



GITXAALA NATION

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Phone 250-848-2214 Fax 250-848-2238

September 21, 2021

Stephanie Soebagio
Impact Assessment Agency of Canada

Emailed to Stephanie.Soebagio@iaac-aeic.gc.ca

Re: Ksi Lisims LNG Early Engagement

Gitxaala Nation, through the Gitxaala Territorial Management Agency (GTMA), has reviewed the Impact Assessment Agency of Canada's (IAAC) correspondence of July 21, 2021, regarding the Ksi Lisims LNG – Natural Gas Liquefaction and Marine Terminal Project (the Project) that entered the IAAC's planning phase when the Initial Project Description (IPD) was posted on the Canadian Impact Assessment Registry on July 21, 2021.

GTMA staff have reviewed the Project's IPD and the resulting comments and questions from that review are captured in the attached table and the key initial concerns can be summarized as follows:

- Gitxaala is uncertain how the 3 assessment processes (Nisga'a, provincial and federal) will interrelate, and which authorities have ultimate jurisdiction for the oversight and management of Project should it be approved i.e., during construction, operation, and decommissioning.
- Gitxaala Nation is particularly interested in the assessment of all potential Project effects on the marine environment throughout the full Project lifecycle.
- It is unclear if all route options for the electrical and natural gas transmission lines to the site and the associated impacts will be included within the scope of the Project's assessment.
- Gitxaala is pleased to hear that the Project is aiming to be Net Zero within 3 years of start up, however the initial Project Description does not provide an understanding of the Proponent's plan to reach the Net Zero target.

More information about these concerns and other initial comments on the IPD can be found in the table. We trust these questions and comments will be addressed in the Detailed Project Description, or prior to it during ongoing engagement.

Request for Substitution of Provincial Process

The GTMA has also received and reviewed your email of August 6, 2021, regarding the BC Environmental Assessment Office's request to substitute a federal impact assessment with a provincial environmental assessment (EA) of the Project. Gitxaala Nation has participated in several substitutive reviews for similar projects (e.g. Aurora LNG, WCC LNG, Grassy Point LNG)



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and has some concerns based on those experiences. Most significantly, we have seen some key areas of concern for Gitxaala that fall under federal jurisdiction, i.e. the marine environment, be inadequately assessed due to a lack of complete and fulsome participation from federal authorities in the substitutive process. However, we understand this review will be conducted under the new provincial EA Act, and that the Nisga'a Nation and other Proponents are supportive of the substitution request to avoid unnecessary process duplication. As such Gitxaala Nation does not oppose the substitution request and we trust that the appropriate federal authorities will participate meaningfully and in good faith throughout the process and after, if the Project is approved.

Thank you for your attention to these concerns and please contact me if any further clarifications are necessary. We look forward to continuing to work with Ksi Lisims and the IAAC to provide a rigorous review process of the proposed Project.

Kind regards,

<Original signed by>

Samantha Wagner
Manager of Regulatory Affairs
Gitxaala Nation

CC:

Bruce Watkinson, Managing Director, director.GTMA@gitxaalanation.com
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Initial Project Description

N o.	Section	Comment
1	Introduction & Overview, p. vii	Please clarify if carbon offset opportunities have been identified?
2	Project Benefits, p. vii	Any pipeline benefits should not be considered in any estimation of project benefits as they are being treated as separate projects.
3	Project Benefits	What opportunities for Indigenous community equity participation in the pipeline are being looked at? What about the facility?
4	Project Benefits, p. viii	This section must include references to support these claims. More information is needed about how the Proponent reached the global carbon emission reduction numbers.
5	Regulatory and Policy Context, p. viii	Gitxaala Nation is not involved in the First Nations Climate Initiatives and as such is not aware of the policy objectives.
6	Indigenous Nations..., p. viii	This section should record the Indigenous Nations that engagement has been initiated with, instead of the statement "Participating Indigenous Nations will be identified as per applicable legislation and provincial and federal guidance"
7	1. Introduction	How will the project ensure the continued growth and vitality of other Indigenous groups as stated?
8	1. Introduction	What is the MTPA total of full build out? Please confirm the Ksi Lisims assessment will look at the largest scale option i.e. 4 trains?
9	1. Introduction	More information is needed from the Proponent about how the Net Zero goal is proposed to be achieved and further how it will be factored in to the assessment?



