

Federal Authority Advice Record (FAAR)

The FAAR must be submitted to the Registry by April 10, 2024.

Summit Lake PG LNG Project – JX LNG Canada Ltd.

Agency File: 005908

Department/Agency	Transport 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.

Based on the information provided in the Initial Project Description (IPD), Transport Canada would not likely have a power or perform a duty or function related to the Project. Transport Canada would like to share the following information regarding the *Canadian Navigable Waters Act*, which may require Transport Canada to exercise a power or perform a duty or function:

Canadian Navigable Waters Act

There appear to be no scheduled waterways in the project footprint as per the CNWA. As such, no CNWA approval would be required. However, should any navigable waterways be impacted by the proposed construction of the project, then the proponent, potentially alongside Enbridge (pipeline), and/or BC Hydro (powerline), will be required to conduct a self-assessment, using the [Project Review Tool](#), to determine if they are minor works or need to either follow the public resolution process or submit an application for approval. Please see additional information below.

Under the *Canadian Navigable Waters Act* (CNWA), Transport Canada (TC) issues approvals for (a) a designated major work that may interfere with navigation on any navigable water; (b) a work – other than a designated major or minor work – that may interfere with navigation and that is located on a navigable water listed on the Schedule; (c) a work – other than a designated major or minor work – that may interfere with navigation, and that located on a navigable water that is not listed on the Schedule, whereby the proponent has decided to apply to TC.

TC does not require approvals for works that do not interfere with navigation, or works that meet the criteria of the Minor Works Order (see website link below for details). In cases where a work (other than a minor work) does not interfere with navigation, the proponent is required to deposit

information and issue a public notice.

For a work – other than a major or minor work – that may interfere with navigation and that is not located on the schedule, TC requires proponents to post specific information regarding their work on the new Online Registry inviting any interested party to comment, and seek authorization through a public resolution process.

Upon application TC requires an application form, as well as information documents relevant to the work which can include, as prescribed by the Minister of Transport, location maps, drawings, methodology of construction (including contingency plans), navigation use, Indigenous use, level of impacts and appropriate mitigation for the impacts for interference to navigation. TC also requires and collects information in cases where the project proponent is conducting a deposit of information as required by the Act.

The CNWA Application for Approval Form can be found at this website link (create a user/log in to continue): [TC Navigation Protection Program Website](#).

Should the proponent have questions, they can contact the Navigation Protection Program at NPPAC-PPNPAC@tc.gc.ca.

Visit our website @ [Navigation Protection Program \(canada.ca\)](#)

For some more information check out: [Navigation Protection - Canada.ca](#)

The following permits and approvals may be applicable to the Project. However, they would not require Transport Canada to exercise a power or perform a duty or function.

Aeronautical Obstruction Clearance Permit – Canadian Aviation Regulations

TC-Civil Aviation may need to issue an Aeronautical Obstruction Clearance Permit in relation to the proposed overhead transmission line crossing / flare stacks / other components associated with the Project. As more detailed specifications for the project infrastructure are developed, they should be assessed for any marking/lighting requirements per Canadian Aviation Regulations (CAR) 601 – Division III – Marking and Lighting of Obstacles to Air Navigation and Standard 621 – Obstruction Marking and Lighting.

The regulation can be accessed online at: <http://www.tc.gc.ca/eng/acts-regulations/regulations-sor96-433.htm>.

The standard can be accessed online at: [Standard 621 - Obstruction Marking and Lighting - Canadian Aviation Regulations \(CARs\) \(canada.ca\)](#)

Information about marking and lighting obstacles, including details about the process for installing new obstacles, can be accessed online at: [Marking and lighting of obstacles to air navigation \(canada.ca\)](#). Referrals related to Aeronautical Obstruction Clearance (AOC) and Civ Av Regs (CAR) authorizations/inspections and related matters can be submitted via email to aviation.pac@tc.gc.ca. An Aeronautical Assessment Form for Obstruction Marking and Lighting can be downloaded (https://wwwapps.tc.gc.ca/Corp-Serv-Gen/5/forms-formulaires/download/26-0427_BO_PX) and submitted via email to aviation.pac@tc.gc.ca.

