



VILLAGE OF LIONS BAY

**REGULAR MEETING OF THE COUNCIL
OF THE VILLAGE OF LIONS BAY
HELD ON TUESDAY, FEBRUARY 7, 2023 at 6:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY
AND VIA ZOOM VIDEO CONFERENCE**

Link to join the meeting: <https://us02web.zoom.us/j/86205686044>
To join via phone, dial 778-907-2071 – Meeting ID: [862 0568 6044]

AGENDA

1. Call to Order

2. Closed Council Meeting (6:00 PM)

Proposed topics for discussion in the absence of the public:

- A. Legal
- B. Personnel

THAT the meeting be closed to the public on the basis of matters to be considered under the following sections of the *Community Charter* and where required, the Council does consider that the matters could reasonably be expected to harm the interests of the municipality if they were held in public:

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (c) labour relations or other employee relations;
- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);

Council will reconvene the open meeting at 7 pm to discuss the balance of the Agenda

3. Reporting Out from Closed Portion of Meeting

4. Adoption of Agenda

- 5. Public Participation (2 minutes per person totalling 10 minutes maximum)**
- 6. Public Delegation Requests Accepted by Agenda Deadline (10 minutes maximum)**
- 7. Review & Approval of Minutes of Prior Meetings**
- A. Special Council Meeting – November 24, 2022 (*page 4*)
 THAT the Special Council Meeting Minutes of November 24, 2022 be approved as circulated.
- B. Special Council Meeting – November 30, 2022 (*page 8*)
 THAT the Special Council Meeting Minutes of November 30, 2022 be approved as circulated.
- C. Special Council Meeting – December 8, 2022 (*page 10*)
 THAT the Special Council Meeting Minutes of December 8, 2022 be approved as circulated.
- D. Regular Council Meeting – January 31, 2023 (*page 12*)
 THAT the Regular Council Meeting Minutes of January 31, 2023 be approved as circulated.
- 8. Business Arising from the Minutes**
- 9. Unfinished Business**
- A. Follow-Up Action Items from Previous Meetings

No.	Date	Item Description	Action
253	July 5, 2022	Highway maintenance follow up	A report will be issued by February 28, 2023, identifying pavement to be replaced 2023-2025
257	December 20, 2022	Speculation and Vacancy Tax	Mayor Berry to contact Finance to obtain further details regarding the Speculation and Vacancy Tax
258	December 20, 2022	First Nations Acknowledgement for Agendas	Councillor Broughton to reconfirm the territorial acknowledgements appropriate to the Village of Lions Bay
263	January 31, 2023	Appointment of Election Officials	A/CAO Tobin to review options for by-election expenditures with the

			A/CFO and report to Council at next meeting.
--	--	--	--

10. Reports

- A. Staff
 - i. Budget
 - ii. Banking
- B. Mayor
- C. Council
- D. Committees
 - i. Lions Bay Beach Park Advisory Committee
 - ii. Climate Action Committee

11. Resolutions

- A.

12. Bylaws

- A. Garbage & Recycling Collection Bylaw No. 455, Amendment Bylaw No.

13. Correspondence

- A. List of Correspondence to Thursday, February 2, 2023 (*page 20*)
 THAT the correspondence for the February 7th, 2023 Regular Meeting of Council for the Village of Lions Bay be received and circulated, and

 THAT all such correspondence be acknowledged in writing; and
 THAT any correspondence seeking an action within the proper jurisdiction of the municipality is referred to the Chief Administrative Officer.

14. New Business

- A.

15. Public Questions & Comments (2 minutes on any topic discussed in this meeting)

16. Closed Council Meeting (continuation, if applicable)

THAT the meeting be closed to the public on the basis of the matters noted in Item 2 of this Agenda.

17. Reporting Out from Closed Portion of Meeting (if applicable)

18. Adjournment



VILLAGE OF LIONS BAY

**SPECIAL MEETING OF THE COUNCIL
OF THE VILLAGE OF LIONS BAY
HELD ON THURSDAY, NOVEMBER 24, 2022 at 5:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY
AND VIA ZOOM VIDEO CONFERENCE**

MINUTES

In Attendance:

Council: Mayor Ken Berry
Councillor Michael Broughton
Councillor Neville Abbott (via video conference)
Councillor Norm Barmeier (via video conference beginning at 5:06 pm)
Councillor Marcus Reuter (via video conference)

Staff: Chief Administrative Officer Peter DeJong
Chief Financial Officer Pamela Rooke
Public Works Manager Nai Jaffer (via video conference)

Public: 1

1. Call to Order

The meeting was called to order at 5:01 pm

2. Adoption of Agenda

Moved/Seconded

THAT the section 90(1)(b) and (c) be added as grounds for closing the meeting;
THAT a proposed resolution be added under Item 6Bi regarding the Lions Bay Beach Park Advisory Committee;
THAT Item 7 be expanded to focus on the recent meeting between Councillors Barmeier and Broughton and Town Hall facilitator Susan Davis and next steps required; and
THAT provision be made for Council to return to the Closed portion of the meeting after the Open meeting.

