

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	Fisheries and Oceans Canada
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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.

Authorization under sections 34.4(2)(b) and 35(2)(b) of the *Fisheries Act* may be required for proposed works, undertakings, or activities, other than fishing, that are likely to result in the “death of fish” and/or “the harmful alteration, disruption or destruction of fish habitat.”

In addition, DFO assesses the impacts of projects on aquatic species at risk and/or their critical habitat(s), under sections 32, 33 and subsection 58(1) of the *Species at Risk Act*. Based on the initial project description, it is likely that a species listed in Schedule 1 of this Act will be present

- 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.

Should an authorization be required following submission of the application, the duty to consult and, where appropriate, accommodate aboriginal communities, whose aboriginal or treaty rights may be affected by regulatory decisions made under the *Fisheries Act* and the *Species at Risk Act*, is required under section 2.4 of the *Fisheries Act*. This may include consultation and/or accommodation on potential impacts on Canada's aboriginal peoples and/or the traditional use of territories and resources in relation to fish and fish habitat. As for public consultations, DFO does not currently provide opportunities for public participation prior to the issuance of an authorization, however information on the authorization issued will subsequently be made available to the public via the *Fisheries Act* registry. DFO will also support the Impact Assessment Agency during consultations, Indigenous and public, on matters relevant to our mandate.

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.

Yes.

DFO recommends that the proponent review the following relevant guidance documents:

- [Canada Gazette, Part 2, Volume 153, Number 17: Authorizations Concerning Fish and Fish Habitat Protection Regulations](#) – August 2019
- [Policy for applying measures to offset adverse effects on fish and fish habitat under the Fisheries Act \(dfo-mpo.gc.ca\)](#) - December 2019.
- [Best Management Practices for the Protection of Freshwater Fish Habitat in Newfoundland and Labrador \(dfo-mpo.gc.ca\)](#)
- [Measures to protect fish and fish habitat \(dfo-mpo.gc.ca\)](#).
- Map of aquatic species at risk. [Aquatic species at risk map \(dfo-mpo.gc.ca\)](#)
- Species at Risk Public Registry. [Species at risk public registry - Canada.ca](#)
- [Aquatic Invasive Species Regulations \(dfo-mpo.gc.ca\)](#)

Various other relevant documents are available at the following link:

ENG: <https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-eng.html>

DFO can provide information or expertise on the assessment of effects on fish and fish habitat in relation to the *Fisheries Act*. DFO can provide information to the proponent to avoid and mitigate adverse effects of proposed works, undertakings, or activities. If required, DFO can assess the offsetting measures that will be proposed to offset residual effects on fish and fish habitat. Information is already available at <https://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-fra.html>.

In addition, DFO can also provide specialized information or knowledge on the assessment of effects on aquatic species at risk and their habitat, under the *Species at Risk Act*, and on aquatic invasive species, fisheries, marine mammals, sea turtles and other aquatic resources.

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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.

No, DFO has not exercised a power or performed a duty or function under any Act of Parliament or taken any course of action.

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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)?

DFO Fish and Fish Habitat Protection Program - Regulatory Review Group had a meeting on March 9, 2023 with Dillon Consulting, the consultant working on the Project for the Port of Argentina. The meeting provided an opportunity for DFO to present advice on the project review.

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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.

No.

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.

See Table 1.

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.

See Table 2.

Sara Lewis

Name of department or agency involved

Manager, Regulatory Reviews
Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada

