



TSAWWASSEN FIRST NATION  
s̓c̓awaθən məsteyəx<sup>w</sup>

November 26, 2020

**Filed electronically**

Impact Assessment Agency of Canada  
Suite 210A - 757 West Hastings Street  
Vancouver, BC V6C 3M2

**Re: Global Container Terminals Deltaport Expansion - Berth Four Project  
Reference Number 81010  
TFN Comments on Initial Project Description**

Tsawwassen First Nation ("TFN") writes in response to the invitation for comment issued by the Impact Assessment Agency of Canada ("IAAC") on October 13, 2020,<sup>1</sup> in respect of the initial project description summary and initial project description (collectively, the "IPD") submitted by Global Container Terminals ("GCT" or "Proponent") for its proposed GCT Deltaport Expansion, Berth Four Project ("Project").<sup>2</sup>

This letter constitutes TFN's comments on the IPD for the proposed Project. Given the preliminary nature of the information available to TFN, these comments should not be considered exhaustive and TFN's silence in respect of any assertions made by GCT within the IPD should not be interpreted as TFN's agreement, acceptance or consent.

**I. Introduction: About Tsawwassen and its Rights**

***The People of Tsawwassen First Nation***

The people of TFN have lived and sustained themselves and our way of life within our territory since time immemorial. To this day, it is through the exercise of our governance system, our culture and our harvesting and stewardship practices that we maintain our distinctive cultural identity, foster the health of our community, and create a future for our youth that is rooted in our values.

The very meaning of "Tsawwassen" in the hun'qum'i'num language is "Land Facing the Sea" and the people of TFN are, above all else, "the People facing the sea". The very identity, way of life, and health of the people of TFN as "People facing the sea" are

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<sup>1</sup> Impact Assessment Agency of Canada, Public Notice: GCT Deltaport Expansion – Berth Four Project, Public Comment Period and Public Sessions, Reference No. 3 (October 13, 2020); see also Impact Assessment Agency of Canada, News Release: Public Comments Invited on a Summary of the Initial Project Description, Reference No. 4 (October 13, 2020).

<sup>2</sup> Global Container Terminals, Initial Project Description Summary, Reference No. 2 (September 18, 2020) [IPDS]; see also Global Container Terminals, Initial Project Description, Reference No. 1 (September 18, 2020) [IPD].

indelibly linked to the health of the lands, water and resources within our Territory. This Territory ranges across southern sections of what is now British Columbia – as far east as New Westminster, south to the international border, and west to the southern Gulf Islands. The shore of the Salish Sea and what is now called Roberts Bank, located within TFN Territory and Treaty lands, is the place that the people of TFN have called home for millennia. It is within our Territory and Treaty lands that TFN holds and exercises its Aboriginal rights.

### ***TFN is a Modern Treaty Nation***

The Tsawwassen First Nation Final Agreement (the “Final Agreement” or “TFN Treaty”) is a treaty and land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*. As stated in the Preamble to Final Agreement Canada and British Columbia acknowledge the aspiration of Tsawwassen First Nation to preserve, promote and develop the culture, heritage, language and economy of Tsawwassen First Nation. Further, Canada and British Columbia acknowledge the aspiration of TFN and Tsawwassen people to participate more fully in the economic, political, cultural and social life of British Columbia in a way that preserves and enhances the collective identity of Tsawwassen people as TFN, and to evolve and flourish in the future as a self-sufficient and sustainable community, as reflected in Preamble K of the Treaty.