CARRIED

3. Closed Council Meeting (5 PM)

Proposed topics for discussion in the absence of the public:

A. Consideration of contractual matters pertaining to the bridge rehabilitation at 325 Bayview Road

Moved/Seconded

THAT the meeting be closed to the public on the basis of matters to be considered under the following sections of the *Community Charter* and where required, the Council does consider that the matters could reasonably be expected to harm the interests of the municipality if they were held in public:

- 90 (1)** A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
 - (c) labour relations or other employee relations;
 - (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
 - (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
 - (o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.

CARRIED

The meeting was closed to the public at 5:05 pm.

The meeting was re-opened to the public at 6:10 pm

4. Reporting Out from Closed Portion of Meeting (if applicable)

Council reported out that it has approved an additional \$136,127 for the driveway bridge project at 325 Bayview Road for a maximum project cost of up to \$425,000, including contingency.

5. Public Participation (2 minutes per person totalling 10 minutes maximum)

None

6. Reports

A. Staff

- i. CAO Request for Decision – 325 Bayview Road Municipal Driveway Bridge (Page 3)

Recommendation:

THAT Council authorizes an additional \$129,127 to come from surplus to cover the cost of Change Order 2 for the driveway bridge rehabilitation at 325 Bayview Road as identified in this report;

AND THAT Council direct staff to seek further Council direction should the total costs of the contract, engineering and project management, and contingency exceed \$425,000.

This matter was concluded in the Closed portion of the meeting and reported out as noted above.

B. Mayor

- i. Resolution: THAT the Lions Bay Beach Park Advisory Committee be re-established with two Council members acting as Chair and Co-Chair and up to ten resident members; and THAT residents be invited to apply to the Committee by way of the Village Update.

- Discussion took place regarding the number of potential people who may be interested in sitting on the committee and the need to have a good demographic cross-section of the Village;
- Need to have structure for committee
- Councillors Broughton and Barmeier recommended for Chair and Co-Chair

Moved/Seconded

THAT the Lions Bay Beach Park Advisory Committee be re-established with two Council members acting as Chair and Co-Chair and up to ten resident members; and

THAT residents be invited to apply to the Committee by way of the Village Update.

CARRIED

Moved/Seconded

THAT Councillors Broughton and Barmeier be appointed as Chair and Co-Chair respectively to the reconstituted Lions Bay Beach Park Advisory Committee with Terms of Reference to follow.

CARRIED

C. Council
None

7. **Confirmation of Details re. Town Hall for the Lions Bay Beach Park Revitalization Project** - Discussion re. meeting between Councillors Barmeier and Broughton and Town Hall facilitator Susan Davis and next steps
- S. Davis provided thoughts about clearly communicating Council’s intent with respect to the Town Hall
 - Suggestion to consider a weekend – concerns re. getting too close to Christmas
 - Need for suitable agenda and presentation materials on design and scope of project
 - Consideration of enlisting assistance from project manager for Town Hall and landscape architect consultants for presentation materials (CAO to provide contracts re. hourly rates)

Moved/Seconded

THAT Susan Davis be appointed as facilitator for the Lions Bay Beach Park Revitalization Project Town Hall; and

THAT she be enabled to reach out to PMG and Core along with Councillors Broughton and Barmeier and CAO DeJong to flesh out information and details necessary to ensure the successful delivery of the Town Hall.

CARRIED

8. **Public Questions & Comments (2 minutes on any topic discussed in this meeting)**
None

9. **Continuation of Closed Meeting**
The meeting was closed to the public at 7:08 pm on the same basis as at the beginning of the meeting and all staff departed at 7:08 pm.

10. **Reporting Out from Closed Meeting (if applicable)**

11. **Adjournment**
Moved/Seconded
THAT the meeting be adjourned.

CARRIED

The meeting was adjourned generally at 7:30 pm.

Mayor

Corporate Officer

Date Adopted by Council:	
--------------------------	--



VILLAGE OF LIONS BAY

**SPECIAL MEETING OF THE COUNCIL
OF THE VILLAGE OF LIONS BAY
HELD ON WEDNESDAY, NOVEMBER 30, 2022 at 7:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY
AND VIA ZOOM VIDEO CONFERENCE**

MINUTES

In Attendance:

Council: Mayor Ken Berry
Councillor Michael Broughton
Councillor Neville Abbott
Councillor Marcus Reuter
Councillor Norm Barmeier (via audio conference)

Staff: Chief Administrative Officer Peter DeJong (Recorder, via video conference)

Public: 2

1. Call to Order

The meeting was called to order at 7:02 pm

2. Adoption of Agenda

Moved/Seconded

THAT the Agenda be approved as circulated.

