

ATTACHMENT: September 19, 2019
Federal Authority Advice Record form
Response due by October 9, 2019

Cedar LNG Project – Cedar LNG Export Development Ltd.
Agency File: 005734

Department/Agency	Transport Canada
Lead IA Contact	Suzanne L'Heureux
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Alternate Departmental Contact	Joanne Kwok (604-315-3167)

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1. Is it probable that your department or agency may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed?

If yes, specify the Act of Parliament and that power, duty or function.

Yes.

- 1) Any on water works will require an Approval under the *Canadian Navigable Waters Act*.**

Under the *Canadian Navigable Waters Act* (CNWA), Transport Canada issues approvals for (a) a designated major work that may interfere with navigation on any navigable water; (b) a work – other than a designated major or minor work – that may interfere with navigation and that is located on a navigable water listed on the Schedule; (c) a work – other than a designated major or minor work – that may interfere with navigation, and that located on a navigable water that is not listed on the Schedule, whereby the proponent has decided to apply to Transport Canada.

TC does not require approvals for works that do not interfere with navigation, or works that meet the criteria of the Minor Works Order. In cases where a work (other than a minor work) does not interfere with navigation, the proponent is required to deposit information and issue a public notice.

For a work – other than a major or minor work – that may interfere with navigation and that is not located on the schedule, TC requires proponents to post specific information regarding their work on the new Online Registry inviting any interested party to comment, and seek authorization through a public resolution process.

Upon application TC requires an application form, as well as information documents relevant to the

work which can include, as prescribed by the Minister of Transport, location maps, drawings, methodology of construction (including contingency plans), navigation use, Indigenous use, level of impacts and appropriate mitigation for the impacts for interference to navigation. TC also requires and collects information in cases where the project proponent is conducting a deposit of information as required by the Act.

Attached is the CNWA Application for Approval Form. Below is the contact information for our regional specialist regarding navigation, assigned to this file, should the proponent have questions regarding appropriate templates/forms.

Elizabeth Harries (C: 604-349-4448)

Navigation Protection Officer
Navigation Protection Program
Transport Canada / Government of Canada

elizabeth.harries@tc.gc.ca / TTY: 1-604-666-0717/NPPAC-PPNPAC@tc.gc.ca

Agente de protection de la navigation
Programme de protection de la navigation
Transports Canada / Gouvernement du Canada

CNWA online submission site (create a user/log in to continue):

<https://wwwapps.tc.gc.ca/Prog/3/NWAR-RLEN-E/en/Account/Login>

Visit our website @ <http://www.tc.gc.ca/eng/programs-621.html>

For some more information check out:

<https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/navigation-protection.html>

- 2) Several components of the project might fall under the *Coasting Trade Act* depending on the vessels used. The *Act* reserves the right to undertake commercial marine activities in Canadian waters for Canadian registered and duty-paid vessels, and also governs the use of foreign-flagged and non-duty paid vessels under licence if a suitable Canadian vessel is not available.

The production unit is described as being possibly moored to a marine jetty on traditional piles or as a floating structure at permanent anchor. Depending how this unit is developed/constructed, the *Coasting Trade Act* might apply.

It is unclear whether 'feederling' (smaller vessels used to load larger vessels further off shore) would be required once the facility is up and running. If this ends up being the case, and if the proponent intends to use foreign-flagged or non-duty paid vessels, then a coasting trade licence would be required.

Section 2.4.1 refers to construction activities. If foreign flagged or non-duty paid vessels are used for such activities (e.g. use of barges, dredgers, tugs), a coasting trade licence would be required.

Section 2.4.2 refers to support tugs for mooring, loading and transit of LNG carriers. If these tugs are foreign flagged or non-duty paid vessels are used for such activities, a coasting trade licence would be required. It also refers to maintenance.

Section 2.4.3 refers to decommissioning and the removal of the production unit after its life cycle. In other types of decommissioning projects, vessels are used for the disassembly and transport of component pieces. If foreign or non-duty paid ships are used for this work, a coasting trade licence would be required.

Section 2.4.4 refers to the use of support tugs. Again, if they are foreign flagged or non-duty paid, a coasting trade licence would be required.

The *Coasting Trade Act* reserves the right to conduct marine activities of a commercial nature (including the transportation of goods and passengers) to Canadian-flagged and duty-paid vessels.

When a suitable Canadian vessel is not available to undertake an activity, foreign flagged or non-duty paid vessels may apply for a coasting trade licence in order to undertake that activity.

TC is responsible for the administration and enforcement of the *Coasting Trade Act*. To promote compliance with the Act, TC provides advice and guidance to stakeholders (industry, shipping agents, private citizens, etc.) on the application of the Act to a proposed activity, as well as follows up when it appears that the Act has not been followed (e.g. upon receipt of a report that a vessel owner or operator did not obtain a licence when they should have).

Other agencies and departments also play a role in the coasting trade regime. The Canadian Transportation Agency (CTA) and the Canada Border Services Agency (CBSA) simultaneously receive the applications for a coasting trade licence. The CTA determines whether there is a suitable and available Canadian duty-paid ship to conduct the proposed activity. Once the CTA determines that no suitable Canadian vessel is available, the CBSA will send a letter of determination to the applicant. This letter outlines the remaining requirements for the applicant to obtain the licence. The licence is issued by CBSA for the Minister of Public Safety once all the outlined requirements have been met.

More information on coasting trade licences can be found at: <https://www.tc.gc.ca/eng/policy/acf-acfs-menu-2215.htm>. TC's webpages contain links to the Canadian Transportation Agency, CBSA, IRCC (Immigration, Refugees and Citizenship Canada), ESDC (Employment and Social Development Canada).

