

PUBLIC HEARING PROCEDURES

ROBERTS BANK TERMINAL 2 PROJECT
FEBRUARY 2019

UPDATED MAY 2019

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1. Introduction

1.1 This document outlines the procedures for the public hearing to be conducted by the Review Panel (the Panel) established to review the Roberts Bank Terminal 2 Project (the Project) proposed by the Vancouver Fraser Port Authority (the Proponent).

1.2 The Project is a proposal to construct and operate a new three-berth marine container terminal located at Roberts Bank in Delta, British Columbia, approximately 35 kilometers south of Vancouver. Located next to the existing Deltaport and Westshore terminals, the Project would provide an additional 2.4 million twenty-foot equivalent units of container capacity per year at Roberts Bank.

1.3 The Panel was appointed on May 31, 2016 by the Minister of Environment and Climate Change Canada (the Minister), to conduct an environmental assessment of the Project in accordance with the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) and its Terms of Reference (CEAR #1680), issued on April 17, 2015. Subsection 19(1) of CEAA 2012 sets out the factors that must be taken into account by the Panel in carrying out the environmental assessment of the Project. Pursuant to paragraph 19(1)(j) of CEAA 2012, the Minister included ~~two additional matters~~ one additional matter relevant to the environmental assessment: ~~The first amendment is for marine shipping associated with the Project, which is beyond the care and control of the Proponent and extending to the 12 nautical mile limit of Canada's territorial sea ("marine shipping associated with the Project"). The second amendment is for the provincial socio-economic assessment, which comprises assessment of the potential economic, social, heritage and health effects of the Project.~~

4.31.4 On April 24, 2019, the Minister amended the Panel's Terms of Reference to include marine shipping associated with the Project as an activity incidental to the proposed marine terminal. Therefore, marine shipping activities within the 12 nautical mile limit of Canada's territorial sea are part of the description of the Project for the purposes of the environmental assessment.

4.41.5 The purpose of these procedures is to ensure that the Panel conducts the public hearing in a manner that is thorough, timely and fair. The Panel may vary the activities and timelines outlined in these procedures to achieve that end.

4.51.6 Information provided by the Proponent in the form of its Environmental Impact Statement, Marine Shipping Addendum and supplementary material, the Panel's Terms of Reference, detailed scheduling information, and information provided by persons during the review, can be found on the [Canadian Environmental Assessment Registry \(reference number 80054\)](#).

2. Role of the Panel

2.1 The Panel must conduct an environmental assessment of the Project that is consistent with the requirements of CEAA 2012, and in accordance with its Terms of Reference (CEAR Doc#176CEAR Doc#1680). In doing so, the Panel must hold a public hearing in a

manner that offers interested parties an opportunity to participate. In these procedures, “Interested Party” means any person defined as an interested party as per Section 2.0 of CEAA 2012¹. For the public hearing, the Panel considers “Participant” to mean any person who is an interested party, who has already participated in the environmental assessment of the Project, or anyone who is directly affected by the Project or has relevant information or expertise relevant to the Project. Any person wishing to be a Participant is required to provide the information requested in the **Public Hearing Registration Form, Attachment A**.

- 2.2 The Panel considers the public hearing to be an essential part of the review process and gives careful consideration to all written submissions and oral presentations relevant to its mandate. After the public hearing and following the closure of the record, the Panel will prepare and submit an environmental assessment report to the Minister that sets out the Panel’s rationale, conclusions, and recommendations, including any mitigation measures and follow-up programs, and a summary of any comments received from the public.

3. Objective of the Public Hearing

- 3.1 The objective of the public hearing is to provide the Panel the opportunity to gather and test the relevant information, and to enable it to conduct a thorough review of the potential environmental effects of the Project.
- 3.2 The public hearing will also provide opportunities for fair, timely and meaningful participation by Indigenous groups, the public, governments, the Proponent and other Participants, and in particular for:
- the Proponent to explain the Project and respond to concerns and questions raised by Participants during the public hearing; and
 - the Proponent and Participants to share their perspectives on the potential environmental effects of the Project.
- 3.3 The public hearing will conform to the principles of procedural fairness; however, the Panel is not required to follow the procedural and evidentiary rules followed by a court. All written submissions and oral presentations are part of the record for the Project and will be considered by the Panel. Participants are not required to appear with counsel.