CARRIED

3. Public Participation

None

4. Reports

A. Council

Verbal Update from Councillors Broughton and Barmeier re. organizational details for Town Hall and consideration of increased budget for presentation materials and possibly attendance by one of the beach park consultants. Discussion:

- Zoom meeting with Councillors, facilitator, consultants and CAO on November 29, 2022 had consensus on inclusion of consultants and materials and decision to ask Council for additional funding

- Additional conversation between Clr. Broughton and facilitator after Zoom meeting - Clr. Barmeier unaware of further conversation
- Clr. Broughton and facilitator concluded consultants not required for Town Hall – will advise if any presentation materials are required
- Looking into power point presentation for Town Hall

5. Closed Council Meeting

Proposed topics for discussion in the absence of the public:

Moved/Seconded

THAT the meeting be closed to the public on the basis of matters to be considered under the following sections of the *Community Charter* and where required, the Council does consider that the matters could reasonably be expected to harm the interests of the municipality if they were held in public:

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);

**Council does not anticipate reconvening the open meeting other than to report out, if applicable, and adjourn the meeting*

CARRIED

*The meeting was closed to the public at 7:22 pm and the CAO departed the meeting.
 The meeting was re-opened to the public at 10:12 pm*

6. Reporting Out from Closed Portion of Meeting (if applicable)

7. Public Questions and Comments

None

8. Adjournment

Moved/Seconded

THAT the meeting be adjourned.

CARRIED

The meeting was adjourned generally at 10:12 pm.



VILLAGE OF LIONS BAY

**SPECIAL MEETING OF THE COUNCIL
OF THE VILLAGE OF LIONS BAY
HELD ON THURSDAY, DECEMBER 8, 2022 at 5:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY
AND VIA ZOOM VIDEO CONFERENCE**

MINUTES

In Attendance:

Council: Mayor Ken Berry
Councillor Michael Broughton
Councillor Neville Abbott
Councillor Marcus Reuter

Staff: Chief Administrative Officer Peter DeJong (Recorder)

Public: 2

1. Call to Order

The meeting was called to order at 5:01 pm

2. Adoption of Agenda

Moved/Seconded

THAT the Agenda be approved as circulated.

CARRIED

3. Public Participation

None

4. Closed Council Meeting

Proposed topics for discussion in the absence of the public:

Moved/Seconded

THAT the meeting be closed to the public on the basis of matters to be considered under the following sections of the *Community Charter* and where required, the Council does consider that the matters could reasonably be expected to harm the interests of the municipality if they were held in public:

90 (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);

CARRIED

*The meeting was closed to the public at 5:03 pm and the CAO departed the meeting.
The meeting was re-opened to the public at 6:02 pm*

5. Reporting Out from Closed Portion of Meeting (if applicable)

None

6. Public Questions and Comments

None

7. Adjournment

Moved/Seconded

THAT the meeting be adjourned.

CARRIED

The meeting was adjourned generally at 6:02 pm.



VILLAGE OF LIONS BAY

**REGULAR MEETING OF THE COUNCIL
OF THE VILLAGE OF LIONS BAY
HELD ON TUESDAY, JANUARY 31, 2023 at 6:00 PM
COUNCIL CHAMBERS, 400 CENTRE ROAD, LIONS BAY
AND VIA ZOOM VIDEO CONFERENCE**

MINUTES

In Attendance: Mayor Ken Berry
Councillor Neville Abbot
Councillor Michael Broughton
Councillor Marcus Reuter

Staff: Marina Blagodarov, Administrative Assistant
Kelsey Guenette, Raincoast Ventures Ltd. (via videoconference)
(Recorder)
Nai Jaffer, Public Works Manager (via videoconference)
Ron Miller, Acting Chief Financial Officer (A/CFO)
Anthony Tobin, Acting Chief Administrative Officer (A/CAO)

Public: 6 in person; 19 via videoconference

1. Call to Order

Mayor Berry called the meeting to order at 6:03 p.m.

2. Closed Council Meeting (6:00 PM)

Moved/Seconded

THAT part of this Regular Meeting of the Village of Lions Bay Council be closed to the public due to the consideration of items pursuant to Section 90 of the *Community Charter* that provides:

- 90 (1)** A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

- c) labour relations or other employee relations;
- n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);

CARRIED

The meeting returned to open session at 7:00 p.m.

3. Reporting Out from Closed Portion of Meeting/Mayor’s Address

The Mayor informed that reporting out would occur following the reconvening of the Closed session later in the agenda.

4. Adoption of Agenda

During discussion on the January 31, 2023 Regular Council Meeting agenda, concerns were raised regarding the lack of time provided to review the agenda package prior to the meeting. As such, meeting minutes were requested to be tabled, and the Mayor’s Report received rather than adopted.

Moved/Seconded

THAT the agenda of the January 31, 2023 Regular Council Meeting of the Village of Lions Bay be adopted with amendment to remove Items 10.2 Acting CAO Report and 10.3 Acting CFO Report and add a discussion on the Municipal Clerk job posting under Item 14. New Business.

DEFEATED

(Mayor Berry and Councillor Broughton opposed)

Moved/Seconded

THAT the agenda of the January 31, 2023 Regular Council Meeting of the Village of Lions Bay be adopted with amendment to remove language in the agenda that restricts/conscripts public participation and sets limits to speaking.

