

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)
AND
AN ENVIRONMENTAL ASSESSMENT OF THE PROPOSED
VOPAK PACIFIC CANADA PROJECT
(PROPOSED PROJECT)**

ORDER UNDER SECTION 11

WHEREAS:

- A. Vopak Development Canada Inc. (Proponent) proposes to construct and operate Vopak Pacific Canada (proposed Project) a bulk liquids tank storage and marine export facility within the Port of Prince Rupert;
- B. The proposed Project constitutes a reviewable project, pursuant to Part 4 of the Reviewable Projects Regulation (B.C. Reg. 370/02), because the proposed Project includes a new energy storage facility with the capability to store an energy resource in a quantity that can yield by combustion ≥ 3 PJ of energy.
- C. The proposed Project also requires an Environmental Assessment under Section 67 of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), which will be administered by the Prince Rupert Port Authority.
- D. The Environmental Assessment Office and the Prince Rupert Port Authority are seeking to conduct a coordinated Environmental Assessment;
- E. The Executive Director has delegated to the undersigned, certain powers and functions under the Act, including the power to issue Orders under Section 11 of the Act; and
- F. On July 26, 2018, the Environmental Assessment Office issued an Order under Section 10(1)(c) of the Act, stating that the proposed Project requires an Environmental Assessment Certificate and that the Proponent may not proceed with the proposed Project without an assessment.

NOW THEREFORE:

Pursuant to Section 11 of the Act, I order that the Environmental Assessment of the proposed Project be conducted according to the scope, procedures and methods set out in Schedules A and B to this Order.



Lindsay Luke
Project Assessment Manager

Dated November 2, 2018

Enclosure: Schedule A
Schedule B

**SCHEDULE A TO ORDER UNDER SECTION 11 OF THE BC ENVIRONMENTAL
ASSESSMENT ACT**

**SCOPE, PROCEDURES AND METHODS FOR THE ENVIRONMENTAL
ASSESSMENT OF THE PROPOSED VOPAK PACIFIC CANADA PROJECT**

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PART A - GENERAL PROVISIONS

1. DEFINITIONS

“Aboriginal Interests” means asserted or determined aboriginal rights, including title and treaty rights.

“Act” has the same meaning as on page 1 of the Order.

“Application” means the Proponent’s application for an environmental assessment certificate for the proposed Project, made under Section 16 of the Act.

“Application Information Requirements” means the information that must be included in the Application, pursuant to Sections 11(2) and 16(2) of the Act and Section [6](#) of this Order.

“Application Review Stage” means that part of the Environmental Assessment that occurs after the Application has been accepted for review.

“Assessment Report” means the report, as defined in Section 1 of the Act, and referred to in Section [10](#) of this Order.

“Cumulative Effects” means the residual effects of the proposed Project that have the potential to interact with the effects of other past, present or reasonably foreseeable projects or activities.

“Environmental Assessment Office” means the office continued under Section 2 of the Act.

“Executive Director” has the same meaning as Executive Director in Section 1 of the Act.

“Electronic Project Information Centre” means the project information centre continued under Section 25 of the Act, and operated as a website maintained by the Environmental Assessment Office.

“Federal Authorities” means federal government bodies that may be responsible for making a determination under Section 67 of the Canadian Environmental Assessment Act, 2012.

“Indigenous Consultation Plan” means a plan developed by the Proponent in consultation with the Indigenous Nations listed on Schedule B and determined to be adequate by the Project Assessment Lead, which outlines how the Proponent will undertake procedural aspects of consultation with Indigenous Nations listed on Schedule B on behalf of the Crown during the Environmental Assessment.

“Indigenous Consultation Report” means the Proponent’s periodic reporting at times specified in Section [13](#) of this Order, or at the request of the Project Assessment Lead, on the results of the consultation activities specified in the Indigenous Consultation Plan.