4. Observing the Hearing

- 4.1 Hearing sessions are open to all members of the public wishing to observe the proceedings. Persons wishing to observe the proceeding do not require registration. Further, any person may follow the hearing by accessing the written transcripts of the proceedings. A transcript will be prepared and posted to the Canadian Environmental Assessment Registry as soon as possible following each hearing day.

¹ A person is an interested party if, in the opinion of the Panel, the person is directly affected by the carrying out of the designated project or if, in the opinion of the Panel, the person has relevant information or expertise.

4.2 Persons not registered in advance of the hearing may, on request and if time permits, be granted an opportunity by the Panel Chair to make a brief oral statement and/or ask a question at the end of each hearing day. Persons who wish to participate must register with the Secretariat at the beginning of the day they wish to present.

5. Participation in the Public Hearing

5.1 Participants may choose to participate in three different ways in the public hearing:

- Oral presentation only;
- Written submission only; or
- Written submission accompanied by an oral presentation.

5.2 Anyone wishing to participate during the public hearing are required to register as a Participant by completing the Public Hearing Registration Form (Attachment A) by the deadline.

5.3 The Proponent is required to participate in all sessions throughout the public hearing and to make presentations at various sessions as appropriate to provide an overview of the relevant information regarding the Project.

5.4 The Proponent will have the opportunity to make closing statements, if he chooses to do so during the public hearing. The Panel will confirm with the Proponent the timing of closing statements at the end of each hearing day.

Oral presentations at the hearing

5.5 Participants wishing to make an oral presentation during the public hearing are required to register by filling out the Public Hearing Registration Form. Participants must register by the deadline and provide a synopsis of the information they intend to present. Presenters are to submit an electronic version of their oral presentation one week before they present. Presenters must bring four (4) paper copies of their oral presentation the day they are presenting. Links to websites, journals and /or articles must be summarized in the presenter's own words to be accepted as part of the record.

5.6 Participants may present information to the Panel individually or as a group. In the interest of making efficient use of hearing time and resources, Participants with similar views or using technical experts are encouraged to make a joint presentation and identify a spokesperson(s) for the group when registering.

5.7 Presentations made during the hearing should be a maximum of 20 minutes. At the discretion of the Panel Chair, the time of an oral presentation may be limited or extended. For elders or traditional knowledge holders who are participating in a Community session, time limits will not be applied.

Written submissions at the hearing

5.8 Appearing in person before the Panel during the public hearing is not required for participation in the process. Participants may choose to prepare a written submission and

not make an oral presentation at the public hearing. Participants wishing to provide a written submission only are required to register by filling out the Public Hearing Registration Form. Participants should be aware that if they choose to only prepare a written submission, in certain circumstances they may be required to make themselves available to be questioned as part of the hearing. Participants should be prepared to respond to questions about their written submission in person, via teleconference, or in writing.

- 5.9 In order for the Secretariat to effectively schedule the public hearing and to provide Participants advance notice of the concerns being raised, written submissions, including all relevant references, accompanying documents and data, must be provided no later than 30 days before the commencement of the public hearing. Where a written submission includes a link to a website, the documents accessible through that link will not form an official part of the record. Participants need to summarize what is in the documents.

Written submission & Oral presentation at the hearing

- 5.10 Participants providing a written submission may also choose to present to the Panel by summarizing their written submission in an oral presentation. Note: Participants presenting at the topic-specific sessions are required to summarize their findings in an oral presentation to the Panel.
- 5.11 Participants must provide their written submission, including all relevant references and data, to the Panel no later than 30 days before the commencement of the public hearing. Presenters are to submit an electronic version of their oral presentation one week before they present.
- 5.12 Experts presenting to the Panel must provide in their written submission their relevant qualifications and experience, and the expert must be available to answer questions at the appropriate hearing session, unless excused from appearing by the Panel. If a Participant's presentation is based in whole or in part on the advice of an expert, it is the responsibility of the Participant to ensure the expert is available to answer questions at the hearing session where the submission is presented.
- 5.13 In exceptional circumstances, the Panel may allow participation via teleconference or videoconference. In such a case, the participant should inform the Secretariat as early as possible.

