



Readiness Decision Report

KSI LISIMS LNG

March 6, 2023

Pursuant to Sections 16 and 18 of the Environmental Assessment Act, S.B.C. 2018, c.51



EAO

Environmental
Assessment Office

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Acronyms and Abbreviations

the Act	the <i>Environmental Assessment Act</i> (2018)
the Agency	the Impact Assessment Agency of Canada
B.C.	British Columbia
CEAO	Chief Executive Assessment Officer
EA	Environmental Assessment
EAO	Environmental Assessment Office
FLNG	floating liquid natural gas
GHG	greenhouse gas
the IAA	the federal <i>Impact Assessment Act</i>
Ksi Lisims LNG	Ksi Lisims LNG – Natural Gas Liquefaction and Marine Terminal
Lax Kw'alaams	Lax Kw'alaams Band
LNG	liquified natural gas
m ³	cubic metres
the Minister	the Minister of Environment and Climate Change Strategy
the Proponents	Nisga'a Nation, Rockies LNG Ltd. and Western LNG LLC
Treaty	the <i>Nisga'a Final Agreement</i>

1.0 INTRODUCTION

This Readiness Decision Report has been prepared by the Environmental Assessment Office (EAO) for the Ksi Lisims LNG – Natural Gas Liquefaction and Marine Terminal (Ksi Lisims LNG) proposed by Nisga'a Nation, Rockies LNG Ltd. and Western LNG LLC (the "Proponents"). This reflects the requirements set out under Sections 16 and 18 of the *Environmental Assessment Act* (2018) (the Act). Under Section 16 of the Act, the Chief Executive Assessment Officer (CEAO) determines whether a project should proceed to an environmental assessment (EA) that evaluates the effects of the project or should be referred to the Minister of Environment and Climate Change Strategy (the Minister) with a recommendation that the project be exempted from the requirement to obtain an EA certificate or may not proceed as proposed. This is referred to as the readiness decision.

This report includes:

- A description of the options available for the readiness decision;
- Input received from technical advisors on the Detailed Project Description and readiness decision options;
- The process for, and outcomes of consensus-seeking with the participating Indigenous nations; and
- The EAO's recommendation on the readiness decision.

For more information and guidance on the readiness decision phase, please see the EAO's guidance materials available at: [2018 Act Guidance Documents](#).

1.1 Project Overview

The Proponents are proposing to develop a floating natural gas liquefaction facility and marine terminal located at Wil Milit on the northwest coast of British Columbia (B.C.) at the northern end of Pearse Island. Ksi Lisims LNG is a proposed 12 million tonnes per annum liquefied natural gas (LNG) project which will process approximately 575 to 695 billion cubic feet per year of natural gas and temporarily store it between LNG carrier loadings on two permanently installed floating liquid natural gas (FLNG) units. The FLNGs will be designed with integrated storage with an aggregate capacity of approximately 450,000 cubic metres (m³) of LNG.

Ksi Lisims LNG is a reviewable project pursuant to Part 4 of the provincial *Reviewable Projects Regulation* (B.C. Reg. 243/2019; O.C. 607/2019), because production storage capacity would be greater than 136,000 m³, the electricity generation would exceed 50 megawatts and the mooring infrastructure would disturb more than 2 hectares of foreshore and submerged land. A reviewable project must obtain an EA certificate or exemption order before it can be constructed.

Ksi Lisims LNG is also subject to the federal *Impact Assessment Act* (the IAA). On July 21, 2021, the Impact Assessment Agency of Canada (the Agency) accepted the Initial Project Description for Ksi Lisims LNG, thereby commencing the Planning phase of an assessment under the IAA. The EAO and the Agency are working cooperatively throughout the Early Engagement phase of the review, including coordinating on consultation with Indigenous nations, hosting a public comment period, and drafting the [Joint Summary of Issues and Engagement](#). The readiness decision is a requirement of the Act and as part of the federal process, the Agency will make a decision as to whether an impact assessment under the IAA is required, and will post the decision and the reasons for the decision on their [Registry](#).

Additionally, the upland portions of Ksi Lisims LNG would be situated on Nisga'a fee simple "Category A" lands, as defined in the *Nisga'a Final Agreement* (Treaty) and will be subject to EA requirements under Chapter 10 of the Treaty – Environmental Assessment and Protection. The Nisga'a Nation, as represented by the Nisga'a Lisims Government, the EAO, and the Agency will work collaboratively to facilitate timely and efficient EA processes of Ksi Lisims LNG and to enable each party to independently exercise their respective obligations in respect to the EA of Ksi Lisims LNG.

On August 6, 2021, the EAO requested that the conduct of the federal impact assessment process be substituted to

the province, should the project proceed to an EA and should an impact assessment be required. In the letter dated August 6, 2021, the Nisga'a Nation indicated its support of a substitution request by the EAO, in accordance with the spirit and intent of paragraph 1 of Chapter 10 of the Treaty to "avoid duplication of environmental assessment requirements" and to coordinate the conduct of EA of projects with its Treaty partners. The substitution decision will be made by the federal Minister of Environment and Climate Change following the readiness decision and impact assessment determination, pursuant to the [Impact Assessment Cooperation Agreement between Canada and British Columbia](#). For further details on Ksi Lisims LNG, please see the [Initial Project Description](#), [Engagement Plan](#), [Detailed Project Description](#) and other documents on the EAO's [EPIC website](#).

1.2 Early Engagement

Pursuant to Section 13(3)(a) of the Act, the Proponents' Initial Project Description and Engagement Plan for Ksi Lisims LNG were approved on July 16, 2021.

