

Joint Indigenous Engagement and Partnership Plan

GCT DELTAPORT EXPANSION – BERTH FOUR PROJECT (DP4)

May 31, 2022

FINAL VERSION

Canada 



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Glossary

Term	Definition
Application	An application for an environmental assessment certificate (EAC) under the <i>Environmental Assessment Act</i> . This plan uses the federal term impact statement to refer to the application.
Assessment	Review of the project that will meet both federal requirements for an impact assessment under the <i>Impact Assessment Act</i> and provincial requirements for an environmental assessment under the <i>Environmental Assessment Act</i> .
<i>Environmental Assessment Act</i>	The <i>Environmental Assessment Act</i> , S.B.C. 2018, c.51.
Canadian Impact Assessment Registry (Public Registry)	The Canadian Impact Assessment Registry is an Internet site established and maintained by the Agency consisting of project files relevant to the impact assessment process.
Community Advisory Committee (CAC)	A provincial venue for communities to advise the EAO on the potential effects of the proposed project on a community, to stay up to date on the progress of the assessment, and to be informed of opportunities to provide their input and advice.
Crown	A term used to refer to both the Government of Canada (federal Crown) and the Government of British Columbia (provincial Crown).
Environmental Assessment Office (EAO)	The EAO is a regulatory agency within British Columbia's government. The EAO neutrally administers the <i>Environmental Assessment Act</i> (2002 and 2018), including the conduct of environmental assessments of major projects in B.C. and provides provincial Ministers with advice to inform their decision on whether a project should proceed.
EPIC	The EAO Project Information Centre is an online publicly available database of all projects and important documents established and maintained by the EAO.
Federal Minister	Minister of Environment and Climate Change Canada.

Term	Definition
Impact Assessment Act	The <i>Impact Assessment Act</i> (S.C. 2019, c. 28, s.1).
Impact Assessment Agency of Canada (the Agency)	The Agency is a federal body accountable to the Minister of Environment and Climate Change. The Agency provides high-quality impact assessments that contribute to informed decision-making, in support of sustainable development. The Agency is the responsible authority for all federal impact assessments.
Impact Statement	Detailed technical document prepared by the proponent as per the requirements set out in the Joint Guidelines. When used in this plan, it also refers to an application for an environmental assessment certificate under the <i>Environmental Assessment Act</i> .
Indigenous interests	Refers to all the requirements relating to Indigenous peoples required by both the <i>Impact Assessment Act</i> and the <i>Environmental Assessment Act</i> . This included paragraph 22(1)(c) of the <i>Impact Assessment Act</i> which requires the assessment of the impacts that the proposed project may have "on any Indigenous group and any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i> ". It also includes section 2 of the <i>Impact Assessment Act</i> which provides a definition of effects within federal jurisdiction. This definition includes the following with respect to the Indigenous peoples of Canada, including an impact — occurring in Canada and resulting from any change to the environment — on (i) physical and cultural heritage, (ii) the current use of lands and resources for traditional purposes, or (iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada. Paragraph 2(2)(b) of the <i>Environmental Assessment Act</i> defines Indigenous Interests as "those interests related to an Indigenous nation and their rights recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i> , including Treaty rights and Aboriginal rights and title, that may be impacted by a proposed project".

Term	Definition
Indigenous nations	First Nations and Métis peoples of British Columbia ¹ .
Joint Guidelines	Document that provides direction and requirements for the proponent in preparing an impact statement. The Joint Guidelines detail all the information and studies required to conduct the assessment. This document includes the federal requirements for Tailored Impact Statement Guidelines and the provincial Application Information Requirements.
Joint Indigenous Engagement and Partnership Plan (JIEPP)	Document outlining how Indigenous nations may wish to participate in the coordinated federal and provincial process, including, where available, information on proponent-led engagement activities.
Meaningful Consultation ²	<p>A meaningful consultation process is one which is:</p> <ul style="list-style-type: none"> • carried out in a timely, efficient and responsive manner; • transparent and predictable; • accessible, reasonable, flexible and fair; • founded in the principles of good faith, respect and reciprocal responsibility; • respectful of the uniqueness of First Nation, Métis and Inuit communities; and • includes accommodation (e.g. changing of timelines, project parameters), where appropriate.
Participating Indigenous nation	An Indigenous nation that has notified the EAO that they would like to participate in the assessment of a project under subsection 14(1) of the <i>Environmental Assessment Act</i> as a participating Indigenous nation. Participating Indigenous nations are afforded specific procedural rights within the <i>Environmental Assessment Act</i> , including consensus seeking processes, providing a notice of consent or lack of consent at specific decision points, and access to facilitated dispute resolution.

¹ This is not an acknowledgement by British Columbia that it owes a duty of consultation or accommodation to Métis in British Columbia under section 35 of the *Constitution Act, 1982*.

² [Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfill the Duty to Consult - March 2011 \(rcaanc-cirnac.gc.ca\)](http://rcaanc-cirnac.gc.ca)

Term	Definition
Process Planning phase	This phase formalizes how the provincial environmental assessment must be carried out, including: identifying the required information; defining who does what, when, and how; and determining how participants work together for the rest of the assessment and future engagement approaches (including public engagement).
Proponent	A person or entity that proposes the carrying out of, or carries out, a project. In the case of this project, the proponent is GCT Canada Limited Partnership.
Provincial Minister	B.C.'s Minister of Environment and Climate Change Strategy.
Provincial Ministers	The provincial Minister and the Responsible Minister (who is responsible for activities in the project sector).
Provincial process order	An order made under subsection 19(2) of the <i>Environmental Assessment Act</i> that defines the scope of the project and the assessment including the procedures, methods, and information requirements.
Referral package	The decision materials that will be submitted to Provincial Ministers that includes the matters under subsection 29(2) of the <i>Environmental Assessment Act</i> .
Review Panel	A review panel is a group of independent experts appointed by the president of the Agency to conduct an impact assessment. The members are selected based on their knowledge or experience relative to the potential effects of the project or knowledge of Indigenous issues, and must be free from bias or conflict of interest relative to the project. The review panel is responsible for conducting the impact assessment, which includes collecting information, holding a public hearing and preparing the impact assessment report.
Technical Advisory Committee (TAC)	A provincial committee to provide expert advice to the EAO and participating Indigenous nations related to the assessment. Technical advisors include provincial experts and regulators, participating Indigenous nations, and experts from local governments, and may include representatives from the United States. The Technical Advisory Committee is the provincial forum

Term	Definition
	for the detailed, technical review of the proponent's documents and technical studies.

