

Roberts Bank Terminal 2 Project

Executive Summary - Part one: Vancouver Fraser Port Authority response to draft conditions and public comment period submissions for the Roberts Bank Terminal 2 Project

April 22, 2022



Executive Summary

Project overview

The Roberts Bank Terminal 2 Project consists of the construction and operation of a marine container terminal in Delta, British Columbia and proximate to Tsawwassen First Nation. The Vancouver Fraser Port Authority (port authority), the project proponent, is a Canada Port Authority accountable to the federal minister of transport. It operates pursuant to the *Canada Marine Act* and is the federal agency responsible for the stewardship of the lands and waters that make up the Port of Vancouver, Canada's largest port. The port authority proposes the project consistent with its mandate under the *Canada Marine Act*.

The Roberts Bank Terminal 2 Project entails the construction and operation of three project components: a new three berth marine container terminal, a widened causeway to accommodate additional road and rail infrastructure, and an extended tug basin to accommodate expanded tug operations. The marine terminal would be located immediately west of the existing Roberts Bank terminals, about 5.5 kilometres from the shore end of the causeway, in deep subtidal waters away from sensitive intertidal habitats. The terminal would sit on new federal land, created mainly with sand that is deposited in the Fraser River each spring during freshet.

Project need and benefits

The Roberts Bank Terminal 2 Project is a critical investment in marine-side port infrastructure on the West Coast of Canada to support Canadian trade. As supported by several years of forecasts and recognized by the independent review panel, Transport Canada and industry stakeholders, additional container terminal capacity on Canada's West Coast is needed. Canada's trade competitiveness depends on the ability of Canada's supply chain to provide reliable, cost-efficient access for importers and exporters. As increasing volumes, constrained capacity, and supply chain delays have demonstrated, especially during the global pandemic, additional container terminal capacity is urgently needed at the Port of Vancouver. Investment in the project will help protect Canada's trade competitiveness and economic resiliency.

Building on significant federal and provincial government investments in road and rail infrastructure that support the Port of Vancouver's Roberts Bank terminals as a part of Canada's West Coast supply chain, marine side capacity is urgently needed to support future trade. The West Coast of Canada will fall short of the needed capacity for container trade as early as 2025. The surge in demand for containers during the pandemic has shown the impacts of current constraints as congestion at the Port of Vancouver has led to increased transportation delays, including longer container dwell times and increased use of anchorages, which are not usually required for container vessels, resulting in a bottleneck of goods to market. Our analysis shows that building the Roberts Bank Terminal 2 Project is critical to addressing congestion and ensuring the West Coast of Canada can support Canadian trade for decades to come.

Updated economic impact assessment results provided by the port authority in response to the minister's information request demonstrate that the project will provide benefits to Canada, British Columbia, and Metro Vancouver by supporting economic growth, creating tens of thousands of well-paying, family-supporting jobs during construction and operation, and generating hundreds of millions of dollars annually in combined federal, provincial, and municipal tax revenues during operation. The Roberts Bank Terminal 2 Project will measurably support increased Canadian GDP to a degree that few projects can. A decision by government is needed now to protect decades of infrastructure investment and trade policy that depends on Canada's largest and most competitive West Coast gateway. This action will support Canadian supply chain jobs and economic resiliency.

Ongoing consultation with forty-six Indigenous groups, as listed in the Updated EIS Guidelines for the Roberts Bank Terminal Project, has resulted in the refinement and enhancement of mitigation measures for species of key interest and cultural stewardship initiatives. The project has made commitments to 20 Indigenous groups so far through mutual benefit agreements, which include employment, training, and procurement opportunities, and discussions are ongoing with other Indigenous groups who have expressed an interest. The port authority has also committed to a \$5.5 million legacy fund for projects of interest to Indigenous groups.

In addition to project benefits such as direct, indirect, and induced employment, the port authority has committed to a \$6 million community investment program in Delta to support community grants and an education fund for Delta-based organizations. The port authority has also committed to a \$30 million Prey Abundance Fund to support the availability of Chinook salmon for southern resident killer whales (SRKW) to be developed in consultation with Indigenous groups and federal authorities.

Environmental assessment

After initiating consultation with Indigenous groups, local governments, stakeholders, and the public in 2011, the project entered the environmental assessment process in 2013. Under the *Canadian Environmental Assessment Act 2012*, the minister determined that the project would be reviewed by an independent panel, which took place from 2015 to 2019. In 2020, the review panel issued their report, which identified potential significant adverse effects and several areas of uncertainty. The minister determined that additional information was required regarding the implementation of mitigation measures and the requirements of the *Species at Risk Act* and issued an information request (IR) on the topics of salmon, SRKW, effects on biofilm as a result of fish mitigation measures, effects to Indigenous peoples, and updated economic information to support decision-making on the project. Following extensive consultation with Indigenous groups, government agencies, and stakeholders, and further refinement of proposed mitigation measures, the port authority provided the minister with the information requested in 2021.