Treaties establish a mutually agreed-on and enduring framework for reconciliation and ongoing relationships between the Crown and Aboriginal people. The *Statement of Principles on the Federal Approach to Modern Treaty Implementation* affirms that, among other things:

- Modern treaties are a key component of Canadian nation building. Modern treaties are a key component of Canadian nation-building. They promote strong and sustainable Aboriginal communities, and create enduring intergovernmental relationships between treaty partners.
- Modern treaties are reconciliation in action.
- Modern treaty implementation is an ongoing process.
- Modern treaties require ongoing implementation of the obligations therein.
- The implementation of modern treaties must reflect the agreements entered into.
- Modern treaties must be implemented in a manner that upholds the honour of the Crown.
- Through the implementation of modern treaties, Canada supports a set of broad objectives that it shares with its Aboriginal treaty partners, including the promotion of social, economic, and cultural well-being of Aboriginal peoples; and contribution to the development of prosperous and sustainable Aboriginal communities in Canada.

We mention these principles to reinforce what we hope is already clear: the modern Treaty context in which the Project is being proposed must guide the Crown's review of the IPD, the Crown's determination of whether the Project should undergo an impact assessment and all aspects of the assessment itself.

## **II. A Federal Impact Assessment is Necessary**

Given the likely impacts to TFN Treaty rights and culture – in addition to other effects of concern within federal jurisdiction described in the IPD and in this document – TFN requests that Canada require a federal impact assessment for the Project. Additional TFN requests regarding the approach to that assessment are set out in the next section.

***TFN Request 1: that IAAC decide that this Project requires a federal Impact Assessment.***

## **III. Clarity on Crown Consultation is Needed (including immediate consultation on the type of assessment that will be used for the Project)**

Any time the Crown is contemplating conduct that may adversely impact TFN's Treaty rights, it is under an obligation to consult, and at times accommodate, with respect to those potential impacts. That duty is clearly engaged here.

***TFN Request 2: that a Crown consultation and collaboration agreement be co-developed with us immediately for this assessment process. Given the modern treaty context and the nature/location of the Project, this agreement should include procedural and substantive content relating to TFN's free, prior and informed consent.***

The Planning Phase for the proposed Project's EA requires that the issues, concerns or insufficiencies identified by TFN be included within the Summary of Issues. The Proponent must address these issues, concerns or insufficiencies in all future Project materials (including detailed project description) and it ought to be clearly identifiable where such issues, concerns or request for further information have resulted in changes to the Project as proposed. This includes an acknowledgment of these issues, concerns or insufficiencies and the steps that the Proponent proposes to undertake to address them.

***TFN Request 3: that IAAC consult directly with TFN in respect of its issues, concerns and requests prior to providing the Summary of Issues and that the IAAC be prepared, at that time, to identify which of TFN's issues, concerns or requests will be included in the Summary of Issues.***

The *Impact Assessment Act* provides a number of options for how an assessment can be conducted, including new opportunities for Indigenous leadership in assessments. Given the physical setting of the Project, TFN welcomes the opportunity to discuss the possibility of establishing a TFN-led assessment of Project impacts on TFN rights.

***TFN Request 4: that IAAC confirm that it will start working with TFN to explore approaches to the assessment of the Project, including the potential for a TFN-led assessment under the Act. As part of this, TFN requests that IAAC and the Proponent recognize TFN as a jurisdiction capable of assessing the Project's potential environment effects and commit to work with us to identify opportunities for TFN to conduct assessments ourselves and how to include standards relating to TFN's free, prior and informed consent in this IA.***

#### **IV. The Project and Effects Setting Engage Issues that go to the Heart of TFN Culture, Rights and Vision for its Future**

Sections 5 and 6 of the IPD describe some aspects of the TFN setting for the Project and identifies some potential effects of the proposed Project on TFN and its rights.<sup>3</sup> The description of the setting and potential Project-related effects in the IPD, however, are incomplete and require further development.

TFN looks forward to working with governmental authorities and the Proponent to address TFN's concerns with the under-inclusive description of the Project setting and potential impacts to TFN and provide the following commentary to assist with the development of a deeper understanding of the setting and potential range of impacts to TFN.

