

Federal Authority Advice Record (FAAR)

The FAAR must be submitted to the Registry by December 20, 2023.

Cooper Cove Marine Terminal Expansion Project – Port of Argentia

Registry reference no.: 86128

Department/Agency	Indigenous Services Canada (ISC)
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1. a) 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.

No. Indigenous Services Canada (ISC) is not responsible for approving or issuing licenses, permits or authorizations for the assessments of major projects.

- b) Please describe any Indigenous or public consultation that will be undertaken in relation to the exercise of that power, duty or function, including when it would take place.

Not applicable.

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

Specify the specialist or expert information or knowledge.

Although this project is not on reserve land, ISC may have specialist or expert information or knowledge relevant to potential adverse effects, and how the project will affect traditional practices for local Indigenous groups.

Indigenous Services Canada has a mandate to support Indigenous people (First Nations, Inuit and Métis) in their efforts to improve social well-being, health and economic prosperity; to develop healthier, more sustainable communities; and to participate more fully in Canada's political, social and economic development.

The First Nations and Inuit Health Branch (FNIHB) at ISC has specialist or expert information or knowledge pertaining to First Nations and Inuit in Canada. Areas of expertise include, but are not limited to: the provision of health services; community health and wellness programs; drinking water quality on First Nation reserves; and the social determinates of health (such as mental health and addictions, language, diet, chemical contamination of traditional foods or the perception of contamination).

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3. Has your department or agency 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?

Please specify if applicable.

Not applicable.

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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: an enquiry about methodology, guidance, or data; introduction to the Project)?

Please provide an overview of the information or advice exchanged.

To the best of our knowledge, ISC has had no previous contact or involvement with the proponent or other parties in relation to the proposed major project.

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5. Does your department or agency have additional information or knowledge about the project not specified above, including information about its geographic, environmental, economic or social context (for example, location of protected or sensitive areas, history between local communities and proponent or similar projects, local or regional social or economic concerns)?

Please specify if applicable.

Not applicable.

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6. From the standpoint of your department's mandate and expertise, what are the main issues concerning the project?

For each key issue, please:

- describe the effect or the nature of the issue, including any relevant context;
- provide the rationale and/or evidence for why it is a key issue;
- briefly provide solutions to the issue, including information or studies that, if applicable, should be requested to the proponent in the Tailored Impact Statement Guidelines, potential mitigation measures, or regulatory requirements relevant to the issues;
- provide a concise, plain-language summary of the issue for inclusion in the Summary of Issues.

The information provided will be taken into consideration by the Agency to formulate an opinion on whether an impact assessment is required and, if applicable, will be taken into account in developing project-specific Tailored Impact Statement Guidelines in the next steps of the impact assessment process.

Please use Table 1 to answer this question.

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7. If applicable, specify any additional information the proponent could provide in the Detailed Project Description or in its response to the Summary of Issues that:
- would make it possible to verify whether certain minor issues could be addressed and managed by clear measures, existing guidelines, other regulatory processes or other existing tools;
 - help the Agency to provide an opinion if an impact assessment is required, or
 - would support the tailoring of the Impact Statement Guidelines if the Agency is of the opinion that an impact assessment is required.

These clarifications and additional information will be included as specific questions/issues in the Summary of Issues provided to the proponent.

Please use Table 2 to answer this question.

Indigenous Services Canada
Name of department or agency involved

Dr. Constantine Tikhonov
Speaker title

December 20, 2023
Date

Table 1: Key issues to inform the impact assessment process

The Agency asks that federal authorities guide expert advice on the Agency's approach to project specific tailoring, if the Agency is in the opinion that an impact assessment is required. This approach aims to focus the assessment on the Project's key issues, with an emphasis on the prevention of adverse environmental effects in areas of federal jurisdiction. In determining key issues, federal authorities should be mindful of the Project's context (size, scope, location), Indigenous knowledge and perspectives, and public concerns.

Potential effects that are considered minor, or that can be mitigated through clear measures, existing guidance or other regulatory processes, may be subject to simplified information requests or be disregarded. Advice from federal authorities on key issues and solutions - and on the scope and detail of the studies and information requested - will enable the Agency to focus the analysis on those issues that are important for the impact assessment process.