A 45-day Public Comment and Engagement Period was held from August 10, 2021 to September 24, 2021, on the Initial Project Description (additional time was added to the standard 30-days due to the COVID-19 pandemic). During the Public Comment and Engagement Period, the Agency also sought comments on the provincial request for substitution. Public comments were solicited by the EAO and the Agency and submissions received from the public during the Public Comment and Engagement Period, which also included two virtual information sessions, these are posted on the EAO's [EPIC website](#).

During this period technical advisors (including representatives from Indigenous nations), local governments, health authorities, provincial and federal government agencies, as well as United States' federal and state agencies were invited to comment.

Pursuant to Section 13(5) of the Act, the EAO and the Agency's [Joint Summary of Issues and Engagement](#) was provided to the Proponents on October 14, 2021. The Joint Summary of Issues and Engagement provides a summary of:

- The issues raised to the Agency or the EAO by the public during the joint public comment period;
- Comments from Indigenous nations related to their interests in the project area;
- Key issues or concerns identified by Indigenous nations regarding Ksi Lisims LNG;
- Comments provided by technical advisors after reviewing the Proponents' Initial Project Description; and
- A list of the participating Indigenous nations.

Pursuant to the EAO's [Early Engagement Policy](#), the Proponents provided a draft of the Detailed Project Description to the EAO for review by technical advisors, and comments on the draft were collected by the EAO and provided to the Proponents. The Proponents provided a draft of the Detailed Project Description in November 2021, and an updated draft Detailed Project Description was provided on February 2, 2022.

Pursuant to Section 15 of the Act, on April 25, 2022, the Proponents filed a Detailed Project Description for Ksi Lisims LNG, which formally began the readiness decision phase. As outlined in the Proponent's [letter](#) submitted March 3, 2023, the Proponents will provide an updated Detailed Project Description to the EAO concurrently with providing it to the Agency as part of the federal process. The Proponents have outlined the following changes to the Detailed Project Description that will be made for clarity and to meet requirements under the *Impact Assessment Act* (2019):

- All references to a Navigation Safety Assessment will be amended to 'navigation safety assessment' to better reflect that this is a collection of studies versus a singular report;
- Within Section 2.3.3 (Other Project Components), reference will be added to the need for access roads for facilities related to water sourcing, treatment, and distribution. These roads were already referenced in Section 2.1 (Project Updates and Changes) and Section 2.5.6 (Construction Activities for Permanent Project Components);

the addition will be made for clarification versus as a new feature not previously identified;

- Section 2.3.7 (Condensate Management) will be updated to clarify that condensate ships are expected to follow the same shipping route as LNG carriers, “travelling west past Triple Island, the northern end of Haida Gwaii and then to open waters;”
- Reference in Table 2.6 (Operations Liquid Waste Management) to potential disposal at sea for brine from desalination will be removed to reflect that this is not an allowable activity;
- In Section 7.6 (Summary of Agreements and Planned Agreements), both the Gitxaala Nation and Gitga’at First Nation Environmental Assessment and Regulatory Project Funding Agreements will be updated to reflect that these agreements have been made and are in place effective June 14, 2022, and May 9, 2022, respectively;
- Changes and updates will be made to Section 9.1 (Regulatory Context) to correct inaccuracies identified by the Canadian Coast Guard; and
- Updates to references and appropriate amendments to the text will also be made including fixing spelling, grammatical or formatting errors.

Once the Proponents submit the updated Detailed Project Description to the EAO concurrently with providing it to the Agency as part of the federal process, the EAO will post the updated Detailed Project Description to the EAO’s EPIC website.

2.0 READINESS DECISION

Under Section 16 of the Act, the CEAO determines whether a project should proceed to an EA that evaluates the effects of the project or should be referred to the Minister with a recommendation that the project be exempted from the requirement to obtain an EA certificate or may not proceed as proposed; this is referred to as the readiness decision. The EAO and the Agency have reviewed the Detailed Project Description in collaboration with participating Indigenous nations and technical advisors to determine whether it considers the feedback provided through engagement, including updates to technical information and clarification on selected project components, and whether it informs the scope of information and studies necessary to undertake an EA.

The EAO’s [Readiness Decision Policy](#) identifies factors that may influence the readiness decision phase timelines. As described in this policy, for EAs in which issues have been largely addressed, but the EAO must engage parties, the EAO will endeavor to complete this phase within 60 days. The EAO notes the following factors that contributed to the timeline for the readiness decision phase for Ksi Lisims LNG: the engagement the EAO conducted during the readiness decision phase with technical advisors and participating Indigenous nations to resolve issues; the updates made to the Detailed Project Description as described above by the Proponents; and the EAO receiving a request from a participating Indigenous nation requesting the initiation of the dispute resolution process in relation to the EAO’s draft readiness decision recommendation.

On July 21, 2022, Lax Kw’alaams Band (Lax Kw’alaams) [requested the initiation](#) of dispute resolution under Section 5 of the Act for the pending readiness decision for Ksi Lisims LNG, citing concerns that are described in Section 4.0 of this report. In the following months, the EAO and Lax Kw’alaams Band exchanged correspondence aimed at better understanding the scope of Lax Kw’alaams Band’s concerns, clarifying information sharing with other parties, and identifying a facilitator for the dispute resolution process. On October 18, 2022, the Minister appointed the facilitator and on November 4, 2022, a contract was signed which represented the formal start to dispute resolution. In the absence of a dispute resolution regulation, the EAO operated under an interim policy for dispute resolution. On February 16, 2023 the dispute resolution process concluded with the submission of a [final report](#) by the facilitator to the CEAO. A summary of the dispute resolution process with Lax Kw’alaams is contained in Section 4.0 below.