#### ***Principles for properly considering Project Setting and Impacts on TFN Rights***

A comprehensive understanding of the cumulative effects setting is required: A proposed Project must be considered in the historical and cumulative context in order to meaningfully account for the impacts that have already affected and continue to affect TFN's ability to exercise our Aboriginal and Treaty rights, and also account for the degree to which the ability to exercise these rights has already been lost.<sup>4</sup> This context must form the baseline from which IAAC considers the Project's effects on TFN rights.

Generally speaking, the TFN approach entails taking the time at the outset to confirm information and understanding relating to two critical contextual factors: the conditions (environmental, cultural, social, physical, etc.) a Nation needs to exercise their rights in

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<sup>3</sup> IPDS at PDFs 28-30; see also IPD at PDFs 66-69.

<sup>4</sup> *West Moberly First Nations v British Columbia (Chief Inspector of Mines)*, 2011 BCCA 247 [West Moberly], at paras 237, 241.

a preferred fashion; and how historic and current conditions have deviated from that baseline. After this setting is understood, Project-specific effects can be evaluated.

TFN's perspective is critical when considering the project setting and potential effects:

To meaningfully understand the proposed Project's potential effects on Aboriginal and Treaty rights and, consequently, what mitigations must be required, IAAC must also consider the factors that influence whether and how TFN Members exercise our rights and culture. This includes the need to consider the avoidance of areas and resources that often results from perceived contamination or an incompatibility with cultural values.<sup>5</sup> Thus, it would be improper, inadequate, and unduly restrictive to merely assess the potential environmental effects of the Project as a proxy for effects on TFN's rights.<sup>6</sup> At all times, IAAC must recognize that the health and well-being of TFN Members is tied to our relationship with the waters and resources in and around the Project area and to the exercise of the Aboriginal and Treaty rights for which successive generations of TFN Members have fought for so long.

TFN urges IAAC and the Proponent to adopt the following nine principles when considering the Summary of Issues, detailed project description and Tailored Impact Statement guidelines:

1. The assessor must consider the nature and scope of rights as those rights are asserted, and how the rights might be impacted.
2. Assessing impacts on Aboriginal and Treaty rights requires more than assessing environmental effects on the current use of lands and resources for traditional purposes or on physical and cultural heritage.
3. Assessing impacts on the exercise of Aboriginal and Treaty rights requires understanding the context of historical and contemporary cumulative effects in which rights are exercised. This context needs to be evaluated before looking at Project effects on those rights.
4. The assessment should not be limited to site-specific effects, but must consider all impacts on the exercise of rights.
5. Utilizing an Indigenous perspective and Indigenous knowledge is an imperative.
6. The assessor must consider Indigenous values, norms, and laws, where provided by a community.
7. An assessor must engage the rights-bearing community during an assessment. The selection of methods and indicators for assessing impacts to Aboriginal and

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<sup>5</sup> Joint Review Panel Report, Shell Canada Energy – Jackpine Mine Expansion Project Report – 2013 [Jackpine Report], at para 1790.

<sup>6</sup> Jackpine Report, at para 1801; see also *Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 [Clyde River], at para 45.

Treaty rights must be community driven, where a community has elected to participate.

8. Thresholds and measures to understand the potential effects of a project on the exercise of Aboriginal and Treaty rights and culture are to be utilized where they have been defined by the community.
9. Assessments of impact to the exercise of Aboriginal and Treaty rights should consider a project's contribution to reconciliation.

***TFN Request 5: that IAAC immediately engage with TFN to confirm the approach to considering impacts to TFN's rights that will be used in this assessment in order to inform the summary of issues, the detailed project description and the tailored impact statement guidelines.***

### ***Towards a fuller understanding of the Project setting and effects***

Four pillars of TFN life relevant to the Project setting and preliminary identification of Project effects/issues include: (1) social and human health, including TFN's enjoyment of Tsawwassen Lands; (2) harvesting rights; (3) cultural heritage; and, (4) stewardship and governance. The potential Project-related effects and their impacts on the four pillars of TFN life are summarized below and are followed by TFN's comments on specific potential Project-related effects and concerns arising from TFN's review of the IPD.

