, as well as a culvert replacement at Small's Creek and the installation of retaining walls at select locations along the rail corridor.

#### **Addition of a Fourth Track**

The construction of the fourth track within the rail corridor will feature the installation of track ballast on free draining granular sub ballast material (crushed granular B type II). Prior to the placement of track, the existing organic layer of material will be stripped to expose natural ground. Following this, either native material will be excavated or placed in order to achieve the required subgrade elevation to match the existing track grade. This operation includes the shaping of ditches or swales. Once the subgrade is compacted, sub ballast material will be placed and compacted to receive the ballast and track material. Erosion and siltation control measures during the grading operations will be utilized.

## **Culvert Replacement**

Metrolinx is proposing to replace the existing culvert (1.2m x 0.9m) located at Small's Creek beneath the tracks with a new culvert parallel to the existing culvert. The new culvert will be 75.8 m long and two metres wide. As part of this work, Small's Creek north of the corridor will be realigned to accommodate the new culvert design. The need to replace the culvert is due to complete blockage at the outlet of the structure resulting in impacts to the existing hydraulics. The culvert replacement proposes to meet the requirements to convey both the 25-year and 100-year storm events and will measure 2000 mm in diameter. The replacement culvert is also required to resist Copper E-80 + Diesel impact train live loading and 100-year service life to accommodate the track expansion. Once complete, water flow will be diverted into the new culvert and the existing culvert will be decommissioned using low-permeability material filling.

Project Co. will be responsible for construction staging for the culvert installation. A staging sequence was provided for reference (DWG. C-601); however, Project Co. will finalize the most efficient means and methods of installing the culvert. TRCA preference is to avoid impacts to FOD2 and SWD as identified in Figure 2a of the LGL ELC Memo (March 19, 2019), and the ESA on the south side of the tracks to the extent possible. Project Co. will submit this information to TRCA for review and approval ahead of construction. This commitment has been included as Project Commitment #2c.

## **Dewatering/Unwatering**

Creek diversion will be required as the depth of excavation for the sending and receiving pits will extend below the creek level observed at the time of investigation. Water from surface flow and/or groundwater must be diverted away from the excavation(s) at all times. Groundwater perched within the embankment and in saturated soils, and surface water, will tend to seep into and accumulate in excavations. In order to maintain the stability of the sidewalls and base of the excavation, an external groundwater control system (e.g. well points) will be required to sufficiently lower the groundwater level (e.g. to a level at a minimum of 1 m below the base of the excavations) before the excavation deepens. Design of the dewatering system will be entirely the responsibility of Project Co., who must submit the design details as part of the Phase 2 VPR process (identified as Commitment #2b).

## **Retaining Wall Installation**

It is TRCA staff understanding that there is one retaining wall section proposed within the TRCA regulation area (RW4). The retaining wall is required to support new track expansion grading where space constraints do not

allow for conventional cut slopes and fill embankments construction. A cantilevered soldier pile wall is the preferred construction method option for this retaining wall due to the proposed height of the wall.

### **Tree Removal and Restoration**

There are 483 trees within the TRCA regulated boundaries. Approximately 267 trees have been identified for removal and 22 trees are considered to be impacted by the proposed construction and will require root and/or canopy pruning by a qualified arborist. The remaining 188 trees will be preserved and protected with hoarding. Vegetation compensation and the proposed restoration planting and seed mixes follow the TRCA Guideline for Ecosystem Compensation. The restoration planting area at Small's Creek south of the tracks will consist of 134 trees, 598 units of shrubs and understory, and a mixture of groundcover and terraseeding. The restoration planting area at Small's Creek north of the tracks will consist of 128 trees, 333 units of shrubs and understory, and a mixture of groundcover and terraseeding. Project Co. is responsible for implementing the restoration plans and will provide a Restoration Report and any information related to gaps within the approved restoration plans by Forrec. Project Co. will provide maintenance immediately after planting continuing throughout the 2-year warranty period. All plant material replaced at the end of the Warranty Period shall be under an additional 12-month guarantee period.