2.1 Readiness Decision Options

There are four options available to the CEAO when making the readiness decision:

1. Revised Detailed Project Description

Pursuant to Section 16(2)(a) of the Act, the CEAO may require a revised Detailed Project Description. A revised Detailed Project Description would be required to address any deficiencies found in the document, such as not being in concordance with the Detailed Project Description Guidelines, not including enough information to identify project interactions with Indigenous nations' interests, or not addressing the substantive information requirements described in the Joint Summary of Issues and Engagement. As part of the dispute resolution process, Lax Kw'alaams Band made an alternative submission that the CEAO must require the proponent to submit a revised Detailed Project Description that addresses the concerns of Lax Kw'alaams. This matter was discussed during facilitation and is summarized in Section 4.0.

2. Exemption

A proponent may pursue an exemption of an EA certificate, by expressing their intent to seek exemption and providing supporting rationale at the beginning of the Early Engagement phase and in its Initial Project Description. Pursuant to Section 16(2)(b) of the Act and the [Certificate Exemption Policy](#), the Proponents have not sought an order under Section 17(1)(b) to exempt it from the requirement under Section 6 to obtain an EA certificate for Ksi Lisims LNG. In addition, exemption from an EA certificate would require the determination that the project would not have significant adverse environmental, economic, social, cultural or health effects, or would not have serious effects on an Indigenous nation or the rights recognized and affirmed by Section 35 of the *Constitution Act, 1982*. The EAO has not identified any information, including from participating Indigenous nations, that would cause it to advise the CEAO to consider recommending to the Minister to exempt this project from an EA. Therefore, the EAO did not consider this option further.

3. Termination

If the CEAO considers that the project as described in the Detailed Project Description would have extraordinarily adverse effects, the CEAO may refer to the Minister to terminate the project. The potential of the project to result in extraordinarily adverse effects, incompatibility with a government policy or whether the proposed project has previously been refused are rationale for termination. As part of the dispute resolution process, the parties explored the EAO's policy framework and Lax Kw'alaams Band's rationale for termination of a project based on extraordinarily adverse effects and on clear incompatibility with a government policy, particularly around climate effects. The details of this consideration are contained in the facilitators report and summarized in Section 4.0.

4. Proceed to an Environmental Assessment

Under Section 18 of the Act, if the EAO does not require a revised Detailed Project Description or the CEAO does not refer a decision to the Minister for exemption or termination, the CEAO must either:

- Proceed with the EA; or
- Refer the project to the Minister for a determination under Section 24, with recommendations, including recommendations respecting whether the assessment should be conducted by an assessment body.

3.0 VIEWS OF NISGA'A NATION

The Nisga'a Nation fulfills several roles throughout the Ksi Lisims LNG EA, including being a member of the Proponent team, a party to the Treaty, and the owner in fee simple of the land in which upland components of Ksi Lisims LNG will be situated. Together with Nisga'a Nation and the Agency, the EAO has developed a [collaborative workplan](#) for the Ksi Lisims LNG EA and federal impact assessment under the IAA. As parties to this collaborative workplan, Nisga'a Nation, the EAO

and the Agency commit to working cooperatively to support assessments required under Chapter 10 of the Treaty, the provincial Act and the federal IAA. With respect to the readiness decision, the collaborative workplan specifies that the EAO and Nisga'a Nation will work collaboratively and seek to achieve consensus on the recommendation.

Nisga'a Nation was asked to provide their views on the EAO's preliminary thinking for a readiness decision. A draft of this Readiness Decision Report was provided to Nisga'a Nation for their review and comment. In response to the draft Readiness Decision Report and subsequent meetings held during the readiness decision, the EAO and Nisga'a Nation have reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA.

4.0 CONSENSUS-SEEKING WITH PARTICIPATING INDIGENOUS NATIONS

Participating Indigenous nations are afforded specific procedural rights within the Act, including access to capacity funding, consensus-seeking processes, a procedure to communicate consent or lack of consent at specific decision points, and access to facilitated dispute resolution. For more information on participating Indigenous nations please see the [EAO's guidance materials](#), and for information about Indigenous nations participating in Ksi Lisims LNG, please see the [Ksi Lisims LNG EPIC webpage](#).

To inform the readiness decision, the EAO notified and requested input from the following participating Indigenous nations:

- Gitga'at First Nation;
- Gitxaala Nation;
- Kitselas First Nation;
- Kitsumkalum First Nation;
- Lax Kw'alaams Band; and
- Metlakatla First Nation.

The Joint Summary of Issues and Engagement provided a summary of the issues raised by Indigenous nations during their review of the Initial Project Description. Participating Indigenous nations also provided comments on drafts of the Detailed Project Description shared by the Proponents. Issues expressed by participating Indigenous nations during the review of the draft Detailed Project Description include, but are not limited to:

- Potential cumulative effects in the region, including cumulative effects resulting from shipping and from upgrades to BC Hydro's existing electric transmission system;
- The point of interconnection to the natural gas pipeline;
- Volumes of condensate and other hazardous materials to be produced and shipped;
- Scoping considerations relating to marine shipping (including shipping of condensate), hydroelectric transmission line the natural gas pipeline and their consideration within the cumulative effects assessment;
- Shipping routes for LNG carriers and vessels transporting condensate and other materials;
- Safety considerations, including those related to navigational safety;
- The ability to exercise Indigenous rights, interests and culture;
- Baseline studies and assessment protocols for various valued components, including community wellbeing, wildlife, and marine resources;
- The timing of interconnection to BC Hydro's renewable power grid;
- Potential effects to marine mammals, fish,¹ and fish habitat;

¹ Potential effects to "fish" as defined in the federal *Fisheries Act*, which includes shellfish, crustaceans, juvenile stages of fish, and marine animals.