“Indigenous Nations” means those aboriginal entities as defined in Section 35(2) of the *Constitution Act, 1982* of Canada and are on Schedule B of this Order.

“Ministers” has the same meaning as Ministers in Section 1 of the Act.

“Order” means this Order, which is issued under Section 11 of the Act, including all schedules.

“Pre-Application Stage” means that part of the Environmental Assessment that occurs after an Order under Section 10 of the Act has been issued and before an Application has been accepted for review.

“Project Assessment Lead” means an employee of the Environmental Assessment Office who has been delegated certain authorities to conduct the Environmental Assessment of the proposed Project by the Executive Director under the Act.

“Proponent” has the same meaning as on page 1 of the Order.

“Proposed Project” has the same meaning as on page 1 of the Order.

“Public Consultation Plan” means a plan, developed by the Proponent and approved by the Project Assessment Lead, which outlines how the Proponent will undertake consultation with the public during the Environmental Assessment.

“Public Consultation Report” means the report required under Section [16](#) of this Order.

“Working Group” means an advisory group established under Section [5](#) of this Order, including representatives of Indigenous Nations identified on Schedule B, and federal, provincial and local government agencies.

PART B - SCOPE OF THE PROPOSED PROJECT

2. ON-SITE AND OFF-SITE COMPONENTS

- 2.1 The approximate location of the proposed Project is shown on Figure 1.
- 2.2 Pursuant to Section 11(2)(a) of the Act, the main facilities and components of the proposed Project are:
 - 2.2.1 A bulk liquids tank storage facility, including for petroleum products;
 - 2.2.2 A marine terminal and loading facility;
 - 2.2.3 Rail car unloading racks;
 - 2.2.4 Supporting infrastructure and facilities, which include, but are not limited to power supply, power generation, cooling equipment and de-ethanizer, emergency ground flare, air and water utilities, drainage and wastewater management, roads, and natural gas connection; and
 - 2.2.5 Temporary infrastructure and facilities.
- 2.3 Pursuant to Section 11(2)(a) of the Act, the associated off-site shipping and rail activities related to the proposed Project are:
 - 2.3.1 The operation of vessels and other supporting marine traffic along the marine access route between the marine terminal and the pilot boarding location at or near Triple Island; and
 - 2.3.2 The operation of rail tracks used by the proposed Project within the Port of Prince Rupert.
- 2.4 Exploration activities or activities required to prepare the Application are not part of the reviewable project for the purposes of the assessment.

PART C – SCOPE OF THE ASSESSMENT

3. SCOPE OF THE ASSESSMENT

- 3.1 Pursuant to Section 11(2)(b) of the Act, the scope of the assessment for the proposed Project will include consideration of:
 - 3.1.1 Potential adverse environmental, economic, social, heritage, and health effects of the proposed Project, including Cumulative Effects, and practicable means to mitigate such potential adverse effects; and
 - 3.1.2 Potential adverse effects of the proposed Project on an Indigenous Nation's Aboriginal Interests, and, to the extent appropriate, ways to mitigate or otherwise accommodate such potential adverse effects.
- 3.2 With respect to those parts of the proposed Project located on Prince

Rupert Port Authority lands, the assessment will consider the assessments undertaken by federal agencies under the *Canadian Environmental Assessment Act, 2012*.

PART D – COORDINATION WITH THE FEDERAL GOVERNMENT

4. COORDINATION WITH THE FEDERAL ENVIRONMENTAL ASSESSMENT PROCESS

- 4.1** The Environmental Assessment Office will endeavour to coordinate the environmental assessment process with the Prince Rupert Port Authority and other Federal Authorities. Coordination may include, but is not limited to, joint Working Group processes, public comment periods, Indigenous Nation consultation activities, and regulatory materials.