The review panel report and the port authority's response to the minister's information request provide sufficient information to establish i) whether the project will result in significant adverse effects, ii) that any significant adverse effects would be justified, and iii) the conditions to include in a decision statement. The port authority's IR response demonstrates how the concerns raised in the review panel report and expressed by Indigenous groups have been addressed through new technical analysis and enhanced mitigation measures. In particular, the additional information demonstrates that neither the project nor the vessel traffic incidental to it will jeopardize the survival or recovery of SRKW. Remaining uncertainty regarding effects identified by the review panel that were not included in the minister's IR will be addressed through draft project conditions developed by the Impact Assessment Agency of Canada (IAAC) and follow-up programs to be implemented by the port authority.

Throughout the environmental assessment, the port authority has been responsive to feedback from Indigenous groups, federal and provincial agencies, local governments, communities, and stakeholder interest groups. The prioritization of a thorough and comprehensive consultation process with Indigenous groups has resulted in important enhancements to the project, and to increased benefits and opportunities for Indigenous groups through close collaboration on key issues of interest and concern. In the environmental assessment, uncertainty has been addressed by adopting a science-based approach and through the use of conservative assumptions. It has also been informed by Indigenous knowledge.

Purpose of the submission

This submission has been developed in response to IAAC's invitation to comment on the draft conditions, and to submissions made by others, including Indigenous groups, during the public comment period on the IR response. Submissions posted to the public registry during the comment period have been carefully considered by the port authority and responded to within this submission. Several parties provided comments on the IR response and on the draft conditions with respect to biofilm and the potential impact to western sandpiper. The port authority will provide a separate submission responding to those comments. In addition, several submissions were received in April and the port authority will

respond to comments that raise interests or concerns that are not already covered within this response under separate cover.

The information contained in this submission demonstrates that the Roberts Bank Terminal 2 Project can be implemented with effective mitigation in place for key species and priorities of Indigenous groups, agencies, and the public.

Information on the record to date demonstrates the following:

- The Crown's duty to consult with Indigenous groups and to accommodate the potential impacts to rights has been met to date
- Project design changes and additional mitigation measures will serve to further mitigate and/or reduce the likelihood of potential adverse effects of the project
- With the port authority's suggested revisions, the draft conditions are technically and economically feasible, within the care and control of the proponent, and will appropriately mitigate the potential environmental effects of the project
- Work by other federal authorities to address regional-scale issues and further mitigate cumulative effects that are outside the care and control of the port authority is underway, and where appropriate, the port authority is participating and supports this work
- The project is needed and will deliver important and significant economic benefits locally, regionally, provincially, and nationally, as well as benefits through agreements with numerous Indigenous groups
- Any potentially significant adverse environmental effects, including any cumulative effects, would be justified and it is in the public interest to approve the project to proceed

Advancements described in the IR response

Through extensive consultation with Indigenous groups and ongoing engagement with agencies, the port authority has completed additional technical work, adding project design changes and additional mitigation that will further reduce effects identified by the review panel. The port authority has worked to refine mitigation measures for potential effects of the project on key species such as SRKW, fish and fish habitat, particularly Chinook salmon, and Dungeness crab, and includes the following analysis and additional measures.

Marine shipping and vessel projections

In response to the minister's IR, the port authority provided updated and extended projections of container vessel numbers and sizes expected to call at Roberts Bank Terminal 2 and the Port of Vancouver overall. The updated projections indicate that, in the most-realistic scenario, the number of container vessels forecasted to call at Port of Vancouver container terminals would be the same with or without the Roberts Bank Terminal 2 Project. Transport Canada has indicated in their written submission to the registry that the new work provided is a well-constructed and plausible projection of future vessel traffic at the Port of Vancouver.

The port authority's IR response demonstrates that in the most-realistic scenario, only small changes in sound exposure are predicted with the project, which are not anticipated to reduce the quality of the acoustic environment for SRKW. Therefore, the potential environmental effects found by the review panel as likely to result from marine shipping incidental to the project—some of which they considered significant—are based on very conservative assumptions and are not likely to occur. The port authority has proposed a marine shipping follow-up program to verify predictions and suggested revisions and additions to the draft conditions to provide greater certainty regarding the number of measures that could be implemented in the unlikely event that vessel traffic is greater than predicted.