NavCanada would have to get info such as the location and height of the obstructions to update their aeronautical charts and assess whether any structures would impact flight procedures. The proponent would have to submit an Application for Land Use to NavCanada (Landuse@NavCanada.ca). The number to contact the NavCanada-Land Use group is 1-866-577-0247. The Application form is available online (<http://www.navcanada.ca/EN/products-and-services/Pages/land-use-program.aspx>).

Requirements Pursuant to the Railway Safety Act

The Initial Project Description refers to construction of new rail track connecting a rail yard to the CN main line. This may involve the construction of structures above or below a CN rail line. The IPD also does not indicate who the owner of the track, to be built between the project's site and the CN Rail main line, is. If it is CN, then TC would have full regulatory oversight responsibility (both for infrastructure and Operations).

For the purposes of subsection 8(1) of the [Railway Safety Act](#), the following is prescribed as railway works of a kind for which notice shall be given: *the construction or alteration of structures located above or below a line of railway by a party other than a railway company, but excluding a mine or an oil or gas well*. As such, that type of construction would be subject to the Notice of Railway Works Regulations and the project proponent would be required to file a Notice of Railway Works. All the details of the regulation can be found at the following link: <http://laws-lois.justice.gc.ca/eng/regulations/SOR-91-103/page-1.html#h-3>.

If the track owner is not a federally regulated railway, then TC would only have oversight responsibility. The proponent will need to clearly identify who the owner of the trackage will be in order for TC to determine our responsibility to this portion of the project.

Local railway companies fall directly under the authority of the *Railway Safety Act* when operating on federally-regulated railway lines. This means that local railway companies are directly responsible for complying with the federal railway safety regime when on federally-regulated track. This will involve submitting railway safety rules that apply to their operations to Transport Canada for approval. Transport Canada will be responsible for monitoring their compliance to these rules by going directly to their company instead of their host railway company.

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.

If a CNWA approval (as described above) is required, the proponent would be responsible for posting on the TC-Navigation Protection Program Registry; there is a minimum posting of 30 days for the public comment period, before TC can issue an approval. Indigenous consultation may also be required with regards to the approval(s) and the conditions attached to the approval(s).

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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.

TC is in possession of specialist or expert information or knowledge in the following areas, which may or may not be relevant to the Project:

Impacts to Navigation Resulting from the Project

Transport Canada's Navigation Protection Program (NPP) would be able to provide specialist or expert information or knowledge with respect to the CNWA and impacts to navigation. The *Canadian Navigable Waters Act* authorizes and regulates interferences with the public right to navigation. The primary purpose of the Act is to regulate works and obstructions that may interfere with navigation in Canada's navigable waters.

Transportation of Dangerous Goods

Dangerous goods must be handled, offered for transport and transported in accordance with the [Transportation of Dangerous Goods Act](#) and associated Regulations.

The transportation of dangerous goods is often required for the construction and ongoing operation of most proposed projects undergoing an environmental review. Examples of dangerous goods include acetylene, fuels, some types of paints, wastes and by products that also meet the criteria of [Part 2 \(classification\) of the TDG Regulations](#), etc.

TC's Transportation of Dangerous Goods Directorate conducts work related to the safe transportation of dangerous goods and the prevention and response to incidents involving dangerous goods. The group's activities consist of:

- Developing and enforcing safety standards for the safe transportation of dangerous goods;
- Conducting compliance monitoring of modal (air, rail, marine, road) shippers and importers, assessing emergency response assistance plans, means of containment standards and facilities; and,
- Operating the Canadian Transport Emergency Centre to provide advice on emergency response operations for incidents involving dangerous goods.