- 3) TC-Civil Aviation may need to issue an Obstruction Clearance Permit in relation to the proposed flares associated with the Project. As more detailed specifications for the project infrastructure are developed, they should be assessed for any marking/lighting requirements per Canadian Aviation Regulations (CAR) 601 - Division III - Marking and Lighting of Obstacles to Air Navigation and Standard 621 - Obstruction Marking and Lighting. The regulation can be accessed online at: <http://www.tc.gc.ca/eng/acts-regulations/regulations-sor96-433.htm>. The standard can be accessed online at: <http://www.tc.gc.ca/eng/civilaviation/regserv/cars/part6-standard-standard621-3868.htm>. An Aeronautical Assessment Form for Obstruction Marking and Lighting can be downloaded (http://wwwapps.tc.gc.ca/wwwdocs/Forms/26-0427E_1405-04_E.pdf) and submitted via email (pacAOCF@tc.gc.ca) or fax (1-855-618-6288).

NavCanada would have to get info such as the location and height the obstructions to update their aeronautical charts. The proponent would have to submit an Application for Land Use to NavCanada (Landuse@NavCanada.ca). The number to contact the NavCanada-Land Use group is 1-866-577-0247. The Application form is available online (<http://www.navcanada.ca/EN/products-and-services/Pages/land-use-program.aspx>).

- 4) Emergency Response Assistance Plan (ERAP) program
Dangerous Goods (DGs) must be handled, offered for transport and transported in accordance with the TC TDG Act/Regulations. There is a regulated Emergency Response Assistance Plan (ERAP) program (Part 7 of the TDG Regulations) that requires a company transporting certain types of DGs to have an ERAP before they can be transported. The ERAP must be approved by TC and the company must have received a registration number from TC before they are allowed to ship ERAP-able products. Anyone who handles, offers for transport, imports and/or transports DGs must comply with TDG regulations. This includes holding a valid TDG certificate, completing the appropriate documentation, using the proper means of containment, reporting any reportable spills and holding a valid ERAP when required. <http://www.tc.gc.ca/eng/tdg/clear-part7-374.htm>.

If the transport of dangerous goods, requiring an ERAP, is offered by a third party (i.e. other than the proponent), then TC would not have to exercise power, duty, or function (i.e. approving the ERAP) to enable the Project to proceed. This would be the third party's responsibility to have their ERAP approved by TC.

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2. Is your department or agency in possession of specialist or expert information or knowledge that may be relevant to the conduct of an impact assessment of the Project?

Yes. TC is in possession of specialist or expert information or knowledge for the following:

- **Impacts to navigation resulting from the project**
- **Underwater noise and risk of collisions with marine mammals**
- **TERMPOL**
- **Marine shipping emissions. TC can provide evidence in this regard (noting that ECCC does as well).**
- **Aerodrome obstructions**
- **Transportation of dangerous goods, including liquefied natural gas**

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3. Has your department or agency considered the Project; exercised a power or performed a duty or function under any Act of Parliament in relation to the Project; or taken any course of action that would allow the Project to proceed in whole or in part?

No

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4. Has your department or agency had previous contact or involvement with the proponent or other party in relation to the Project? (for example, enquiry about methodology, guidance, or data; introduction to the project)

No

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5. Does your department or agency have additional information or knowledge not specified, above?

No

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6. From the perspective of the mandate and area(s) of expertise of your department or agency, what are the issues that should be addressed in the impact assessment of the Project, should the Agency determine that an impact assessment is required?

For each issue discussed, provide a concise, plain-language summary that is appropriate for inclusion in the Summary of Issues.

There are several areas of the project (i.e. construction, vessels coming in for fueling) that will have underwater noise impacts. TC currently does not have any significant feedback, however, would like to be kept up to date as the project advances.

The proposed project would likely result in an increase in marine shipping emissions. TC currently does not have any significant feedback, however, would like to be kept up to date as the project advances.

Clarity is required as to whether the proponent wants to participate in a TERMPOL. In the affirmative, a TERMPOL review should be initiated early on in the IA process (ideally the planning phase) to avoid timing delays with the IAA requirements.

Why their supply is coming from another facility? Does LNG Canada lack capacity to deal with the flow? Does this make them two facilities or one facility with extra capacity? Will there be a benefit? Does it mean fewer or additional emissions for the per tonne production of gas?

It is unclear whether or not the proponent has a definite plan for establishing marine safety zones.

TC noted the proponent has not decided on certain components of the project like the power supply.

Section 2.3 refers to the alternatives. The rationale for the project design (jetty-moored floating LNG production unit) is unclear. Was a terrestrial project design not viable? If so, why?

Section 2.4.4 refers to the use of support tugs. It is unclear what the proponent means by “mitigation requirements”, that LNG carriers calling to the terminal will be expected to adhere to? Is this in relation to vessel traffic risk management?

At this stage, the proponent is committing to meet all applicable guidelines, policies and regulations in regards to environment (Section 2.6 – Project Emissions, Discharges and Waste). Environmental assessments (EAs) of 5 LNG and marine projects in the Kitimat area were or are being conducted. The proponent states that the EAs concluded these projects would not result in significant environmental adverse effects (Section 3.0 – Regulatory Context). This statement would require validation by TC employees who were engaged in these 5 projects. They would need to properly assess the overall safety and environmental risks linked to the level and type of vessel traffic in this area (going in and out of Kitimat).

Section 3.0 (Regulatory Context) – The proponent provides an initial assessment of potential cumulative effects of proposed development on the Kitimat airshed, but does not provide a similar assessment of the potential cumulative impacts of marine shipping. The Kitimat airshed can safely accommodate new industrial growth, but what about the Douglas Channel airshed?

Suzanne L'Heureux

Name of Departmental / Agency
Responder

Senior Environmental Advisor
Title of Responder

October 9, 2019

Date