#### ***a) Pillar 1 - Social and Human Health***

The social and human health of TFN stands to be significantly and adversely impacted by the Project. These significant and adverse effects of the proposed Project will not be felt for years or even decades. Rather, just as the proposed Project's assets are anticipated to continue to function in perpetuity,<sup>7</sup> so too will the proposed Project's significant and adverse effects be felt by TFN in perpetuity. The proposed new physical infrastructure and changed vessel movements will become a permanent feature of the Territorial landscape, both of which will permanently alienate Tsawwassen Members from an important part of our Territory. Further, given the proposed Project's location and proximity to Tsawwassen Lands, there will be no respite for Tsawwassen Members. The Proponent may be able to leave the Project and its disturbances behind at the end of the day. However, the same cannot be said for the people of TFN. Instead, the "people facing the sea" will be forced to observe our Territory and the solace of our own homes be forever changed by this proposed Project that will be placed upon our doorstep.

The people of TFN have already experienced significant and irreparable change in our Territory and to our way of life that strains our physical and mental health. These impacts from industrial development include: contamination of lands, dust, noise,

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<sup>7</sup> IPDS, at PDF 14.

increased traffic, increased risks of accidents and malfunctions, and increased stress, among other effect pathways. Taken individually and collectively, the cumulative effects of development in TFN Territory constitute a significant adverse effect on the people of TFN and any attempt to frame such significant adverse effects as minor or incremental cumulative effects within an already fractured landscape is an affront to the TFN way of life and belies the historical context of unrestrained and irreparable development.

The simple fact is: traditional resources that are relied upon by the people of TFN to sustain our distinct identity are in steep decline and the place they have called home since time immemorial continues to look and feel less so with each passing day.

### **b) *Pillar 2 - Harvesting Rights***

TFN's right to harvest resources is also put at risk by the proposed Project. The proposed Project will be situated in and impact an important area where the people of TFN hold the right to fish and gather food for social and ceremonial purposes. At present, the Tsawwassen fishery is often unable to harvest the full amount of our allocation. This fact is compounded by a well-known decrease in fish species such as salmon, sturgeon and eulachon, and has resulted in the people of TFN and the Tsawwassen fishery increasingly relying upon crab. As a result, the proposed Project, which is located within the Tsawwassen fishing area, will not only alter the way in which Tsawwassen fishers harvest crab - any potential Project-related effects on these harvesting rights will be felt that much more acutely. The proposed Project also poses a risk to TFN's Treaty right to harvest migratory birds. With continuously diminishing abilities to exercise harvesting rights, any impacts to migratory bird harvesting will produce an overall loss of harvesting ability, the severity of which will continue to grow exponentially due to historic and future development. The significance of this loss must be acknowledged in the EA process.

### **c) *Pillar 3 - Cultural Heritage***

The people of TFN have exercised our rights as a means to sustain and nurture our distinct and intangible cultural heritage since time immemorial. The potential Project-related effects identified by GCT and by TFN place the survival of this cultural heritage and each Member's very sense of self and identity at risk. For example, the people of TFN hold a spiritual relationship with killer whales, including the Southern Resident Killer Whales ("SRKW"), which possess significant and unique cultural values to the people of TFN and our way of life. The proposed Project will invariably impact and alter this relationship as a result of disrupting critical habitat, compounding existing and dire cumulative effects, and further alienating the people of TFN from our Territory more generally.

The proposed Project will also result in increased difficulty for TFN Members to teach our youth about TFN culture and TFN's relationship with the water. The potential effects arising from this loss of inter-generational knowledge transfer does not merely pose the risk of lost opportunity; it presents the very real possibility for a loss of intangible cultural value, identity, and threatens the very existence of the people of TFN as distinct

peoples. The people of TFN have tirelessly endeavored to reclaim the culture and language that was almost lost as result of Canada's history of colonial policy. Any loss of or decreased ability to access Tsawwassen Territory and sea will impact TFN's ability to teach its language, sustain its cultural practices, exercise its rights, and is an affront to the reclamation work that has been and continues to be done by the people of TFN.