Emergency Response Assistance Plan (ERAP) program administered by TC

Under [Part 7 of the TDG Regulations](#), [Emergency Response Assistance Plans](#) (ERAP) are required from companies offering for transport or importing certain types of dangerous goods before they can be transported. The ERAP must be approved by TC and the company must have received an ERAP number from the department before being allowed to ship ERAP-able products. Anyone who handles, offers for transport, imports and/or transports dangerous goods must comply with TDG regulations – this includes holding a valid TDG training certificate, completing the appropriate documentation, using the proper means of containment, reporting any reportable spills and holding a valid ERAP when required.

Rail Safety

TC's Rail Safety Program is responsible for developing, implementing and promoting safety policy, regulations, standards and research. It also works with partners to make safety improvements at rail/road grade crossings.

The Rail Safety Directorate's organizational mission is to advance the safety of the Canadian rail transportation system through regulation, outreach and oversight, where this mission leads to a vision of a national transportation system that Canadians recognize as safe and efficient.

The dimensions of Regulation, Outreach and Oversight are three core areas in which Rail Safety carries forth its collective objective to achieve a safe rail transportation system. It is within these three dimensions that the expertise of rail safety may be looked upon to provide advice for projects directly or indirectly involving railways.

Regulations

- Legislation, policy development and interpretation
- International, intergovernmental, departmental and interdepartmental relations
- Focal point for encouraging new technologies and harmonization

Outreach

- Communications, stakeholder consultation and education and awareness
- Funding programs, particularly for crossing improvements

Oversight

- Program delivery and tracking including audits, inspections, complaint-handling, enforcement and responding to safety threats.

The Directorate regulates the operations and the equipment owned by Canadian National Railway Companies.

TC's Railway Safety Engineering Branch monitors compliance with the provisions of the [Railway Safety Act](#) (RSA) and regulations pertaining to the construction and maintenance of railway infrastructure such as track, right of way, structures, crossings and signal systems as well as natural hazards. TC's Railway Safety Equipment and Operations monitors compliance with the RSA and the [Canadian Rail Operating Rules](#). Equipment Inspectors inspect equipment and monitor the railway's equipment maintenance programs.

Indigenous Relations

The Indigenous Relations Unit supports policy, program, and regulatory initiatives across Transport Canada where Indigenous peoples may be affected.

Activities

Consultation and engagement with Indigenous groups is an important part of sound policy development and informed decision-making. The Indigenous Relations Unit contributes to the work of Transport Canada across all programs and modes by promoting consistency in meeting the legal duty to consult, ensuring Modern Treaty obligations are met in the conduct of TC's activities, and working to strengthen Canada's relationship with Indigenous peoples.

Promoting consistency in meeting the Legal Duty to Consult

In carrying out Impact Assessment work, the legal Duty to Consult may arise. The Duty to Consult arises when the Crown contemplates conduct that might adversely affect potential or established Aboriginal or Treaty rights. To promote consistency in meeting this important legal obligation within the Department, Indigenous Relations:

- Supports program/project managers in the conduct of consultation and engagement activities and in maintaining Indigenous consultation records;
- Conducts analysis on a case-by-case basis to recommend appropriate Indigenous consultation and engagement activities with respect to Transport Canada's activities;
- Provides support, training, and guidance to managers and Indigenous Relations advisors in the regions and the NCR;
- Tracks and contributes to consultation and engagement work in support of high-profile files; and
- Collaborates with other federal departments; acting as one-window for Government of Canada policy initiatives and tools development

TC activities that may trigger a legal duty to consult, and/or an opportunity to strengthen relationships and promote better decision-making, include but are not limited to: regulatory approvals, contribution funding (e.g. transportation infrastructure projects), real property transactions and policy/regulatory development.

If requested by the Agency to participate in and support Indigenous consultation activities, TC's lead IA officer will involve their Indigenous Relations unit in Pacific Region.