PART E – THE WORKING GROUP AND AGENCY CONSULTATION

5. THE WORKING GROUP

- 5.1** The Environmental Assessment Office will establish a Working Group. The Working Group will include those Indigenous Nations identified on Schedule B and government bodies identified by the Project Assessment Lead.
- 5.2** The purpose of the Working Group is to provide input as requested by the Project Assessment Lead on aspects of the environmental assessment, including:
- 5.2.1 The information required for the environmental assessment;
 - 5.2.2 The conformity of the Application with the Application Information Requirements;
 - 5.2.3 The information and conclusions in the Application;
 - 5.2.4 Potential mitigation measures, including those which may be included in certificate conditions;
 - 5.2.5 Potential impacts on Aboriginal Interests and measures to mitigate such potential adverse effects; and
 - 5.2.6 The draft Assessment Report, draft proposed certificate conditions, and draft proposed certified project description.
- 5.3** The Project Assessment Lead may form sub-committees of the Working Group to discuss specific issues in the environmental assessment.
- 5.4** When requested by the Project Assessment Lead, the Proponent must participate in meetings of the Working Group or any sub-committees as required.

- 5.5 The Proponent must consult with federal, provincial and local government agencies through the Working Group, as required by the Project Assessment Lead.
- 5.6 The Proponent must prepare and submit to the Project Assessment Lead and Working Group members, within any set time limits, responses to comments received from any Working Group members.

PART F – ASSESSMENT PROCEDURES – PRE-APPLICATION STAGE

6. APPLICATION INFORMATION REQUIREMENTS

- 6.1 In accordance with this Order and any additional guidance provided by the Project Assessment Lead, the Proponent must prepare draft Application Information Requirements.
- 6.2 The Proponent may prepare a single document that combines the Application Information Requirements with any related federal requirements.
- 6.3 The Proponent must submit the draft Application Information Requirements to the Project Assessment Lead, who will make it available to the Working Group and public for review and comment.
- 6.4 The Proponent must respond to comments received from the Indigenous Nations listed on Schedule B, Working Group members and the public on the draft Application Information Requirements in the form specified by, and to the satisfaction of, the Project Assessment Lead.
- 6.5 The Proponent must prepare and resubmit a revised draft Application Information Requirements, as required by the Project Assessment Lead.
- 6.6 The Project Assessment Lead will issue the final Application Information Requirements to the Proponent.

7. PREPARING AND SUBMITTING THE APPLICATION

- 7.1 The Proponent must prepare the Application in accordance with the Application Information Requirements, and must submit it to the Project Assessment Lead for evaluation and decision on whether to accept the Application for review.
- 7.2 Prior to submitting the Application to the Project Assessment Lead under Section [7.1](#) of this Order, the Proponent must ensure that copies of the Application in the required formats have been delivered to the members of the Working Group and Indigenous Nations listed on Schedule B, as

specified by the Project Assessment Lead.

8. APPLICATION EVALUATION

- 8.1** The Project Assessment Lead, with input from the Working Group, will evaluate and decide whether the Application contains the information required in the Application Information Requirements.
- 8.2** If, in the opinion of the Project Assessment Lead, the Application does not include the information required by the Application Information Requirements, the Project Assessment Lead will identify the deficiencies in writing to the Proponent and the Proponent may revise the Application to address the deficiencies and re-submit the revised Application.
- 8.3** If the Application is accepted for review, the Project Assessment Lead will advise the Proponent, and the Proponent must supply copies of the Application to the Project Assessment Lead.

9. APPLYING FOR CONCURRENT PERMITTING

- 9.1** The Proponent, if applying for concurrent review of one or more applications for approval under other enactments, pursuant to Section 4 of the Concurrent Approval Regulation (B.C. Reg. 371/2002), must submit the request to the Project Assessment Lead within seven days of the Project Assessment Lead notifying the Proponent that the Application has been accepted for review, in accordance with Section 5 of the Concurrent Approval Regulation.