Speaker title

20 December 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><i>Please present comments by organization and comment number</i></p> <p><i>e.g.: IAAC-01</i></p>	<p><i>If the comment relates to a specific section of the initial project description, please provide the reference.</i></p>	<p><i>Identify valued component(s) or factor to consider—within the mandate of your department or agency—to which the potential effect or issue applies.</i></p>	<p><i>Please provide a brief description of the issue and rationale for being a key issue.</i></p> <p><i>Include, where relevant:</i></p> <ul style="list-style-type: none"> • <i>the sequence of potential effects;</i> • <i>the relevant context that specifies why this is a key issue;</i> • <i>key uncertainties that should be addressed in the impact assessment;</i> • <i>Indigenous or public concerns or perspective;</i> • <i>scientific data or traditional knowledge, including from previous projects, that justifies the inclusion of the key issue in the project assessment.</i> 	<p><i>If applicable, please provide brief solutions/advice to address the issue or potential effect, including:</i></p> <ul style="list-style-type: none"> • <i>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;</i> • <i>any powers your department or agency has that may mitigate, manage or set conditions related to the issue;</i> • <i>advice or policies to frame and mitigate the potential effect;</i> • <i>standardized mitigation or monitoring measures that could manage potential effects, including follow-up on monitoring activities;</i> • <i>Commitments the proponent could make to respond to the issue.</i> 	<p><i>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.</i></p>
<p>DFO-01</p>	<p>Section 4.7.6 Marine Environment</p>	<p>Fish and Fish Habitat Aquatic Invasive Species</p>	<p>There are currently seven known Aquatic Invasive Species (AIS) in Newfoundland and Labrador. These species include: Vase Tunicate (<i>Ciona intestinalis</i>), European Green Crab (<i>Carcinus maenas</i>), Golden Star Tunicate (<i>Botryllus schlosseri</i>), and Violet Tunicate (<i>Botrylloides violaceus</i>), Coffin Box Bryozoan (<i>Membranipora membranacea</i>), Japanese Skeleton Shrimp (<i>Caprella mutica</i>), and Oyster Thief (<i>Codium fragile</i>). All of these species are located in Placentia Bay, at varying locations. Caution is warranted to prevent the</p>	<p>It is advised that the proponent characterize the potential presence of AIS in the marine environment.</p> <p>It is recommended that the proponent review information on Preventing aquatic invasive species (dfo-mpo.gc.ca) and to follow the provided guidance on construction in aquatic environments.</p> <p>To control the spread of invasive tunicates, it is imperative to Clean, Drain, and Dry gear and equipment</p>	<p>Include description of AIS in the general area, assess impacts and describe mitigation measures to manage AIS movement during construction and operations.</p> <p>With regards to AIS, DFO will provide mitigations</p>