#### **d) Pillar 4 – Stewardship and Governance**

TFN is a modern Treaty First Nation and the Final Agreement establishes TFN's constitutionally protected rights of self-governance over its lands, Members, and residents, as well as affirms the rights of the people of TFN to fish, hunt, harvest migratory birds, and harvest plants within defined areas of TFN Territory, and continue the practice of Tsawwassen culture. It is through TFN's exercise of governance and jurisdiction that all proposed projects within Tsawwassen interact with and must be guided by TFN laws, which are rooted in Tsawwassen tradition and culture, including the fundamental connection to Tsawwassen lands and waters. In doing so, TFN continues to advance its vision for a united, proud and confident sense of identity and culture for its Members and future generations. It is within this context and with full consideration for TFN's unique perspective that potential Project-related effects, residual and cumulative, must be assessed.

Despite the current lack of detail provided in the IPD, we understand that the Proponent is supportive of including cumulative effects requirements in the TISG. We note as well that the federal interim guidance on Rights Impact Assessment includes both the need to consider rights from the perspective of the affected Nations, and the need to conduct meaningful cumulative effects on rights assessment as part of context setting prior to the consideration of Project-specific contributions to rights impact assessment.

***TFN Request 6: that IAAC work with us to identify cumulative effects context information requirements for the TISG and identify the Project's and other cumulative effects that will be considered in the summary of issues and in the Detailed Project Description.***

## **V. Additional Comments on the Initial Project Description**

The following comments on the IPD and related requests are intended to ensure that IAAC obtains relevant information for its consideration when developing the Summary of Issues and other key documents that guide the consideration of the Project. As such, the requests are directed to IAAC as the appropriate governmental body duly authorized, except where the comments relate to the Indigenous Engagement section of the IPD.

### **Section 2.1 - Project Components and Activities**

The GCT Container Terminal in Roberts Bank is currently able to handle vessels up to the size of the Ultra Large Container Vessel ("ULCV"), but the current vessels calling



are primarily Post-Panamax. However, section 2.1 of the IPD (Table 2) indicates that the current largest vessel size is Post-Panamax.<sup>8</sup>

***TFN Request 7: that IAAC require further information be provided by the Proponent to provide the rationale for excluding ULCV from the current GCT Deltaport Vessel Calls and Size identified as current to 2020 within Table 2 and that IAAC work with us to determine how ULCV's should be included in the assessment.***

The existing terminal currently has seven vessels calling each week and GCT anticipates this to rise to eight vessels should the Project be approved and constructed. Further, the IPD indicates that GCT expects the vessels calling to be 75% Post-Panamax and 25% ULCV by 2035.<sup>9</sup>

***TFN Request 8: that IAAC require the Proponent to provide further rationale for the commercial requirements underpinning the need for the Project in light of an anticipated increase in calls per annum of approximately 14% and for which only 25% of that 14% increase is anticipated to be ULCV.***

***TFN Request 9: that IAAC confirm that it will assess any potential Project-related adverse effects on marine fish and mammals arising from the anticipated increase in ULCV.***

***TFN Request 10: that IAAC confirm that it will assess any potential Project-related adverse effects on marine fish and mammals arising from an increase in overall vessels calling should the anticipated increase in ULCV calling not occur.***

The Project infrastructure will be designed for a 100+ year service life and is expected to continue to function in perpetuity.<sup>10</sup> As such, the IPD indicates that there is no intention to decommission and abandon the Project.