1. Introduction

On October 28, 2021, the Impact Assessment Agency of Canada (the Agency) determined that an impact assessment is required for the GCT Deltaport Expansion - Berth Four Project (the project), pursuant to subsection 16(1) of Canada's *Impact Assessment Act*. Likewise, on the same date, the British Columbia Environmental Assessment Office (EAO) provided a notice of decision under subsection 18(1) of the *Environmental Assessment Act* that the project will proceed to an environmental assessment.

On November 3, 2021, the federal Minister referred the assessment to an independent review panel. The EAO intends to principally rely on the federal review panel's assessment to meet the provincial requirements for an environmental assessment. Each government retains the power to make their own decisions regarding the project.

The project requires an impact assessment by the Government of Canada and an environmental assessment by the Government of British Columbia. The assessments will be undertaken in a cooperative manner. The [Impact Assessment Cooperation Agreement Between Canada and British Columbia \(2019\)](#) provides for a number of mechanisms for cooperative assessments with the objective of reducing duplication and increasing efficiency and certainty about the process. The agreement includes a commitment for Canada and British Columbia to work together to coordinate, cooperate and collaborate with Indigenous nations throughout assessments.

The Joint Indigenous Engagement and Partnership Plan (JIEPP) outlines opportunities and methods for meaningful engagement and consultation with potentially-affected Indigenous nations throughout the coordinated assessment process for the project. This assessment process will be conducted in a manner consistent with the [Joint Guidelines](#). For the purposes of this assessment we will use the term Indigenous nations instead of Indigenous groups, peoples or communities based on input from Indigenous nations. The JIEPP is intended to be flexible and does not preclude the Crown from making changes to the approaches described in the JIEPP to accommodate changes that may occur during the assessment process, including adopting revised approaches suggested by Indigenous nations.

Although the assessment process is not a rights-determination process, the Crown acknowledges that the content and extent of the duty to consult and, where appropriate, accommodate, varies according to the nature of the rights and the severity of the project's potential impact on these rights. The Crown's assessment of the extent of the duty to consult and, where appropriate, accommodate, is conducted in collaboration with Indigenous nations during the assessment. Within the context of the coordinated assessment process, the Crown encourages the active participation of a community's diversity, such as leadership, as well as other members of the community, such as women, Elders, youth and knowledge holders.

To complement this JIEPP, interested Indigenous nations may develop community-specific consultation plans, in collaboration with the Crown, to describe the community's specific objectives for consultation, or any unique features of the assessment and consultation process pertaining to that community.

In addition, a [Joint Assessment Plan](#) has been developed to incorporate the federal *Impact Assessment Act* requirements for a cooperation plan and a public participation plan with the *Environmental Assessment Act*'s requirements for an assessment plan. The [Joint Assessment Plan](#) and the [Joint](#)

[Permitting Plan / Regulatory Coordination Plan](#) are separate and can be found on the Public Registry and EPIC. The provincial process order can be found on [EPIC](#).

2. Description of the Proposed Project

GCT Canada Limited Partnership (the proponent) is proposing to expand its existing GCT Deltaport Container Terminal, a container storage and handling facility located in Delta, British Columbia (B.C.). The GCT Deltaport Expansion - Berth Four Project (the project) would add a fourth berth on the east side of the Roberts Bank Causeway, and 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 provide capacity for an additional two million 20-foot long storage containers per year at the existing terminal.

For more information on the assessment of the project or to view the information and comments received, visit the Canadian Impact Assessment Registry (the Public Registry) at [GCT Deltaport Expansion - Berth Four Project - Canada.ca \(iaac-aeic.gc.ca\)](#) or the EAO Project Information Centre (EPIC) at [EPIC \(gov.bc.ca\)](#).

3. Objectives of Indigenous Engagement and Partnership

Crown Objectives:

- follow the Principles respecting the [Government of Canada's relationship with Indigenous peoples](#) and the [Government of BC's relationship with Indigenous Peoples](#);
- conduct adequate Crown consultation on the potential positive and adverse effects (including direct and incidental) of the project and adverse impacts of the project on the exercise of Indigenous rights of the Indigenous peoples of Canada recognized and affirmed in section 35 of the *Constitution Act, 1982* (Aboriginal or Treaty rights);
- ensure that the assessment process minimizes impacts on Indigenous rights recognized and affirmed in section 35 of the *Constitution Act, 1982* (Aboriginal or Treaty rights) from the project;
- engage in a manner that is consistent with the Crown's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) as a comprehensive international human rights instrument and Canada's roadmap for reconciliation. The Declaration also emphasizes the need to work together in partnership and respect, as articulated through the principle of free, prior and informed consent. This principle reflects working together in good faith on decisions that impact Indigenous peoples, with the intention to achieve consensus;
- ensure the assessment process is conducted to a standard that meets federal and provincial commitments and legislation regarding the United Nations Declaration on the Rights of Indigenous Peoples and its implementation;