DEFEATED

(Mayor Berry and Councillor Broughton opposed)

Moved/Seconded

THAT the agenda of the January 31, 2023 Regular Council Meeting be adopted with amendment to add a discussion on the Municipal Clerk job posting under Item 14. New Business.

CARRIED

5. Public Participation

A. Tamara Leger

Tamara Leger questioned whether A/CAO Anthony Tobin was the same person cited in a judgement at the BC Supreme Court of Appeal. The A/CAO advised that it was Not the same person.

B. KC Dyer

KC Dyer questioned whether Closed sessions would remain a regular occurrence prior to Open sessions.

Council responded, noting that holding Closed sessions prior to Open sessions includes reporting out to allow the public to respond if desired.

C. Karen Jeffery

Karen Jeffery requested that the Procedures Policy be rewritten as it had not been updated since 2015.

D. Rose Dudley

Rose Dudley requested clarification on the Village's hiring practices as there was no posting advertised for the A/CFO position.

Council responded, noting that the A/CFO was a former member of MNP LLP until his retirement, and was known to the Mayor in a professional manner. Additionally, it was noted that a list of qualified individuals for the A/CAO and A/CFO was provided to all Councillors for review by the Mayor, and they were requested to add to the list further. The A/CAO was hired via unanimous resolution.

E. Rebecca Caspersen

Rebecca Caspersen requested clarification on why the bank signing authority of a previous staff member was not yet removed.

Council responded, noting that it was working to correct and strengthen financial controls of the Village, and that the matter was unresolved in a previous Closed session; however, would be hopefully resolved later in the agenda.

F. Karen Jeffery

Karen Jeffery noted that the unanimously appointed A/CAO holds the authority for all hiring in the Village, and as such, Council would not have any authority to approve the selection of the A/CFO.

6. Delegations

None.

7. Adoption of Minutes of Prior Meetings

- A. Regular Council Meeting – January 17, 2023
 Moved/Seconded

THAT the Regular Council Meeting Minutes of January 17, 2023 be approved as circulated.

TABLED

- B. Special Council Meeting – January 13, 2023
 Moved/Seconded

THAT the Special Council Meeting Minutes of January 13, 2023 be received as circulated.

CARRIED

8. Business Arising from the Minutes

None.

9. Unfinished Business

- A. Follow-Up Action Items from Previous Meetings

No.	Date	Item Description	Action
253	July 5, 2022	Highway maintenance follow up	A report will be issued by February 28, 2023, identifying pavement to be replaced 2023-2025
257	December 20, 2022	Speculation and Vacancy Tax	Mayor Berry to contact Finance to obtain further details regarding the Speculation and Vacancy Tax
258	December 20, 2022	First Nations Acknowledgement for Agendas	Councillor Broughton to reconfirm the territorial acknowledgements appropriate to the Village of Lions Bay
261	December 20, 2022	Pesticide Bylaw No. 430, 2011, Amendment Bylaw No. 624, 2022	Complete
262	December 20, 2022	Correspondence R11	Complete

Updates to action items included:

- 253: The report will be provided prior to 2023 budget approval
- 257: Mayor Berry advised that additional follow up on the Speculation and Vacancy Tax was needed
- 258: Councillor Broughton informed that contact had been made with cultural and language services at Squamish Nation to assist with drafting an appropriate territorial acknowledgement
- 261: Complete
- 262: Complete.

10. Reports

A. Mayor

i. Mayor's Report

The Mayor's Report was provided with meeting materials for information.

B. Acting Chief Administrative Officer

i. Verbal Report

The A/CAO provided a verbal report, noting that logistic issues in terms of responding to email correspondence/phone calls and circulating information to Council in a timely matter remained a concern due to dysfunctional office equipment and the lack of a Municipal Clerk/Coordinator.

During discussion, it was noted that none of the communities in the area of a similar size have retained municipal coordinators in their offices.

C. Acting Chief Financial Officer

i. Verbal Report

The A/CFO provided a verbal report, noting that work had begun on the budgeting and audit process. Expenditures for the year are normally approved prior to its beginning; however, the Village is approximately five months behind and will have a quarter of unapproved expenditures and activity, which is not ideal.

Additionally, a current concern for the Village is the banking process (i.e., only one person is currently permitted to both authorize, prepare and sign cheques). A municipality should have a segregation of duties – one person recording transactions, separate from the person who signs them, and also separate from the custodian/control over the asset.

D. Committee Reports

i. Finance Committee

Mayor Berry reviewed the outcome of the recent Finance Committee meeting and noted its recommendation that banking vulnerability be addressed.

Moved/Seconded

THAT the Closed Minutes of the January 10, 2023 Finance Committee Meeting be received as circulated.

CARRIED

ii. Beach Committee

The meeting was informed that the Lions Bay Beach Park Advisory Committee was scheduled to meet on February 1, 2023 to confirm its Terms of Reference.

iii. Metro Vancouver Committees

Mayor Berry informed that TransLink, Metro Vancouver, and Climate Action Committee meetings were attended, where advocacy for the Village occurred whenever possible, including for possible participation in upcoming climate action pilot projects, and the need for consistent bus service to rural communities.