Underwater noise and southern resident killer whales

In its response to the minister's IR, and in consultation with Indigenous groups, Fisheries and Oceans Canada, and Transport Canada, the port authority proposed additional mitigation measures for SRKW,

which, in combination with previously proposed measures, would further reduce potential adverse effects of project construction, project operation, and marine shipping incidental to the project on SRKW.

The additional proposed measures increase confidence for decision makers that project construction and operation, and marine shipping incidental to the project, will not jeopardize the survival or recovery of the species. Construction measures include a focus on avoiding noisy activities during the SRKW peak use period, and using stop-work procedures, exclusions zones and leading marine mammal monitoring systems. Operational measures include delayed container vessel unberthing and departure, shore power and other technologies that would reduce underwater noise, as well as requirements around participation in the Enhancing Cetacean Habitat and Observation (ECHO) Program, a world-leading, first-of-its-kind program developed and led by the port authority to better understand and reduce the cumulative effects of commercial shipping on at-risk whales along British Columbia's southern coast, with a focus on endangered SRKW. The port authority has committed to continuing to lead the ECHO Program and its initiatives and signing on to an additional five years of the *Species at Risk Act* (SARA) Section 11 Conservation Agreement to Support the Recovery of the SRKW, if other parties agree. Further, the port authority suggested revisions and additions to conditions related to SRKW reflecting input received during the public comment period which will further reduce the likelihood that the Roberts Bank Terminal 2 Project will jeopardize the survival and recovery of SRKW.

Even though the number of vessels is forecasted to be the same in the future with or without the Roberts Bank Terminal 2 Project, the port authority has identified additional contingency mitigation measures that could be implemented in the unlikely event that acoustic effects to SRKW exceed predictions, as well as measures that could be implemented by the Government of Canada, including further reducing vessel speed and/or expanding vessel slowdown areas. The contingency mitigation measures demonstrate that there are effective options available to mitigate potential underwater noise effects to SRKW even in the unlikely event that acoustic effects to SRKW exceed predictions because of the project. Transport Canada has indicated that these measures would be feasible and appropriate in their written submission to the registry. The proposed marine shipping follow-up program would be developed and implemented in consultation with Indigenous groups, Transport Canada, Fisheries and Oceans Canada, and other relevant federal authorities, as described in a joint letter to IAAC on March 15, 2022, from the port authority, Tsawwassen First Nation, and Musqueam Indian Band.

These combined measures increase confidence in the prediction that project operation and marine shipping incidental to the project are unlikely to interfere with SRKW's life functions within its critical habitat and will not jeopardize SRKW survival or recovery. The IR response including the suggested additions and revisions to draft conditions related to SRKW demonstrate that all feasible mitigation measures have been identified.

Fish and fish habitat and Dungeness crab

Based on extensive consultation with Indigenous groups and Fisheries and Oceans Canada, and in response to the minister's IR, the port authority has put forward additional avoidance, reduction, and offsetting measures for fish and fish habitat, including the following:

- Reduction of the project footprint by up to approximately 14 hectares, to reduce the direct effects of the project on fish and fish habitat
- A breach for fish passage to mitigate the potential disruption of juvenile salmon migration
- A proposed offsetting plan that fully offsets the potential effects of the project on juvenile salmon resulting in a substantial **net gain** in juvenile salmon habitat and productivity
 - The plan includes 86 hectares of offsetting developed in collaboration with Indigenous groups, to support key species of interest such as Chinook salmon and Dungeness crab—this is triple the amount proposed in the environmental impact statement and considered by the review panel
 - The offsetting plan includes Indigenous group identified priority sites that support broader salmon enhancement objectives as described by Musqueam Indian Band in their letter to the registry

- This is also 22 hectares more than what is required to offset the effects of the project that would remain after implementation of avoidance and reduction measures

Based on consultation with Indigenous groups, the port authority has proposed new measures to mitigate potential effects to crab during construction, including the following:

- Conducting additional crab salvage activities prior to dredging during the Dungeness crab fisheries-sensitive window, including deploying baited closed-traps to lure Dungeness crabs (including gravid females) away from the dredge area as suggested by Musqueam Indian Band
- Collaborating with Tsawwassen First Nation and Musqueam Indian Band on a stewardship initiative identified as a priority by the nations, to retrieve and dispose of crab ghost gear (i.e., lost or discarded fishing gear), which can inadvertently harm and kill crabs and other marine life
- 12.5 hectares to 14.5 hectares of native eelgrass offsetting are planned at Roberts Bank for the project and will directly benefit multiple life stages of Dungeness crab, including juveniles, adults, and gravid females

Further, the port authority notes that the follow-up program element for current use of lands and resources for traditional purposes includes the identification of parameters to monitor changes in environmental components identified as important for current use, including crab.