PART G – ASSESSMENT PROCEDURES – APPLICATION REVIEW STAGE

10. PREPARING THE ASSESSMENT REPORT

- 10.1** The Project Assessment Lead will prepare an Assessment Report, taking into consideration the Proponent's Application and input provided by the Working Group and the public.
- 10.2** Members of the Working Group and the Proponent will have an opportunity to provide to the Project Assessment Lead their comments on a draft of the Assessment Report within timelines established by the Project Assessment Lead.

11. MINISTERIAL REFERRAL AND DECISION

- 11.1** The Project Assessment Lead will advise the Proponent, Indigenous Nations and the Working Group of the date that the final Assessment Report is referred to the Ministers.
- 11.2** The Assessment Report will be made available to the public by the

Environmental Assessment Office after a decision has been made by the Ministers under Section 17(3)(c) of the Act.

- 11.3** In accordance with Section 17(4) of the Act, the Project Assessment Lead will deliver to the Proponent the decision of the Ministers and the Environmental Assessment Certificate, if granted. The Project Assessment Lead will inform Indigenous Nations and other members of the Working Group of the Ministers' decision.

PART H – CONSULTATION WITH INDIGENOUS NATIONS

12. CONSULTATION WITH INDIGENOUS NATIONS

- 12.1** The Environmental Assessment Office, Lax Kw'alaams Band, and Metlakatla First Nation have entered into the Collaboration Terms of Reference agreement dated June 5, 2018, and, notwithstanding any other requirements in this Order, the Environmental Assessment Office will undertake the environmental assessment of the proposed Project in accordance with this agreement.
- 12.2** Following the issuance of this Order, the Environmental Assessment Office will consult with the Indigenous Nations listed on Schedule B as follows:
- 12.2.1 Provide notification at the following milestones:
- 12.2.1.1 Issuance of the Section 11 Order and any Section 13 Orders;
 - 12.2.1.2 Public comment period for the Project Description and the draft Application Information Requirements;
 - 12.2.1.3 Approval of the final Application Information Requirements document;
 - 12.2.1.4 When the Application has been accepted and the start of the review of the Application has commenced;
 - 12.2.1.5 Public comment period for the Application; and
 - 12.2.1.6 Decision on the Application.
- 12.2.2 Invite such Indigenous Nations to be members of the Working Group and to attend Working Group meetings or relevant Working Group subcommittee meetings;
- 12.2.3 Ensure that such Indigenous Nations have the opportunity to provide comments on the draft Application Information Requirements and will consider any such comments;
- 12.2.4 Ensure that such Indigenous Nations receive a copy of the Application and invite comments from Indigenous Nations during the applicable legislated time period in regard to the conformity of the Application with

the Application Information Requirements;

- 12.2.5 Provide such Indigenous Nations the opportunity to submit comments on the Application;
- 12.2.6 Determine the adequacy of the Proponent's responses to the comments received from such Indigenous Nations;
- 12.2.7 At the request of any of these Indigenous Nations, meet to discuss its Aboriginal Interests in relation to the proposed Project and measures to mitigate, or otherwise address or accommodate potential adverse impacts on Aboriginal Interests, as appropriate;
- 12.2.8 Provide such Indigenous Nations with an opportunity to review and comment on the draft Assessment Report, including the Environmental Assessment Office's consultation report, and the draft proposed conditions and draft certified project description, within established timelines;
- 12.2.9 The Project Assessment Lead will demonstrate how comments provided pursuant to Section [12.2.8](#) were considered;
- 12.2.10 Provide the opportunity for Indigenous Nations to provide to the Environmental Assessment Office a submission regarding their views on the Assessment Report. Any such submission must be provided within the timeline established by the Project Assessment Lead and will be included in the package of materials sent to Ministers when the proposed Project is referred to Ministers for decision; and
- 12.2.11 Direct the Proponent to conduct the following activities:
 - 12.2.11.1 Within specified timelines, provide to the Project Assessment Lead an Indigenous Consultation Plan that will guide consultation activities with such Indigenous Nations during the Pre-Application and Application Review Stages of the assessment. Prior to submitting the Indigenous Consultation Plan to the Project Assessment Lead, the Proponent must provide the draft Plan to the Indigenous Nations listed on Schedule B and must advise the Project Assessment Lead how such groups were consulted and what feedback was provided when submitting the Indigenous Consultation Plan to the Project Assessment Lead. The Project Assessment Lead will assess the Indigenous Consultation Plan and determine whether the proposed activities are adequate. The Project Assessment Lead may order additional consultation activities within prescribed time limits;
 - 12.2.11.2 In the Application, identify potentially affected Aboriginal Interests