6. Public Hearing Sessions

- 6.1 The public hearing will provide for three types of hearing sessions: General, Community and Topic-specific. A description of each type of hearing session is provided in **Attachment B**:
- General sessions facilitate participation by local residents by holding hearing sessions in local communities in close proximity to the Project. The sessions provide the Proponent and Participants the opportunity to present information to the Panel on the potential effects of the Project;

- Community sessions facilitate participation by Indigenous peoples by holding hearing sessions in potentially-affected Indigenous communities. The sessions will provide the Proponent and Participants living in potentially-affected Indigenous communities the opportunity to present information to the Panel; and
- Topic-Specific sessions allow for scrutiny of the technical aspects of the Project, and allows experts who possess specialized knowledge or expertise to present the results of their technical review of the potential environmental effects of the Project.

7. Public Notification

- 7.1 The Panel will announce the start of the public hearing once it is satisfied that it has received sufficient information to discuss the issues identified during the review.
- 7.2 The Panel will provide a minimum of 60 days' notice before the start of the public hearing. The Hearing Notice will include a preliminary schedule, deadlines, locations and topics to be discussed at the public hearing.

8. Conduct at the Public Hearing

- 8.1 The Panel will not engage with the Proponent and other Participants in private conversations related to the Project.
- 8.2 Participation must be courteous and respectful of all present. The Panel Chair may refuse to permit participation or further questioning from a Participant who is being discourteous or disrespectful.
- 8.3 The Panel Chair may ask an individual or group attending the public hearing to leave should their behavior be deemed inappropriate. Demonstrations for or against the Project will not be permitted inside the public hearing venue.
- 8.4 The Panel may address any non-compliance with these procedures as it deems appropriate, including imposing restrictions on the Proponent or a Participant, or excluding any person from participating in or attending the public hearing.

Questioning

- 8.5 Participants who make an oral presentation or a written submission at the public hearing, or technical experts who prepare advice for Participants, may be asked questions by the Panel, the Proponent and other Participants. Questioning of the Proponent and Participants will proceed in an order determined by the Panel Chair and will be directed through the Panel Chair. The Panel may ask questions of the Proponent and Participants at any time while the public hearing is in progress.
- 8.6 The purpose of the questions should always be to clarify information in order to help the Panel understand more fully the factors to be considered in the environmental assessment of the Project. The Panel Chair will limit or exclude questions or comments that fall outside the mandate of the Panel or the scope of the review or are repetitive.

- 8.7 Clarity and brevity in questions and responses is encouraged. Questions should seek to clarify, expand, or inform the discussion and should not be used as an opportunity to state the questioner's position (**See Section 9: Closing Remarks**).
- 8.8 If a presenter is unable to answer a question, the Participant may be asked to commit to answering the question orally or in writing at a later date, as directed by the Panel Chair and no later than the last day of the public hearing.

Record of the Public Hearing

- 8.9 All hearing sessions will be transcribed in English and will be made available as soon as possible following the completion of a daily session. Transcripts will be available at the Canadian Environmental Assessment Registry.
- 8.10 All documents related to the public hearing, except documents provided in confidence, including written and oral submissions, transcripts, schedules, exhibits, and undertakings, will be placed on the public registry in a timely manner.

Translation Services

- 8.11 Participants wishing to speak in a language other than English at the public hearing must advise the Secretariat at the time of registering for the public hearing. The Secretariat will try to accommodate requests for interpretation or translation.

Audio-Visual Equipment

- 8.12 A laptop computer and a projector will be available at all hearing sessions.
- 8.13 Presenters must submit an electronic version of their oral presentation one week before they present. Presenters should bring four (4) paper copies of their oral presentation the day they are presenting. Links to websites, journals and /or articles must be summarized in the presenter's own words to be accepted as part of the record.