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10	1. Introduction	GTMA staff would also be interested to review the assumptions used to support the Net Zero target. And does Net Zero consider the full project stream, e.g. including GHG emissions from shipping?
11	1. Introduction	It should be noted in the Introduction that both pipeline options will require substantial amendments to their certificates
12	1.1 Proponent Information	What entity will be responsible for leading engagement as the project develops after the creation of the separate corporate entities?
13	1.2 Project Objectives & Benefits	While the global offset of fossil fuel sources to LNG represents an improvement to global GHG emissions, a new LNG export facility, and it's associated shipping and pipeline activities do not assist provincial, federal or local communities, including Gitxaala, in meeting GHG emissions targets.
14	1.2 Project Objectives & Benefits	Again, it must be noted that the benefits to First Nations listed here does not at present represent any economic benefit to Gitxaala Nation.
15	2.1 Location	How will the Water Lot lease change jurisdictional oversight in the marine environment? Please include a map showing the full extent of Pearse Island between pages 6-8.
16	2.2 Activities and Components	Gitxaala is interested in all planned activities and components, with an emphasis on those related to the marine footprint, marine infrastructure, and shipping activities stemming from all stages of the project.
17	2.2 Activities and Components	What are the "supporting infrastructure and facilities" referenced in key components?



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18	2.2 Activities and Components	Not only will the proposed pipelines need to amend to facilitate connection to the site, they will need to reroute considerably from their currently permitted location. This should be referenced.
19	2.2 Activities and Components	Has BC Hydro confirmed that it is able to supply the facility with the required power? If a feasibility study is required, more information about this, it's timing and how it will be factored in the assessment should be included.
20	2.2 Activities and Components	How and to what degree will this backup onsite power generation be included in the assessment?
21	2.2 Activities and Components	The third party sub-sea transmission interconnection should be considered within the scope of the assessment as it is a requirement of the project to proceed as proposed.
22	2.3 Construction	Gitxaala is particularly interested in plans for any dredging in Portland Canal and at the Project site. All dredging options must be included in the assessment.
23		Please clarify if there are contaminated sediments present in and around the water lot. If this is unknown, please provide additional information about how and when this will be determined in the assessment.
24	2.3 Construction	It should be noted that due to the construction of the FLNGs being done overseas limits the local direct and indirect economic benefits, as well as limits engagement and training and employment opportunities for Gitxaala.
25	2.3 Construction	How will carbon leakage, from overseas construction, be included in the assessment?



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26	2.3 Construction	Will both options for housing the construction workforce be explored in the assessment? Gitxaala notes there will be no on-site effluent discharge into the marine environment during construction. Where are potential sewage treatment facilities? Will this component be included in the assessment? Including the barging effects? Will these emissions be offset?
27	2.3 Construction	Will local landfills be utilized for construction? If so, which ones and will they be included in the assessment?
28	2.5 LNG Shipping	Vessel traffic is understood to have myriad potential effects, including noise effects on marine mammals and potential impediments to traditional harvesting. It is imperative that all sources of vessel traffic, including tugboats, be included meaningfully in the shipping portion of the assessment.
29	2.6 Decommissioning	Will emissions related to decommissioning and construction be offset as well?
30	2.7 Emissions, Discharges & Waste	Gitxaala notes it is not yet determined whether or not there will be discharges of treated effluent during operations; and, is particularly interested in plans for any effluent discharges into the marine environment.
31	2.7 Emissions, Discharges & Waste	What are 'single cargoes'?
32	2.7.2. Operations, p. 17	Gitxaala is particularly interested in plans for any liquid or hazardous discharges into the marine environment during operations.
33	2.8 Land & Water Use	Gitxaala has concerns with the release of brine from desalination units into the marine environment.