***TFN Request 11: that IAAC confirm that it will assess alternative scenarios wherein Project infrastructure is required to be decommissioned and abandoned and further assess all necessary decommissioning and abandonment plans should future circumstance require the Project be decommissioned and abandoned.***

## **Section 2.6 - Alternative Means of Carrying out the Project**

Three alternative methodologies were reviewed during the design for the construction of the Project. The IPD indicates that the caisson method requires additional dredging, but avoids pile driving and has a relatively short construction duration on-site. The caisson method also presents advantages with regard to reliability during and after an

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<sup>8</sup> IPDS, at PDF 13; see also IPD, at PDF 25.

<sup>9</sup> *Ibid.*

<sup>10</sup> IPDS, at PDF 14; see also IPD, at PDF 27.

earthquake.<sup>11</sup> The IPD further indicates that the dredge pocket for the Project is anticipated to be approximately 30 hectares ("ha") with additional dredging equivalent to approximately 13 ha in the dredge pocket for DP3 to accommodate larger vessels.<sup>12</sup> The IPD submits that dredging is required to enable ships to access the new berth and that the orientation of the dredge pocket is driven by the berth configuration and the existing dredge channel servicing berths 1 to 3.<sup>13</sup>

***TFN Request 12: that IAAC confirm that it will assess the Proponent's chosen construction methodology, including, but not limited to: (1) the anticipated dredge area required and total dredge volumes for all alternatives; (2) the anticipated construction duration for all alternatives; and, (3) why the DP3 must be further dredged to accommodate larger vessels (i.e., ULCV) when the GCT Terminal is already equipped to handle ULCV vessels.***

The IPD does not adequately address Indigenous involvement in the assessment of Project alternatives. TFN requires commitments from the Proponent for our future involvement in such an assessment as outlined here:

- A. The Proponent commit to work with affected Indigenous groups prior to filing a Detailed Project Description, and using a structured multiple accounts evaluation process, to consider technically and economically feasible alternatives to the Project.
- B. Provision by the Proponent to parties of more detail on any alternative means to undertake the Project that are likely to graduate to a detailed comparison of alternatives, versus options considered that are not technically and economically feasible. While detailed rationale and evidence to support such assertions are not required in the Initial Project Description, TFN recommends that they be provided to the affected Indigenous groups during – not after - the Project planning phase.

## **Section 5.1 - Environmental Setting**

The IPD confirms that a biofilm is produced as diatoms and bacteria settle out of the seawater and bind to the mud on the surface of Roberts Bank, which provides nutrient-rich forage for shorebirds, particularly sandpipers. The IPD indicates that initial assessment shows that the biofilm is predominantly located to the west of the causeway closer to the mouth of the Fraser River, with minimal biofilm in the inter-causeway area.<sup>14</sup> The IPD proposes the avoidance of biofilm as potential mitigation and offsetting measures to address the anticipated pathway of effect on biofilm.

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<sup>11</sup> IPD, at PDF 35.

<sup>12</sup> IPD, at PDF 19.

<sup>13</sup> IPD, at PDF 36.

<sup>14</sup> IPDS, at PDF 19; see also IPD, at PDF 51.

However, the IPD neither specifies which measures will be adopted to avoid biofilm nor does it address concerns previously stated by Environment and Climate Change Canada ("ECCC") in respect of mitigation measures for the potential change to biofilm assemblage composition, wherein it was submitted that any changes to salinity would affect shorebirds and could never be mitigated.<sup>15</sup> The Proponent has also previously relied upon ECCC's submission that, in the absence of such mitigation measures, follow-up monitoring and adaptive management are not credible as no method existed at that time to mitigate these changes in biofilm which would likely be immediate and irreversible.<sup>16</sup>

***TFN Request 13: that IAAC and the proponent engage directly with us regarding the list of past and present environmental studies to identify what gaps remain and how indigenous knowledge will be included in the assessment process.***

***TFN Request 14: that IAAC confirm it will assess the location and abundance of biofilm within the proposed Project area and all potential methods proposed to avoid potential effects on biofilm that are not premised on follow-up monitoring and adaptive management plans.***