Indigenous groups interest, knowledge, and input

Throughout the environmental assessment, the port authority has been committed to environmental stewardship in consultation with Indigenous groups, local governments, communities, and stakeholder interest groups. The prioritization of a thorough and comprehensive consultation process with Indigenous groups has resulted in significant ecological and cultural enhancements to the project, and to increased benefits and opportunities for Indigenous groups through close collaboration on key points of interest and concern.

As part of its ongoing consultation with Indigenous groups, the port authority has continued and will continue its collaborative work with Tsawwassen First Nation and Musqueam Indian Band through regular technical meetings, site visits, ongoing dialogue, and other jointly planned activities to further advance planning related to their project priorities. The port authority will also continue to work closely with Tsleil-Waututh Nation on their key project priorities. The port authority remains committed to advancing the project in a way that is guided by and reflects Indigenous groups' knowledge, perspectives, experience, and input. Consultation with all Indigenous groups identified by IAAC for consultation on the Roberts Bank Terminal 2 Project continues through regular workshops, one-to-one meetings and information sharing through the online consultation portal and will continue throughout the development and implementation of the project.

The port authority has also continued and will continue to consult and collaborate with Indigenous groups regarding economic development opportunities. The 20 mutual benefit agreements finalized so far, and those under continued discussion, provide benefits to Indigenous groups, including employment and contracting, training, and funding to support each nation's priorities, such as environmental stewardship, cultural programs, educational scholarships, and capacity development.

Feedback on the draft conditions

In addition to advancements described in the IR response with respect to mitigation, IAAC has drafted comprehensive draft federal conditions, which address significance determinations made by the review panel on topics not included in the IR, in many cases going beyond the review panel's recommendations. The draft conditions also include prior commitments made by the port authority.

Important legal principles and requirements have informed the port authority's detailed feedback on the draft conditions. Our feedback on the draft conditions reflects work undertaken in response to the minister's IR, new or amended mitigation measures proposed by the port authority and stemming from ongoing consultation with Indigenous groups, IAAC, and federal authorities, and submissions to the registry made by other parties. In some cases, we have made joint submissions based on focused

consultation with Indigenous groups regarding the potential effects of incidental marine shipping on marine mammals and current use of lands and resources for traditional purposes, and monitoring oversight.

With the port authority's suggested revisions, the draft conditions are technically and economically feasible, within the care and control of the proponent, and appropriate. The work of other federal agencies to address regional-scale issues and further mitigate cumulative effects that are outside the care and control of the port authority is underway, with participation and support of the port authority as appropriate.

Whole of Government Response

Following the issuance of the review panel report, the Government of Canada prepared a draft Whole of Government Response.¹ That response outlines measures the Government of Canada can implement to further address points identified by the review panel, including regional initiatives currently underway related to marine shipping and cumulative effects.

The port authority agrees with and supports the measures described in the Whole of Government Response, which acknowledge regional cumulative effects that occur outside the care and control of the port authority. These measures, many of which are currently being implemented, mitigate the cumulative effects of all marine shipping, including existing and ongoing container vessel traffic, and will materially improve the health of the Salish Sea. The implementation of these measures by the Government of Canada will mitigate potential adverse cumulative environmental effects on SRKW.

The port authority has proposed additional measures, that go beyond those underway by the Government of Canada, in the unlikely event that the number of container vessels calling Roberts Bank Terminal 2 is higher than projected.

The port authority notes recent commitments in the federal budget to renew and further enhance the efforts of the Oceans Protection Plan a key mitigative measure for the cumulative effects of marine shipping, which includes measures to monitor its effectiveness. These enhancements will be underway well before the Roberts Bank Terminal 2 Project is operational.

Conclusion

The Roberts Bank Terminal 2 Project is in Canada's national interest, can be built in an environmentally responsible manner and will provide benefits to Indigenous groups, local communities and businesses, and provincial and national supply chain partners.

As demonstrated in the material on record to date, including the information provided by the port authority in response to the minister's IR, a comprehensive proposal for mitigation measures is in place. Through the draft conditions and the Whole of Government Response, the tools exist to address concerns raised outside the care and control of the port authority, and in collaboration with agencies and Indigenous groups, in the implementation of this important project.

The information provided in the port authority's response to the minister's IR is complete and, together with the review panel report, is sufficient for the minister to make decisions on the project. Through the additional measures and advancements described in the IR response, the draft conditions, and regional initiatives underway as proposed by the Government of Canada the potential adverse effects of the project have been further mitigated and it is in the public interest for the project to proceed

¹ IAAC provided the port authority, Indigenous groups, the provincial government, and other federal authorities with the draft Whole of Government Response to the recommendations of the review panel that were directed to the government on October 22, 2020. The whole of government response is subject to change and may be updated in the future.