- Potential effects to heritage sites along the shipping route;
- Potential social, cultural and biophysical effects associated with transporting to and from the site and housing the workforce on-site;
- Disproportionate effects to specific subgroups of affected populations;
- Potential effects to wetlands;
- Potential effects of underwater noise;
- Potential effects to air quality and linkages to human health;
- Freshwater sources and water discharge;
- Methodology for accounting for greenhouse gas (GHG) emissions;
- Economic opportunities for local individuals and businesses;
- Potential cumulative effects to socio-economic Valued Components, particularly Infrastructure & Services;
- Management, transport, and disposal of waste, including hazardous waste; and
- Overlapping of EA phases that does not allow sufficient time for adequately addressing concerns raised by participating Indigenous nations.

The EAO notes that participating Indigenous nations have expressed various shared concerns related to setting the boundaries for assessing the potential effects of Ksi Lisims LNG (that is, establishing the scope of the EA). Recognizing participating Indigenous nations' concern for understanding the scope of effects assessment early in the EA, the EAO has discussed scoping considerations with participating Indigenous nations throughout the Early Engagement and Readiness Decision phases of the EA, including sharing the EAO's and the Agency's preliminary views on scoping. Should Ksi Lisims LNG proceed to an EA, the EAO would continue to discuss scoping considerations until the scope is formally established in the Process Order, following consensus seeking with participating Indigenous nations and technical advisors during the Process Planning phase.

Pursuant to Section 16(1) of the Act, the EAO sought consensus with participating Indigenous nations before the readiness decision was made under Section 16(2). Participating Indigenous nations were asked to provide their views on the EAO's preliminary recommendation for the readiness decision. More specifically, participating Indigenous nations were asked to identify whether the Detailed Project Description contained sufficient information to inform the scoping process, identify project interactions with Indigenous nations' interests, and whether the issues raised by each nation had been addressed in the document. This Readiness Decision Report was also provided to participating Indigenous nations in draft form for their review and comment.

The EAO acknowledges that the Proponents will provide an updated Detailed Project Description to the EAO concurrently with providing it to the Agency, as part of the federal process. Multiple participating Indigenous nations raised concerns about the content of these updates and a desire to review the changes made. The EAO's view is that the Detailed Project Description contains adequate information to scope the Ksi Lisims LNG EA and to inform the readiness decision. As such, the EAO views that the Detailed Project Description updates that will be made by the Proponents to address the federal agencies' comments do not represent a material change to the Detailed Project Description or to the proposed project, nor do they affect the ability for the EAO to advance the Readiness Decision phase. The EAO shared a draft letter from the Proponents with all participating Indigenous nations that outlined the revisions that will be made in the version of the Detailed Project Description that will be submitted to the Agency as part of the federal review process (summarized above in Section 1.0). On March 3, 2023, the EAO received a [letter](#) from the Proponents confirming the revisions.

The following is a summary of input received from participating Indigenous nations on the sufficiency of the Detailed Project Description and the readiness decision options:

4.1 Gitga'at First Nation

Gitga'at First Nation stated that the Detailed Project Description needs greater clarity around the amount of condensate being shipped and the route the condensate ships will be taking past Triple Island. Gitga'at First Nation stated that the Detailed Project Description also needs greater detail on the connection points of the natural gas pipeline and the transmission line. Additionally, Gitga'at First Nation also expressed concerns about the scope of marine mammal studies, and that fishing needs to be considered for the entire shipping route.

Gitga'at First Nation expressed disappointment at the pace of the EA process, noting that the EA appears to be proceeding forward in spite of the questions and concerns that have been raised with regard to scoping and other revisions. As an example, Gitga'at First Nation noted that some Federal Authorities were providing revisions to the Detailed Project Description that would not be subsequently shared with Indigenous nations and technical advisors prior to being considered final. Instead, Gitga'at First Nation specified that Indigenous nations and technical advisors should be afforded an opportunity to review the revisions in the Detailed Project Description, which should also be revised to include additional information related to the subsea components of the pipeline and the hydroelectric transmission line. On July 7, 2022, the EAO shared a draft letter from the Proponents with all participating Indigenous nations that outlined the revisions that will be made in the version of the Detailed Project Description that will be submitted to the Agency as part of the federal review process.

Recognizing that the scope of the Ksi Lisims LNG EA is of interest to Gitga'at First Nation, the EAO provided its preliminary scoping views via email on July 7, 2022. The EAO is of the view that these issues around scoping and required studies will continue to be addressed in the EA process, including through the development of the Application Information Requirements and the EAO's consensus-seeking with Gitga'at First Nation. Should Ksi Lisims LNG proceed to an EA, the EAO would continue to discuss scoping considerations and required studies until the scope and information requirements are formally established in the Process Order, following consensus with participating Indigenous nations and technical advisors during the Process Planning phase.

As indicated in an email from a representative of Gitga'at First Nation, the EAO and Gitga'at First Nation have reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA.

4.2 Gitxaala Nation

Gitxaala Nation indicated that the Proponents' preliminary schedule for the EA² and permitting phases is unacceptable, in part because it states that the Proponents plan to provide draft chapters of its application and data reports to Indigenous nations for review prior to the issuance of the Process Order that would establish the requirements for the assessment. In failing to require a revision to this preliminary schedule, Gitxaala Nation suggested that the EAO could give the appearance that the EAO has tacitly approved the proposed schedule that precludes meaningful Gitxaala Nation participation.