			<p>further spread and distribution of these species to uninvaded areas.</p> <p>AIS can be introduced and spread to new areas by transporting sands and sediments from other areas and using contaminated construction equipment. Heavy machinery, such as harvesters and dredges, can also spread AIS if the equipment is not properly cleaned, drained, and dried between projects.</p> <p>The proponent does not characterize or address the risks of the presence of aquatic invasive species (AIS) in the project marine environment or the risks related to their introduction and/or movement. Construction barges will be moving between areas, equipment will be coming and going from other areas and vessel traffic will increase with operations. These are all potential pathways for the movement of AIS.</p> <p>In addition, a Disposal at Sea (DAS) location is not yet selected. DAS could heavily promote movement of AIS to other unaffected areas. This should be a key consideration in DAS site selection.</p>	<p>used for construction activities after use in the area. More information on Clean, Drain Dry can be found at: Clean, drain, dry and decontaminate (dfo-mpo.gc.ca)</p> <ul style="list-style-type: none"> - Caution should be taken that plant and animal material and water is disposed of on land and no materials go back into the water. - The use of anti-fouling paint is also effective in reducing the risk of tunicate spread. To prevent these invasive biofouling organisms from growing on new structures, as well as on vessels, anti-fouling paint is recommended. <p>A disposal location for dredged sediment needs to be identified. As the movement of dredged material, including sediment and marine water, to other ocean areas poses the risk of introducing AIS to new non-invaded areas; it is preferred that dredged material be disposed of on land.</p> <p>As per Section 10 of the Aquatic Invasive Species Regulations, it is prohibited for any person to introduce an aquatic species into a particular region or body of water frequented by fish where it is not indigenous unless authorized to do so under federal or provincial law. It is recommended that the proponent familiarize themselves with the Aquatic Invasive Species Regulations.</p> <p>A disposal location for dredged sediment needs to be identified. As the movement of dredged material, including sediment and marine water, to other ocean areas poses the risk of introducing AIS to new non-invaded areas; it is preferred that dredged material be disposed of on land.</p> <p>See: Aquatic invasive species (dfo-mpo.gc.ca)</p> <p>See: https://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2010/2010_033-eng.html</p> <p>See: Oceans Atlas of Human Use (dfo-mpo.ca)</p>	<p>during the Request for Review/<i>Fisheries Act</i> authorization processes.</p> <p>Proponent should contact the AIS program to report an AIS or determine steps to help prevent the spread of AIS.</p>
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DFO-02	<p>Section 2.3.1 Organizations Identified for Engagement to Date</p> <p>Section 6.6.6.3 Economic Impacts</p>	Fisheries	<p>There is general lack of fisheries organizations listed in “Organizations Identified for Engagement”.</p> <p>Mentions low activity fishing area but demonstrates low level of consultation with industry and Indigenous Groups.</p> <p>Lack of consultation with harvesters and processors in 3Ps. The Initial Project Description indicates that there are potential impacts on the marine environment during both construction and operations due to noise, increased vessel traffic, etc. Although indicated ‘Cooper Cove’ is not a known fishing area, the impact of vessel traffic would be well beyond the terminal itself. There are over 20 core DFO Small Craft Harbour (DFO-SCH) fishing wharf facilities in operation in Placentia Bay and 4 that are within 10km or less of the proposed project site (Fox Harbour, Jerseyside, Placentia and Ship Harbour).</p> <p>Similarly, the accounting of economic impacts does not seem to consider potential income loss for harvesters due to increased vessel traffic and habitat disturbance.</p> <p>This project is taking place in a scallop closed area. It is closed all year long to recreational scallop fishing and closed March 31 - September 1 for commercial harvesters for Lobster habitat protection measures. It is advised that Lobster harvesters are consulted regarding this.</p>	Increasing and continued engagement with local harvesters, DFO-SCH Harbour Authorities, Fish Food and Allied Workers (FFAW), and Indigenous Groups holding commercial and food, social, and ceremonial (FSC) licenses in the area.	Lack of information on potential impacts on fisheries. Continue to engage with local harvesters and Harbour Authorities to better understand potential impacts of construction/ operations and increased vessel traffic at and near the port and identify any mitigation measures that would reduce these impacts.
DFO-03	General	Marine Environment	General lack of information on marine sediment management for dredging operations and the potential impacts of the project on the marine environment from disposal at sea.	Recommend updating document to include management options for marine dredge sediments.	Include dredge sediment disposal in description of project components and assess potential impacts/mitigation measures.
DFO-04	Section 4.7.7 & Table 8 Species at Risk	Species at Risk	<p>In order to adequately discuss effects on species at risk, additional aquatic species at risk and species of conservation concern should be noted, such as Acadian Redfish (Atlantic), Thorny Skate, and White Hake.</p> <p>Some species population names are missing.</p>	<p>It is advised that all species at risk and species of conservation concern with the potential to occur in the project vicinity are described.</p> <p>Ensure species listed in Table 8 are consistent with the text.</p>	Missing SAR/SoCC information. Edit list/Table 8 as required.

				It is advised to include Population names with species throughout the document where relevant, e.g., Blue Whale (Atlantic).	
DFO-05	Section 6.6.4.1 Species at Risk	Marine Environment Species at Risk	It is stated “While <i>the presence of SAR and sensitive habitats or the use of the area for SAR to reside, feed, stage, or overwinter are not found on the Argentina Peninsula (VBNC 2002)</i> ”. As this reference is quite old, additional justification is recommended to confirm that SAR and sensitive habitats do not occur in the vicinity of the Project.	Provide additional information to justify this statement. If SAR and/or sensitive habitats are present, describe potential effects and add mitigation measures throughout effects assessment section.	Update presence/absence data for SAR/Critical Habitat at project site and add to document as required to support effects assessment. Add DFO to be consulted with regards to developing mitigation plans for species at risk.
DFO-06	Section 3.3.1.2 Procurement and Design-Build	Project Components	<i>During the project's design-build phase, all new infrastructure and activities planned to take place on port-owned land will be identified. It's important to note that plans for new land-based infrastructure and activities will not be known until the completion of this phase.</i>	How will these land-based components be assessed for impacts? All new infrastructure associated with this project will need to be described at the permitting phase in order to fully describe and characterize the potential effects of project components on VC's.	Missing information on project components and potential impacts. Recommend including descriptions at the permitting phase.
DFO-07	General	Fish and Fish Habitat	The only potential effects of the project on fish and fish habitat are those related to the marine environment. Until the proponent knows exactly whether or not quarry blasting is required and where it will occur, potential project interactions with fish and fish habitat can't be fully understood. The IPD states that “ <i>Alternatively, the POA may require sourcing infill materials from other means such as “quarrying of a quarry material” ...</i> ” Until the proponent knows exactly whether or not quarry blasting is required and where it will occur, potential project interactions with fish and fish habitat can't be fully understood. Dust from construction operations (infilling, equipment/traffic on dirt roads) can further impact surrounding aquatic environments, particularly in an	Consider including impacts of project dust and/or quarry blasting on fish and fish habitat in the interactions table and adding mitigation measures to Table 22.	Describe all project components to reassess impacts on fish and fish habitat.