11. Resolutions

A. Bank Signing Authority

In response to a question, it was noted that the A/CFO would be meeting with the auditor this week, who would be informed of bank signing authority concerns.

Moved/Seconded

THAT two authorized signatures are always required for all financial transactions on behalf of the Village of Lions Bay for all paper cheques and also for all electronic transfers where the latter is feasible and appropriate in the view of the Chief Financial Officer; and

THAT signing authorities for the Bank, include and are limited to the Mayor, any Councillor, the Chief Administrative Officer, the Chief Financial Officer, the Municipal Accountant; and

THAT a copy of this resolution be provided to the Manager of the Village's bank by the Chief Financial Officer at the earliest opportunity having consideration for the timing of any relevant financial and payment circumstances or obligations of the Village.

CARRIED

- B. Appointment of Fire Chief
During discussion, concerns were raised regarding requests for Council to review the Fire Chief’s negotiated contract.

Moved/Seconded

THAT Barret Germscheid be appointed Fire Chief for the Village of Lions Bay this 31st day of January 2023 and may exercise all of the powers granted to a Fire Chief of a municipality under governing Provincial Legislation and Fire Bylaw; and

THAT the Fire Chief enter into a contract for his services to the Village of Lions Bay as determined and agreed with the Chief Administrative Officer.

DEFEATED

(Councillors Reuter and Abbot opposed)

Moved/Seconded

THAT Barret Germscheid be appointed Fire Chief for the Village of Lions Bay this 31st day of January 2023 and may exercise all of the powers granted to a Fire Chief of a municipality under governing Provincial Legislation and Fire Bylaw; and

THAT the Fire Chief enter into a contract for his services to the Village of Lions Bay as determined and agreed with the Chief Administrative Officer, to be reported to Council at a Closed meeting.

CARRIED

- C. Appointment of Election Officials
In response to a question, it was noted that by-election costs would require approval by Council as an expenditure amendment to the prior year’s budget.

ACTION: Anthony Tobin, A/CAO, to review options for by-election expenditures with the A/CFO and report to Council at the next meeting.

Moved/Seconded

THAT the Chief Administrative Officer is appointed Chief Election Officer and that accordingly the date of the by-election must be no later than 80 days after the 31st day of January 2023 and must fall on a Saturday which is the 16th day of April 2023.

CARRIED

12. Bylaws

- A. Garbage Recycling Bylaw Initial Draft
The initial draft of the Garbage Recycling Bylaw was provided for information with meeting materials.

ACTION: Anthony Tobin, A/CAO to present the Garbage Recycling Bylaw tracked changes version at the next Council meeting.

Moved/Seconded

THAT the meeting be extended to 10:30 p.m.

CARRIED

13. Correspondence

A. List of Correspondence to January 31, 2023

ACTION: It was requested that correspondence received by the Village reception/agenda email address be circulated to Council for review prior to release of agenda packages.

During discussion on general correspondence, it was suggested that G2 be referred to the Lions Bay Climate Action Committee and G8 be referred to the Historical Society.

Moved/Seconded

THAT the correspondence for the January 31, 2023 Regular Council Meeting of the Village of Lions Bay be received as circulated; and

THAT all such correspondence be acknowledged in writing; and

THAT any correspondence seeking an action within the proper jurisdiction of the municipality is referred to the Chief Administrative Officer.

CARRIED

FROM	TOPIC
G1 BC Hydro, Whitney Deane	Community ReGreening Program
G2 MP Patrick Weiler	Disaster Mitigation and Adaptation Fund Application
G3 British Columbia Social Procurement Initiative, Rob Fisher	Introduction to Social Procurement for Elected Officials and Senior Leadership
G4 MP Patrick Weiler	Valentines for Vets 2023
G5 Fisheries and Oceans Canada	Post Workshop
G6 GranFondo	Request for Letter of Support
G7 Alex Schwarz	Micro Quakes
G8 Heritage BC	Heritage Week
G9 MP Patrick Weiler	2023 Pre-Budget Consultations
G10 MP Patrick Weiler	Second Capital Intake of the Rural Transit Solutions Fund
R1 Norm Barmeier	Agenda and Past Minutes
R2 Rebecca Caspersen	Finance Committee
R3 John Dudley	Beach Park Update
R4 Karl Buhr	Various questions
R5 John Dudley	Finance Committee Meeting
R6 Karl Buhr	Road Bridge
R7 Stephanie Beattie	Finance Committee clarity
R8 Karl Buhr	Collateral to Public participation
R9 Ute Philips	CFO Position
R10 Rose Dudley	Hiring Part-time CFO
R11 Norm Barmeier	Disaster Mitigation and Adaptation Fund
R12 Stephanie Beattie	Bike Park
R13 Norma Rodgers	Defamatory Correspondence

14. New Business

A. Municipal Clerk Job Posting

During discussion on the Municipal Clerk job posting, concerns were raised related to the lack of Council's involvement in the process. Additionally, it was identified that there is no existing Municipal Clerk position on the Village's organizational chart.