Throughout Early Engagement, Gitxaala Nation requested clarification and confirmation of the full shipping routes for both LNG and condensate exported by Ksi Lisims LNG. The EAO provided an email from the Proponents on June 16, 2022, that clarified "condensate and LNG Carriers will follow the same route past triple island and to the north end of Haida Gwaii to open waters. Vessels will not be transiting through Hecate Strait or the Principe Channel." Gitxaala Nation indicated in a letter of June 24, 2022 that based on the information contained in the June 16, 2022 email, the issue of shipping routes was considered resolved from a readiness decision perspective with the understanding that discussions during Process Planning will set the scope of the assessment related to marine shipping including the Local Assessment Area, Regional Assessment Area, the potential effects, indicators, assessment methods, and characterization of residual

² This information is included in Table 6.4 of the [Detailed Project Description](#).

effects.

Gitxaala Nation also expressed the view that the scope of the Ksi Lisims LNG EA should include assessment of the subsea components of the hydroelectric transmission line and the natural gas pipeline. Further, Gitxaala Nation expressed concern about uncertainty related to the timing of the connection to the hydroelectric system as well as details related to the potential use of temporary power barges and requested updated information on the timing of electrification and the quantity of power available to support Ksi Lisims LNG. Gitxaala Nation noted that design specifications of the power barges and duration of their use would have variable potential effects to various Valued Components to be assessed in the EA, and that without additional information on the timing of Ksi Lisims LNG's electrification, it would not be possible to adequately scope the EA.

Noting various cumulative effects that have accrued from industrial development in the North Coast region (including labour shortages, increased cost of living, intensification of highway and airport traffic, and adverse effects linked to the influx of transient workforces), Gitxaala Nation stressed that the Detailed Project Description must include details related to the transmission line and natural gas pipeline, in order to determine the scope of the Ksi Lisims LNG EA in the context of the region in which it is situated.

Gitxaala Nation indicated that clarity on these matters and ensuring adequate time for meaningful engagement throughout the EA would contribute to consensus-seeking discussions for the readiness decision, as well as for subsequent phases of the EA, should Ksi Lisims LNG proceed to an EA. Noting that the Detailed Project Description was to be updated to account for some Federal Authorities' comments prior to being submitted to the Agency, Gitxaala Nation stated that the updated version should be provided to technical advisors and participating Indigenous nations for comment. In recognition of these recent revisions to the Detailed Project Description that were being made pursuant to Federal Authorities' comments, coupled with the need for additional information that Gitxaala Nation views as being required in order to inform the scope of the EA, Gitxaala Nation expressed the view that Ksi Lisims LNG is not ready to proceed to an EA at this time. Gitxaala Nation proposed that the EAO should recommend a decision under Section 16(2)(a) of the Act, requiring a revised Detailed Project Description.

Recognizing that the scope of the Ksi Lisims LNG EA is of interest to Gitxaala Nation, the EAO provided its preliminary scoping views via email on June 30, 2022. The EAO is of the view that all the above issues around scoping, timing, and cumulative effects will continue to be addressed in the EA process, including through the development of the Process Order and the EAO's consensus-seeking with Gitxaala Nation. In a follow up email on July 4, 2022, the Gitxaala Territorial Management Agency indicated that scoping concerns related to the natural gas pipeline and transmission line were considered resolved from a Readiness Decision perspective. Should Ksi Lisims LNG proceed to an EA, the EAO would continue to discuss scoping considerations until the scope is formally established in the Process Order, following consensus with participating Indigenous nations and technical advisors during the Process Planning phase.

As indicated in an email from a representative of Gitxaala Nation, the EAO and Gitxaala Nation have reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA.

4.3 Kitselas First Nation

Kitselas First Nation expressed concerns related to the scoping of Ksi Lisims LNG, indicating that the EA should 1) assess effects for the entirety of marine shipping routes in Canadian waters, and 2) at minimum, include the subsea portion of the hydroelectric transmission line. Kitselas First Nation indicated that the Detailed Project Description downplays potential negative effects of the non-local workforce and recommended that these potential effects are captured in the EA. Notwithstanding these key concerns, Kitselas First Nation indicated that the Detailed Project Description includes sufficient information to make a recommendation that Ksi Lisims LNG undergo an EA.

Recognizing that the scope of the Ksi Lisims LNG EA is of interest to Kitselas First Nation, the EAO provided its preliminary

scoping views via email on July 7, 2022. The EAO's view is that this level of detail around scoping and required studies will be discussed during the development of the Application Information Requirements document in the Process Planning phase. The EAO and Kitselas First Nation have agreed to bring these concerns forward to the next EA phase of Process Planning. Kitselas First Nation indicated that it had no additional feedback on this report or the recommendation for Ksi Lisims LNG to proceed to an EA.

As indicated in an email from a representative of Kitselas First Nation, the EAO and Kitselas First Nation have reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA.