The IPD confirms that the Project will be located within the critical habitat of the Southern Resident Killer Whale ("SRKW"). The IPD also confirms that a Conservation Agreement to Support the Recovery of the SRKW has been established between the Government of Canada, VFPA, Pacific Pilotage Authority ("PPA") and five marine transportation industry partners.<sup>17</sup>

***TFN Request 15: that IAAC confirm it will assess whether and how the Project aligns with the objectives of the Conservation Agreement to Support the Recovery of the SRKW.***

***TFN Request 16: that IAAC confirm it will assess whether the Project will limit the survival or population of the SRKW.***

***TFN Request 17: that IAAC confirm it will assess the potential impacts on the survival or population of the SRKW in the event that the anticipated larger vessels do not call at the GCT Terminal and instead the additional capacity is filled by an increase in smaller vessels, similar to or in addition to those vessels that currently call.***

The IPD submits that the Project is supported by a large body of contemporary information, arising from numerous environmental studies that will inform the Project EA. The IPD details various studies within Table 12 and a number of these studies

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<sup>15</sup> Environment and Climate Change Canada, Comments on the Information Relating to the Roberts Bank Terminal 2 Project, Reference No. 581, at PDFs 9-11.

<sup>16</sup> Global Container Terminals, Closing Remarks – Roberts Bank Terminal 2 Project, Reference No. 2035, at PDF 16.

<sup>17</sup> IPDS, at PDF 20; see also IPD, at PDF 18.

remain ongoing. The IPD further notes that other relevant studies have been undertaken that will provide useful information for the EA.<sup>18</sup>

***TFN Request 18: that IAAC confirm its assessment will ensure that all information obtained and studies relied upon present the most recent information available.***

***TFN Request 19: that IAAC confirm its assessment will give equal consideration to all studies relied upon by the Proponent and explain the extent to which these studies informed the IAAC's findings.***

## **Section 6.1 - Potential Environmental Effects**

The IPD identifies changes in wetland habitat within the Project footprint and proposes habitat offsetting as a potential mitigation or offsetting measure.<sup>19</sup>

***TFN Request 19: that IAAC confirm it will assess the Proponent's efforts to engage with Indigenous communities when examining all proposed areas for habitat offsetting.***

### **Section 6.3.1 - Greenhouse Gas Emissions**

The IPD estimates the greenhouse gas ("GHG") emissions from the Project and net emissions or avoided emissions relative to what would occur in the absence of the Project, including forecasted emissions reductions.<sup>20</sup> The IPD GHG emissions assessment does not address emissions or removals that are of consequence to the Project, but which occur at sources or sinks that are not owned or controlled by GCT, including marine shipping, truck and rail locomotive emissions, and are therefore not included within the scope of GHG quantification.<sup>21</sup> The IPD also indicates that the Project is anticipated to produce 168,723 tCO<sub>2</sub>e less total emissions relative to an alternative project required to meet increasing container terminal demand among Canadian west coast ports.<sup>22</sup> The IPD indicates that its GHG emissions assessment has informed the approach taken to estimate the Project's GHG emissions within the IPD.<sup>23</sup>

The Government of Canada's Strategic Assessment of Climate Change ("SACC")<sup>24</sup> confirms that avoided domestic GHG emissions for a project expansion includes reductions resulting from replacing existing infrastructure and equipment, additional mitigation measures advanced that are not reflected within the project's direct GHG

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<sup>18</sup> IPD, at PDF 47-49.

<sup>19</sup> IPDS, at PDF 23; see also IPD, at PDF 55-56.

<sup>20</sup> IPD, at PDF 59.

<sup>21</sup> *Ibid.*

<sup>22</sup> IPD, at PDF 61.

<sup>23</sup> IPD, at PDF 59.

