

12. Musqueam Indian Band

Musqueam Indian Band (Musqueam) self-identified as a participating Indigenous nation to the EAO on December 17, 2020. The Impact Statement must include a nation-specific assessment of project effects on Musqueam's Indigenous interests.

Musqueam have stated that:

“Musqueam is a priority rights holder in the project area and distinct nation that stands to be among the most heavily impacted by the project, based on our unique history and relationship with the place the project is located. The project site is in close proximity to some of Musqueam's most sacred, spiritually relevant and culturally significant sites and these sites are considered by many Musqueam, alongside over 125 other named sites, to form a network in the region, critical to Musqueam's cultural continuity.”

The Musqueam-specific assessment should be undertaken in collaboration with Musqueam and follow the provided Methodology for Musqueam Rights Impact Assessment document,⁷ including determining appropriate historical context and baselines and a key role for Musqueam in the determination of the seriousness of project-specific and cumulative infringements on Musqueam rights.

- Principle 1: The methodology for the assessment of impacts on rights should be informed by or, where possible, developed in collaboration with the rights-holding Indigenous group.
- Principle 2: The assessment must consider the nature and scope of rights, as those rights are asserted, and how the rights might be impacted.
- Principle 3: The focus of Rights Impact Assessment is on potential impacts to Musqueam rights, not on environmental effects.
- Principle 4: Assessing new project-specific impacts on the exercise of Musqueam rights requires understanding the context of historical and contemporary cumulative effects in which rights are exercised. How conditions supporting the opportunity to exercise rights have changed over time must be evaluated in order to understand the potential severity of new project-specific effects on those rights.
- Principle 5: The impacts of the project on the exercise of Musqueam rights should be assessed in a broad sense, inclusive of any type of potential project effect on the conditions that support the continuity of rights and way of life.
- Principle 6: The assessment must consider Musqueam's perspective and knowledge.
- Principle 7: The assessment must consider Musqueam values, norms and laws, as provided by Musqueam.
- Principle 8: Musqueam will lead the selection of methods and indicators for assessing impacts on Musqueam rights.
- Principle 9: Thresholds and measures to understand the potential severity of effects of a project on the exercise of rights and culture are to be utilized where they have been defined by Musqueam.
- Principle 10: The potential effectiveness of proposed mitigation and off-setting measures (“mitigation measures”) must be determined through a collaborative analysis undertaken by Musqueam and other appropriate parties, based on existing evidence and examples from current projects. Where a proposed mitigation measure is unprecedented, and/or where there is a high level of uncertainty as to its effectiveness, the assessment will include an estimation of its potential effectiveness to reduce residual effects.

⁷The provided methodology is non-project specific and provides a starting point for a Musqueam-specific assessment that considers the relevant project-specific components for assessment. The Proponent, Impact Assessment Agency of Canada, and BC Environmental Assessment Office must work with Musqueam to develop a project-specific assessment approach that meets the requirements and timelines of the assessment process for the Project and aligns with Musqueam's governance processes.

Table 13.11 An eleven-step process is proposed to determine the severity of impacts on Musqueam rights as a result of the proposed project.

Rights Impact Assessment Steps	
Establish Context	1. Identify potential impacted rights and study boundaries
	2. Establish historical context
	3. Establish current conditions
	4. Identify future conditions and opportunities for future use
	5. Identify thresholds of acceptable change
Assess Project Effects	6. Identify potential project-rights interactions and analyse potential project effects
	7. Identify mitigations and evaluate effectiveness
	8. Identify project-specific residual effects on rights
	9. Identify cumulative effects on rights
Determine Severity of Impacts	10. Characterize net residual impacts
	11. Determine severity of impacts

Musqueam have stated that, for the valued components (VCs) that Musqueam identifies as being of particular concern, the Proponent must work with Musqueam to identify the appropriate spatial and temporal boundaries to ensure the effects on Musqueam's territory are adequately assessed, along with the relevant past, existing and future projects/activities. This is particular true for any relevant cumulative effects assessment area.

Musqueam have stated that the Proponent should work with Musqueam to ensure any assessment of cumulative effects adequately considers the relevant context in which the project occurs, as it relates to Musqueam's rights. This includes collaborating with Musqueam on the list of 'other physical activities that have been or will be carried out' that will be used to assess cumulative effects.