Comment ID	Relevant section of the initial project description	Valued Component or Factor to Consider	Description of key issue (context and rationale)	Advice	Plain-language summary for inclusion in Summary of Issues
<p>Please present comments by organization and comment number e.g.: IAAC-01</p>	<p>If the comment relates to a specific section of the initial project description, please provide the reference.</p>	<p>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential effect or issue applies.</p>	<p>Please provide a brief description of the issue and rationale for being a key issue.</p> <p>Include, where relevant:</p> <ul style="list-style-type: none"> the sequence of potential effects; the relevant context that specifies why this is a key issue; key uncertainties that should be addressed in the impact assessment; Indigenous or public concerns or perspective; scientific data or traditional knowledge, including from previous projects, that justifies the inclusion of the key issue in the project assessment. 	<p>If applicable, please provide brief solutions/advice to address the issue or potential effect, including:</p> <ul style="list-style-type: none"> studies or information relevant to describing and characterizing the potential effect, including any guidance for data collection or analysis or existing data sources to inform the assessment; any powers your department or agency has that may mitigate, manage or set conditions related to the issue; advice or policies to frame and mitigate the potential effect; standardized mitigation or monitoring measures that could manage potential effects, including follow-up on monitoring activities; Commitments the proponent could make to respond to the issue. 	<p>For issues to be included in the Summary of Issues, provide a concise, plain language synopsis of the key issue and any questions or directions for the proponent, if applicable.</p>
<p>ISC-01-FNIHB-NCR</p>	<p>2.4 (4) Indigenous Engagement; 6.6.5 Indigenous Rights</p>	<p>Aboriginal Rights and Title; Indigenous Engagement</p>	<p>Section 2.4 (4) <i>Indigenous Engagement</i> states the following on:</p> <ul style="list-style-type: none"> Page 15, "Neither First Nation has asserted land claims or has historically used lands near Placentia"; and Page 16, "The IAAC has committed to providing funding for participation efforts to both Miawpukek First Nation and the Qalipu Mi'kmaq First Nation through the Government of Canada Participant Funding Program for Impact 	<p>The proponent must formally engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on the potential adverse impacts the project may have on their Aboriginal rights and title. These formal engagements and their outcomes should be adequately described in the Detailed Project Description. It is also suggested that the proponent engage in discussions and consult with the relatively new organisation, Mi'kmaq First Nations Assembly of Newfoundland, as they aim to represent collective interests of Mi'kmaq people.</p>	<p>Miawpukek First Nation and Qalipu Mi'kmaq First Nation have not provided feedback on the project or been formally engaged by the proponent. The proponent must formally engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on the potential adverse</p>

			<p>Assessment. Though neither the Miawpukek First Nation nor the Qalipu Mi'kmaq First Nation have provided any feedback regarding the Project to the Proponent at this time, the POA is committed to working with the First Nations in the event that concerns or issues arise regarding the Project.”</p> <p>Throughout the Initial Project Description, the proponent states that they have not received feedback from Miawpukek First Nation or Qalipu Mi'kmaq First Nation on the project and that they have not found documentation that suggests these First Nations practice Aboriginal or Treaty Rights in the Local Assessment Area or Placentia region. As a result, the proponent suggests that the project will have a low impact on Miawpukek First Nation and Qalipu Mi'kmaq First Nation's Aboriginal rights and title.</p> <p>In order to make this statement, the proponent must first formally engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on the potential adverse impacts the project may have on their Aboriginal rights and title.</p>		<p>impacts the project may have on their Aboriginal rights and title. These formal engagements and their outcomes should be adequately described in the Detailed Project Description. Consider engaging with the Mi'kmaq First Nations Assembly of Newfoundland.</p>
ISC-02-FNIHB-NCR	6.3.1 Impact on Physical and Cultural Heritage and Traditional Land Use; 6.4 (22) Health, Social or Economic Conditions	Traditional Foods and Diet; Food Security; Indigenous Engagement	<p>Section 6.3.1 <i>Impact on Physical and Cultural Heritage and Traditional Land Use</i> states “Based on available public information and consultations undertaken with the Indigenous peoples of Canada, no direct impact on the physical and cultural heritage of the MFN or any other Indigenous communities is anticipated” (page 66).</p> <p>Section 6.4 (22) <i>Health, Social, or Economic Conditions</i> states “Taking into consideration the distance between the PDA and the MFN reserve lands, as well as data from public sources and engagement sessions with Indigenous communities, no notable changes to the health, social, or economic conditions of the MFN or other Indigenous peoples in Canada are projected as a result of the Cooper Cove Marine Terminal Expansion” (page 66).</p>	<p>The proponent should engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on their current and traditional use of the coastal and marine regions of Placentia Bay (e.g., traditional activities, subsistence harvesting, commercial fishing). In addition, the proponent should engage with the First Nations on the potential flora and fauna they harvest and consume from the coastal and marine regions of Placentia Bay (e.g., eelgrass, seabirds, shorebirds, marine mammals, fish, crustaceans).</p> <p>Question:</p> <ul style="list-style-type: none"> Will the project have adverse impacts on the traditional practices, traditional diet, or food security of Miawpukek First Nation and Qalipu Mi'kmaq First Nation? 	<p>It is unclear if Miawpukek First Nation and Qalipu Mi'kmaq First Nation use the coastal and marine regions of Placentia Bay for traditional activities, subsistence harvesting or commercial fishing. If used for subsistence harvesting, it is unclear what plants and animals are harvested and consumed by the First Nations. The proponent should engage the First Nations on these topics.</p> <p>Question:</p>