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34	2.9 Schedule	Gitxaala does not agree with the statement that "there are no known seasonal activities in the region that would impact the Project schedule" and suggests the Proponent include considerations of location-based bird, fish and wildlife spawning and migratory seasonality in all Project scheduling.
35	2.11.2. Marine Terminal Design	Gitxaala is particularly interested in, and concerned about, plans for any dredging and construction in all marine areas.
36	2.11.3. Electric Power Supply, p. 23	Gitxaala is concerned with marine disturbance caused by sub-sea electricity transmission cable and strongly recommends the electrical transmission cable route options be included in the assessment.
37	2.11.4. Pipeline	Gitxaala is particularly interested in reviewing seafloor route options for the gas transmission pipeline to the Site during the review process.
38	3.2 Marine Communities and Species	Minimization of impacts to eulachon and salmon spawning routes and habitat are priorities for the Gitxaala Nation to ensure continued access to marine resources and support food security.
39	3.2 Marine Communities and Species	While there may not be notable concentrations of cetaceans in the Project vicinity, there is certainly a strong likelihood that individuals or groups may be encountered, given their documented usage of the surrounding area. This includes some SARA listed and provincially red/blue listed species such as Harbour porpoise, Northern Resident killer whale and Northern Transient Killer whales. This section should be reworded so that cetacean and marine mammal area usage is reflected. This level of acknowledgement was provided for sea turtles, which are less likely to encounter, so it is unclear why this was not applied to cetaceans and marine mammals.



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40	3.6 Biophysical Data & Reports	Gitxaala strongly recommends against relying on outdated (>5 years) secondary sources for the purposes of this EA/IA and expects specific baseline data will be collected to ground the Proponents understanding of current biophysical marine conditions and trends. Please clarify if the field studies for WCGT and PRGT were completed in 2014, or just the finalization of the reports?
41	4.1 Project Proximity to Communities	Please clarify if the ferry that is expected to run for Gingolx to the project will be included in the assessment?
42	4.1 Project Proximity to Communities	The last paragraph of this section indicates Gitxaala members " may ... come into these marine waters in pursuit of recreational, commercial, and Indigenous fisheries". This is not an accurate representation of Gitxaala's ongoing access and use of these waters in the exercise of section 35 rights, please update the language to reflect this fact.
43	4.1.1.5. Gitxaala Nation, p. 35	Please clarify where this map was obtained from
44	4.2. Land & Marine Use Planning	This section should also include reference to and consideration of the 2016 Great Bear Rainforest Land Use Objectives Order for the protection of Old Forest and red and blue-listed plant communities.
45	4.4. Land & Water Use	<p>Gitxaala suggests an addition to this section regarding the vital importance of the Nass Area for food, social and ceremonial fisheries of all local Indigenous Nations, not only the Nisga'a Nation.</p> <p>Gitxaala is particularly interested in monitoring increases to medium to large vessel traffic throughout Gitxaala territorial waters, and the potential cumulative effects of increased vessel traffic from ongoing development at the Port of Prince Rupert.</p>



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46	4.4.3. Past & Present Marine Use	Gitxaala would like to understand what jurisdictional implications the proposed Water Lot will have for ongoing monitoring and management over the life of the project. For example, what would the terms of the lease be and does a water lot lease grant the leaseholder the right to restrict public access?
47	5.1 Potential Project Interactions	Gitxaala looks forward to the DPD to review and provide feedback on the methodology and rationale used to determine the interim interaction ratings provided in Table 6.
48	5.2 assessment area definitions	Does the MSAA include anchorages for waiting to offload/leave?
49	5.3 Baseline Studies - Table 8	Anything that may be impacted by marine shipping should be included and marine mammals should include the MSAA. Underwater acoustics, metocean and marine use - does this extend all the way to triple? Based on this list it is unclear what studies utilize the MSAA.
50	5.4.1 Potential Environmental Effects	Where is the list of projects that will be considered for CE assessment? Why is GHG not mentioned but air quality is? Project operations on the FLNG may result in increased acoustic disturbance in water - this should be included.
51	5.4.2 Potential Social & Economic Effects, p. 44	Further, the project has the ability to increase pressure on resources and places vital to indigenous Nations. Gitxaala recommends the Proponents commit to collaboration, rather than simply engagement, with impacted Indigenous Nations throughout the lifecycle of the Project. Such a commitment would increase the confidence of the Nation that any potential project effects on the Gitxaala Nation will be meaningfully and adaptively managed to their satisfaction.
52	5.4.3. Potential Heritage Effects	Note this section ends with a typo "...change find procedures" should be "chance find procedures"