Musqueam have also indicated that the Proponent should work with Musqueam to conduct the studies necessary to ensure Musqueam Indigenous knowledge is available, and work directly with Musqueam to ensure it is effectively and appropriately incorporated into the assessment.

Table 13.12 contains a preliminary description of Musqueam's Indigenous interests and potential effects on those interests. While it may be necessary to discretely define interests for the purpose of conducting the impact assessment, in reality, Musqueam's Indigenous interests are deeply interrelated. Musqueam's rights, territory, knowledge and practices all support and rely each other and are essential for supporting Musqueam's distinct culture. Just as these concepts are inextricably interrelated, impacts on them are as well. There is both negative and positive feedback loops that are reinforced when these practices are disrupted or practiced.

In this way, cultural continuity is a foundational and overarching value for Musqueam that is maintained or impacted through the other Musqueam rights and interests. For Musqueam, cultural continuity is the ability of Musqueam people to maintain their distinct culture, including the transmission of knowledge across generations and maintaining place-based knowledge, language, oral histories and traditions and practices. Therefore, project's effects on other Musqueam interests may also impact Musqueam's cultural continuity and, as a result, must be assessed accordingly.

Table 13.12 Musqueam-Specific Potential Effects on Indigenous Interests

Preliminary Indigenous Interests	Preliminary Potential Effects
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Fishing Rights	Interference with Musqueam Indian Band's constitutionally protected right to harvest fish to meet its food, social, economic, and ceremonial requirements as the project
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area is the historical and contemporary preferred fishing area of Musqueam Indian Band.

Reduction in Musqueam Indian Band members' abilities to freely access preferred resources and waters in the area as a result of project restrictions.

Effects on traditional food sources from the contamination of shellfish, including crab. Effects on fishery resources and subsequent effects on Musqueam Indian Bands economic rights to marine fisheries.

Changes to the abundance, distribution or quality of resources relied upon to engage in harvesting and subsistence activities.

Heritage Resources

Effects on Musqueam heritage objects, sites and intangible heritage resources due to project construction and operation

Effects on Musqueam access to heritage objects, sites and intangible heritage resources due to project construction and operation

~~Effects on cultural heritage sites due to project construction and operation.~~

Effects on Musqueam Indian Band's sense of place and identity as a result of:

- changes to valued places and place characteristics from increases in marine traffic, noise disturbances, and ecological changes; and
- avoidance of the area caused by increases in marine traffic, hydrological and ecological changes, and noise disturbances.

Effects on the ~~ability to traverse~~quality of experience of traversing to and between cultural heritage sites and other important sites to Musqueam.

Effects on culturally important species, including, but not limited to Dungeness crab, white sturgeon, orca, salmon, and migratory birds. These species are important to Musqueam's cultural continuity, sense of place and identity and intergenerational knowledge transfer.

Sense of Place and Identity

Interference with Musqueam Indian Bands ability to connect with their cultural heritage due to direct and indirect project effects on fishing, ceremonies, gathering, traditional food consumption and other cultural practices.

Disruption to the ability for Musqueam Indian Band to live by šxʷtəhím (i.e. ways, manners, and customs) and snəwəyət (i.e. teachings received since childhood, including identity and responsibilities)

Increased psychological and emotional stress due to reduced ability to access resources in a safe manner.

~~Effects on biodiversity and traditional food species and habitats, which are incongruent with Indigenous law.~~ Effects on biodiversity, traditional food species, and habitats, which are incongruent with Musqueam norms and laws.

Changes in the importance or value of cultural use sites and areas. Physical disturbance of cultural, heritage, archaeological, paleontological, and architectural sites, including through changes to:

- physical and cultural heritage;
- access to physical and cultural heritage;
- cultural value, spirituality, or importance associated with physical and cultural heritage; and
- sacred, ceremonial culturally important places, objects, or things, including languages, stories and traditions.

~~Effects on Musqueam's heritage resources, including intangible cultural resources, physical heritage resources and heritage sites.~~

Visual aesthetics over the life of the project and post-project abandonment or decommissioning.

Increased interruptions to knowledge transmission and lost opportunities to transmit knowledge due to the loss of access and quality of access to the area.

Changes in the currency of Musqueam Indian Band knowledge from the rapid environmental change caused by project activities.