			<p>It is unclear what consultations/engagement sessions the proponent is referring to in these sections. In Section 2.4 (4) <i>Indigenous Engagement</i> the proponent clearly states that they have not met with or received feedback on the project from Miawpukek First Nation and Qalipu Mi'kmaq First Nation.</p> <p>It is also unclear whether Miawpukek First Nation and Qalipu Mi'kmaq First Nation use the coastal and marine regions of Placentia Bay for traditional activities, subsistence harvesting or commercial fishing. The First Nations may not have traditional land use of the Placentia region, however they could have current or historical use of the coastal or marine regions of Placentia Bay. Furthermore, information is required on the traditional diets and foods consumed by Miawpukek First Nation and Qalipu Mi'kmaq First Nation, specifically the flora and fauna potentially harvested from the coastal and marine regions of Placentia Bay (e.g., eelgrass, seabirds, shorebirds, marine mammals, fish, crustaceans).</p>	<p>If Miawpukek First Nation or Qalipu Mi'kmaq First Nation express concerns about access to Placentia Bay for traditional food harvesting or food security, it is recommended that the proponent conduct a Traditional Food and Consumption Survey.</p>	<ul style="list-style-type: none"> Will the project have adverse impacts on the traditional practices, traditional diet, or food security of Miawpukek First Nation and Qalipu Mi'kmaq First Nation? <p>If the First Nations express concerns about access to Placentia Bay for subsistence harvesting or food security, it is recommended that the proponent conduct a Traditional Food and Consumption Survey.</p>
ISC-03-FNIHB-NCR	6.6.8 Navigation Impacts	Aboriginal Rights and Title; Health and Safety of Indigenous Peoples; Food Security	<p>Section 6.6.8 <i>Navigation Impacts</i> states "An expanded marine wharf could increase vessel traffic, both from larger commercial ships and potentially more frequent smaller vessel movements. This heightened traffic could lead to congested waterways, potentially posing challenges for existing marine operators, especially those engaged in fishing activities, as they navigate their routes. Increased traffic necessitates modifications to navigation channels or the introduction of new marine traffic regulations and protocols to ensure safe and efficient movement".</p> <p>It is unclear how the increase in marine vessel traffic, from large and small vessels, will impact Aboriginal rights, fish and fish habitat, and First Nation fishers (i.e., subsistence harvesters, commercial fishers). More information is required on the potential effects of marine vessel traffic on the ability of First Nation fishers to safely</p>	<p>The proponent should engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on how the increase in marine vessel traffic may impact their Aboriginal rights and fishers (e.g., ability to safely navigate Placentia Bay, access to current and future fishing opportunities).</p> <p>The proponent should include mitigation measures in their Detailed Project Description to ensure that access by First Nation fishers to Placentia Bay for subsistence and/or commercial fishing is not restricted; or that restriction is minimized.</p> <p>Questions:</p> <ul style="list-style-type: none"> Will the increase in marine vessel traffic have an adverse impact on the health and safety of First Nation fishers (e.g., ability to safely navigate Placentia Bay, food security)? 	<p>It is unclear how the increase in marine vessel traffic will impact Aboriginal rights, fish and fish habitat, and First Nation fishers (e.g., subsistence and commercial fishers). The proponent should engage with Miawpukek First Nation and Qalipu Mi'kmaq First Nation on these topics.</p> <p>In addition, the proponent should include mitigation measures in their Detailed Project Description to ensure that access by First Nation fishers to Placentia</p>