<sup>24</sup> Government of Canada, Strategic Assessment of Climate Change (October 2020) [SACC].

emissions, and that avoided GHG emissions should represent reductions or removals that are real, additional, quantified, verifiable, unique, and permanent.<sup>25</sup>

***TFN Request 20: the IAAC confirm its GHG emissions assessment will not include or rely upon any speculative avoidances or reductions purportedly resulting from the Project advancing in place of any other currently proposed projects that do not yet exist, including the Roberts Bank Terminal 2 Project.***

***TFN Request 21: that IAAC confirm it will require all “alternative projects” and their related GHG emissions to be clearly defined when assessing any purported relative decrease in total emissions.***

The GHG emission estimates within the IPD will continue to be refined and this includes the Proponent exploring the potential for achieving net-zero emissions by 2050 through on-site reduction measures and purchasing offsets.<sup>26</sup>

***TFN Request 22: that IAAC confirm it will assess the use of proposed current best available technologies that are technically and economically feasible such that net-zero emissions may be achieved by 2050.***

### **Section 6.3 - Potential Effects on Indigenous Peoples**

The IPD confirms that the Proponent is committed to continued engagement and consultation with Indigenous communities to better understand how they may be affected by the Project. The IPD acknowledges that only by working with Indigenous communities can the Proponent identify potential effects and work to minimize such effects.<sup>27</sup>

***TFN Request 23: that the Proponent commit to funding the necessary studies required to identify Project impacts TFN and that IAAC confirm that it will assess the completion of necessary studies to be included within the IA in order to allow for the meaningful participation of TFN.***

***TFN Request 24: that the Detailed Project Description be required to include a discussion of how the practice of Treaty rights and culture depend on the status of environmental, human health, and biological conditions in the local study area and regional area, and further information on how these conditions have changed over time as a result of historical and cumulative impacts.***

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<sup>25</sup> SACC, at PDFs 11-13.

<sup>26</sup> IPD, at PDF 61.

<sup>27</sup> IPDS, at PDFs 28-30; see also IPD, at PDFs 66-68.

**TFN Request 25: that a Health Impact Assessment using a holistic health approach with a focus on Indigenous Determinants of Health be conducted during the assessment.**

## **Section 6.10 - Effects of the Environment on the Project**

The IPD notes that a 2011 study for the Government of BC recommended sea level rise planning at levels of 0.5 m to the year 2050, 1.0 m rise to the year 2100, and a 2.0 m rise to the year 2200.<sup>28</sup> It appears that the 2011 study referred to has not been provided in the references contained in section 9 of the IPD nor elsewhere within the IPD.

***TFN Request 26: that IAAC confirm it will require the provision of all materials relied upon by the Proponent, including the above-referenced 2011 study, in support of its reliance on anticipated sea level rise.***

## **Section 7 - Indigenous Engagement**

The IPD indicates that the Proponent anticipates continuous engagement with Indigenous groups during and beyond the review of the IPD and Project's Early Engagement Plan, the development of additional engagement tools as requested or directed by Indigenous communities, to understand and support the capacity required for Indigenous communities to allow for robust participation in the EA process – including ensuring that an appropriate level of resourcing and capacity funding is provided to Indigenous communities when requested. The IPD further acknowledges that local and traditional knowledge is critical to the development of the IPD.<sup>29</sup>

***TFN Request 27: that IAAC require the Proponent to immediately engage with TFN to address capacity funding necessary for TFN's meaningful participation in the Project assessment.***

***TFN Request 28: that IAAC require the Proponent to immediately engage with TFN to identify all opportunities for Indigenous collaboration prior to developing the Detailed Project Description.***

## **Conclusion**

Thank you for considering the above comments of TFN in relation to the Project. We welcome the opportunity to discuss these issues, concerns and requests with you further.

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<sup>28</sup> IPD, at PDF 70.

<sup>29</sup> IPDS, at PDF 33.

Sincerely,

<Original signed by>

**Sheila Williams, Senior Territory Management Coordinator  
Tsawwassen First Nation**