



Readiness Decision Report

GCT DELTAPORT EXPANSION – BERTH FOUR

OCTOBER 26, 2021

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



EAO

Environmental
Assessment Office

1.0 INTRODUCTION

This Readiness Decision Report has been prepared by the Environmental Assessment Office (EAO) for the GCT Deltaport Expansion - Berth Four Project (DP4) proposed by GCT Canada Ltd. Partnership (GCT). This reflects the requirements set out under Sections 16 and 18 of the *Environmental Assessment Act, S.B.C. 2018, c.51* (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 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](#).

Project Overview

GCT proposes the expansion of the existing Deltaport terminal at Roberts Bank in a project referred to as DP4. As proposed, DP4 would add 56 hectares of landmass for a fourth berth on the northeast side of the existing GCT Deltaport Container Terminal in Delta, British Columbia (B.C.). It would include an expansion of the intermodal rail yard along the causeway (Roberts Bank Way) and dredging to provide safe access for ships. The additional land-based container storage and handling facilities would be built on federal and provincial Crown lands and would provide capacity for an additional two million 20-foot equivalent units per year at the existing Deltaport terminal.

Initiated on September 28, 2020, DP4 is a reviewable project pursuant to Part 7, Table 13, Column 3, 4(1)(b)(ii) of the Reviewable Projects Regulation (B.C. Reg. 607/19), because the modification of the existing project entails dredging, filling or other direct physical disturbance of over two hectares of foreshore or submerged land, or a combination of foreshore and submerged land, below the natural boundary of a stream, marine coastline or estuary. A reviewable project must obtain an EA certificate or exemption order before it can be constructed.

The EAO and the Impact Assessment Agency of Canada (the Agency) are conducting a coordinated assessment process under the [Impact Assessment Cooperation Agreement](#), which enables the development of joint documents and requirements, coordinated engagement, and facilitates a coordinated approach to consultation with Indigenous nations. On September 28, 2020, the Agency accepted the Initial Project Description (IPD) for DP4, thereby commencing the planning phase of an impact assessment under the federal *Impact Assessment Act (2019)* (the Federal Act). The readiness decision is a requirement of the provincial Act and the Agency will make a separate determination whether an impact assessment is required under the federal Act, and will post the decision and the reasons for the decision on their [Registry](#).

For further details on the DP4 project, please see the [Initial Project Description](#), [Engagement Plan](#), [Detailed Project Description](#) (DPD) and other documents on the [EAO's Project Information Centre](#) (EPIC) website.

Early Engagement

On May 28, 2020 the EAO and the Agency organized a meeting with GCT to introduce the coordinated assessment process for the review of the IPD to assessment participants. Assessment participants, including technical advisors from Indigenous nations, local governments, provincial and federal government agencies, and United States (U.S.) agencies were then invited to comment on the draft IPD.

Pursuant to Section 13(3)(a) of the Act, GCT's IPD and Engagement Plan for DP4 were approved by the CEAO on September 28, 2020. A 45-day public comment and engagement period was held by the EAO and the Agency from October 13, 2020 to November 27, 2020 on the IPD. The 30-day period was extended by 15-days to provide the public additional time for review due to the COVID-19 pandemic. Public comments solicited by the EAO and submissions received from the public during the public comment and engagement period, which included two virtual open houses, are posted on [EPIC](#).

Pursuant to Section 13(5) of the Act, the EAO and the Agency developed a [Joint Summary of Issues and Engagement](#) (JSOIE) that was provided to GCT on December 23, 2020, providing a description of the public comment period, a list of the participating Indigenous nations, and a summary of public and technical advisor comments received on the IPD.

Pursuant to the EAO's [Readiness Decision Policy](#), GCT submitted a draft DPD for DP4 to the EAO on April 1, 2021. The DPD is intended to respond to comments on the IPD collected during public comment period and address the issues summarised in the JSOIE. The draft DPD was reviewed by the EAO, the Agency, participating Indigenous nations, and technical advisors, and comments were provided to GCT.

Pursuant to Section 15 of the Act, on July 12, 2021, GCT filed a DPD for DP4 with the EAO, which formally began the Readiness Decision phase. On July 14, 2021, GCT also submitted a draft of the joint Tailored Impact Statement Guidelines/Application Information Requirements (Joint Guidelines) document to the EAO and the Agency. The Joint Guidelines will inform the next stage in the coordinated EA, the Process Planning phase, should the project proceed to an EA.