			<p>navigate Placentia Bay, as well as on their access to current and future fishing opportunities. The proponent is required to provide mitigation measures that are technically and economically feasible and that would mitigate any adverse effects of the project. Therefore, the proponent should include mitigation measures in their Detailed Project Description to ensure that access by First Nation fishers to Placentia Bay for subsistence and/or commercial fishing is not restricted; or that restriction is minimized.</p>	<ul style="list-style-type: none"> • Will the increase in marine vessel traffic have an adverse impact on fish and fish habitat (e.g., habitat destruction and degradation, vessel noise, introduction of aquatic invasive species, water pollution, changes to fish migration routes)? • What mitigation measures will the proponent implement to reduce the impacts of increased vessel traffic on Aboriginal rights, First Nation fishers, and fish and fish habitat? <p>Resources:</p> <ul style="list-style-type: none"> • Nelitz, M., H. Stimson, C. Semmens, B. Ma, and D. Robinson. 2018. Impacts of marine vessel traffic on access to fishing opportunities of the Musqueam Indian Band. Prepared for the Musqueam Indian Band 	<p>Bay for subsistence and/or commercial fishing is not restricted; or that restriction is minimized.</p> <p>Questions:</p> <ul style="list-style-type: none"> • Will the increase in marine vessel traffic have an adverse impact on the health and safety of First Nation fishers (e.g., ability to safely navigate Placentia Bay, food security)? • Will the increase in marine vessel traffic have an adverse impact on fish and fish habitat (e.g., habitat destruction and degradation, vessel noise, introduction of aquatic invasive species, water pollution, changes to fish migration routes)? • What mitigation measures will the proponent implement to reduce the impacts of increased vessel traffic on Aboriginal rights, First Nation fishers, and fish and fish habitat?
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ISC-04	6.6.6.6	Changes to economic conditions	<p>In order for the Government of Canada to reach its goals of economic reconciliation with Indigenous People, it is important to include Indigenous considerations in the planning of major projects.</p> <p>This project will have employment and training opportunities, as well as potential impacts to Indigenous commercial fisheries. Potential impacts may also be experienced by Indigenous people living off-reserve in the project area.</p>	<p>Employment and procurement strategies that address meaningful, lasting benefits to Indigenous people are needed. This should be addressed in the DPD and through consultations with the impacted First Nations. Proponent should identify a communications plan for making employment and training benefits known to local Indigenous population living off-reserve who may be interested.</p>	<p>Identify Indigenous procurement and employment strategies for all phases of the project, including for Indigenous individuals residing in surrounding areas.</p> <p>Identify engagement strategy for Indigenous individuals who hold commercial fishing licenses in the project area, to assess impacts to commercial fisheries.</p>
ISC-05	6.4 (22)	Socioeconomic impacts on Indigenous Peoples	<p>In order to assess the potential impacts to Indigenous peoples socioeconomic conditions, it is important to gather detailed information on these conditions. Only with adequate data - disaggregated by Indigenous community and with GBA+ considerations- can these impacts be identified, mitigated, and monitored over time; including in the context of cumulative effects from projected regional development over the coming decades.</p>	<p>Proponent should gather more detailed socioeconomic data of the surrounding Indigenous population (on and off-reserve) that can inform a baseline, and the development of benefits and mitigation measures, as well as future monitoring of community wellbeing. This should be done with the potentially impacted communities, if possible.</p>	<p>Identify a baseline data collection strategy for Indigenous socioeconomic conditions.</p>

Please insert additional lines if necessary.

Table 2. Details or additional information the proponent could include in the Detailed Project Description or in the response to Summary of Issues

