

# INFORMATION SHEET

## Implications of the amended *Impact Assessment Act* on the GCT Deltaport Expansion - Berth Four Project

On June 20, 2024, the [Budget Implementation Act](#) received Royal Assent and brought into force amendments to the [Impact Assessment Act](#) (IAA). The amendments were proposed in response to the October 2023 Supreme Court of Canada's (SCC) decision on the constitutionality of the IAA. For a summary of the key changes to the IAA please refer to the [Amendments to the Impact Assessment Fact Sheet](#).

The purpose of this information sheet is to explain to participants how the amendments to the IAA will apply to the impact assessment of the [GCT Deltaport Expansion – Berth Four Project](#) (the project) and to existing information requirements. In summary, the amendments to the IAA will not result in any substantial change to the impact assessment of the project.

### What it means for the GCT Deltaport Expansion – Berth Four Project

The project remains subject to an impact assessment under the IAA. The project description and scope of the works included have not changed. The project may result in non-negligible adverse effects within federal jurisdiction, as defined in the amended IAA (see Annex I). This includes potential adverse effects on:

- fish and fish habitat as defined in subsection 2(1) of the *Fisheries Act*;
- aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*;
- federal lands; and,
- Indigenous Peoples of Canada.

The project is situated largely on federal lands and is a federal work or undertaking (as defined in the *Canadian Environmental Protection Act, 1999*). The amended IAA broadly includes the “non-negligible adverse effects” of federal works or undertaking as an effect within federal jurisdiction (see Annex I). Therefore, the impact assessment will assess the broader environmental and socio-economic effects of the project as adverse effects within federal jurisdiction.

All of the plans issued by IAAC, in collaboration with British Columbia's Environmental Assessment Office (the EAO), during the planning phase remain applicable. The plans listed below will not be updated or revised at this time and will remain in effect and should be read alongside the updated definitions as described in the amended IAA (see Annex I for reference).

- [Joint Indigenous Engagement and Partnership Plan](#)
- [Joint Guidelines](#)
- [Joint assessment plan](#)
- [Joint Permitting plan and Regulatory Coordination Plan](#)

The scope of the project remains the same as defined in the [Joint Guidelines](#).

The amendments to the IAA did not include any procedural changes that would affect the impact assessment for the project. However, the IAA includes transitional provisions to bring projects undergoing an impact assessment under the amended IAA. To bring the project under the IAA, IAAC has established a time limit of 600 days for the Impact Assessment phase. Refer to the Impact Assessment Agency of Canada's (IAAC) [September 20, 2024 letter to the proponent](#) and the [Notice of Transition](#) for additional information on the step taken to bring the project under the amended IAA.

In addition, the time limit for the Impact Statement phase for the project has been replaced to account for the time elapsed during the interim period from October 13, 2023, to June 20, 2024, between the Supreme Court of Canada decision on the constitutionality of the IAA and the coming into force of the amended IAA. The new deadline for the proponent to provide the required information or studies described in the Notice of Commencement of the impact assessment is now February 6, 2028, as stated in the [Notice of Transition](#).

There will not be any changes to the coordinated process with the EAO. The EAO still intends to principally rely on the federal review panel's impact assessment to meet the provincial requirements for an environmental assessment. Each government retains the power to make its own decisions regarding the project.

## Updated Federal Guidance

Since the [Joint Guidelines](#) were issued in 2022, the Impact Assessment Agency of Canada (IAAC) has updated a number of referenced guidance documents which can be found by visiting the [Practitioner's Guide to Federal Impact Assessments](#). IAAC will inform the proponent if any additional new guidance becomes available.

The proponent and other parties are encouraged to reach out to IAAC if they have any questions regarding current guidance documents or the application of the IAA following the amendments.

## ANNEX 1 – DEFINITIONS

**Table 1:** Definition comparison between the IAA, and the amended IAA. Yellow highlight indicates changes that have been made.