4.4 Kitsumkalum First Nation

Kitsumkalum First Nation indicated that construction and operation of the following infrastructure and Project components would impact Kitsumkalum First Nation's rights and title: 1) the feed natural gas pipeline (most specifically the underwater portion), 2) the hydroelectric transmission line (including the underwater portion of the transmission line to the facility, 3) the upgrade to existing or new infrastructure required by BC Hydro (grid) to accommodate Ksi Lisims LNG's electricity needs, and 4) transportation corridors including highways through Terrace and north to Gingolx and marine shipping routes. Recognizing that the scope of the EA is not determined until after the readiness decision, Kitsumkalum noted that these outstanding scoping issues pose serious uncertainty to the understanding of how significant the impacts to rights recognized and affirmed by Section 35 of the *Constitution Act, 1982* are, and whether those impacts can be mitigated and/or accommodated for. The impacts to Kitsumkalum First Nation's rights include, but are not limited to, potential changes to commercial fishing opportunities, changes to community fishing and harvesting opportunities, and changes to access of the lands, waters and marine waters of the Territory. That said, Kitsumkalum First Nation indicated that the Detailed Project Description includes adequate information and that the scope of the EA, to include the infrastructure and components as described by Kitsumkalum which are necessary for the assessment of impacts to rights, can be determined from the information provided.

Recognizing that the scope of the Ksi Lisims LNG EA is of interest to Kitsumkalum First Nation, the EAO provided its preliminary scoping views via email on July 7, 2022. Because Kitsumkalum First Nation is of the view that there are remaining issues surrounding scoping, the EAO and Kitsumkalum First Nation have not reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA. The EAO and Kitsumkalum First Nation look forward to continuing to discuss these remaining issues related to scoping during subsequent phases of the EA.

4.5 Lax Kw'alaams Band

In July 2022, prior to the request for the initiation of dispute resolution, Lax Kw'alaams Band stated that it was not prepared to reach consensus on the recommendation that Ksi Lisims LNG proceed to an EA at this time. Lax Kw'alaams Band requested a revised Detailed Project Description to address key deficiencies in the Detailed Project Description. For Lax Kw'alaams Band, the Detailed Project Description did not contain sufficient information to identify interactions of the transmission line components on Lax Kw'alaams' interests as an Indigenous nation. Lax Kw'alaams Band stated that sufficient information about transmission line components must be provided prior to reaching consensus at this stage. In addition, Lax Kw'alaams Band indicated that the Canadian Coast Guard, Environment and Climate Change Canada, and Transport Canada noted errors and omissions in the Detailed Project Description related to marine shipping. For Lax Kw'alaams Band, these errors and omissions must be addressed prior to reaching consensus. Lax Kw'alaams Band stated that these errors and omissions impact Lax Kw'alaams Band's ability to adequately identify and understand project interactions in its review of the Detailed Project Description on its Indigenous interests, which will be used to inform the scoping of Lax Kw'alaams Band's Rights Impact Assessment.

Recognizing that the scope of the Ksi Lisims LNG EA, particularly the transmission line, is of interest to Lax Kw'alaams Band, the EAO provided its preliminary scoping views via email on July 7, 2022. The EAO is of the view that the issues

around scoping will continue to be addressed in the EA process, including through the development of the Process Order and the EAO's consensus-seeking with Lax Kw'alaams Band. In terms of the Detailed Project Description, as mentioned above, the EAO's view is that the Detailed Project Description contains adequate information to scope the Ksi Lisims LNG EA and inform the readiness decision and that the updates made by the Proponents to address the federal agencies' comments do not represent a material change to the Detailed Project Description or the proposed project, nor do they affect the ability for the EAO to advance the Readiness Decision phase.

On July 21, 2022, Lax Kw'alaams Band provided the EAO with a letter in which Lax Kw'alaams Band requested to initiate the dispute resolution process regarding the lack of consensus on the EAO's draft readiness decision recommendation. In requesting dispute resolution, Lax Kw'alaams Band identified outstanding issues, including concerns related to the amendment process for the Westcoast Connector Gas Transmission Project (WCGT), the scope and nature of the cumulative effects assessments, and the effect of Ksi Lisims LNG on the Province's ability to meet legislated GHG emissions targets. The EAO and Lax Kw'alaams Band participated in a dispute resolution process over the following months with the support of a facilitator under Section 5 of the Act. On December 22, 2022, the facilitator shared with the EAO a letter in which Lax Kw'alaams Band communicated its position that the CEAO should recommend that the Minister issue a termination order, citing the potential for extraordinarily adverse effects on Lax Kw'alaams and its rights due to climate impacts and clear incompatibility with government policy. Lax Kw'alaams Band submitted in the alternative that, if the CEAO does not recommend the Minister issue a termination order, the CEAO must require the proponents to submit a revised Detailed Project Description.

The EAO responded to Lax Kw'alaams Band on January 10, 2023, noting that the EAO's view, based on the available information, including the submissions provided by Lax Kw'alaams Band, was that the potential adverse effects on the climate raised by Lax Kw'alaams Band would not constitute extraordinarily adverse effects generally or on Lax Kw'alaams Band or its rights. The EAO further indicated that subsequent phases of the EA process would allow for more information to be provided which would inform the assessment of project effects on the province's ability to meet its GHG emissions targets and impacts on climate, support the assessment of effects on Lax Kw'alaams Band and its rights, and to evaluate the effectiveness of proposed mitigation measures.

On February 14, 2023 Lax Kw'alaams Band provided further submissions on its assertion of extraordinarily adverse effects on Lax Kw'alaams and its rights. Lax Kw'alaams Band stated that the effects and impacts of Ksi Lisims LNG's GHG emissions, resulting in atmospheric temperature increases, climate change, and cumulative effects, will have extraordinarily adverse effects that cannot be mitigated on Lax Kw'alaams Band's rights. Lax Kw'alaams Band stated that climate change effects have profound implications for Lax Kw'alaams rights and interests, including the maintenance of harvesting practices for food, social, cultural and economic purposes, as well as community infrastructure, safety and resilience. In Lax Kw'alaams view, Ksi Lisims LNG will contribute to unmitigable impacts on Lax Kw'alaams rights due to an outsized contribution to climate change and global heating and will result in significant adverse cumulative impacts that are far greater in scope, intensity and duration than any comparable project.