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53	5.4.4. Potential Health Effects	Gitxaala recommends a Health Impact Assessment approach be considered within the EA/IA process to evaluate the public health consequences of the Project, in addition to potential human health impacts.
54	5.4.5 Potential effect...on Indigenous Peoples	Gitxaala is interested to understand more about the methodology of the Chapter 10 assessment of the Project and if/how the results of that assessment will be extended to potential project effects on other Indigenous Nations. For example, will the VCs listed in Table 9 be applied for assessments on project effects on other Indigenous Nations?
55	5.4.5 Potential effect...on Indigenous Peoples	Please clarify why is eulachon not also included in the "marine" fish VC in Table 9?
56	5.5 Potential Effects...Requirements of the IAA	This sections indicates DFO and ECCC will need to be involved as expert federal authorities in the IA, what about Transport Canada?
57	6 Legislative and Regulatory Context	Gitxaala is uncertain how the 3 assessment processes (Nisga'a, provincial and federal) will interrelate and which authorities have ultimate jurisdiction for the oversight and management of project effects after the project has been approved (i.e. during construction, operation and decommissioning).
58	6.2 Provincial EA	Please explain why the Project does not meet the trigger for an "offshore oil or gas facility" under Part 4 - Energy Projects of the 2019 EAA Reviewable Projects Regulation.
59	6.4 ...Biophysical Data	How will the reports included in Table 10 that are listed as "NLG-Confidential" be factored into the assessment or will other baseline studies be completed in lieu of publicly releasing sensitive community information?



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60	Table 9 - Anticipated Permits, p. 51	Would a Licence to Cut also be required (from FLNRORD) for upland clearing during Phase 1? Why is the water lot lease included in Phase 2, not Phase 1, in Table 11? Gitxaala understands a permit from Canada Energy Regulator (CER) is also required to export LNG from Canada.
61	6.7 ... Agreements with Indigenous Nations	The federal Reconciliation Framework Agreement for Bioregional Oceans Management and Protection signed by the Government of Canada and 14 First Nations including Gitxaala should be referenced given linkages to Proactive Vessel Management, among others. (https://pm.gc.ca/en/news/backgrounders/2018/06/21/reconciliation-framework-agreement-bioregional-oceans-management-and#:~:text=June%2021%2C%202018.%20Prince%20Rupert%2C%20British%20Columbia.%20Through,marine%20planning%20initiatives%20in%20the%20Northern%20Shelf%20bioregion.)
62	6.7.2.3. Natural Gas Benefit Agreements	Please note Gitxaala Nation and the Province of BC have signed the following agreements: - Gitxaala Natural Gas Pipeline Benefits Agreement (PRGT, 2014) - Gitxaala Natural Gas Pipeline Benefits Agreement (WCGT, 2014)
63	6.9 Compliance with BC and Fed Gov GHG Management Policies	Please explain why the Project GHG emissions are considered under the "industry" sectoral targets and not the "oil and gas" sectoral targets. Note the final paragraph of this section includes an error, the <i>GHG Reduction Targets Act</i> was retitled the <i>Climate Change Accountability Act</i> in 2007, not the <i>Greenhouse Gas Accountability Act</i> as stated on p. 66.



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64	7.4 Preliminary assessment of potential impacts...	<p>Please add "and waters" to the second bullet listing potential project impacts to Indigenous Nations as a result of changes to environment.</p> <p>Gitxaala would prefer to see a commitment to collaborative development of mitigation measures and management plans, as opposed to development based on comments received.</p> <p>Gitxaala respects the constitutionally protected treaty rights of the Nisga'a Nation and notes that Gitxaala also has constitutionally protected section 35 rights that must be respected.</p>
65	7.5 IPD Alignment with Other Indigenous Nation Interests	<p>Gitxaala Nation has not been party to the policy development of the FNCI, as such the Nation is not aware of the detailed content of any relevant policies or protocols, including the "Net Zero" GHG target for new LNG/gas projects and any protocols for domestic carbon offsets. Gitxaala is interested to understand how FNCI policies fit within existing provincial and federal policies.</p> <p>How is the Project "achieving local...climate change targets"?</p>
66	7.6 Summary of Planned Engagement Activities with Indigenous Nations	<p>please see comments on "Engagement Plan" tab</p>



