

EAO's Assessment of an Application for Certificate Amendment

Terminal A Extension Project

Requested by:
Rio Tinto Alcan

May 11, 2018

Pursuant to Section 19 of the Environmental Assessment Act, S.B.C. 2002, c.43

ACRONYMS AND ABBREVIATIONS

Application	Amendment Application
RTA	Rio Tinto Alcan
CPD	Certified Project Description
DAS	Disposal at Sea
DDS	Dredge Disposal Site
DFO	Fisheries and Oceans Canada
DOK	District of Kitimat
EAO	Environmental Assessment Office
EA	Environmental Assessment
EAC	Environmental Assessment Certificate
ECCC	Environment and Climate Change Canada
ENV	Ministry of Environment & Climate Change Strategy
FLNRORD	Ministry of Forests, Lands, Natural Resource Operations and Rural Development
ha	hectare
NH	Northern Health
Terminal A Extension	Terminal A Extension Project
TOC	Table of Conditions

1. OVERVIEW OF PROPOSED AMENDMENT

On December 17, 2015, Rio Tinto Alcan (RTA) was issued Environmental Assessment (EA) Certificate #T15-01 under the *Environmental Assessment Act*, for the Terminal A Extension Project (Terminal A Extension). Terminal A Extension is located on lands owned by the RTA in the District of Kitimat. The Project is an extension of the existing Terminal A marine terminal to accommodate bulk carriers. Terminal A Extension does not lead to an increase in operations vessel traffic because it is a replacement for RTA's existing Terminal B facility, which is to be used by LNG Canada Development Incorporated for the LNG Canada Export Terminal Project (Environmental Assessment Certificate [EAC] #E15-01)¹. Terminal A Extension is in the asserted traditional territory of Haisla Nation.

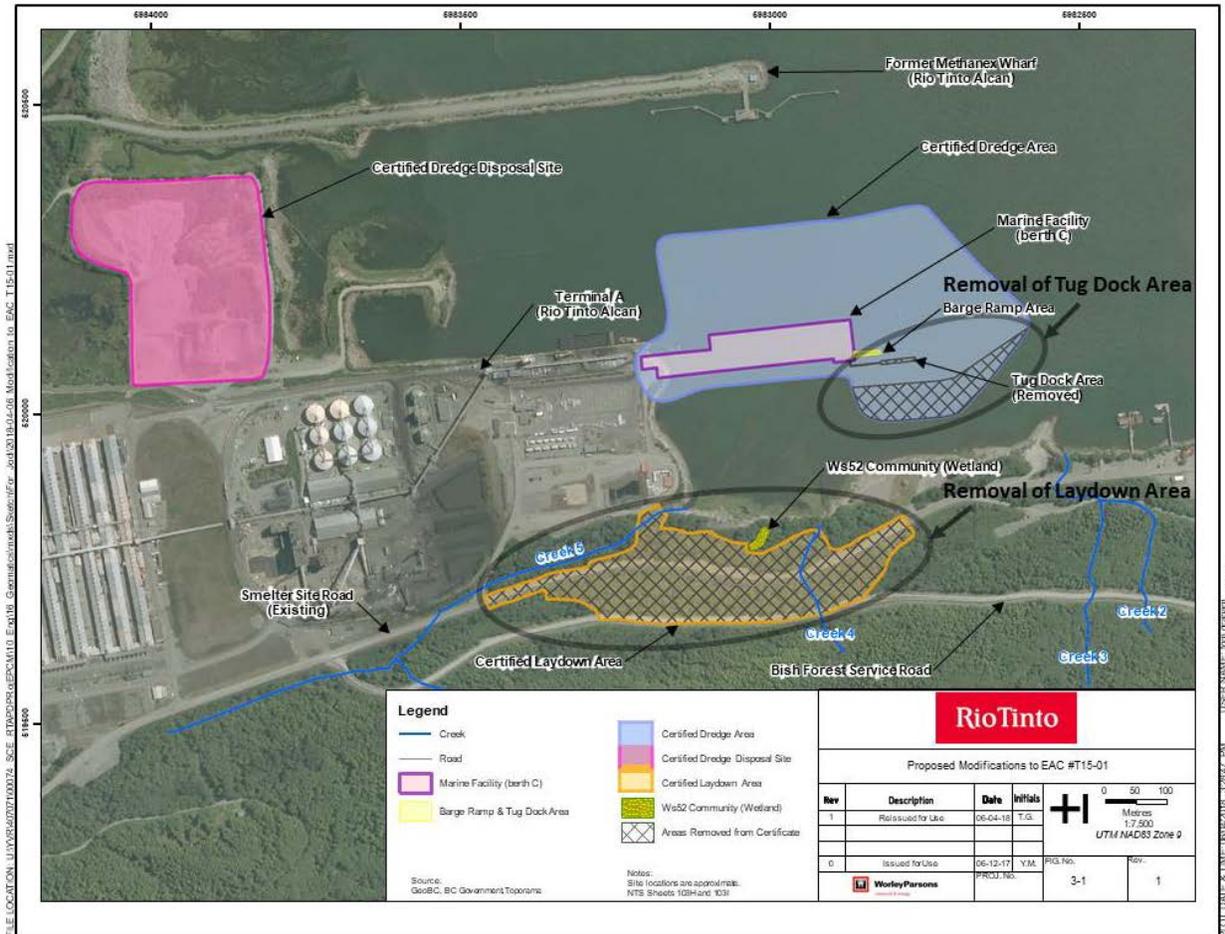
Terminal A Extension consists of an extension to RTA's existing Terminal A wharf by up to 250 metres, the construction of a barge ramp, tug dock and laydown area, dredging marine sediment, a dredge disposal site (DDS), and a disposal at sea (DAS) area.