- meaningfully engage with Indigenous nations regarding Indigenous knowledge they may wish to share during the process. In receiving Indigenous knowledge, the Crown will incorporate the federal draft “[Indigenous Knowledge Framework](#)” and provincial “[Guide to Indigenous Knowledge In Environmental Assessments](#)” and will continue to work with Indigenous nations to improve working together to respect Indigenous Knowledge;
- establish knowledge sharing agreements with Indigenous nations to ensure that Indigenous knowledge is handled ethically and any information will not be distributed without consent unless placed voluntarily (with consent) into the public realm;
- engage and work with Indigenous nation partners as governments, with their own jurisdiction and authority, establishing a collaborative approach to evaluate the project and/or incorporating nation’s individual approaches to evaluating the project. Part of that engagement and work as governments is building a shared understanding of the connection of the Indigenous nation to the lands, waters and resources in issue, grounded in the Indigenous nation’s history, culture, and tradition, and situating the project proposal within how the Indigenous nation has determined its priorities and visions into the future;
- meaningfully engage with Indigenous nations to discuss the types of impacts the project might have on their interests including:
 - consideration of Impact Assessment Agency of Canada guidance on the [Assessment of Potential Impact on the Rights of Indigenous Peoples](#);
 - effects of the project with respect to the Indigenous nations on current use, culture, health and socio-economic conditions; and
 - effects of the project on Indigenous nations and rights under the *Environmental Assessment Act*. The B.C. decision on whether or not to issue an Environmental Assessment Certificate must take this into account along with any notices of consent or lack of consent from participating Indigenous nations.
- cooperate with Indigenous nations to present information in a format required by the Indigenous nations’ decision makers;
- provide meaningful opportunities for collaboration with Indigenous nations on specific elements of the assessment as identified by Indigenous nations. This may include collaboration with Indigenous nations on community-developed methodology or processes to assess the potential impacts of the project on their interests or Indigenous-led assessments;
- conduct meaningful consultation with Indigenous nations on measures to avoid, mitigate or minimize potential adverse impacts of the project on their interests. This engagement may also identify potential positive outcomes and enhancement measures; and
- identify specific requirements of the Indigenous nation for assessments, including Indigenous governance and decision-making requirements.

Objectives Identified by Indigenous Nations:

During the Early Engagement and Planning phases, some Indigenous nations identified values and objectives for Indigenous consultation for this project. The Crown summarizes these as:

- commit to the practice of reconciliation, which involves all three governments (Canada, BC, and Indigenous nations) supporting the flourishing of Indigenous culture, language, and governance.

Every participant in the assessment process expresses this commitment to reconciliation by contributing a level of effort that reflects the seriousness of the reconciliation imperative;

- share responsibilities - “nothing about us without us”: each of the governments shares the responsibility for ensuring that the understanding of impacts is tied to current and future community concerns, values, and practices. The parties will work together to validate any assessment information regarding Indigenous nations;
- incorporate Indigenous laws, norms, and customs;
- provide sufficient capacity funding in a timely and efficient manner to ensure meaningful participation, facilitate the ability to respond to on-going projects in a more effective and comprehensive manner, and hire qualified technical consultants to work with relevant Indigenous nations’ staff, Elders, and knowledge keepers;
- consider inputs, gaps, and concerns that Indigenous nations have identified in previous or ongoing environmental assessments in the lower Fraser River and Salish Sea, including feedback provided to the various federal and provincial agencies be considered;
- consider information from previous and ongoing studies as applicable (with the caution that they may not sufficiently capture project-specific concerns and need to follow Indigenous nations’ protocols for knowledge and information sharing);
- engage with Indigenous nations through active outreach earlier in the process and on an ongoing basis to identify appropriate timelines and capacity;
- align assessment process timelines with the governance needs and timelines of participating nations when possible;
- reflect on Indigenous nations’ views in the effects assessment;
- provide Indigenous nations with an opportunity to review and comment on technical elements of the assessment, including how valued components are identified and described;
- demonstrate if the assessment of the proposed project can provide more positive than negative impacts;
- incorporate and translate Indigenous knowledge throughout the assessment process to ensure equal opportunities are provided for both western science and Indigenous knowledge as well as the incorporation of cultural safety protocols;
- acknowledge the limitations of traditional use studies, which typically demonstrate traditional use at a moment in time, and do not speak to changes in traditional use in the future;
- protect and manage Indigenous knowledge and data in a manner that is consistent with the respective expectations and standards of Indigenous nations;
- meaningful and collaborative scoping during the assessment needs to take into account potential impacts to Indigenous nations’ interests and set appropriate information requirements for assessing them;
- adequately consider cumulative effects in decision-making throughout the assessment process. The assessment should include information on cumulative impacts on Indigenous interests. For example, Indigenous nations have communicated interest in long-term plans to assess cumulative impacts from increased ship traffic;

- incorporate Indigenous knowledge of all past and present developments to inform the assessment. Indigenous nations have identified that there is a lack of consideration to establish an appropriate baseline from which to measure existing cumulative effects. There is a need for a holistic cumulative effects assessment including an approach that reflects Indigenous nations concepts of time and that includes qualitative as well a quantitative assessment of effects;
- recognize that Indigenous nations have identified concerns with the current approach of only requiring residual effects to be considered in the proponent's cumulative effects assessment. This approach can lead to assumptions that mitigation will be effective and fails to account for what may happen if the mitigation is not as effective as the proponent predicts;
- support Indigenous nations' involvement in the development of adaptive management strategies, monitoring and follow up programs, as well as compliance and enforcement;
- facilitate Indigenous participation in follow up and monitoring programs to ensure their expertise in the management of local ecosystems is reflected, and that the residual and cumulative impacts on their interests can be addressed; and
- provide clarity and further detail regarding the need for Roberts Bank Terminal 2 Project (RBT2) and GCT Deltaport Expansion – Berth Four Project (DP4). Specifically, how DP4 will consider RBT2 in its alternative assessment should RBT2 be approved. Indigenous nations have participated extensively within the RBT2 environmental assessment process and have communicated concerns over consultation fatigue and duplication of efforts.

4. Indigenous Nations

The Crown has identified the following lists of Indigenous nations that may be potentially impacted by the project. This includes Indigenous nations where the project may adversely impact the exercise of Aboriginal or Treaty rights of Indigenous peoples of Canada recognized and affirmed in section 35 of the *Constitution Act, 1982*, and Indigenous peoples with asserted, but unrecognized, rights where an assessment of effects under section 22 of the *Impact Assessment Act* and section 25 of the *Environmental Assessment Act* may be required. This list is based on information available in the Government of Canada's Aboriginal and Treaty Rights Information System, as well as information shared by Indigenous nations during initial meetings and throughout the Early Engagement and Planning phases.

The Governments of Canada and British Columbia are committed to renewing their relationship with Indigenous nations, which is based on the recognition of rights, respect, cooperation and partnership. Through this JIEPP, the Crown supports this commitment.