raised by such Indigenous Nations and identify measures to mitigate such potential adverse effects and/or to otherwise address or accommodate the concerns of such Indigenous Nations, as appropriate;

12.2.11.3 As directed by the Project Assessment Lead, provide a response to comments received from such Indigenous Nations, to the satisfaction of and within the timeframe specified by the Project Assessment Lead; and

12.2.11.4 Implement additional measures for consultation and accommodation of such Indigenous Nations and revise the Indigenous Consultation Plan, where required by the Project Assessment Lead.

12.3 The Project Assessment Lead may at any time notify the Proponent that one or more Indigenous Nations are to be added to Schedule B of this Order, and in doing so may identify any modifications to any of the procedures and obligations contained in this Order, having regard to the status of existing procedures and obligations at the time the additions are made.

12.4 The Project Assessment Lead may direct the Proponent to conduct the following activities:

12.4.1 Provide a response to comments received from any Aboriginal Group, to the satisfaction and within the timeframe specified by the Project Assessment Lead; and

12.4.2 Implement additional measures for consultation and accommodation of any Indigenous Nations.

13. PROPONENT REPORTING

13.1 The Proponent must provide the Project Assessment Lead with Indigenous Consultation Reports, consistent with the approved Indigenous Consultation Plan, at the following times:

13.1.1 60 days after the issuance of the Application Information Requirements, at the time of submission of the Application, and 100 days from the commencement of the Application Review stage, unless otherwise directed by the Project Assessment Lead; and

13.1.2 At any other time specified by the Project Assessment Lead.

13.2 The Proponent must submit their Indigenous Consultation Reports to the Indigenous Nations listed on Schedule B for review and comment prior to submitting the reports to the Project Assessment Lead and must advise the Project Assessment Lead how such groups were consulted and what feedback was provided when submitting the Indigenous Consultation

Report to the Project Assessment Lead.

13.3 Indigenous Consultation Reports must:

- 13.3.1 Summarize the efforts undertaken by the Proponent to consult with Indigenous Nations on Schedule B in accordance with the approved Indigenous Consultation Plan, and also summarize the efforts undertaken by the Proponent to consult with any other Indigenous Nations, if directed to do so by the Project Assessment Lead pursuant to Section [12.4](#) of this Order;
- 13.3.2 Identify the feedback and information received during consultation;
- 13.3.3 Identify the potential adverse impacts of the proposed Project on Aboriginal Interests;
- 13.3.4 Identify how the potential adverse impacts of the proposed Project on Aboriginal Interests will be mitigated or otherwise addressed or accommodated, as appropriate; and
- 13.3.5 Outline next steps or future consultation activities, other than those outlined in the approved Indigenous Consultation Plan.

PART I – PUBLIC CONSULTATION

14. PRE-APPLICATION STAGE

- 14.1 The Proponent must, within timelines established by the Project Assessment Lead, provide the Project Assessment Lead with a Public Consultation Plan.
- 14.2 The Project Assessment Lead will assess the Proponent's Public Consultation Plan and determine if the proposed activities are adequate. The Project Assessment Lead may order that additional consultation activities be undertaken within time limits set by the Project Assessment Lead.
- 14.3 Public consultation, including a public comment period on the Project Description and the draft Application Information Requirements occurred as directed in the [August 30, 2018 letter](#) to the Proponent pursuant to Section 11 of the Act.