			environment that has no vegetation to buffer the movement of dust to wetlands and/or freshwater environments further away from the project. Argentia Pond is located within 1.6km of the project.		
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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>e.g. AEIC-01</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>
DFO-08	Appendix B	Engagement Log: Ross <u>Hinks</u> name spelled incorrectly (spelled as Ross Hicks).	Correct the spelling to Ross Hinks (row 1 column 3).	N/A
DFO-09	p.61, Section 5.4.1 p.100-101, Sections 6.8.2 & 6.8.22 p. iv, TOC – Figure 7	Dredging misspelled as <u>dreading</u> several times throughout the document.	Correct spelling of dredging throughout document.	N/A
DFO-10	p.29, Section 3.3.1.3,	<i>Further details on the activities to be <u>carries</u> out during the construction of the project are provided in the following sections.</i> Change to “carried”	Correct spelling.	N/A

DFO-11	p. 37, Section 3.6.2,	<i>Following the section explores potential alternatives to the project, keeping the overarching goal and purpose of the project in mind...</i> Should be "The following section explores..."	Rearrange sentence.	N/A
DFO-12	p.109, Section 6.8.3.3	Implementation of alternative for <u>show</u> power...	Correct to "shore" power	N/A
DFO-13	p.61, Section 5.4.1	"This entire process, integrating avoidance, mitigation, and offsetting guided by the DFO ensures that the Project adheres to <u>Section 5(2)(b) of the CEA Act, 2012</u> when obtaining authorization under Section 35(2) of the Fisheries Act."	Update to reference IAA.	N/A
DFO-14	p.49, Section 4.7.6, Marine Environment	It is stated " <i>Nearshore habitats in Placentia Bay are home to various species like anemones, barnacles, sponges, sea urchins, sand dollars, mussels, scallops, hermit crabs, lobsters, and small (LGL 2007) and 14 groundfish species...</i> ". There appears to be a word missing after "small".	Missing word, revision recommended.	N/A
DFO-15	p. 49, Section 4.7.6, Marine Environment	<i>Commercial fishing in Placentia Bay is conducted year-round, with peak harvesting months in June and July (Husky Energy 2012).</i> Husky 2012 fishery information is outdated.	Update description of fisheries in Placentia Bay.	N/A
DFO-16	pp. 54-55, Section 4.7.7, Species at Risk, Table 8	For Harbour Porpoise, no SARA status should be given as it is not on Schedule 1. Align Table 8 with list in Section.	Revision recommended for Table 3.	N/A
DFO-17	p. 48, Section 4.7.6, Marine Environment	Discussion of sensitive habitats and special areas could be moved to its own section.	Revision recommended.	N/A
DFO-18	p. 111, Table 24	Overall lack of mitigation measures to reduce potential adverse impacts to marine species at risk.	Revision recommended.	N/A
DFO-19	p.61, Section 5.4.2	Red Crossbill is misspelled.	Correct spelling.	N/A
DFO-20	p.91, Section 6.6.6.7	"...on a monthly basis throughout the construction period <u>600broken</u> out by National Occupational Classification Code..."	Correct error.	N/A

Please insert additional lines if necessary.