4.1 Crown Consultation List of Indigenous Nations

The Crown will consult with the Indigenous nations listed³ below to understand the potential impacts of the project on their interests and identify solutions to these impacts, where necessary. These consultations will comprise an integral part of the work that will support the assessment of the project.

* Participating Indigenous nations under *Environmental Assessment Act*.

Cowichan Tribes*	Popkum First Nation
Ditidaht First Nation*	Scia'new First Nation*
Esquimalt Nation*	Seabird Island Band*
Halalt First Nation*	Semiahmoo First Nation*
Katzie First Nation	Shxw'owhamel First Nation
Kwantlen First Nation	Snuneymuxw First Nation*
Kwikwetlem First Nation	Songhees First Nation
Leq'á:mél First Nation	Squamish Nation
Lyackson First Nation*	Stz'uminus First Nation*
Maa-nulth First Nations* participating collectively in this assessment through the First Nations of the Maa-nulth Treaty Society. The nations represented in this Society are: Huu-ay-aht First Nation, Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, Toquaht Nation, Uchucklesaht Tribe, and Yuułu?ił'ath Government	S'ólh Téméxw Stewardship Alliance*, which includes member nations Aitchelitz First Nation, Chawathil First Nation, Cheam First Nation, Kwaw-kwaw-Apilt First Nation, Sumas (Semá:th) First Nation, Shxwhá:y Village, Skowkale First Nation, Skwah First Nation, Soowahlie First Nation, Skawahlook (Sq'ewá:lw) First Nation, Sq'éwlets First Nation, Squiala First Nation, Tzeachten First Nation, Yakweakwioose First Nation, and Yale First Nation
Malahat First Nation*	Tsartlip First Nation
Matsqui First Nation*	Tsawout First Nation*
Métis Nation British Columbia	Tsawwassen First Nation*
Musqueam Indian Band*	Tseycum First Nation
Pacheedaht First Nation*	Tsleil-Waututh Nation*
Pauquachin First Nation*	T'Sou-ke First Nation*
Penelakut Tribe*	Ts'uubaa-asatx*

³ The list of Indigenous nations identified here may change as knowledge of the effects and potential impacts of the project is gained, or if the project or its components are modified during the assessment. The Crown reserves the right to modify this list based on additional information gathered during the assessment.

4.2 Additional Indigenous Communities and Tribes of Washington State

The Crown will engage with the Indigenous communities listed below to understand their concerns and potential impacts of the project. This list is based on the Crown's current understanding of the Indigenous communities' interests and concerns in the project area from recent engagement activities. The list of Indigenous communities identified here may change as knowledge of the effects and potential impacts of the project is gained, or if the project or its components are modified during the impact assessment.

The Crown acknowledges that as the understanding of these interests evolves, the nature in which the Indigenous communities listed below are engaged in the assessment may evolve in kind.

Indigenous Community(es)

Hwilitsum First Nation

Hwilitsum First Nation is an Indigenous community located within Canada that has expressed interest in the project area. Hwilitsum First Nation will be engaged by the Crown for this project to understand how the project may impact them.

Tribes of Washington State

Given the location of the project near the border of Canada and the United States (U.S.), it is recognized that Indigenous communities in the U.S. may have interests and concerns regarding the project, including potential project impacts that may affect their communities. The Crown acknowledges that the recent *R. v. Desautel, 2021 Supreme Court of Canada SCC* decision may have implications that need to be considered if Tribes of Washington State assert Indigenous rights in Canada. The Lummi Tribe of the Lummi Reservation has indicated they want to be consulted about the project in accordance with the *Desautel* decision. The Crown has heard from Swinomish Indian Tribal Community during the planning phase of this assessment process that they want to be consulted for the project. The Crown heard from Samish Indian Nation that they would like to be informed of any updates. The Crown also heard from Suquamish Indian Tribe of the Port Madison Reservation, Tulalip Tribes of Washington and Makah Indian Tribe of the Makah Indian Reservation through other environmental assessment and regulatory processes about their interests in the project area.

The Crown will work with the aforementioned Tribes of Washington State to discuss their involvement in the next steps in the assessment process related to the project. The Joint Indigenous Engagement and Partnership Plan will be updated accordingly to reflect approaches for Tribes of Washington States' involvement in the assessment process for the project.

The Crown is committed to acting in good faith and providing meaningful and responsive opportunities for the Tribes of Washington State to participate in the assessment process for the project.

5. Engagement and Consultation Tools, and Methods

Due to consideration around the COVID-19 pandemic, the Crown intends to use virtual meetings until in-person meetings are deemed appropriate. Any in-person meetings would happen in accordance with local and provincial health guidelines, and would only occur with consent from the Indigenous nation.

Section 5 of the Joint Guidelines provides direction to the proponent on engagement with Indigenous Nations.

The following is a list of tools and methods that were identified by the Crown and Indigenous nations during the Planning phase to ensure meaningful consultation in the assessment process, including:

- providing funding under the Agency's [Participant Funding Program](#) to support Indigenous nations in participating in the assessment process;
- providing clear information on available funding, assessment process timelines, and predictability regarding workload management to ensure the meaningful participation and consultation;
- communicating with Indigenous nations in an ongoing, open, and transparent manner;
- considering cultural needs including seasonal issues (e.g. harvesting, hunting) and cultural protocols and spirituality (e.g. openings and closings);
- following Indigenous nation consultation policies or protocols in consultation activities, to the extent possible;
- establishing clear processes for identifying and designing accommodation measures, as applicable;
- holding meetings with Indigenous nations and the proponent and/or expert federal and provincial authorities to support assessment of impacts on Indigenous interests or other matters within the assessment process;
- providing reasonable time for in-community meetings, as appropriate;
- establishing requirements for diverse participation (e.g. accessibility of meeting locations, timing of meetings, transportation);
- providing individualized and/or group training on the assessment process and how to effectively participate in the process;
- providing translators and/or interpreters to support meetings between Indigenous nations and the Crown; and
- providing summaries of key documents, fact sheets, infographics, PowerPoint tools, booklets, and audio-visual materials in plain language and in an accessible format.