15. APPLICATION REVIEW STAGE

- 15.1 During the Application Review Stage, the Project Assessment Lead will provide for a public comment period of at least 30 days on the Application.
- 15.2 The Project Assessment Lead may require an open house(s) to provide the public with an opportunity to review the Application. At the direction of the

Project Assessment Lead, the Proponent may be required to attend and organize one or more open houses.

- 15.3** The Proponent must make the Application available at accessible public locations as specified by the Project Assessment Lead, and the Project Assessment Lead will make the Application available on the Electronic Project Information Centre.
- 15.4** During a public comment period, the public may comment on the Application by providing comments through the Electronic Project Information Centre.
- 15.5** The Proponent must respond to public comments received pursuant to Section [15.4](#) of this Order, unless the Project Assessment Lead informs the Proponent that a comment:
- (a) is not within the scope of the assessment; or
 - (b) contravenes Environmental Assessment Office's Public Consultation Policy.
- 15.6** All public comments, received pursuant to Section [15.4](#) of this Order, will be posted to the Electronic Project Information Centre within seven days of being received, unless a comment falls within the conditions referred to in Section [15.5\(a\)](#) or [15.5\(b\)](#) of this Order.

16. PROPONENT REPORTING

- 16.1** The Proponent must provide the Project Assessment Lead with Public Consultation Reports, at the following times:
- 16.1.1 60 days after the close of a public comment period and at the time of submission of the Application; and
 - 16.1.2 Any other time specified by the Project Assessment Lead.
- 16.2** The Public Consultation Reports must include:
- 16.2.1 A description of the results of the activities outlined in the Public Consultation Plan;
 - 16.2.2 A summary of: consultations with the public that the Proponent has already carried out in relation to the proposed Project; information, comments, concerns, and questions received from the public within the scope of the environmental assessment, and; how the concerns were addressed; and
 - 16.2.3 Proposed next steps for public consultation activities.

17. PUBLIC NOTIFICATION OF PUBLIC COMMENT PERIODS

- 17.1** Prior to the start of any formal public comment period, the Proponent, by

means acceptable to the Project Assessment Lead, must provide public notice of:

- 17.1.1 The availability of the draft Application Information Requirements or Application for public review and comment and the time limits for the formal public comment period provided for in this Order; and
- 17.1.2 The date, time and location of any open houses held.
- 17.2** The Proponent must obtain approval from the Project Assessment Lead for the content, format and publication schedule for newspaper advertisements required under Section [17.1](#) of this Order.
- 17.3** When one or more notices of an event are to be given, then, in accordance with Section 5 of the Public Consultation Policy Regulation (B.C. Reg. 373/02), the first notice must appear:
 - 17.3.1 In the case of a formal public comment period, at least seven days prior to the date on which the formal public comment period commences; or
 - 17.3.2 In the case of an open house, at least seven days prior to the date on which an open house is scheduled.
- 17.4** Information and records listed in Section 6 of the Public Consultation Policy Regulation (B.C. Reg. 373/02) that pertain to the assessment of the proposed Project will be made available to the public through the Electronic Project Information Centre.