The A/CAO advised that the Municipal Coordinator was advertised with a closing date of December 20, 2022. Applicants for the position were being reviewed and responded to accordingly, as the Municipal Clerk would have similar roles and responsibilities to the Municipal Coordinator, with the addition of some corporate officer responsibilities. The position would be an interim term.

Moved/Seconded

THAT candidates for the Municipal Clerk be reviewed by Council to determine whether the hiring freeze should be lifted.

DEFEATED

(Mayor Berry and Councillor Broughton opposed)

15. Public Questions & Comments (2 minutes on any topic discussed in this meeting)

A. David Shore

David Shore expressed appreciation to the A/CAO and A/CFO for their input on important matters and the experience both bring to their respective positions.

B. Tamara Leger

Tamara Leger requested information on the recourse for the Village to recapture the by-election expense, and what safeguards would be put in place to ensure it does not occur again.

Council responded noting that there are no legal remedies or legislation available to give recourse to the public when an elected officer resigns on short notice.

16. Closed Meeting (continuation)

Moved/Seconded

THAT the meeting be closed to the public on the basis of the matters noted in Item 2.

CARRIED

The meeting returned to closed session at 10:48 p.m. and returned to open session at 11:17 p.m.

17. Reporting Out

The Mayor reported the following:

- Norm Barmeier, Clara George, Christina Lee, and Greg Weary were reappointed, and new member John Robb was appointed, to the Lions Bay Climate Action Committee
- Jennifer Hetherington, Kit McLean, Nicole Strahl, Hugo van Hoogstraten, were reappointed to the Curly Stewart Memorial Trust Fund Committee
- Council resolved to remove contractual limitations on the Lions Bay beach park project to allow the committee to move forward.

18. Adjournment

Moved/Seconded

THAT the January 31, 2023 Regular Council Meeting for the Village of Lions Bay be adjourned.

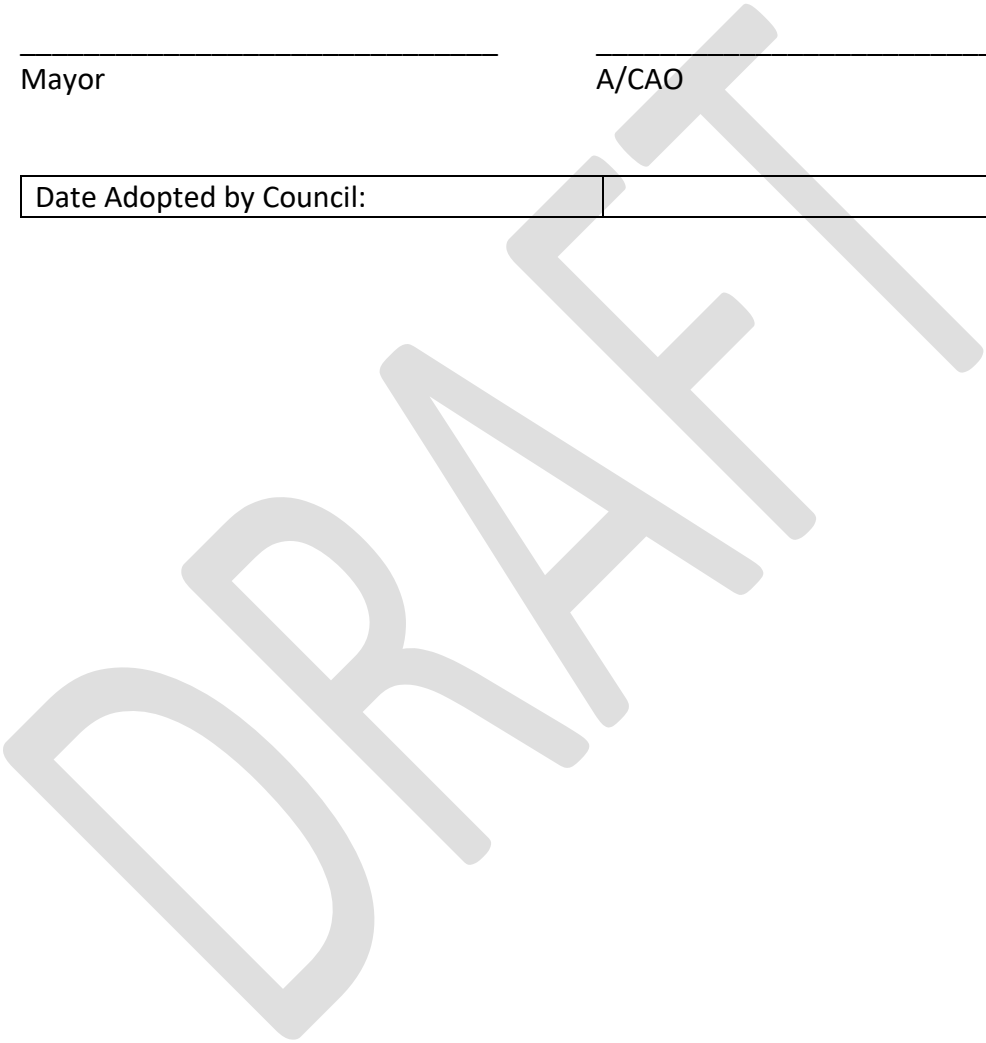
CARRIED

The meeting was adjourned at 11:18 p.m.