The EAO has carefully considered the information that Lax Kw'alaams provided through the dispute resolution process including its views around extraordinarily adverse effects. The EAO is of the view that, based on the current phase of the process and the amount of information still to be provided, including assessment of effects and mitigation measures, the EAO cannot at this time take the view that the project's effects will cause extraordinarily adverse effects. If there is uncertainty as to whether a project will cause extraordinarily adverse effects or whether those extraordinarily adverse effects can be mitigated, it is the EAO's view that the appropriate venue to characterize potential effects and mitigations accurately and objectively is during the Application Review phase of the EA, via review by the Technical Advisory Committee. The EAO notes that subsequent phases of the EA will allow for more information to be provided related to these potential effects in order to thoroughly assess and characterize these effects.

The EAO has also carefully considered Lax Kw'alaams Band's submission that, should the CEAO not refer Ksi Lisims LNG

to the Minister for termination, then the CEAO must require the proponents to submit a revised Detailed Project Description. The EAO's view is that the Detailed Project Description provided on February 2, 2022 presently contains sufficient information to inform the recommendation of the appropriate process under Section 18 of the Act and subsequent phases of an EA process.

On February 16, 2023, the facilitator provided the [dispute resolution report](#) to the CEAO, concluding the dispute resolution process. The EAO has considered the submissions from Lax Kw'alaams Band, including Lax Kw'alaams Band's [separate submission](#) to the CEAO on March 3, 2023, and the dispute resolution report.. Based on the information received from Lax Kw'alaams Band and the dispute resolution report, the EAO's view continues to be that the appropriate venue to assess and characterize potential effects of the Ksi Lisims LNG project and evaluate the effectiveness of proposed mitigation measures is during subsequent phases of the EA, and the EAO remains committed to working with Lax Kw'alaams Band to support its assessment of project effects to Lax Kw'alaams and its rights.

Lax Kw'alaams Band and the EAO have not reached consensus on the recommendation that Ksi Lisims LNG proceed to an EA. Lax Kw'alaams Band has reiterated that it is opposed to the Ksi Lisims LNG project as proposed.

4.6 Metlakatla First Nation

Metlakatla First Nation expressed concerns related to the scoping of shipping for the Ksi Lisims LNG EA, indicating that the shipping routes for LNG and condensate throughout Metlakatla Territory should be included in the EA and noting that some knowledge holders have recommended an alternate shipping route. Additionally, Metlakatla First Nation indicated that, at minimum, the subsea portion and land connections of the hydroelectric transmission line should be included in the EA and the natural gas pipeline should be included in the cumulative effects assessment. Finally, Metlakatla First Nation suggested that the EAO should direct the Proponents to refine their options for freshwater sources prior to proceeding to the next phase of the EA.

Recognizing that the scope of the Ksi Lisims LNG EA is of interest to Metlakatla First Nation, the EAO provided its preliminary scoping views via email on July 7, 2022. The EAO is of the view that these issues around scoping will continue to be addressed in the EA process including through the development of the Application Information Requirements and the EAO's consensus-seeking with Metlakatla First Nation. Should Ksi Lisims LNG proceed to an EA, the EAO would continue to discuss scoping considerations until the scope is formally established in the Process Order, following consensus with participating Indigenous nations and technical advisors during the Process Planning phase.

During the course of reoccurring meetings, the EAO and Metlakatla First Nation have reached agreement that the Detailed Project Description provides adequate information to carry these matters forward for further discussion during the Process Planning phase.

The EAO and Metlakatla First Nation have discussed the concerns raised above, and at this time Metlakatla First Nation does not object to the recommendation that Ksi Lisims LNG proceed to an EA.

5.0 INPUT RECEIVED FROM TECHNICAL ADVISORS

Technical advisors play a vital role in advising the EAO and participating Indigenous nations on technical matters related to EAs. The EAO sought input from technical advisors on the Detailed Project Description for Ksi Lisims LNG to inform whether the project is ready to proceed to an EA, and what information is required to address concerns or issues related to the proposed project. Technical advisors assisted with the identification of outstanding issues, determining the adequacy of the Proponents' responses to their comments, and additional technical considerations that should be carried forward into subsequent EA phases such as the development of the draft Application Information Requirements, Assessment Plan, or Regulatory Coordination Plan. The EAO took this input into consideration when determining the adequacy of the Detailed Project Description and preparing the recommendation for the readiness decision.

The EAO received responses from the following technical advisors during Early Engagement and the Readiness Decision phases: the B.C. Oil & Gas Commission; Ministry of Environment and Climate Change Strategy; Ministry of Energy, Mines and Low Carbon Innovation; Ministry of Forests, Lands, Natural Resource Operations and Rural Development; Ministry of Transportation and Infrastructure; Northern Health Authority; Canadian Coast Guard; Health Canada; Fisheries and Oceans Canada; Natural Resources Canada; Indigenous Services Canada; Employment and Social Development Canada; Environment and Climate Change Canada; Department for Women and Gender Equality; Transport Canada; and the United States Environmental Protection Agency. Responses from technical advisors representing participating Indigenous nations are discussed in Section 4.0 of this report.