### **Supporting Documentation**

- 1. Lakeshore East Corridor, West Corridor Expansion, Drainage and Stormwater Management Report; prepared by Hatch for Metrolinx; dated January 24, 2020; received by TRCA on May 15, 2020.
- 2. Lakeshore East Expansion, Small's Creek Self Assessment (memo, 11 pages); prepared by Hatch for Metrolinx; dated February 20, 2019; received by TRCA on May 15, 2020.
- 3. Lakeshore East, West Corridor Expansion, Site Plan (1 Page); prepared by Hatch for Metrolinx; dated March 22, 2019; received by TRCA on April 15, 2019.
- 4. Culvert Design Report, Lakeshore East Corridor Infrastructure, West Corridor Expansion, Smalls Creek Culvert Replacement, Kingston Subdivision Mile 329.50; prepared by Hatch for Metrolinx; dated November 6, 2018; received by TRCA on April 15, 2019.
- 5. Preliminary Design Evaluation, Lakeshore East Corridor Infrastructure, West Corridor Expansion, Smalls Creek Culvert Replacement, Kingston Subdivision Mile 329.50; prepared by Hatch for Metrolinx; dated November 6, 2018; received by TRCA on April 15, 2019.
- 6. Draft Geotechnical Investigation and Design Report, Small's Creek Culvert; prepared by Thurber Engineering Ltd. for Hatch; dated November 16, 2018; received by TRCA on April 15, 2019.
- 7. Revised Draft Geotechnical Investigation and Design Report, Lakeshore East Corridor, Mile 324.97 to 332.20 Kingston Subdivision; prepared by Thurber Engineering Ltd. for Hatch; dated July 27, 2018; received by TRCA on April 15, 2019.
- 8. Arborist Report, Lakeshore East, West Corridor Expansion; prepared by LGL Limited for Hatch; dated March 2019; received by TRCA on April 15, 2019.
- 9. Small's Creek HEC-RAS Existing; prepared by Hatch for Metrolinx; dated July 27, 2018; received by TRCA on April 15, 2019.
- 10. Small's Creek HEC-RAS Proposed; prepared by Hatch for Metrolinx; dated July 27, 2018; received by TRCA on April 15, 2019.

#### **SUBMISSION DETAILS**

- 1. VPR Cover Letter (2 Pages); prepared by Hatch for Metrolinx; dated May 15, 2020; received by TRCA on May 15, 2020.
- 2. Lakeshore East, West Corridor Expansion Ecological Land Classification Verification (Technical Memorandum, 10 Pages); prepared by LGL Limited for Hatch; dated March 19, 2019; received by TRCA April 15, 2019.
- 3. DWG No. C-004; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Existing Conditions and Removals, Plan 4 of 4; prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 4. DWG No. C-320; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Plan and Profile Future North Track, Sta. 530+000 to 530+350 (Mile 329.33 to 329.54); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 5. DWG No. C-321; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Plan and Profile Future North Track, Sta. 530+360 to 530+700 (Mile 329.54 to 329.76); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 6. DWG No. C-500; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Erosion Control Notes and Typical Details, Sheet 1 of 3; prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 7. DWG No. C-501; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Erosion Control Notes and Typical Details, Sheet 2 of 3; prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 8. DWG No. C-502; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Erosion Control Notes and Typical Details, Sheet 3 of 3; prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 9. DWG No. C-600; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Smalls Creek Culver General Arrangement, Plan & Profile (Kingston Sub. Mile 329.50); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 10. DWG No. C-601; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Smalls Creek Culver General Arrangement, Staging Plan (Kingston Sub. Mile 329.50); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 11. DWG No. C-602; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Smalls Creek Realignment, Inlet Details (Kingston Sub. Mile 329.50); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 12. DWG No. C-603; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Tunnel Instrumentation Details & Existing Culvert Backfill Details (Kingston Sub. Mile 329.50); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 13. DWG No. S-720; Lakeshore East Corridor Infrastructure, West Corridor Expansion, RW 4 Plan and Elevation, Sta. 530+188 to 530+253 (Kingston Sub. Mi. 329.51 to 329.55); prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.
- 14. DWG No. S-722; Lakeshore East Corridor Infrastructure, West Corridor Expansion, RW 4 Typical Sections, Sheet 1 of 1; prepared by Hatch for Metrolinx; dated March 30, 2020; received by TRCA on May 15, 2020.

- 15. DWG No. L-101; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Overall Site Plan; prepared by Forrec for Metrolinx; dated March 20, 2020; received by TRCA on May 15, 2020.
- 16. DWG No. L-102; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 1 Tree + Sapling Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 17. DWG No. L-103; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 1 Shrub + Understory Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 18. DWG No. L-104; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 1 Groundcover + Seeding Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 19. DWG No. L-105; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 2 Tree + Sapling Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 20. DWG No. L-106; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 2 Shrub + Understory Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 21. DWG No. L-107; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Compound 2 Groundcover + Seeding Layer; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 22. DWG No. L-108; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Plans, Merrill Bridge Road Park Sod Restoration; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 23. DWG No. L-501; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Planting Details; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.
- 24. DWG No. L-502; Lakeshore East Corridor Infrastructure, West Corridor Expansion, Landscape Restoration Planting Details; prepared by Forrec for Metrolinx; received by TRCA on May 15, 2020.