Comment ID	Relevant section of the Initial Project Description	Description of the Issue, Concern or Uncertainty	Clarifications or additional information	Plain-language summary for inclusion in Summary of Issues
<p><i>Please identify comments by organization and comment number.</i></p> <p><i>e.g. AEIC-01</i></p>	<p><i>If the comment is related to a specific section of the Initial Project Description, please provide a reference.</i></p> <p><i>You may also choose to copy the relevant text here.</i></p>	<p><i>Provide a description of the issue, concern or uncertainty that the proponent could include in its Detailed Project Description, which could be framed and managed by clear measures, existing guidelines, regulatory processes or other existing tools, and thus be the subject of a simplified information request in the guidelines, or simply be disregarded.</i></p>	<p><i>Specify what additional information the proponent could provide in the Detailed Project Description to address the issue, concern or uncertainty, for example:</i></p> <ul style="list-style-type: none"> <i>• Clarifications to elements of Project Description (e.g. components, activities, locations or alternatives);</i> <i>• Proposals on Project design changes that could avoid effects;</i> <i>• Evidence that could demonstrate that the effects will be negligible;</i> <i>• Evidence that standard mitigation measures will reduce or eliminate potential effects;</i> <i>• Commitments the proponent could make to respond to the question/issue, including the implementation of federal operational policies or guidance documents.</i> 	<p><i>For issues to be included in the Summary of Issues, provide a concise, plain-language synopsis of the issue and any questions or instructions for the proponent, if applicable.</i></p>
<p>ISC-06-FNHB-NCR</p>	<p>4.5 (13e) Projects Proximity to Lands of Significant for Indigenous Peoples</p>	<p>Section 4.5 (13e) <i>Projects Proximity to Lands of Significant for Indigenous Peoples</i> does not include the distance between the project location and Miawpukek First Nation. For this project, calculating the distance by road travel is irrelevant; due to Newfoundland's road network. Since the project will mainly affect coastal and marine regions in Placentia Bay, it would be more useful if the proponent provided distance using a 100-150 km radius from the project location; to see if there is overlap with traditional territory or land/marine use.</p>	<p>Instead of providing distance, via road travel, between the project location and Miawpukek First Nation, the proponent should demonstrate distance using a 100-150 km radius from the project location. This radius should be applied to Miawpukek First Nation and Qalipu Mi'kmaq First Nation's traditional territory or land/marine use.</p> <p>Questions:</p> <ul style="list-style-type: none"> • Do members of Miawpukek First Nation and Qalipu Mi'kmaq First Nation access coastal and marine regions of Placentia Bay via small marine vessels? • Does Miawpukek First Nation and/or Qalipu Mi'kmaq First Nation's marine territory or use overlap with the project area? 	<p>For this project, the proponent should not provide distance using road travel as a measurement. It would be more useful if the proponent demonstrated distance using a 100-150 km radius from the project location. This radius should be applied to Miawpukek First Nation and Qalipu Mi'kmaq First Nation's traditional territory or land/marine use.</p>

ISC-07-FNIHB-NCR	6.6.5.1 Food, Social and Ceremonial Fishing	<p>This comment is related to ISC-FNIHB-NCR-02.</p> <p>Section 6.6.5.1 <i>Food, Social and Ceremonial Fishing</i> states “In a search conducted by DFO in 2023, they concluded that both MFN and QMFNB have fishing interests in Northwest Atlantic Fisheries Organization (NAFO) Subdivision 3Psc, which overlaps Placentia Bay (DFO 2016). Specifically, Miawpukek First Nation holds both FSC licences and Aboriginal, Commercial Communal licences in 3Psc. Based on information provided by DFO in 2023, Mi’kmaq Alsumk Mowimsikik Koqoey Association, representing both Miawpukek First Nation and Qalipu First Nation Band, holds only Communal Commercial fishing licences for 3Psc. DFO has indicated that in the 3Psc subdivision, Atlantic cod, snow crab, lobster, sea cucumber, whelk, scallop, and Atlantic and Greenland halibut are species of interest to these organizations. Therefore, impacts to the FSC Fishery right must be considered in the context of this Project“ (page 77).</p> <p>The right to fish for food, social and ceremonial purposes by First Nations is protected under Section 35 of the Constitution. From this description on page 77, it appears that Miawpukek First Nation does practice traditional activities and subsistence harvesting in Placentia Bay. In addition, that Miawpukek First Nation and Qalipu Mi’kmaq First Nation both have Communal Commercial licences. In relation to comment ISC-FNIHB-NCR-02, the proponent should include more information on the First Nations’ current and traditional use of the coastal and marine regions of Placentia Bay, as well as their traditional diets and foods consumed in the Detailed Project Description.</p>	<p>The proponent should engage with Miawpukek First Nation and Qalipu Mi’kmaq First Nation on how the potential increase of marine vessel traffic in Placentia Bay may affect their Aboriginal rights; as the right to fish for food, social and ceremonial purposes is protected under Section 35 of the Constitution.</p> <p>The proponent should engage with Miawpukek First Nation and Qalipu Mi’kmaq First Nation and provide more information the following in the Detailed Project Description:</p> <ul style="list-style-type: none"> • Current and traditional use of the coastal and marine regions of Placentia Bay; • The potential adverse impacts the project may have on fish and fish habitat in Placentia Bay; • The potential adverse impacts the project may have on First Nation subsistence and commercial fishers (e.g., FSC licenses, Communal Commercial licenses, food security). 	<p>Miawpukek First Nation and Qalipu Mi’kmaq First Nation have FSC Licenses and Communal Commercial licences in Placentia Bay. The project may have potential adverse impacts on the health, wellbeing and livelihoods of First Nation harvesters and commercial fishermen. The proponent should engage with Miawpukek First Nation and Qalipu Mi’kmaq First Nation on these topics.</p>
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Please insert additional lines if necessary.