Since the EAC was issued in 2015, the RTA has undertaken project optimization studies which has resulted in proposed amendments to the EAC. On December 21, 2017, RTA submitted an amendment application (Application) to the Environmental Assessment Office (EAO) to relocate the Certified Laydown Area to within the Certified DDS and to remove the tug dock from the Certified Project Description (Figure 1). The changes contemplated by the Application would require less infrastructure to be constructed and would reduce the Project footprint.

On March 20, 2018, RTA provided a memo to the EAO which clarified that the relocated Certified Laydown Area would be used for general laydown and for metal staging related to the staging of final smelter product to replace the laydown area lost at Terminal B once leased to LNG Canada. The area would only be used for general laydown and for metal staging after the DDS has been closed and meets the requirements of a Ministry of Environment and Climate Change Strategy approved closure plan, and would therefore not be used as a laydown area during construction of the Terminal A Extension.

¹ For more information: <https://projects.eao.gov.bc.ca/p/lng-canada-export-terminal/docs?folder=49>.

Figure 1: Proposed Modifications to EAC



2. AMENDMENT REVIEW PROCESS

Due to the material changes contemplated to the project, the EAO determined that the review of the Application would be a typical amendment process that would include engagement with other agencies for a technical review and consultation with Haisla Nation, due to the potential to impact Haisla Nation’s Aboriginal rights and title (Aboriginal Interests).

The EAO invited the following parties to be part of the advisory Working Group to provide advice on the Application:

- Ministry of Environment & Climate Change Strategy (ENV);
- Ministry of Forests, Lands and Natural Resource Operations & Rural Development (FLNRORD);
- Northern Health (NH);
- District of Kitimat (DOK);
- Environment and Climate Change Canada (ECCC);
- Department of Fisheries and Oceans (DFO); and,
- Haisla Nation.

ECCC and DFO stated that they would not be participating in the amendment review because the changes outlined in the Application were already contemplated in their permitting processes; all of the other parties participated in the working group.

The EAO provided the Application to the working group on January 5, 2018. A working group teleconference was held, during which the EAO provided an overview of its amendment review process, and RTA provided a presentation on the amendment and answered questions from the working group. The working group was also invited to review the EAO's draft assessment report and associated material. Following the March 20, 2018 memo received by RTA, the working group was provided the EAO's resulting changes to the draft assessment report and associated materials for an additional review period.

The EAO also had discussions with Haisla Nation regarding potential impacts of the amendment to their Aboriginal Interests.

3. SUMMARY OF ISSUES AND EFFECTS

The only comments received from the working group on the Application were from DOK relating to the effects of the amendment on local employment opportunities and Hospital Beach, which RTA responded to. ENV, FLNRORD and NH stated that they did not have any comments on the Application. The working group comment tracking table is posted on the EAO's website².

