



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

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July 12, 2024

Mike McLellan
Vice-President, Project Development
GCT Canada Limited Partnership
400 – 2945 Virtual Way
Vancouver BC V5M 4X5

<contact information removed>

SUBJECT: Key amendments to the *Impact Assessment Act*

Dear Mike McLellan:

On June 20, 2024, the *Budget Implementation Act, 2024*, No. 1, received Royal Assent and brought into force amendments to the *Impact Assessment Act* (the IAA). The purpose of this letter is to inform you of key amendments to the IAA, including the transitional provisions relevant to the GCT Deltaport Expansion - Berth Four Project (the Project), and the next steps.

The amendments:

- ensure that federal decision-making, namely the designation decision, the screening decision, and the final decision at the end of the assessment, are focused on areas of federal jurisdiction;
- narrow the definition of effects within federal jurisdiction to correspond to areas of federal constitutional authority. This means that for activities that are primarily provincially regulated, the effects within federal jurisdiction that are the basis of decision-making and condition-setting under the IAA are aligned with federal constitutional heads of power. These areas of federal jurisdiction are: fish and fish habitat, aquatic species at risk, migratory birds, federal lands, impacts on Indigenous Peoples, and transboundary changes involving the pollution of transboundary waters and the marine environment;

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- ensure that ongoing prohibitions or conditions are only imposed as required to prevent or mitigate adverse effects within federal jurisdiction;
- increase flexibility in the IAA to work collaboratively with provinces to ensure efficiency and avoid duplication of processes in conducting assessments under cooperation agreements; and
- include transitional provisions to bring designated projects under the amended IAA and to recognize voluntary actions to advance assessments during the interim period (October 13, 2023 to June 20, 2024), to ensure time was not lost.

Further to the Impact Assessment Agency of Canada's (the Agency) letter of December 8, 2023, the Agency confirms that the Project may result in adverse effects within federal jurisdiction, as defined in the amended IAA, and will remain subject to the amended IAA.

Transitional provision 305 of the *Budget Implementation Act, 2024, No. 1* (Attachment 1) describes the steps by which the Agency or Minister will bring designated projects under the amended IAA. By taking a step under any of sections 10 to 59 of the amended IAA related to a designated project and posting a notice on the Canadian Impact Assessment Registry Internet Site (the Registry), all steps taken before the day the amended IAA came into force with regard to a project are deemed to have been done under the amended IAA. A step must be taken within six months following the coming into force of the amended IAA. Transitional provision 305 also provides that the Agency may replace any time limit or period established by or under the amended IAA by another time limit or period to recognize voluntary actions to advance assessments during the interim period. If there is any variance of the time limit, the Agency must post a notice on the Registry.

In accordance with transitional provision 305(2), the Agency intends to post a notice on the Registry that it has taken the following step under the amended IAA:

- Subsection 37(1) Establishing time limit for Impact Assessment Phase for a review panel

The Agency intends to vary the time limit for the Project under transitional provision 305(4).

The Agency is available to meet with you if you would like to discuss the step to bring the Project under the amended IAA, the timing of this step, as well as the need to replace the time limit for the impact statement phase. To this end, we would like to propose a meeting in the near future to discuss the next steps and to facilitate the implementation of the transitional provisions.

If you have any questions, please do not hesitate to contact me by phone at <contact information removed> or by email at <contact information removed>

Sincerely,

<Signature removed>

Kate Witherly
Panel Manager

Enclosure(s):
Attachment 1: Transitional Provisions from the *Budget Implementation Act, 2024*

c.c.: Marko Dekovic, Vice President, Public Affairs
Jessie Hannigan, Project Assessment Director EAO
Kim Noble, Consultation Operation Manager
Lily Comeau, Junior Analyst

Attachment 1: Transitional Provision 305 from the *Budget Implementation Act, 2024*

Designated projects

305 (1) This section applies in respect of a designated project if the Minister or the Agency, during the six-month period that starts on the commencement day, takes a step with regard to that project under any of sections 10 to 59 of the amended Act.

Posting

(2) The Agency must post a notice on the Internet site that indicates the first step taken, the provision under which it was taken, the date on which it was taken and the designated project in respect of which it was taken.

Deeming

(3) Everything that was done before the commencement day with regard to a designated project in respect of which a notice is posted under subsection (2) is, if it may or must be done under the amended Act in respect of the designated project, deemed, as of the day on which the first step is taken, to have been done under the amended Act.

Agency's power

(4) The Agency may, when the first step is taken with regard to a designated project, replace, in respect of that project, any time limit or period established by or under the amended Act by another time limit or period.

Posting

(5) The Agency must post a notice on the Internet site that indicates, for each time limit or period that it replaces, the new time limit or period and the designated project with regard to which that new time limit or period applies.

Clarification

(6) For greater certainty, nothing in subsection (4) affects any power conferred on the Agency under the amended Act to extend or shorten any time limit or period.

Definition of *first step*

(7) In this section, *first step* means the first step taken by the Minister or the Agency under any of sections 10 to 59 of the amended Act in respect of a designated project during the six-month period that starts on the commencement day.