## **BEST MANAGEMENT PRACTICES**

In accordance with standard best management practices, please ensure:

- 1. TRCA planner is notified 48 hours prior to the commencement of any of the works referred to in this permit and within 48 hours upon completion of the works referred to herein.
- 2. All excess fill (soil or otherwise) generated from the works will not be stockpiled and/or disposed of within any area regulated by TRCA (on or off-site) pursuant to Ontario Regulation 166/06, as amended, without prior written acceptance from TRCA.
- 3. Effective erosion and sediment control measures are installed prior to the commencement of the approved works and maintain such measures in good working order throughout all phases of the works.
- 4. Erosion and sediment control strategies outlined on the approved plans are not static and will be upgraded and amended as site conditions change to prevent sediment releases to the natural environment.

- 5. Any breaches of the erosion and sediment control measures are repaired within 48 hours of the breach.
- 6. Every reasonable effort will be taken to minimize the amount of land disturbed during the works, as well as to temporarily stabilize disturbed areas within 30 days of the date the areas become inactive.
- 7. All disturbed areas are stabilized immediately following the completion of the works and as appropriate, sediment controls are removed from the site.

### **PROJECT COMMITMENTS**

It is the understanding of TRCA that the following has been committed to:

- 1. Metrolinx will ensure that Project Co. implements the project based on the provisions in this Voluntary Project Review letter from TRCA, dated June 26, 2020.
- 2. As outlined in the attached Letter of Commitment, Metrolinx will ensure that Project Co. obtains a Phase 2 Voluntary Project Review letter(s) from TRCA, in advance of project construction being initiated for the following sections of project work as associated with this Phase 1 VPR:
  - a. Erosion and Sediment Control Plan Project Co. shall design and establish a Erosion and Sediment Control (ESC) Plans to address ESC monitoring on site and on adjacent properties. The ESC shall address TRCA requirements (as per the 2006 Erosion and Sediment Control Guideline for Urban Construction) and will be submitted to TRCA for review and approval ahead of construction. The ESC plan will include product data for erosion control blankets/mats/nets, and growth media erosion control blankets. Sufficient review periods (20 business days per submission) should be provided to TRCA.
  - b. Groundwater Management and Dewatering Plan Project Co. shall prepare and submit detailed plans required to undertake the dewatering and/or working in the dry (and disposal of the pumped water) as per the TRCA Guidelines for the Development of Environment Management Plans for Dewatering (2013) to TRCA for review and approval ahead of construction. Sufficient review periods (20 business days per submission) should be provided to TRCA. Project Co. is responsible for obtaining any EASR/PTTWs and all necessary approvals in advance of any works.
  - c. Construction Staging/Laydown/Access Routes Hatch has identified critical access points that will support construction in constrained areas. Due to the topographic characteristics of the rail corridor (corridor is located on top of a steep embankment), access around Smalls Creek is substantially limited. Final sizing and configuration of the staging areas, stockpiling areas, and construction access will be confirmed by Project Co. and submitted to TRCA for review and approval. The final sizing and configuration of staging/stockpiling/access should also be reflected in the restoration plans. Any information related to gaps within the approved restoration plans by Forrec will be submitted to TRCA for review and approval. Construction sequencing plans to show how works will be coordinated to avoid and/or minimize impacts to existing infrastructure will also be submitted for review and approval. Sufficient review periods (20 business days per submission) should be provided to TRCA.
  - d. Construction Methodologies Two trenchless construction methods were carried forward for the contractor to finalize for the construction of the replacement of Small's Creek Culvert due to the culvert diameter, the subsurface soils, and the length of the crossing: Horizontal Auger Boring (HAB) or Pipe Jacking. Hatch identified the preferred method as direct jacking due to

the anticipated minimized costs associated with smaller volumes of excavation, the absence of casings and a support system, while also eliminating the need of lining with product pipe. The preferred material for the replacement culvert is steel. TRCA preference is for the technology with the least impacts to the surrounding environment. We would like Project Co. to explore opportunities for using alternative technologies should a technology with less impacts become available.