Mayor

A/CAO

Date Adopted by Council:	
--------------------------	--





VILLAGE OF LIONS BAY

General Correspondence:			
Date Rec'd	FROM	TOPIC	Page No.
Jan 29/23	G1 Concerned Citizens Bowen	Woodfibre LNG Requested Condition Changes	1
Jan 30/23	G2 My Sea to Sky	WLNG Amendment to conditions 3.8 and 6.4	5
Jan 31/23	G3 BC Terminated Nurses	BC Terminated Nurses and Health Care	21
Feb 2/23	G4 My Sea to Sky	WLNG Amendment to conditions 3.8 and 6.4	22
Resident Correspondence:			
Date Rec'd	FROM	TOPIC	Page No.
Jan 21/23	R1 A. Halstrom	Response to Village Update	49
Jan 31/23	R2 S. May	Response to Kelvin Grove Trail	50
Jan 31/23	R3 J. Phillips	Response to Loss of Senior Management	51
Jan 31/23	R4 U. Philips	Response to Council Committees	53
Jan 31/23	R5 G. Craig	Response to Committees	55
Jan 31/23	R6 R. Dudley	Response to Building Code Compliance	56
Jan 31/23	R7 S. Beattie	Response to Transparency Questions	57
Jan 31/23	R8 S. Beattie	Response to Transparency Questions	59
Jan 31/23	R9 A. Dudley	Response to Former CAO Termination	62
Jan 31/23	R10 R. Caspersen	Response to Recent Staff and Council Member Loss	63
Jan 31/23	R11 A. Wray	Response to CFO and CAO	65
Feb 1/23	R12 T. Luethy	Council Meeting Jan 31	66
Feb 1/23	R13 A. Halstrom	Council Meeting Jan 31	67
Feb 2/23	R14 R. Dudley	Concerns re. Promise of Openness and Transparency	68



Nexwlelexwem/Bowen Island, January 28, 2023

The Honourable Steven Guilbeault, MP
Minister of the Environment and Climate Change
House of Commons
Ottawa ON K1A 0A6

Send by mail and email: ministre-minister@ec.gc.ca

Re: Proposed changes to Woodfibre LNG Project Decision Statement Conditions,
March 18, 2016 reissued March 7, 2018

Dear Minister:

We are aware of the Memorandum of Understanding between the Squamish Nation and BC Environmental Assessment Office and Impact Assessment Agency of Canada for the proposed changes by Woodfibre LNG Ltd. to Environmental Assessment Certificates.

We, the undersigned are writing to formally request that Section 184 of the Impact Assessment Act be nullified, and that under the terms of the Canadian Environmental Assessment Act (CEAA) 2012, Section 65, the proposed changes to the Woodfibre LNG Project Decision Statement Conditions 3.8 and 6.4, are declined as the CEAA 2012 doesn't accommodate adding, changing or removing conditions.

1) Rational for request

As Concerned Citizens Bowen, we stand on the position, that when the public is asked to trust an approval because of conditions, those conditions will not be changed after the fact.

This is exactly what we understood it to be on March 18, 2016, the day the federal Decision Statement for this project was issued. We understood this from:

The EAAC press release on March 18, 2016:

*"In her Environmental Assessment Decision Statement, the Minister established legally binding conditions, which include mitigation measures and follow-up requirements with which the proponent must comply throughout the life of the project."*¹

¹Woodfibre LNG Project — Environmental Assessment Decision: March 18, 2016 - EAAC <https://iaac-aeic.gc.ca/050/evaluations/document/120630>

The Minister's Decision Statement issued on March 18, 2016:

"In accordance with subsection 53(2) of the Canadian Environmental Assessment Act, 2012, I have established the conditions below in relation to the environmental effects referred to in subsection 5(2) of the Canadian Environmental Assessment Act, 2012, with which the Proponent must comply."

Then Parliamentary Secretary to the Minister of ECCC, Mr. Wilkinson, dated April 15, 2016, to Concerned Citizens Bowen and My Sea to Skyon the subject of WFLNG's cooling system and herring spawn:

"The Minister's environmental assessment Decision Statement establishes legally binding conditions, which include mitigation measures and follow-up requirement with which the proponent must comply throughout the life of the project."

And:

"The Minister's approval decision included 122 legally binding conditions, to which the proponent must adhere."

How were communities and the public to understand these statements to be any differently than how they are formulated in the above official documents?

Not anywhere in any of them it says, "unless the environmental assessment act is changed". In fact, it is very much the opposite; the wording is to convey the public to a place of trust. Trust in democracy and its laws. Trust in an environmental assessment process that has produced this outcome. Trust in the decision, because of its legally binding conditions.