Definitions in IAA 2019 (and issued DP4 guidelines and plans)	Updated definitions – amended IAA 2024
<p><b>effects within federal jurisdiction</b> means, with respect to a physical activity or a designated project.</p> <p>(a) <b>a change</b> to the following components of the environment that are within the legislative authority of Parliament:</p> <p>(i) fish and fish habitat, as defined in subsection 2(1) of the <i>Fisheries Act</i>,</p> <p>(ii) aquatic species, as defined in subsection 2(1) of the <i>Species at Risk Act</i>,</p> <p>(iii) migratory birds, as defined in subsection 2(1) of the <i>Migratory Birds Convention Act, 1994</i>, and</p> <p>(iv) any other component of the environment that is set out in Schedule 3;</p> <p>(b) a <b>change</b> to the environment that would occur (i) on federal lands, (ii) in a province other than the one where the physical activity or the designated project is being carried out, or (iii) outside Canada;</p> <p>N/A →</p> <p>N/A →</p> <p>(c) with respect to the Indigenous peoples of Canada, <b>an impact</b> — occurring in Canada and resulting from any change to the environment — on</p>	<p><b>adverse effects within federal jurisdiction</b> means, with respect to a physical activity or a designated project,</p> <p>(a) <b>a non-negligible adverse change</b> to the following components of the environment that are within the legislative authority of Parliament:</p> <p>(i) fish and fish habitat, as defined in subsection 2(1) of the <i>Fisheries Act</i>,</p> <p>(ii) aquatic species, as defined in subsection 2(1) of the <i>Species at Risk Act</i>,</p> <p>(iii) migratory birds, as defined in subsection 2(1) of the <i>Migratory Birds Convention Act, 1994</i>, and</p> <p>(iv) any other component of the environment that is set out in Schedule 3;</p> <p>(b) <b>a non-negligible adverse change</b> to the environment that would occur on federal lands;</p> <p><b>(c) a non-negligible adverse change to the marine environment that is caused by pollution and that would occur outside Canada;</b></p> <p><b>(d) a non-negligible adverse change — that is caused by pollution — to boundary waters or international waters, as those terms are defined in subsection 2(1) of the <i>Canada Water Act</i>, or to interprovincial waters;</b></p> <p>(e) with respect to the Indigenous peoples of Canada, a <b>non-negligible adverse impact</b> — occurring in Canada and resulting from any change to the environment— on</p>

<p>(i) physical and cultural heritage,</p> <p>(ii) the current use of lands and resources for traditional purposes, or</p> <p>(iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;</p> <p>(d) any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada; and</p> <p>(e) any change to a health, social or economic matter that is within the legislative authority of Parliament that is set out in Schedule 3. (effet relevant d'un domaine de compétence fédérale)</p>	<p>(i) physical and cultural heritage,</p> <p>(ii) the current use of lands and resources for traditional purposes, or</p> <p>(iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;</p> <p>(f) a non-negligible adverse change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada; and</p> <p>(g) a non-negligible adverse change to a health, social or economic matter that is within the legislative authority of Parliament that is set out in Schedule 3.</p>
	<p>In the case of a physical activity or a designated project that is carried out on federal lands or is a federal work or undertaking, as defined in subsection 3(1) of the Canadian Environmental Protection Act, 1999, this definition also includes the non-negligible adverse effects of that activity or project. (effets négatifs relevant d'un domaine de compétence fédérale)</p>
<p><b>direct or incidental effects</b> means effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a physical activity or designated project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that activity or project to be carried out, in whole or in part. (effets directs ou accessoires)</p>	<p><b>direct or incidental adverse effects</b> means non-negligible adverse effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a physical activity or designated project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that activity or project to be carried out, in whole or in part. (effets directs ou accessoires négatifs)</p>

**Table 2:** Updated definition for Indigenous interests

Definition in issued DP4 guidelines and plans	Updated definition to align with amended IAA 2024
Indigenous Interests	Indigenous Interests

Refers to all the requirements relating to Indigenous peoples required by both the *Impact Assessment Act* and the *Environmental Assessment Act*. This includes paragraph 22(1)(c) of the *Impact Assessment Act*, 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 Constitution Act, 1982". It also includes section 2 of the *Impact Assessment Act*, which provides a definition of effects within federal jurisdiction. This definition includes the following: with respect to the Indigenous peoples of Canada, **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 *Environmental Assessment Act* defines Indigenous Interests as "those interests related to an Indigenous nation and their rights recognized and affirmed by section 35 of the Constitution Act, 1982, including Treaty rights and Aboriginal rights and title, that may be impacted by a proposed project".

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- (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;

(f) **a non-negligible adverse change** occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada; and

Paragraph 2(2)(b) of the *Environmental Assessment Act* defines Indigenous Interests as "those interests related to an Indigenous nation and their rights recognized and affirmed by section 35 of the Constitution Act, 1982, including Treaty rights and Aboriginal rights and title, that may be impacted by a proposed project".