In addition, the Crown will explore opportunities for:

- translating into an Indigenous nation's language important high-level summary documents whenever requested and reasonably possible;
- exploring alternative formats of producing and presenting information;

- facilitating discussions about broader issues related to areas of provincial and federal interests in the assessment;
- aligning communication and consultation processes according to the Indigenous nations' schedules, where possible; and
- organizing workshop formats to discuss key documents through the coordinated assessment process, where appropriate.

In reference to the protection of confidential Indigenous information:

- The federal departments and agencies are required to protect confidential Indigenous knowledge from unauthorized disclosure. Protection is afforded to confidential Indigenous knowledge, subject to certain legislative exceptions, including procedural fairness and natural justice or for use in legal proceedings. Federal departments and agencies recognize the importance of procedures to prevent the unauthorized disclosure of Indigenous knowledge and acknowledge that consent must be explicit and not assumed. Please refer to the [Draft Indigenous Knowledge Policy Framework](#) for more information;
- The federal departments and agencies also recognize the importance of establishing consent-based processes to prevent unauthorized disclosure of Indigenous knowledge. The federal departments and agencies acknowledge that Indigenous nations will determine whether to share their knowledge, and what aspects of that knowledge they wish to share in confidence; and
- The *Environmental Assessment Act* establishes confidentiality provisions under section 75 regarding the handling of Indigenous Knowledge and prevention of potential harm to Indigenous Knowledge holders, Indigenous community members, and cultural resources. The [Guide to Indigenous Knowledge in Environmental Assessments](#) provides guidance to assessment participants to support the inclusion of Indigenous Knowledge in the assessment process in accordance with guiding principles, including Permission of Use according to the governance, laws, policies and practices of the Indigenous nation.

The Crown will work bilaterally with individual Indigenous nations, on items not listed above, in the development of an Indigenous nation-specific consultation work plan as appropriate.

Under the *Environmental Assessment Act*, the EAO will work with participating Indigenous nations to customize consensus-seeking approaches with each community throughout the assessment process. Alternatively, Indigenous nations may choose to refrain from identifying as participating Indigenous nations under the *Environmental Assessment Act*. In these cases, the EAO must still fulfill its constitutional obligations to consult these Indigenous nations and will continue to engage with the Indigenous nations according to these obligations.

Consensus-seeking activities are undertaken through cooperation between the EAO and representatives of a participating Indigenous nation in an effort to achieve consensus on process decisions or recommendations. Seeking consensus throughout the assessment is foundational to free, prior, and informed consent. See the [Guide to Consensus-Seeking under the Environmental Assessment Act](#) for more information regarding consensus-seeking obligations during the assessment process.

Other tools for participating Indigenous nations include:

- opportunities to communicate consent or lack of consent to issuing the environmental assessment certificate;
- an opportunity for the Indigenous nation to carry out the components of the effects assessment that pertain to their Indigenous nation and its rights (subsection 19(4) of the *Environmental Assessment Act*);
- access to facilitated dispute resolution (following applicable consensus-seeking efforts); and
- representation on Technical or Community Advisory Committee(s).

Guidance material for the roles of participation Indigenous nations is available at: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/indigenous-nation-guidance-material>.

6. Distinction Between the Review Panel and the Joint Federal and Provincial Crown Consultation Team

In an assessment by a review panel, the Crown conducts its consultation activities in parallel to the review panel process. For assessments by review panel, the Crown supports and facilitates the integration of consultation into the review panel process to the extent possible, to ensure best use of the information provided to the review panel and an understanding of potential impacts of a designated project on Indigenous interests. The Agency will develop terms of reference to guide the work and responsibilities of the review panel, in consultation with the EAO. The draft terms of reference will be posted on the Public Registry, and the Agency will provide participants an opportunity for review and comment. Indigenous nations will also be consulted on the draft terms of reference. Following the finalization of the terms of reference, the review panel will be established by the Agency. The timing for appointment of the review panel members will depend on the timing of the submission of the impact statement. Once the review panel is established:

- the review panel and Crown Consultation team will invite Indigenous nations to participate in the review panel and consultation processes, which are conducted in parallel. The Crown Consultation team will make efforts to avoid duplication and have an efficient process while ensuring that the review panel receives the necessary information from each party to allow the review panel to meet its mandate; and
- the Crown Consultation team can only exchange information with the review panel on the public record, in a manner consistent with all other participants. As a result, it is important for Indigenous nations to submit information directly to the review panel throughout the panel process, even if the Crown is already in possession of that information.

7. Engagement and Consultation Approach

This section provides a general description of the phases in the assessment process and an explanation as to how the Crown proposes to engage and consult with Indigenous nations during each phase. This section describes objectives of each phase and anticipated engagement activities by the Crown, review panel and Indigenous nations throughout the assessment process.

Prior to the issuance of recommendation to proceed with assessment under section 16 of the *Environmental Assessment Act* and the determination that an assessment was required under the *Impact Assessment Act*, the Crown consulted with Indigenous nations on the Initial Project Description and prepared the Joint Summary of Issues and Engagement ([JSOIE](#)). Subsequently, the Crown provided the JSOIE to the proponent for the preparation of the Detailed Project Description, including a response to the JSOIE. The Crown included the key issues identified by Indigenous nations in the JSOIE and directed the proponent to refer to the Indigenous nations' submissions to ensure it used the appropriate context and intent of the comments in their response.

Specific Indigenous nations to whom the Crown owes a duty to consult and who wish to work with the Crown to identify consultation activities beyond those included within this JIEPP, are welcome to express their interest in an Indigenous nation-specific consultation work plan during the Impact Statement development and review phase. The Crown will work with Indigenous nations to develop community-specific consultation work plans, as needed. The following section provides a high-level list of the proposed approaches and activities.

Figure 1 provides an overview of the process and key points for engagement and consultation with Indigenous nations.



FIGURE 1 GCT DELTAPORT EXPANSION - BERTH FOUR PROJECT - PROCESS ENGAGEMENT DURING THE IMPACT ASSESSMENT

7.1 Crown and Indigenous Nations' Roles and Responsibilities

A general description of participation opportunities for each phase of the assessment is provided in the following sections. The actions in the boxes for Indigenous nations describe the key opportunities available, and it is up to each Indigenous nation to decide whether to participate in those opportunities. Please see the [Joint Assessment Plan](#) for more details on the assessment process and the roles and responsibilities of other participants.