2.0 READINESS DECISION OPTIONS

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 DPD in collaboration with participating Indigenous nations and technical advisors to determine whether it considers 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.

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 DPD. A revised DPD would be required to address any deficiencies found in the document, such as not being in concordance with the Detailed Project Description Guidelines within the [Early Engagement Policy](#), not including enough information to identify project interactions with Indigenous nations' interest, or not addressing the substantive information requirements described in the JSOIE report.

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 their IPD. Pursuant to Section 16(2)(b) of the Act and the [Certificate Exemption Policy](#), GCT has not sought an order under Section 17(1)(b) to exempt it from the

requirement under Section 6 to obtain an EA certificate for DP4. 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 has not considered this option further.

3. Termination

If the CEAO considers that the project as described in the DPD would have extraordinarily adverse effects, they 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 if the proposed project has previously been refused, are rationale for termination. Pursuant to Section 16(2)(c) of the Act, the EAO has not identified any information at this time, including from participating Indigenous nations, that would cause it to advise the CEAO to consider recommending to the Minister that an order be issued under Section 17(1)(a). Therefore, the EAO has not considered this option further.

4. Proceed to an Environmental Assessment

Under Section 18 of the Act, if the EAO does not require a revised DPD 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 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 DPD for DP4 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 GCT's responses to their comments, and additional technical considerations that should be carried forward into subsequent phases such as the development of Joint Guidelines, assessment plan, or regulatory coordination plan, for example. The EAO takes this input into consideration when determining the adequacy of the DPD and preparing the recommendation for the readiness decision.

The EAO received responses from technical advisors during Early Engagement and the Readiness Decision phases. The technical advisors represent:

- Ministry of Health
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development
- Ministry of Environment and Climate Change Strategy
- Climate Risk Management, Climate Action Secretariat
- Ministry of Indigenous Relations and Reconciliation
- Ministry of Municipal Affairs and Housing
- Washington State Department of Ecology
- City of Langley
- Township of Langley

- City of Surrey
- City of Richmond
- Corporation of Delta
- Metro Vancouver

The EAO held information sessions with technical advisors from local governments and provincial ministries on August 12 and 17, 2021. The cities of Delta, Surrey, Richmond, Langley, the Township of Langley, and Metro Vancouver were engaged on the project and of these six municipal governments, the cities of Delta, Surrey, Richmond, and Metro Vancouver provided direct feedback to the EAO on the DPD and Readiness Decision Report.

Of particular concern to municipal governments is the potential upstream effects of trade-related road and rail traffic increases on local communities if the project is to proceed. The cities of Delta, Richmond and Surrey all expressed concerns related to road and rail traffic increases, naming rail traffic increases, greenhouse gasses, congestion and safety risks at rail crossings, impacts to human health such as increased noise and air pollution, and socioeconomic impacts on communities as concerns. The City of Richmond recommended the EAO require a traffic impact assessment and cumulative effects assessment be conducted that includes the Roberts Bank Terminal 2 (RBT2) project.

Technical advisors from provincial ministries also provided feedback on the DPD and draft Readiness Decision Report. They provided feedback on proposed mitigations and offsetting, assessment, monitoring and reporting methodologies, as well as provincial regulatory requirements for consideration by the proponent. The Washington State Department of Ecology also participated as a technical advisor for the DP4 project and identified concerns regarding transboundary effects of project activities and marine shipping in U.S. waters. At no time did provincial ministry technical advisors recommend the project be terminated or exempted, or that the DPD be returned to the proponent for further development.

Technical advisors commented on areas of the DPD that should be explored in more detail in subsequent phases of the EA. They have been summarized by theme and include: air quality, agricultural and agricultural land reserve impacts, climate change, road and rail traffic, greenhouse gas emissions, fish and fish habitat, wetlands, Roberts Bank wildlife management area, marine birds, marine mammals, marine shipping, noise and vibration, visual effects, accidents and malfunctions, human health, consultation with Indigenous nations, mitigation measures, cumulative effects, alternatives assessment, community and local stakeholder engagement, and transboundary effects.

4.0 CONSENSUS-SEEKING WITH PARTICIPATING INDIGENOUS NATIONS

Participating Indigenous nations are afforded specific procedural rights under the Act, including consensus-seeking processes at major milestones such as the Readiness Decision. For more information on participating Indigenous nations please see the [EAO's guidance materials](#), and for information about Indigenous nations participating in DP4 please see the [Deltaport 4 EPIC webpage](#).