18. ADDITIONAL PUBLIC CONSULTATION ACTIVITIES

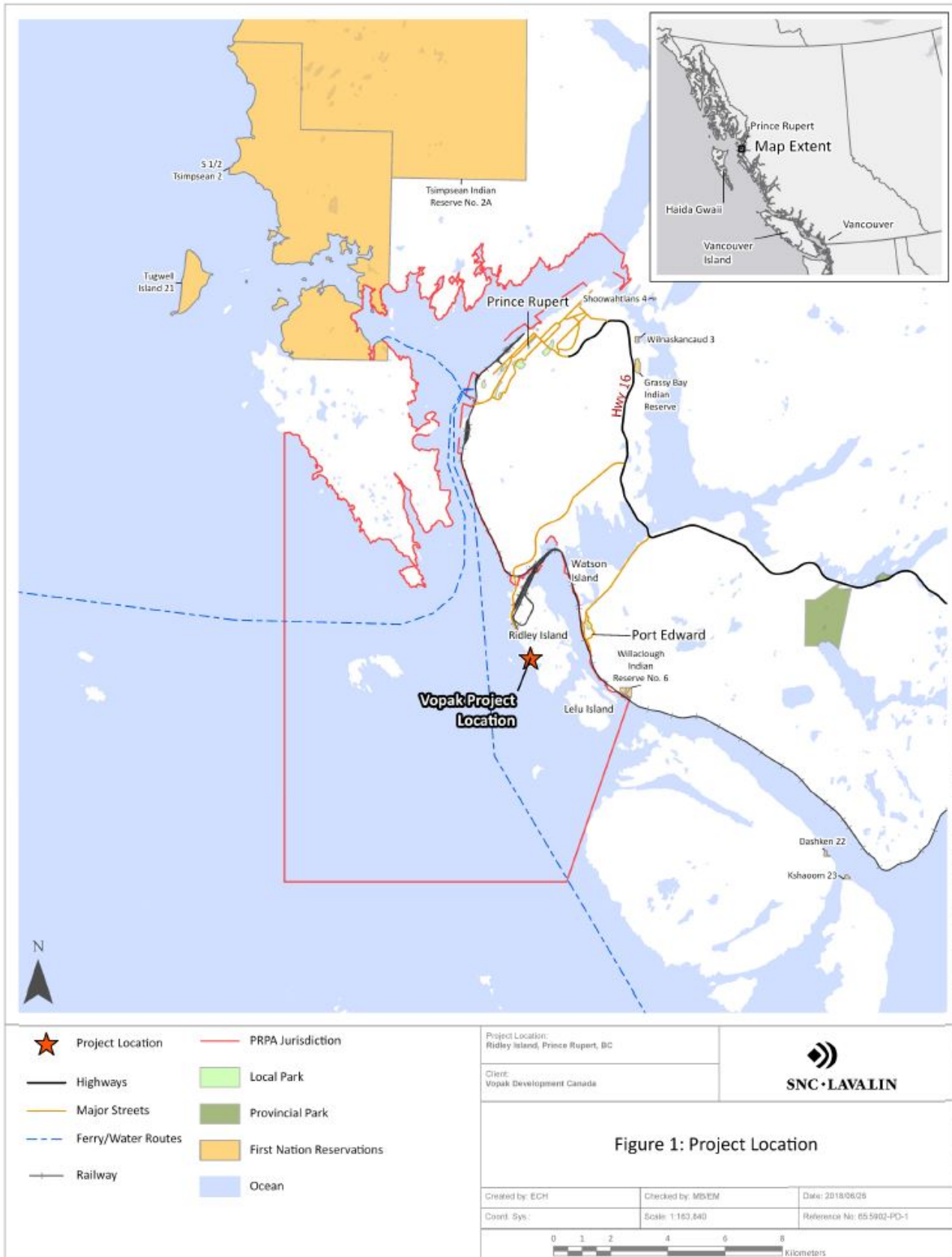
- 18.1** The Proponent may be required to undertake additional public consultation activities as required and within a time limit set by the Project Assessment Lead.

PART J – PROVIDING ADDITIONAL INFORMATION

19. ADDITIONAL INFORMATION

- 19.1** Without limiting any of the requirements in this Order, the Proponent must, at the request of the Project Assessment Lead, provide the Project Assessment Lead with any information or address any issues that the Project Assessment Lead considers necessary in order to complete the environmental assessment of the proposed Project.

Figure 1. Location Map



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SCHEDULE B

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