The main phases of the assessment process are:

1. Impact statement development and review phase
2. Impact assessment phase (part 1) led by the review panel
3. Impact assessment phase (part 2) led by the Government of Canada and British Columbia
4. Decision-making phase
5. Post-decision phase (*if the project is approved*)

7.1.1 Impact Statement Development and Review Phase

Timeline: The federal legislated timeline for this phase is up to three years, from posting of the notice of commencement to posting of the notice that all required information has been provided by the proponent. This timeline can vary if an extension is requested by the proponent and granted by the Agency. Under the provincial legislated timeline, the proponent has up to three years following the issuance of the process order to submit the impact statement and an additional year to provide a revised document. Where necessary, the EAO may vary provincial timelines to enable this cooperative assessment and maintain alignment with the federal process, in accordance with the *Environmental Assessment Act*.

The objectives of this phase with respect to Indigenous nation engagement are to:

- increase Indigenous nations' awareness of the assessment process and ensure they are provided the opportunity for meaningful participation;
- engage Indigenous nations in conducting an assessment of impacts on their Indigenous interests;
- engage Indigenous nations in the development of the impact statement;
- obtain comments and views on the impact statement, the review panel terms of reference and any other relevant assessment documents; and
- identify potential impacts on Indigenous interests and avoidance, mitigation, or accommodation measures in collaboration with Indigenous nations. Seek consensus with participating Indigenous nations with respect to the provincial sufficiency of the impact statement.

TABLE 1 ROLES AND RESPONSIBILITIES FOR IMPACT STATEMENT DEVELOPMENT AND REVIEW PHASE

Crown	Indigenous nations	Review panel
<ul style="list-style-type: none"> • Work with Indigenous nations to implement the JIEPP, to develop and implement Indigenous nation-specific consultation plans, and to collaborate on an impact on Indigenous interests assessment. • Notify Indigenous nations of key steps in the process and opportunities to participate. • Increase Indigenous nations' awareness of the assessment process and facilitate meaningful participation. • Consult with Indigenous nations on the review of the impact statement and any potential consideration of required information. • Consult with Indigenous nations on the review of the draft terms of reference for the review panel. • Begin discussions on the suitability of proponent's mitigation measures and potential gaps with participating Indigenous nations on provincial sufficiency. • Work with federal and provincial authorities towards the goal of minimizing impacts on Indigenous rights. 	<ul style="list-style-type: none"> • Identify partnership possibilities and the ways Indigenous nations prefer to participate in the assessment process to inform the drafting, and implementation of community-specific consultation plans. • Share Indigenous knowledge, as desired by the Indigenous nation, to inform the proponent's development of the impact statement. • Collaborate with the proponent, Crown and review panel, as requested, to inform and assess project impacts on Indigenous interests. • Participate in the review of relevant parts of the impact statement. Review and provide feedback on impact statement, including participating in the public comment period, and reviewing the adequacy of proponent responses, as applicable. • Participate in the review of the draft terms of reference for the review panel. • Participating Indigenous nations participate in consensus seeking with the EAO on the sufficiency of the revised impact statement. 	<ul style="list-style-type: none"> • Conduct a review of the impact statement and provide input to the Agency, including engaging with Indigenous nations during this review. • May be directed to lead the engagement period on the impact statement, including engaging with Indigenous nations.

7.1.2 Impact Assessment Phase Part 1 (Led by the Review Panel)

Timeline: The first part of the Impact Assessment Phase is led by the review panel. It commences when the Agency posts the notice on the Public Registry that all required studies and information have been

provided by the proponent, which would be informed by EAO’s notice that the application is accepted. The phase ends when the review panel submits its impact assessment report to the federal Minister. The federal legislated timeline for both parts of the Impact Assessment Phase (Part 1 and Part 2) is up to 600 days. The timeline can be extended if the Agency is of the opinion that more time is required to cooperate with the provincial process or to take into account circumstances specific to the project. The specific timeline for this phase will be established in the project-specific cooperation agreement.

The objectives of Indigenous engagement for part 1 of this phase are to:

- increase Indigenous nations’ awareness of and involvement in the review panel process;
- promote participation in the review panel process and public hearings; and
- gather views on potential project’s impacts on Indigenous interests and proposed mitigation and accommodation measures.

TABLE 2 ROLES AND RESPONSIBILITIES FOR IMPACT ASSESSMENT PHASE PART 1

Crown	Indigenous nations	Review panel
<ul style="list-style-type: none"> • Participate in meetings with Indigenous nations, including meetings requested by Indigenous nations. • Collaborate with Indigenous nations to submit preliminary analysis, recommendations and conclusions related to potential project impacts on Indigenous interests to the review panel. • Work with federal and provincial authorities towards the goal of minimizing impacts on Indigenous rights, and where appropriate, identifying potential accommodation measures. • Provide any written or oral submissions to inform the review panel process. 	<ul style="list-style-type: none"> • Participate in the hearings and additional opportunities organized by the review panel. • Provide any written or oral submissions to inform the review panel process. • Collaborate with the Crown to submit preliminary analysis recommendations and conclusions related to potential project impacts on Indigenous interests to the review panel. 	<ul style="list-style-type: none"> • Lead Part 1 of the Impact Assessment Phase. • Post updates and information on the Public Registry and maintain an email distribution list to keep participants informed. • May request additional information from any participant, including the proponent, if required. • May organize additional engagement opportunities in order to fulfill its terms of reference, including with Indigenous nations. • May organize information sessions to explain hearings procedures and timelines for submissions to the review panel, including with Indigenous nations. • Engage with Indigenous nations to collect information on the potential impacts of the project on Indigenous interests. • Hold public hearing. • May be directed to draft conditions and consult on them. • Draft an impact assessment report containing its rationale, conclusions, and recommendations regarding the project, as set out in its terms of reference.

