

Federal Authority Advice Record (FAAR)

The FAAR must be submitted to the Registry by March 18, 2024.

Summit Lake PG LNG Project – JX LNG Canada Ltd.

Agency File : 005908

Department/Agency	Crown Indigenous Relations and Northern Affairs 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.

It is not probable that Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) will exercise a power or perform a duty or function related to the Project to enable it to proceed as CIRNAC is not a regulatory department with respect to the proposed project.

CIRNAC does not have a regulatory function relative to the proposed project but can offer subject matter expertise as required of Federal Authorities under the *Impact Assessment Act*. CIRNAC's Major Projects Management Office(MPMO) facilitates communication and coordination of subject matter expertise from within the department and provides this expertise to partner departments and agencies involved in the Impact Assessment Process – Horizontal Initiative. The current contact for CIRNAC's MPMO is Felexce Ngwa (felexce.ngwa@rcaanc-cirnac.gc.ca).

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.

CIRNAC will not undertake any Indigenous or public consultation as the Department will not exercise a power or performed a duty or function under any Act of Parliament in relation to the Project.

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.

Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) has expert information, knowledge, and tools that may benefit impact assessment or regulatory processes relative to the proposed project. Specifically, CIRNAC can provide guidance and advice related to the federal government's legal obligation to consult and, where appropriate, accommodate when contemplating conduct that may adversely impact asserted or established Aboriginal and/or treaty rights, that are recognised and affirmed by section 35 of the *Constitution Act, 1982*. This duty is supported through related jurisprudence, legislation, policy, and treaties. Additionally, CIRNAC may provide advice and guidance related to specific Indigenous groups' special relationship with the Government of Canada (The Crown) including information related to recognition of Indigenous rights and self-determination tables (RIRSD), modern treaties or self-government agreements, and other related negotiations and processes.

Expert Information and Knowledge

- a) **Section 35 Aboriginal and Treaty Rights** are recognised and affirmed by Section 35 of the *Constitution Act, 1982*. These are reflected in court decisions, historic treaties, modern treaties, and some self-government agreements. There are elements involving s.35 rights outlined in agreements stemming from recognition of Indigenous rights and self-determination processes and other related agreements:
- CIRNAC provides guidance and advice to federal officials for fulfilling the legal duty to consult and, where appropriate, accommodate, when contemplating activities that may adversely impact upon established and asserted Section 35 rights. CIRNAC continues to work on updating the [2011 Guidelines for Federal Officials to Fulfill the Duty to Consult](#);
 - CIRNAC supports the whole-of-government approach to implementing obligations pursuant to modern treaty, self-government and related agreements, including specific consultation-related provisions and protocols. Where project impacts on Modern Treaties have been identified, federal departments and agencies must engage Indigenous Modern Treaty partners on a bilateral basis as early as possible. CIRNAC provides guidance on engagements and tailored contacts for reach out to Modern Treaty partners. [Canada's Collaborative Modern Treaty Implementation Policy](#) (2023) and the [Cabinet Directive on the Federal Approach to Modern Treaty Implementation](#) (2015) provides further guidance to departments and agencies in implementing Modern Treaties; and
 - CIRNAC leads negotiations of modern treaty, self-government, and related agreements (including consultation protocols) on behalf of the Government of Canada.

Publicly Available Tools

- b) [The Aboriginal Treaty Rights Information System](#) (ATRIS) is a web-based, geographic information system intended to help users identify the location of Indigenous groups, and to provide users with information pertaining to each Indigenous group's established and/or asserted Section 35 rights. ATRIS provides access to profiles, documents and maps that can be used to assist governments in determining their consultation obligations and other interested parties in carrying out consultation and engagement research. CIRNAC can offer assistance in navigating, and engaging with the ATRIS system.

Additional Considerations

- c) [United Nations Declaration on the Rights of Indigenous Peoples Act \(UNDA\)](#):
- The Government in Canada in implementing the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), which affirms the Declaration as a universal international human rights instrument with application in Canadian law. Justice Canada is the federal lead on UNDA, and CIRNAC has an important role due to its relationships with Indigenous partners. CIRNAC's advice and actions in relation to the initiative under consideration will be consistent with the rights-based approach endorsed by UNDA.
 - Canada has worked in cooperation and consultation with Indigenous partners to develop the UNDA Action Plan. This Action Plan includes a number of measures which relate directly to Indigenous decision-making and participation and must be taken into account where Indigenous rights may be affected.
- d) **Reconciliation**: All departments continue to work on implementing all 94 Calls to Action from the [Truth and Reconciliation Commission Final Report](#).

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, CIRNAC will not exercise a power or performed a duty or function under any Act of Parliament in relation to the Project, or take any course of action that will allow the Project to proceed in whole or in part.

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.

CIRNAC has had no previous contact or involvement with the proponent or other party in relation to the proposed project.

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.

CIRNAC is developing guidance for federal officials on the following matters arising in consultation and engagement processes, and departments or agencies may contact CIRNAC for more detailed information:

Self-Identifying Indigenous Collectives: There has been a rise in self-identifying Indigenous collectives, from within Canada and abroad, who assert Section 35 rights in specific regions within Canada.

- A variety of colonial factors have contributed to these scenarios such as the imposition of *Indian Act* electoral systems, and the definition of interprovincial and international boundaries. In some instances these Indigenous collectives may be owed a duty to consult depending on factors such as the strength of their claim and evidence that the leadership actually represents an Indigenous group that potentially holds Section 35 rights. In situations where Canada is of the view that there is no legal duty to consult, Canada may nevertheless engage with Indigenous groups to support relationship building and foster learning about the group and who they represent. In such case, it is important to convey that consultation is not a rights recognition process.

Accommodation: Accommodation measures seek to reduce, avoid or eliminate the potential impacts of a project on Indigenous people's rights. The principle of accommodation does not apply to engagement. Nevertheless, when engaging, there may be cases in which Canada assesses the circumstances and decides to provide benefits to the relevant groups to support reconciliation.

Assessing Impacts on Rights: During this process, it is important to consider and assess the cumulative impacts of the potential Project on the exercise of Section 35 rights. Recent court decisions have shown the cumulative effects of major projects can impact Indigenous people and their treaty rights.

Information relative to Canada's relationships with Indigenous people: This may include modern treaties or self-government agreements, and Recognition of Indigenous Rights and Self-Determination (RIRSD) tables in the project area.

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.

CIRNAC can provide the Impact Assessment Agency of Canada and partner departments and agencies with guidance related to their legal duty to consult and with respect to Canada's relationships with Indigenous groups. CIRNAC does not facilitate the technical review of proposed projects or administer the legislative or regulatory mechanisms required to manage effects related to projects approved under the *Impact Assessment Act*.

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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.

N/A

Crown-Indigenous Relations and Northern
Affairs Canada

Name of department or agency involved

Bruno Steinke, Senior Director

Speaker title

Consultation and Accommodation Unit

Date: 2024-02-14

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> e.g.: IAAC-01</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>

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>

Please insert additional lines if necessary.