9. Closing Remarks

- 9.1 After the completion of the public hearing, the Proponent and Participants who have made written submissions or oral presentations during the public hearing will have the opportunity to provide written closing remarks. Provision of closing remarks is not mandatory.
- 9.2 Closing remarks will not be used to present new information and shall be based on the evidence on the public record. Closing remarks will only include a summary of the Participants final position related to the potential environmental effects of the Project and the presenter's perspective on the types of mitigation measures, conclusions, or recommendations the Panel should make in relation to the Project.
- 9.3 Prior to the conclusion of the public hearing, the Panel will advise the Proponent and Participants of the deadline by which written closing remarks must be submitted. The

Panel will provide a minimum of three weeks for the submission of closing remarks and closing the public record for the Project.

10. Public Hearing Schedule

- 10.1 A public hearing schedule will be made available before the start of the public hearing that lists the dates, locations and the order of all General, Community, and Topic-specific sessions. The schedule may be subject to change, as required. The Panel will make every effort to adhere to the schedule as originally posted.
- 10.2 A schedule of presenters will be made available at the start of each hearing session and at the beginning of each day. The list of presenters will be updated as required and is subject to change. The Panel will make every effort to adhere to the schedule originally posted.

11. Media

- 11.1 Media inquiries regarding the Panel’s activities should be directed to the Panel's communications advisor at the contact information provided below. The Panel and the Secretariat supporting the Panel will not be available for media interviews.
- 11.2 Members of the media are welcome to attend the public hearing or set up in the designated media area, if available. Media interviews will not be allowed in the room while the public hearing is in progress.
- 11.3 Filming or taking photographs may be allowed in the room while the public hearing is in progress with prior approval of the Panel. Requests should be forwarded to the Panel's communications advisor in advance of the hearing session.

Media may contact Shelley Rolland-Poruks at shelley.rolland-poruks@canada.ca or 613-948-1357.

12. Key Dates and Deadlines

Hearing Event	Deadline
Participant Registration	<i>March 22, 2019</i>
Written submissions	<i>April 17, 2019</i>
Preliminary motions	<i>May 6, 2019</i>
Start of the public hearing	<i>May 14, 2019</i>
Presentation material	<i>One (1) week before the presentation</i>
Closing Remarks and close of Panel record	<i>3 weeks from the last day of the public hearing</i>

Address all questions relating to the conduct of the public hearing to the Panel Secretariat at the following coordinates:

Cindy Parker, RBT2 Panel Manager

Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor, Ottawa ON K1A 0H3
Email: ceaa.panelrbt2-commissionrbt2.acee@canada.ca

Attachment A: Roberts Bank Terminal 2 Project Public Hearing Registration Form

Provide the following information to register for the Roberts Bank Terminal 2 Project public hearing and send the completed form to:
CEAA.PanelRBT2-CommissionRBT2.ACEE@canada.ca

Participant Information

1. Full Name(s)

2. Organization/ Indigenous Group (if applicable)

3. Email Address (main contact)

4. Mailing Address

5. Telephone Number (main contact)

6. Indicate which session you intend to participate in:

General session

Indicate in which city you would like to present:

Delta Victoria

Topic-specific session

Community session

Indicate which Indigenous community you are a member of:

7. Indicate how you intend to provide information to the Review Panel at the public hearing:

Written Submission

Oral Presentation

I request ____ minutes to present (maximum 20)

Written Submission and Oral Presentation (If you intend to participate in a topic-specific session, you must select this option)

8. Indicate your preferred time of day to present:

- morning
- afternoon
- evening
- weekend

9. Indicate how you meet the definition of participant as defined under Section 2.1 of the Public Hearing Procedures:

a) Are you directly affected by the carrying out of the Project?

- Yes
- No

If yes, please elaborate:

b) Do you possess relevant information or expertise related to the Project?

- Yes
- No

If yes, please elaborate:

c) Have you participated in the Roberts Bank Terminal 2 environmental process to date?