Table 1 summarizes how the proposed amendment modifications may potentially interact with pathway and valued components assessed during the original EA. While there are a number of pathway and valued components that would be anticipated to experience a reduced or removed interaction with the Certified Laydown Area and tug dock due to the proposed changes, there would have been new interactions between light and aesthetics/visual quality

² <https://projects.eao.gov.bc.ca/p/terminal-a-extension/docs?folder=103>

contemplated in the Certified DDS from what was contemplated during the EA due to the relocation of the Certified Laydown Area. However, the March 20, 2018 memo clarified the activities would not coincide with the operation of the Certified DDS, including closure; the Certified Project Description (CPD) already clarifies that “the Project also includes temporary construction, laydown and storage areas on existing developed Rio Tinto Alcan land”, of which the Certified DDS is a part.

Table 1: Change in interaction with Pathway and Valued Components as assessed during the EA due to Proposed Changes from the Application

Component	Removal of Laydown Area	Removal of Tug Dock
Pathway Components		
Light	Interaction removed	Reduced interaction
Noise	Interaction removed	Reduced interaction
Soils and Terrain	Interaction removed	Not applicable
Water Quality	Interaction removed	No change
Employment	No change	No change
Valued Components		
Vegetation	Interaction removed	Not applicable
Wildlife and Habitat	Interaction removed	Reduced interaction
Freshwater Fish and Fish Habitat	Interaction removed	Not applicable
Marine Life and Habitat	Interaction removed	Reduced interaction
Economic Conditions	No change	No change
Land and Resource Use	No change	No change
Community Well-being	No change	No change
Community Infrastructure and Services	No change	No change
Aesthetics / Visual Quality	Interaction removed	No change
Heritage Resources	Interaction removed	No change
Human Health	Interaction removed	No change

Notes

- Potential effects to pathway or valued component are either removed or reduced as a result of the Project amendment
- Project modification does not alter EA conclusions
- Project modifications are not applicable to Pathway or Valued Component (i.e. no interactions) and do not alter EA conclusions

Removal of the Laydown Area

The Application stated that the removal of the Laydown Area would:

- Eliminate the need to clear 5.8 ha of vegetation, including 0.03 ha of red listed red alder – skunk cabbage swamp.
- Avoid alterations to the hydrology of a wetland and avoid two creek crossings.
- Reduce effects to wildlife associated with direct habitat loss and reduction in habitat quality from contamination and sedimentation, including for coastal tailed frog, great blue heron, western screech owl, Keen’s myotis and Pacific marten.
- Reduce the effects of noise and light from Project activities on wildlife.
- Reduce the effects of construction noise and associated potential effects to users of Hospital Beach, and that Hospital Beach would no longer be closed because of blasting activities previously associated with the construction of the original Laydown Area.
- Eliminate all disturbances to creeks and, therefore, would no longer result in any effects to freshwater fish and fish habitat.

Removal of the Laydown Area would, therefore, require the EA Certificate’s CPD and Table of Conditions (TOC) to be amended to remove mention of the Certified Laydown Area, and freshwater components of Condition 6 regarding the Fish Management and Monitoring Plan.

During review of the amendment referral materials, ENV raised concern that the laydown area is being moved into a location that contains pre-existing contamination that may be at levels above standards for industrial use. However, following the clarification provided in the March 20, 2018 memo, ENV confirmed that the changes to the DDS required to accommodate the new laydown area following the closure of the DDS can be made within the existing DDS permit for the site.

The use of the DDS by workers was contemplated during Application Review, and the human health of workers in the DDS was assessed. This was supported by RTA’s screening level qualitative human health risk assessment of the DDS entitled “Technical Memo: Proposed DDS – Screening level qualitative human health risk assessment to support application to amend P2 Permit, Oct 16/15”.

Following discussions with ENV, language in the CPD is being proposed which clarifies that following closure of the Certified DDS; only the IL⁻³ storage area would be available for general

³ Industrial Land Negative, defined in the Table of Conditions as: Marine sediments that have a level of contamination for a given contaminant which is below the threshold identified in the Contaminated Sites Regulation as being suitable for industrial lands and is above contaminant concentrations that would allow for disposal at sea through Environment Canada’s Disposal at Sea Regulation.

industrial use and not the IL+⁴ storage area.