Technical advisor remarks included comments pertaining to:

- Safety considerations;
- Storage, treatment and/or discharge of solid and liquid waste materials;
- Water diversion, use, treatment, and discharge;
- Baseline studies and assessment protocols for various valued components;
- Scope of the assessment of economic, social, and health effects, including potential disproportionate effects to sub-populations;
- Potential effects of the environment on the project, including those caused by climate change;
- Assessment of fossil resources;
- GHGs and flaring, including an upstream GHG emissions assessment;
- Risks to surface water, marine resources, wildlife, and wetlands from accidents and malfunctions;
- Clarifications related to jurisdiction and responsibilities for managing safety protocols and responding to potential incidents;
- Potential effects to wildlife, migratory birds, species at risk, wetlands, and vegetation;
- Potential effects to marine resources, including fish, marine mammals, and sensitive marine habitats;
- Potential transboundary effects to water quality and air quality; and
- Scoping considerations relating to marine shipping (including shipping of condensate), hydroelectric transmission line, natural gas pipeline, and their consideration within the cumulative effects assessment.

No technical advisors recommended that Ksi Lisims LNG should be exempted or terminated. The Canadian Coast Guard, Environment and Climate Change Canada, and Transport Canada identified specific factual errors and omissions in the April 25, 2022 submission of the Detailed Project Description. The Agency provided to the Proponents a list of the specific errors and omissions that would require correction prior to filing the Detailed Project Description with the Agency. As outlined in the March 3, 2023 [letter](#), the Proponents will provide an updated Detailed Project Description to the EAO concurrently with providing it to the Agency, as part of the federal process. The EAO's view is that the Detailed Project Description contains adequate information to scope the Ksi Lisims LNG EA and inform the readiness decision and views that the updates that will be made by the Proponents to address the federal agencies comments do not represent a material change to the Detailed Project Description or the proposed project, nor do they affect the ability for the EAO to advance the Readiness Decision phase.

The EAO recognizes that federal and provincial technical advisors raised a number of comments and concerns that will not be resolved in the updated submission of the Detailed Project Description. The EAO has shared these comments with the Proponents and the EAO is of the view that these issues could be addressed in subsequent phases of the EA, including during the Process Planning phase, which would include development of the Application Information Requirements, the Regulatory Coordination Plan, and the Assessment Plan as well as through the development of the Proponent's Application for an Environmental Assessment Certificate.

6.0 RECOMMENDATION AND NEXT STEPS

Based on the EAO's current understanding of Ksi Lisims LNG, including information presented in the Detailed Project Description, the Proponents' responses to matters identified in the Joint Summary of Issues and Engagement, the EAO's concordance review of the Detailed Project Description with the EAO's guidelines, input from technical advisors and participating Indigenous nations, the facilitator's dispute resolution report, as described above in Sections 3.0 and 4.0 of this report, the EAO is not considering exempting or terminating Ksi Lisims LNG or requiring a revised Detailed Project Description.

The EAO is of the view that the Detailed Project Description contains sufficient information to inform the recommendation of the appropriate process under Section 18 of the Act and subsequent phases of the EA process. The subsequent phases of the EA involve processes that are intended to consider the outstanding issues and the assessment matters that have been raised during both the consensus seeking processes with participating Indigenous nations and the dispute resolution process.

In consideration of Section 16(2)(c) of the Act, the EAO has not identified any information at this time, including from participating Indigenous nations and as a result of the dispute resolution process, that would cause it to advise the CEAO to consider recommending to the Minister that an order be issued under Section 17(1)(a) that Ksi Lisims LNG not proceed as proposed. Therefore, the EAO has not recommended the termination option to the CEAO.

The EAO has reached consensus with Nisga'a Nation, Gitga'at First Nation, Gitxaala Nation, and Kitselas First Nation on its recommendation that Ksi Lisims LNG proceed to an EA, and Metlakatla First Nation has expressed that it does not object to the EAO's recommendation. The EAO acknowledges, however, that consensus has not been reached between the EAO and Kitsumkalum First Nation or Lax Kw'alaams Band, due to outstanding issues related to GHGs, the scope of the EA, and the assessment of cumulative effects. The EAO is aware that, at this stage, there are outstanding concerns from participating Indigenous nations and technical advisors. The EAO is of the view that these issues can be addressed in subsequent phases of the EA and will carry these issues forward into Process Planning should the project proceed to an EA.

In consideration of Section 18(1)(b) of the Act, the EAO has not identified any information, including through consensus-seeking to date with the participating Indigenous nations, that would cause the EAO to recommend that Ksi Lisims LNG be referred to the Minister for a determination under Section 24 (Process Planning by Minister). The issues raised are of the type that could be assessed in an EA process conducted by the EAO and the authorities delegated to the CEAO by the Minister under Section 19 are sufficient for determining the EA process and developing the Process Order for Ksi Lisims LNG. **Therefore, pursuant to Section 18(1)(a) of the Act, the EAO recommends to the CEAO that Ksi Lisims LNG proceed to an EA.**

If Ksi Lisims LNG proceeds to the Process Planning phase, the following documents would be drafted by the EAO and provided for review by the public, Indigenous nations and technical advisors: the Process Order, an Assessment Plan, the Application Information Requirements, and a Regulatory Coordination Plan. The EAO will continue to seek consensus with participating Indigenous nations and Nisga'a Nation before finalizing the Process Planning documents.

The purpose of the Process Planning phase is to formalize in the Process Order, which would identify how the EA would be carried out for the project, including:

- What information must be provided;
- How the information must be gathered;
- Who must be involved in the EA, and how they must be engaged; and
- The timing of each of the subsequent phases.

If Ksi Lisims LNG proceeds to an EA, input to the Detailed Project Description and the key issues raised during Early

Engagement and Readiness Decision will help inform and guide the Process Planning phase. For more information on the Process Planning phase, please see the [EAO's guidance materials](#).