Effects on culturally significant aquatic species (e.g. Dungeness crab, white sturgeon, orca, salmon, and migratory birds) and subsequent effects on cultural continuity including intergenerational knowledge transfer.

Effects on traditional and rights-based activities including Sparrow fishing rights, and subsequent effects on intergenerational knowledge transfer.

Effects on the use of travel ways, navigable waterways and water bodies.
Effects on the cultural practice of distributing food to community members and elders.

Effects on air quality at sensitive receptor sites identified by Musqueam.

Effects of atmospheric noise on sensitive receptors or at sensitive receptor sites identified by Musqueam.

Effects of underwater noise on sensitive receptors or at sensitive receptor sites identified by Musqueam.

Effects on the cultural continuation of food sovereignty.

Increased risks to human health as a result of changes in the ability of Musqueam Indian Band members to exercise their rights to make use of the Fraser River and Salish Sea for fishing, travel, harvesting, and other activities.

Human Health

Effects on Indigenous health due to:

- sensory disturbances due to increased noise and light levels;
- decrease in air quality due to air emissions;
- potential safety risks due to increased traffic; and
- effects of vibrations from blasting or other activities.

Changes to access and stewardship of marine species and food harvesting.

Effects on food harvesting and food security and subsequent effects to community health well-being.

Effects on availability and quality of traditional foods.

Changes to the experience when exercising an Indigenous interest, including presence of visual disturbances, changes in air quality, effects of vibrations, and acoustic disruption.

Effects on human health must consider impacts on community well-being from disruptions to participating in traditional and rights-based activities as a result of the project.

Effects on Musqueam Indian Band's historical use and control of the Fraser River as recognized in the 1990 R. v. Sparrow decision.

Compounding effects of industrial development projects, urbanization, and environmental stressors on the resources, lands, and waters.

~~Effects of shipping traffic on Indigenous nations' ability to exercise Indigenous interests.~~ Effects of the Project and project-related shipping traffic on Indigenous nations' ability to exercise Indigenous interests.

~~Changes to access and stewardship of marine species and food harvesting.~~ Changes to access and stewardship of marine and terrestrial species, food harvesting and cultural heritage resources.

Changes to Musqueam Indian Band's ability to access locations and resources in their traditional lands and waters.

Governance
Role

Changes to Musqueam Indian Band's ability to exercise Musqueam decision-making authority within and over Musqueam territorial lands and waters more broadly, including Roberts Bank and interrelated parts of the Fraser River Estuary.

~~Effects on biodiversity, traditional food species, and habitats, which are incongruent with Indigenous law.~~ Effects on biodiversity, traditional food species, and habitats, which are incongruent with Musqueam norms and laws.

Changes in the ability to manage and make decisions in accordance with traditions, cultures, governance, and/or practices, now and in the future.

Effects from the project and project-related mitigations and activities to Musqueam Indian Band's traditional governance protocols and relationships with neighbouring Indigenous nations.

Impacts on Musqueam Aboriginal title lands from the project or project-related activities.

Economic losses from project effects on marine resource harvesting which effects Musqueam Indian Band's economic well-being.

[Economic losses from project effects on Musqueam's traditional economies, Musqueam lands or other economic interests.](#)

Economic
Activities

Effects on Indigenous and economic rights to marine fisheries and commercially licensed fishing, hunting, trapping, and gathering.

Economic benefits from the project through business opportunities and employment.

[Impacts on Musqueam Aboriginal title lands from the project or project-related activities](#)

Effects on the ability of Musqueam people to maintain our distinct culture, including the ability to transmit knowledge and practices intergenerationally by undertaking the activities that facilitate that transfer.

Effects on the ability of future Musqueam generations to maintain cultural continuity, including the ability to continue rights-based practices and fulfil their responsibility as stewards of Musqueam territory.

Cultural
Continuity

[Effects on the cultural continuation of food sovereignty](#)

[Effects on foreseeable projects and activities related to Musqueam's stewardship vision for Musqueam territory, including ecological and cultural revitalization initiatives.](#)

[Effects on culturally important species, including, but not limited to Dungeness crab, white sturgeon, orca, salmon, and migratory birds. These species are important to Musqueam's cultural continuity, sense of place and identity and intergenerational knowledge transfer.](#)