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67	9.1 Safety Philosophies	Human health assessments should consider the broader social determinants of health and thus be completed for all potentially impacted First Nations, regardless of proximity to facilities. Gitxaala notes that baseline monitoring of country foods in the zone of influence of the marine infrastructure should meet RISC standards and the raw data should be made available to the Nation.
68	9.1 Safety Philosophies	Exclusion zones should be noted in the IPD where relevant as they essentially extend the project footprint via limiting access .
69	9.1 Safety Philosophies	Will Gitxaala receive a copy of the Quantitative Risk Assessment for review?
70	9.2 Accidents & Malfunctions	In Gitxaala's experience, this section, which represents the most significant of potential effects, is often overlooked and the assessment of accidents and malfunctions is routinely underrated and/or ignored. Gitxaala requests that all worst-case scenarios, must be included in a Project risk assessment.
71	9.2 Accidents & Malfunctions	Any and all potential incidents from project-related marine activities, at the project site and along the marine shipping route, should be considered for a complete assessment of accidents and malfunctions. Gitxaala requests that Accidents and Malfunctions related to shipping (e.g. groundings, collisions, etc.) must be assessed specifically for relevant VCs (e.g. terrestrial wildlife, marine birds, human health, marine habitat, marine fish, etc.)
72	9.2 Accidents & Malfunctions	Inciting incidents may lead to a domino effect, such that one accident may precipitate another. Gitxaala requests this section indicate whether domino effects (as considered in assessing product storage associated with the Trans Mountain Expansion project) have been considered. If so, what are they? If not, what is the rationale for excluding them.



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73	9.2 Accidents & Malfunctions	Gitxaala community members are especially concerned with the lack of jurisdictional response in the event of a major accident. In our experience, more time and money are spent trying to attribute blame than in remediating that actual effects. Gitxaala recommends the Proponent be required to provide an environmental fund/bond to finance clean-up measures in the event of a spill etc. This should be based on a 'worst-case' scenario, and the requirement should be outlined in the review process.
74	9.2 Accidents & Malfunctions	Gitxaala request this section include the intention to consider seasonal and lunar/tidal windows, where appropriate. Special attention should be paid to these windows when planning for Accidents or Malfunctions. Particular attention should be placed on times when critical life cycle or harvesting windows may be affected by the proposed project.
75	10. Effects of the Environment on the Project	Weather-related events should be included in considerations and planning for accidents & malfunctions, particularly with respect to the marine shipping route.
76	Appendix 2	The legend on this map is illegible.

Engagement Plan

N o.	Section	Comment
1	1.Introduction, bottom p. 1	The objectives for the EP listed at the bottom of page 1 should also include the identification of key issues of concern during early engagement.
2	2.1 Project Description	Please include a map of the shipping route described on p. 3.
3	2.1 Project Description, Figures 1-3	Please include a map with an extent showing all of Pearse Island, i.e. a more applicable extent between Figure 1 and Figures 2/3.



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4	2.2. Project Proximity to Local Communities, p. 8	Gitxaala Nation also has unceded section 35 aboriginal rights in the vicinity of the Project
5	3.1 Engagement Principles, "Support", p. 9	Gitxaala is of the view that a consideration of capacity funding for participation in ongoing adaptive monitoring and management throughout the full lifecycle of the Project, not limited to the EA/IA Process.
6	3.4 Inclusive Engagement, non-English speakers	Has there been consideration of providing engagement material in Sm'algyax?
7	4.2.2 Indigenous Nations	Gitxaala Nation also has unceded section 35 aboriginal rights in the vicinity of the Project
8	4.5.2.3. Natural Gas Benefit Agreements	Please note Gitxaala Nation and the Province of BC have signed the following agreements: - Gitxaala Natural Gas Pipeline Benefits Agreement (PRGT, 2014) - Gitxaala Natural Gas Pipeline Benefits Agreement (WCGT, 2014)
9	4.6.1.3 Next Steps	Gitxaala welcomes the opportunity to work with the Proponent to identify a Gitxaala-specific assessment approach for potential project effects on the Nation.