- 3. Prior to the start of construction, the proponent will:
  - a. Project Co. will provide the construction schedule (including post-construction restoration milestones) when available, but a minimum of two weeks prior to the start of construction, to TRCA.
  - b. Confirmed disturbance/impact limits (if different from the current design) shall be provided by Project Co. for TRCA review and approval, as required.
- 4. The proponent and contractor will have a qualified Environmental Site Monitor on site to provide advice and monitor ESC measures to ensure that activities that could have a negative impact to the natural environment are effectively mitigated as construction proceeds.
- 5. The proponent will ensure that all site staff including subcontractors stay apprised of TRCA flood warnings as well as weather conditions and will keep all personnel, including subcontractors apprised of deteriorating conditions, including the threat of a flood emergency.
- 6. The proponent will ensure that a copy of a contingency plan is posted on site at a visible location that all personnel including subcontractors are trained and aware of this. This plan will be kept current and complete including the updated contact information.

### **IMPLEMENTATION REQUIREMENTS**

- 1. TRCA Voluntary Project Review Provisions are provided in Appendix A.
- 2. In the event of any non-compliance with municipal, provincial or federal legislation, the proponent is responsible for reporting to the relevant agency.
- 3. All spills are to be reported to the Ministry of Environment and Climate Change Spills Action Centre (SAC) at 1-800-268-6060.

# **MONITORING REQUIREMENTS AND PROJECT COMPLETION**

- 1. TRCA Enforcement and Compliance staff is not responsible for monitoring the site. The compliance report and any inquiries should be submitted to the TRCA planner.
- 2. The proponent is responsible for hiring a qualified contractor and a qualified environmental monitor to ensure proper implementation of the drawings and reports as detailed above.
- 3. The proponent is responsible for notifying the TRCA planner when the project is complete.

## **REVISIONS**

If the drawings or reports are amended or changed this confirmation may no longer be valid. Please consult with the TRCA planner to determine if additional review is necessary regarding the amended detailed design.

#### OTHER LEGISLATION

The project may be subject to other municipal, provincial, and federal legislation and is responsible for consulting with other relevant agencies as necessary to meet all legislative requirements. This letter does not alleviate the proponent from seeking other municipal, provincial, or federal approvals.

Should you have any questions or require any additional information please contact Margie Akins, Planner at extension 5925 or at <a href="Margie.Akins@trca.ca">Margie.Akins@trca.ca</a>.

Regards,

W. Beth Williston, H. BA, MCIP, RPP

Associate Director, Infrastructure Planning and Permits

**Development and Engineering Services** 

/WBW

Attach: 61359\_LSE-W Small's Creek - Letter of Commitment (signed).pdf

**BY E-MAIL** 

cc: Metrolinx: Tricia Bacchus, Environmental Project Coordinator (<a href="mailto:tricia.bacchus@metrolinx.com">tricia.bacchus@metrolinx.com</a>)

Houtan Moravej, Project Manager (houtan.moraveg@metrolinx.com)

Consultant: Jesse Pakkala, Project Manager, Hatch (jesse.pakkala@hatch.com)

TRCA: Michael Brestansky, Enforcement Officer, Enforcement and Compliance

Margie Akins, Planner, Infrastructure Planning and Permits

### APPENDIX 1 – VOLUNTARY PROJECT REVIEW PROVISIONS

## **STIPULATIONS**

- 1. The proponent is responsible for the accuracy of all information and technical details.
- 2. The proponent is responsible for ensuring that the works are undertaken in accordance with the approved drawings and plans.
- 3. The proponent is responsible for the installation of effective erosion and sediment control measures. Such measures are to be regularly inspected by a qualified and/or certified erosion and sediment control professional and maintained in good working order throughout the development.
- 4. This letter review does not preclude nor imply any approvals required by any other existing laws and regulations, including landowner consents.
- 5. All works in the watercourse must be conducted within the fisheries window as prescribed by Provincial and/or Federal Statutes.
- 6. This letter review is issued to the proponent and is not transferable, i.e. it does not transfer with the property title on a sale or other disposition of the property.

#### FREEDOM OF INFORMATION ACT

- 1. The information contained on this form and any accompanying plans and documents are collected under agreement with the crown agency and the conservation authority for the purposes of voluntary crown corporation review. The information is considered to be private and confidential until such time as the review letter is released by TRCA, after which it is deemed to be public information.
- 2. For information about the collection of information referred to above, you may contact the Director, in Development and Engineering Services at 416-661-6600.

### NOTE

1. The TRCA shall not be responsible for any losses, costs, or damages arising out of the location, design, or construction of, or failure to construct, the works set out in the stamped approved documents.