7.1.3 Impact Assessment Phase Part 2 (Led by the Governments)

Timeline: The second part of the federal impact assessment phase is led by federal and provincial Governments. It begins when the review panel submits its report to the federal Minister and the report is made public. The second part of the phase ends when the Agency provides its recommendations on potential conditions to the federal Minister. At the provincial level, once the report is submitted to the federal Minister and it is available publicly, the EAO prepares a referral package and refers to provincial Ministers for decision on whether to grant a provincial EAC. The federal legislated timeline for both parts of the impact assessment phase is up to 600 days. The specific timeline for this phase will be established in the project-specific cooperation agreement. Where necessary, the EAO may vary provincial timelines to enable this cooperative assessment plan and maintain alignment with the federal process, in accordance with the *Environmental Assessment Act*.

The objectives of Indigenous engagement for part 2 of this phase are to:

- obtain comments from Indigenous nations on the characterization, analysis, conclusions, and recommendations contained in the review panel impact assessment report in relation to the impacts on Indigenous interests, and to identify any outstanding impacts on Indigenous interests and to ask for proposed solutions from the Indigenous nations;
- obtain comments from Indigenous nations on the Agency's recommendations regarding potential federal conditions, a government response to panel recommendations and on the EAO's draft referral package;
- understand a participating Indigenous nation's consent or lack of consent in advance of decision-making; and
- seek consensus with participating Indigenous nations with respect to the provincial referral package.

TABLE 3 ROLES AND RESPONSIBILITIES FOR IMPACT ASSESSMENT PHASE PART 2

Crown	Indigenous nations
<ul style="list-style-type: none"> • Consult on any outstanding impacts on Indigenous interests. • Work with Indigenous nations towards the resolution of outstanding issues. • Provide advice to decision makers on whether consultation for the purposes of the assessment decision was adequate. • Seek consensus with participating Indigenous nations on the draft provincial referral package and on the recommendation to provincial Ministers. • Work with federal and provincial authorities towards the goal of minimizing impacts on Indigenous rights. 	<ul style="list-style-type: none"> • Provide comments on the review panel report in relation to the impacts on Indigenous interests, and identify any outstanding impacts on Indigenous interests and identify possible solutions to the outstanding issues. • Provide comments on the potential federal conditions. • Provide comments on EAO's draft referral package. • Present their points of view to the Crown concerning the adequacy of the consultation throughout the assessment process. • Consider the draft provincial referral package to inform Indigenous decision makers on whether or not they would like to provide a notice of consent or lack of consent. • May choose to provide a notice of consent or lack of consent to issuing an EA Certificate and reasons.

7.1.4 Decision-making

Timeline: For the federal decision-making process, a decision is required 90 days from the posting of the potential federal conditions until the issuance of the decision statement. For the provincial decision-making process, a decision is required 30 days from when the EAO's referral package is provided to provincial Ministers. The EAO may alter timelines to support cooperation.

The objective of Indigenous engagement for the decision-making phase is to inform Indigenous nations about the federal and provincial decisions.