Civil Aviation and Aviation Safety

[Standards Branch](#) and Policy & Regulatory Services Branch, respectively, are the most likely branches from [Civil Aviation](#) to provide specialist or expert information or knowledge in the context of aviation related IA projects. Notwithstanding, other branches of Civil Aviation may provide beneficial advice depending on the circumstances surrounding a project.

Marine Safety and Security

TC's role in Marine Safety and Security is to uphold a marine transportation system that is, safe and secure, efficient and environmentally responsible. TC also has expertise in the legislative framework for Canada's marine shipping regime alongside various other expert knowledge relevant to marine shipping.

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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.

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.

No.

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?

The information provided in the proponent's Initial Project Description is high level and TC would need more details (as per Table 1 below) to determine if we have 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.

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.

Transport Canada
Name of department or agency involved

Jessica Low
A/Senior Regional Environmental Supervisor
Speaker title

April 11, 2024
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>
TC-01	Executive Summary – Indigenous Nations, p. 16	Navigation/Use of waterways or Use of land for traditional purposes or Socio-economic impacts	Has the proponent already collected info and/or analyzed which waterways in the project area could be potentially impacted from a navigation protection/right to navigate perspective, and how? (i.e. is it anticipated that the powerline would cross any waterways?)		

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>
TC-01	Abbreviations, p. 7	"Nav Can - Transport Canada's Navigation Canada"	Nav Canada is an independent/private corporation and not part of Transport Canada. Nav Canada is not an acronym. Transport Canada's acronym should be TC (see comment TC-02 below).	
TC-02	Abbreviations, pp. 7-8		Transport Canada (TC) may need to be added to this list of abbreviations.	
TC-03	<p>Executive Summary – Engagement, pp. 14-15</p> <p>Stakeholders and Public Engagement Methods, p. 58</p>	<p>"... list of identified jurisdiction stakeholders involved in engagement for the Project..."</p> <p>Table 7-2, p. 58</p>	Only DFO is listed as a federal authority (FA). Other FAs such as Transport Canada (TC) may need to be listed. TC may also need to be added to Table 7-2.	
TC-04	Executive Summary – Engagement, pp. 14-15	"... CN Rail – Alexandre Shaughnessy/ Brittany Sciangola/Linda Vergata/Lyndon Jacak..."	CN Rail and Enbridge are private companies that should be separated from the jurisdictional stakeholders on this list, and potentially included on another list of private stakeholders.	

TC-05	Executive Summary – Engagement, pp. 14-15	“... initial list of potential public stakeholders and groups to be consulted” ‘Province of BC’ and ‘Ministry of Transportation’ are listed	More clarity is needed on what this means. The relevant provincial ministries appear to already be included above. Additionally, does “Ministry of Transportation” refer to Transport Canada? If so, TC should be removed from this list (see comment TC-05 above).	
TC-06	Other Permits and Approvals, p. 39	Table 3-2 (Phase 1)	TC recommends appending the details of the CNWA self-assessment in the Detailed Project Description. Though a CNWA approval may not be needed, confirmation of this would be valuable.	
TC-07	Components, Table 6-1, p. 49 Emissions, Discharges, and Waste, p. 81	From p. 49: “Rail spur lines and LNG container loading/unloading facilities at the plant site and connected to the existing CN railway will be required.” From p. 81: “... For the Project, the rail terminal loop area to be cleared assumed as 3.5km ² ...”	Please confirm if the rail terminal loop is the same as the rail yard or rail spur, or a different component.	
TC-08	Components, Table 6-1, p. 49	“Rail spur lines and LNG container loading/unloading facilities at the plant site and connected to the existing CN railway will be required.”	Has it been determined who will build, own, and operate the newly constructed rail infrastructure, including the rail loading facilities and rail spur? Would CN be operating their trains on the tracks? Will the trains leaving the project site only carry ISO containers associated with this project?	

Please insert additional lines if necessary.