- Yes
- No

10. Provide a brief synopsis of the information you intend to present, or indicate the topic of your written submission:

11. Do you require simultaneous translation during the public hearing?

- Yes
- No

12. Do you require any special accommodations?

- Yes
- No

If yes, please specify:

Attachment B – General, Community and Topic-specific Hearing Sessions

This attachment outlines the specific procedures for the different public hearing sessions conducted by the Panel. All of the procedures outlined in the Public Hearing Procedures will apply during the General, Community, and Topic-specific hearing sessions.

More information on the locations, dates, and schedule for the hearing sessions will be available in advance of the public hearing.

1.0 General Hearing Sessions

- 1.1 The Panel will open the public hearing with General sessions at a location close to the Project. The Panel will hear preliminary motions and procedural matters at this time. Participants must submit motions in writing no less than one (1) week before the start of the public hearing.
- 1.2 The Proponent, Participants who have registered, and, time permitting, other persons may make oral presentations at the General sessions on any aspect within the Panel's mandate and within the scope of the review.
- 1.3 The purpose of the General hearing sessions is to allow the:
 - Proponent and Participants to present their overall conclusions regarding the information provided in the Environmental Impact Statement and the Marine Shipping Addendum;
 - Panel and Participants to ask questions of the Proponent regarding the information presented;
 - Proponent to ask questions regarding the information presented by Participants.

2.0 Community Hearing sessions

- 2.1 The Proponent, Indigenous persons and other Participants living in and adjacent to Indigenous communities potentially affected by the Project may make oral presentations at Community sessions on any aspect within the scope of the review. This may include information on the location, extent and exercise of Aboriginal or Treaty rights potentially affected by the Project, and on measures to avoid or mitigate potential adverse effects. In order for the Panel to receive information on Aboriginal or Treaty rights, the Panel will provide time for presentations on Aboriginal or Treaty rights related to the Project at community sessions or at a separate session on Aboriginal or Treaty rights. Participants should inform the Secretariat of their preference.
- 2.2 The Community sessions are intended for elders, holders of Indigenous Knowledge, and Participants living in the community to present community views. Subject to logistical and other considerations, the Panel intends to hold the Community sessions in or near Indigenous communities.
- 2.3 The Panel will provide a flexible approach to Community sessions, as appropriate, for the circumstances of each community. The Secretariat will seek input from individual

Indigenous communities to ensure the community sessions are conducted in a culturally-appropriate and respectful manner.

2.4 The purpose of the Community Sessions is to allow:

- the Proponent to present an overview of aspects of the Project of particular interest to Indigenous communities;
- Indigenous peoples, and their experts, to share with the Panel their views and concerns related to the Project, including on the potential environmental effects of the Project and on the location, extent and exercise of Aboriginal or Treaty rights that may be affected by the Project; and
- the Panel, the Proponent, and Participants to ask questions of clarification regarding the information shared by Indigenous peoples.

2.5 The Panel will use the following criteria in determining where Community sessions will be held:

- the potential location of environmental effects of the Project on a local Indigenous community(s) or an Indigenous group(s);
- the potential impact of the Project on the exercise of Aboriginal rights in close proximity to the Project; and
- the appropriateness of venues to host a public hearing in or near the community.

3.0 Topic-specific Hearing Sessions

3.1 The purpose of the Topic-specific hearing sessions is to:

- provide an opportunity for experts with specialized knowledge or expertise to inform the Panel of the results of their technical review of the potential effects of the Project, and to assist the Panel in its analysis of the technical aspects of the environmental assessment; and
- allow Participants and the Proponent to ask questions on information provided in technical reviews.

3.2 Only those Participants who have expertise, Indigenous traditional knowledge, or have hired experts, may register to participate in the topic-specific sessions. The Panel expects that participation at the topic-specific sessions will include the following Participants:

- The Proponent;
- Federal departments having relevant expertise or legislated responsibilities;
- Provincial ministries with relevant expertise;
- Technical experts who are providing specialized information to the Panel on behalf of the Proponent, Participants; and
- Other Participants with relevant knowledge or expertise related to the topic in question, including Indigenous knowledge holders.

3.3 The Panel will identify the topics to be discussed at the Topic-specific sessions based on the issues that are raised during the course of its review of the documents on the public Registry.