Based on the review of the Application, and having regard to the proposed changes to the TOC and CPD, the EAO is satisfied that the proposed removal of the Laydown Area, including use of the Certified DDS for laydown following its closure, would reduce the project's effects and is unlikely to increase residual effects identified in the EAO's assessment of terrestrial habitat, wildlife, freshwater fish and fish habitat and human health.

Removal of Tug Dock

The proposed removal of the tug dock would allow the RTA to reduce the size of the Certified Dredge Area, with a subsequent reduction in disturbance of benthic habitat, including loss of eelgrass habitat, from 1.3 ha to 1.13 ha.

DFO confirmed that the amendment's proposed new dredge footprint is the same as what RTA submitted for their *Fisheries Act* authorization for the Project, for which they were issued a *Fisheries Act* authorization on February 16, 2018 by DFO.

The reduction in the Certified Dredge Area would also reduce the estimated dredge volume from 585,000 m³ contemplated during the EA to 466,000 m³.

Removal of the tug dock requires the EA Certificate's CPD and TOC to be amended to remove mention of the tug dock.

The removal of the tug dock would generally reduce the effects of the project, but does not change the conclusions from the EA related to acoustic noise of pile driving effects to marine mammals, marine habitat quality, or human health.

Based on the review of the Application, and having regard to the proposed amended CPD, the EAO is satisfied that the proposed amendment of removing the tug dock would reduce the effects of the project and is unlikely to increase the residual effects identified in EAO's assessment of benthic habitat and acoustic noise.

⁴ Industrial Land Positive, defined in the Table of Conditions as: Marine sediments that have a level of contamination for a given contaminant which is above the threshold identified in the Contaminated Sites Regulation and is below the threshold identified in the Hazardous Waste Regulation as that of being hazardous waste and, taking into account site-specific factors as being suitable for industrial lands, and for the purposes of this project must be disposed in a permitted landfill.

4. ABORIGINAL CONSULTATION

The Project is located solely within Haisla Nation's asserted traditional territory, approximately 4 km northwest from the main Haisla community of Kitamaat Village on the east side of Kitimat Harbour, and approximately 24 km (by road). The EAO consulted with Haisla Nation during the original EA and on this Application.

The EAO provided \$2000 in capacity funding to Haisla Nation Council for this amendment review. Haisla Nation was kept informed of the amendment review, invited to participate in the working group, invited to comment on key EA documents including the Application and draft referral materials, and was provided opportunities to meet with the EAO's staff.

Haisla Nation participated in a consultation meeting with the EAO via teleconference to discuss any potential impacts of the Application to Haisla Nation. Haisla Nation did not express any concerns with the Application during the working group review process or on the teleconference with the EAO, but did express an interest in RTA's response to DOK's comments on potential impacts to Hospital Beach access. Upon receiving the RTA's response that Hospital Beach would no longer be closed related to blasting activities previously associated with the Certified Laydown Area, the EAO shared the response with Haisla Nation.

EAO is not aware of any impacts on Haisla Nation's Aboriginal Interests as a result of this Application.

5. CONCLUSIONS

Based on:

- The information contained in the Application;
- Comments on the Application by Haisla Nation, federal, provincial, regional and local government agencies;
- RTA's and the EAO's consultation with Haisla Nation;
- The overall reduction in Project effects of the amendment;
- The design of the Project as specified in the proposed amended Schedule A (Certified Project Description) of the EAC to be implemented by RTA during all phases of Project; and
- Mitigation measures identified as proposed conditions in the amended Schedule B (Table of Conditions) of the EAC to be undertaken by the Holder during all phases of Project.

The EAO is satisfied that:

- The conditions and commitments contained in the Application adequately identified and assessed the potential adverse changes to the environmental, economic, social, heritage and health effects of the Terminal A Extension Project resulting from the proposed amendment;
- Consultation with the Haisla Nation about the proposed amendment has been adequately carried out by RTA and the EAO; and
- The provincial Crown has fulfilled its obligations for consultation and accommodation of Haisla Nation relating to the issuance of an amendment to EAC #T15-01;

and recommends to the Executive Director of Environmental Assessment Office, upon consideration of the conclusions in this report and any other relevant factors, issues an Amended Certificate under Section 19 of the *Environmental Assessment Act* to allow the requested amendment of the Environmental Assessment Certificate # T15-01 for the Terminal A Extension Project.

Addendum(s):

Amended Certificate

Unofficial Consolidated Amended Certified Project Description

Unofficial Consolidated Amended Table of Conditions