The JSOIE provided a summary of the issues raised by Indigenous nations during review of the IPD. Participating Indigenous nations also provided comments on a draft of the DPD shared by GCT on April 1, 2021. Issues expressed by Indigenous nations during the review of the draft DPD include, but are not limited to: potential cumulative effects; the exercise of Indigenous rights, interests and culture; rationale for the project including benefits and alternatives; Indigenous economic opportunities; impacts to terrestrial and marine mammals and their habitat; incidental activities including marine and terrestrial shipping; species at risk, including Southern Resident Killer Whale; meaningful engagement with and participation of Indigenous nations; integration of Indigenous knowledge; and offsetting and mitigation plans.

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 thinking for a readiness decision. More specifically, participating Indigenous nations were asked to identify whether the DPD contained enough information to identify project interactions with Indigenous nations' interests and whether the issues raised by each nation had been addressed in the document. The Readiness Decision Report was also provided to participating Indigenous nations in draft form for their review and comment.

The EAO held information sessions with participating Indigenous nations involved in the DP4 on August 12 and 17, 2021. Of the seventeen participating Indigenous nations, ten provided direct feedback on the DPD and draft Readiness Decision Report. Where possible, the EAO engaged in further dialogue with each nation to understand their concerns and comments and explore how the issues they raised could be addressed through subsequent phases of the EA process, depending on the result of the readiness decision. Additional meetings were held to discuss feedback on the draft Readiness Decision Report and DPD received from Malahat First Nation, Pacheedaht First Nation, Esquimalt First Nation, Tsawwassen First Nation, Tsleil-Waututh Nation, Maa-nulth Treaty Society, Ditidaht First Nation, and Ts'uubaa-asatx First Nation. At no time did an Indigenous nation recommend that the project should be exempted from an EA or terminated due to extraordinary adverse effects.

The EAO has heard from several Indigenous nations that the number of projects underway in the Lower Mainland has placed significant administrative burden on their governments and impacts their ability to respond and participate meaningfully in EAs. Malahat First Nation declined to comment on whether DP4 was ready to proceed to an EA due to their inability to thoroughly engage in the analysis as a result of insufficient capacity. They expressed the desire to carry out a territory-wide traditional knowledge, use and occupancy study to permit meaningful engagement in assessment processes. Several other nations such as Pacheedaht First Nation, Tsawwassen First Nation, Tsleil-Waututh First Nation, and Cowichan Nation Alliance also expressed a concern with their ability to engage meaningfully due to inadequate capacity.

Pacheedaht First Nation was the only participating Indigenous nation to provide a recommendation to the EAO to request a revised DPD. Pacheedaht First Nation felt there was insufficient detail in response to their comments within the JSOIE and subsequent revisions to the draft DPD. Pacheedaht later revised their recommendation following discussions with GCT, and recommended the project proceed to an EA based on GCT's commitments to include marine shipping activities in the EA, collaboration on the methodology for assessing cumulative effects, and funding the collection of relevant Pacheedaht Indigenous knowledge.

Tsawwassen First Nation also recommended a revised DPD in the absence of the EAO guaranteeing that the EA would include a cumulative effects assessment that considers RBT2. The EAO engaged Tsawwassen First Nation to understand their concerns and explore how the substantive issues could be resolved in subsequent phases, including requiring RBT2 to be considered in the cumulative effects assessment for DP4, should the project proceed to an EA.

During the Early Engagement phase, several Indigenous nations and technical advisors expressed the need to have a comprehensive understanding of the potential cumulative effects of DP4, including associated activities such as marine shipping, short-sea shipping, and road and rail traffic, due to existing development and industrialization in the Lower Mainland and Salish Sea. A key issue raised by several Indigenous nations, including Pacheedaht First Nation, Tsawwassen First Nation, Tsleil-Waututh Nation, Maa-nulth Treaty Society, Esquimalt First Nation, Sc'ianew First Nation, Pauquachin First Nation, and Ditidaht First Nation was that a comprehensive cumulative effects assessment is required to meaningfully account for the impacts that affect Indigenous nations' ability to exercise Aboriginal culture and rights, including treaty rights.