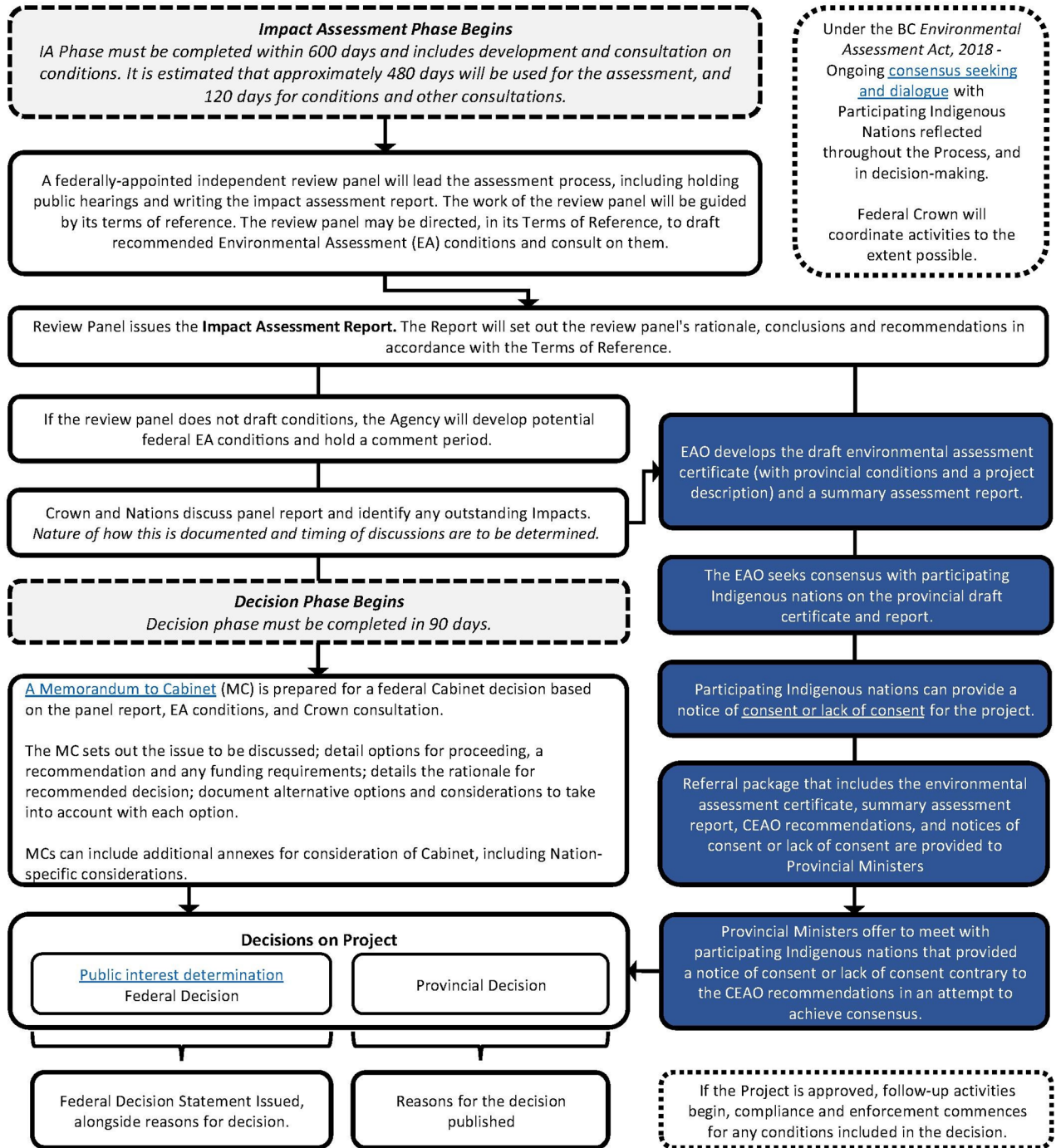
TABLE 4 ROLES AND RESPONSIBILITIES FOR DECISION-MAKING PHASE

Crown	Indigenous nations
<ul style="list-style-type: none"> • Continue ongoing dialogue with Indigenous nations, brief them on the federal decision statement and provincial referral package and provide them with opportunities to learn about next steps following a decision on the project. • Support participating Indigenous nations' meetings with provincial Ministers, who must, prior to making a decision, offer to meet if the CEAO's recommendation is 	<ul style="list-style-type: none"> • Continued dialogue with the Crown and proponent if there are remaining outstanding issues. • May choose to accept meeting offered by the provincial Ministers (if the CEAO's recommendation is contrary to the consent or lack of consent indicated by participating Indigenous nations).

<p>contrary to the consent or lack of consent indicated by participating Indigenous nations.</p> <ul style="list-style-type: none">• Work with federal and provincial authorities towards the goal of minimizing impacts on Indigenous rights.	
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For greater clarity, Figure 2 is an overview of the federal and provincial components of the decision-making process in accordance with the *Impact Assessment Act* and *Environmental Assessment Act*.

GCT DP4 Assessment
Components of Federal / Provincial Decision-Making – May 2022



Please note that this diagram will continue to change throughout the environmental assessment process as guidelines, terms of reference, and policy guidance continues to evolve.

FIGURE 2 – COMPONENTS OF FEDERAL / PROVINCIAL DECISION-MAKING – MAY 2022

7.1.5 Post-decision

If the project is approved, the objective of Indigenous engagement for the Post-Decision phase is to inform Indigenous nations about the federal and provincial post-decision activities⁴ (such as compliance and enforcement, and monitoring the effectiveness of mitigation measures), any requests by the proponent to amend the certificate and/or decision statement, and applicable procedures and consultation requirements.

TABLE 5 ROLES AND RESPONSIBILITIES FOR POST-DECISION PHASE

Crown	Indigenous nations
<ul style="list-style-type: none"> • Conduct compliance and enforcement activities and post information consistent with the <i>Impact Assessment Act</i> and on EPIC. • Consult on potential amendments to the Decision Statement/Environmental Assessment Certificate, should the proponent submit a project change. • Use enforcement to ensure that the project is designed, built, operated, and decommissioned or reclaimed in compliance with the legally binding requirements, where required. • Work with federal and provincial authorities towards the goal of minimizing impacts on Indigenous rights. • Engage with Indigenous nations to identify and report on EA Certificate requirements specific to each nation and where appropriate, work with nations to facilitate participation in compliance activities. 	<ul style="list-style-type: none"> • Participate in follow-up and monitoring activities. • Participate in compliance and enforcement activities. • Be consulted on any relevant project amendment requests. • Work with the Crown so that compliance and enforcement activities are tailored to the specific interests of the nation and its capacity to participate in compliance oversight activities.

⁴ For additional information on compliance and enforcement activities under the *Environmental Assessment Act* visit:

- [2018 Act - Guidance Documents Related to Environmental Assessments](#)
- [Indigenous Nation Guide to EAO Compliance and Enforcement](#)

For additional information on compliance and enforcement activities under the *Impact Assessment Act* visit:

- [Compliance Promotion and Enforcement Policy for designated projects subject to the Impact Assessment Act](#)

8. Participant Funding

8.1 Federal

The Participant Funding Program provides financial assistance to Indigenous recipients to prepare for and participate in consultation and participation activities associated with the project. As funds under the Program are not meant to fully cover costs that may be incurred during an Impact Assessment process, recipients are encouraged to investigate other sources of funding or in-kind support.

Funding will be made available to support Indigenous nations to participate throughout the assessment process.

For information about the activities that are eligible for funding or to apply for funding, see the Participant Funding Program's page: <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/funding-programs/participant-funding-program.html>.

8.2 Provincial

During the early engagement phase, the EAO provided participating Indigenous nations capacity funding to support their consideration of the Initial Project Description, JSOIE, and the Detailed Project Description. Consistent with the *Environmental Assessment Act*, the EAO expects the proponent to provide appropriate capacity resourcing to participating Indigenous nations following early engagement, including the process planning phase and the phases covered by this plan.

9. Federal and Provincial Authorities' Roles and Responsibilities

Throughout the assessment process, both federal and provincial authorities will engage as needed with the Crown, the proponent, Indigenous nations and other parties. The federal and provincial authorities will:

- contribute their specialist or expert information and knowledge into the assessment process;
- review and analyze the proponent's impact statement;
- provide expert advice to the review panel;
- review and analyze the review panel report;
- support and participate in Crown consultation activities; and
- support the Crown and Indigenous nations in understanding, assessing and addressing impacts on Indigenous interests.

The federal authorities that may participate in the assessment include:

- Crown-Indigenous Relations and Northern Affairs;
- Environment and Climate Change Canada;
- Fisheries and Oceans Canada;
- Natural Resources Canada;
- Transport Canada;
- Canadian Coast Guard;
- Employment and Social Development Canada;
- Parks Canada;
- Health Canada;
- Indigenous Services Canada;
- Infrastructure Canada;
- Innovation, Science and Economic Development Canada;
- Global Affairs Canada; and
- Women and Gender Equality Canada.

The provincial authorities that may participate in the assessment include:

- Ministry of Health;
- Ministry of Land, Water and Resource Stewardship;
- Ministry of Forests, Lands, Natural Resource Operations and Rural Development;
- Ministry of Environment and Climate Change Strategy;
- Ministry of Indigenous Relations and Reconciliation; and
- Ministry of Municipal Affairs and Housing.

The [Joint Permitting Plan / Regulatory Coordination Plan](#) issued at the end of the Planning phase describes the permits, licenses and authorizations that may be required for the project to proceed.