During engagement on the DPD and draft Readiness Decision Report, several Indigenous nations were of the view that DP4 should proceed to an EA. The Maa-nulth Treaty Society, Sc'ianew First Nation, Esquimalt First Nation, Ts'uubaa-asatx First Nation, and Tsleil-Waututh First Nation have provided recommendations to the EAO that DP4 should proceed to an EA. The EAO is of the view that the issues raised by Indigenous nations engaged on DP4 can be addressed in future phases of the EA, such as in the development of the Joint Guidelines and in the Process Planning phase. The EAO did not achieve consensus on a readiness decision with all participating Indigenous nations however, as some abstained

from making a determination (Malahat First Nation), while others did not respond to EAO's request for comments on the DPD and draft Readiness Decision Report (Halalt First Nation, S'ólh Téméxw Stewardship Alliance, T'sou-ke First Nation).

Key issues raised during the EAO's consensus seeking on the readiness decision and the DPD can be broadly summarized by the following themes: cumulative effects, scope and spatial extend of the assessment, marine spills and accidents, trade-related traffic (marine and terrestrial), human health, and culture.

Specific comments include: cumulative effects assessment and the *Yahey v British Columbia* decision, environmental and socioeconomic effects of road and rail congestion, legitimacy of effects assessment processes, spatial scope of marine assessment extended to exclusive economic zone and terrestrial assessment to major arterial highways, uncertainty about the number and size of container ships, proposed short sea shipping activities, adaptive methodologies for assessing and addressing effects, comparative analysis with RBT2 and alternatives to the project, the potential for RBT2 and DP4 to both be approved, shipping routes in Swiftsure Bank and the Salish Sea, use of past studies in analysis of DP4, fishing and harvesting, marine spills and accidents including hazardous materials spills, and impacts to Southern Resident Killer Whale.

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

- Beecher Bay Indian Band (Scianew First Nation)
- Cowichan Tribes
- Ditidaht First Nation
- Esquimalt Nation (No'ilung Si'em 'i' sche'le'chu)
- Halalt First Nation
- Lyackson First Nation
- Maa-nulth First Nations: HUU-ay-aht First Nations; Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations; Toquaht Nation; Uchucklesaht Tribe; Ucluelet First Nation.
- Malahat First Nation
- Musqueam Indian Band
- Pacheedaht First Nation
- Pauquachin First Nation
- Stz'uminus First Nation
- S'ólh Téméxw Stewardship Alliance (via People of the River Referrals Office): Aitchelitz First Nation; Chawathil First Nation; Cheam First Nation; Kwaw-Kwaw-Apilt First Nation; Semá:th (Sumas) First Nation; Shxwhá:y Village; Skowkale First Nation; Skwah First Nation; Soowahlie First Nation; Sq'ewá:lwx (Skawahlook) First Nation; Sq'éwlets (Scowlitz) First Nation; Squiala First Nation; Tzeachten First Nation; Yakweawkwoose First Nation; Yale First Nation.
- T'sou-ke First Nation
- Tsawwassen First Nation
- Tseil-Waututh Nation
- Ts'uubaa-asatx (Lake Cowichan First Nation)

5.0 RECOMMENDATION AND NEXT STEPS

Based on the EAO's current understanding of the proposed DP4 project, including information presented in the DPD, GCT's responses to matters identified in the JSOIE, the EAO's concordance review of the DPD with EAO's guidelines, and input from technical advisors and participating Indigenous nations to date and as described above in section 2, the EAO is of the view that the DPD contains enough information to proceed to an EA, including to inform discussions about the scope of the assessment, how EA participants want to be engaged, and methods to assess project effects on Indigenous nations and their rights.

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 be cause the EAO to recommend that DP4 be referred to the Minister for a determination under Section 24 (Process Planning by Minister). The issues that have been raised are of the nature 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 DP4. **Therefore, pursuant to Section 18(1)(a) of the Act, the EAO recommends to the CEAO that DP4 proceed to an EA.**

The purpose of the Process Planning phase is to formalize, in the Process Order, how the EA will 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 DP4 proceeds to the Process Planning phase, the following documents will be drafted cooperatively with the Agency and provided for review by the public, participating Indigenous nations and technical advisors: the Process Order, a Joint Assessment Plan, Joint Guidelines, and a Joint Permitting/Regulatory Coordination Plan. The EAO will continue to seek consensus with participating Indigenous nations before finalizing the Process Planning documents.

If DP4 proceeds to an EA, input on the DPD and the key issues raised during Early Engagement phase will help inform and guide the Process Planning phase. For more information on the Process Planning phase, please see the [EAO's guidance materials](#).