Please note, that it was Prime Minister Trudeau, who on March 1, 2016, at a press conference about Quebec seeking an injunction against the Energy East pipeline, said: "Governments grant permits, communities grant permissions."

We were asked as communities around Átl'k a7tsem to put our trust in the decision, and "...grant a permission".

Trust is essential in a democracy. Without it, democracy cannot function. Communities should be able trust a decision and a government to follow through in legally binding conditions attached to the decision when they say they will.

During the time of this decision, public trust in the environmental assessment was at an all time low. The government said it would make an effort to restore that trust, and started a review of the environmental assessment process. The terms of reference stated:

The mandate letter of the Minister of Environment and Climate Change (the Minister) directs her, as a top priority, to "immediately review Canada's

environmental assessment processes to regain public trust and help get resources to market and introduce new, fair processes that will:

- *Restore robust oversight and thorough environmental assessments of areas under federal jurisdiction, while working with provinces and territories to avoid duplication;*
- *Ensure decisions are based on science, facts and evidence and serve the public's interest;*
- *Provide ways for Canadians to express their views and opportunities for experts to meaningfully participate; and*
- *Require project advocates to choose the best technologies available to reduce environmental impacts.”²*

As Concerned Citizens Bowen, we took part in the review, in good faith, trusting we were providing valuable feedback about our experiences with the EA process to assess suitability of the seawater cooling systems and herring spawn. We were genuinely trying to help to make the Environmental Assessment process better. Time away from family.

The results of that process did not indicate at any point what the consequences of an issued 2012 Act Decision Statement would be once a new Act would come into force.³ That became clear through the introduction of Bill C69, which included Section 184. All this we found out retroactively, after reading Section 184 in the Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions.

The 2019 Impact Assessment Act, Section 184 says:

“A decision statement issued by the Minister under subsection 54(1) of the 2012 Act is deemed to be a decision statement issued under subsection 65(1) of this Act [IAA 2019],...”

and, in combination with Section 68 point (2) of that same act :

“The Minister may add, remove or amend a condition only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.”,

it becomes a betrayal of public trust, a stab in the back that no one in our communities had ever anticipated.

The same Minister who gave her approval to the Woodfibre LNG project assuring that the proponent must meet all 122 conditions, was the same Minister who introduced the 2019 Environmental Assessment Act that would open the door to the possibility that these conditions could be changed, if a proponent wishes to do so, because as in this case it deems *“ construction [of the project] neither technically nor economically feasible.”⁴*

²<https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/environmental-assessment-processes/final-terms-reference-ea.html>

³<https://www.canada.ca/content/dam/themes/environment/conservation/environmental-reviews/certainty-confidence-competitiveness.pdf>

⁴ Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions. IAAC, (2022, Nov)

We hoped for a better environmental assessment process, one we can put our trust in. But from this experience we must learn that we were simply to naïve to think that would be possible in Canada.

However, may be there is still hope. It is within your power as a Minister to nullifying Section 184 for the Woodfibre LNG project, which nullifies the proposed changes to the Decision Statement Conditions, or simply reject the changes proposed.

Awaiting your decision, we remain.

Kind regards,

J.H. Anton van Walraven

Concerned Citizens Bowen
351 Eagles Nest Rd
Bowen Island BC V0N 1G1
anton@ccbowen.ca
www.ccbowen.ca

Attached: Letter dated April 15, 2016, from the then Parliamentary Secretary to the Minister of ECCC, Mr. Wilkinson to Eoin Finn and Anton van Walraven on the subject of WFLNG's cooling system and herring spawn.

CC MOU:

- Nexwsxwníwntm ta Úxwumixw, Chiefs and Council Squamish Nation
- Impact Assessment Agency of Canada
- Environmental Assessment Office of British Columbia

CC:

- The Honourable George Heyman, Minister of Environment of British Columbia
- Patrick Weiler, MP West Vancouver - Sunshine Coast - Sea to Sky Country
- Jordan Sturdy, MLA West Vancouver - Sea to Sky
- Mayor and Council, District of Squamish
- Mayor and Council, District of West Vancouver
- Mayor and Council, Bowen Island
- Mayor and Council, Village of Lions Bay
- Ruth Simons, President and ED, Atl'Ka7tsem / Howe Sound Biosphere Region
- Tracey Saxby, My Sea to Sky



Monday 30th January, 2023

To:

The Honourable Steven Guilbeault
Minister of Environment and Climate Change
House of Commons
Ottawa, Ontario, K1A 0A6

Compliance Promotion & Follow-up Team
Impact Assessment Agency of Canada
160 Elgin Street, 22nd Floor
Ottawa, Ontario K1A 0H3

RE: Reject Woodfibre LNG’s request to amend Conditions 3.8 and 6.4 of the revised Decision Statement (2018) issued under Section 54 of CEAA 2012

Dear Minister:

My Sea to Sky is a people-powered environmental organization that was founded in 2014 to defend, protect, and restore Átl’ka7tsem / Howe Sound.

We are writing on behalf of 21,345 people who have signed a [petition](#) in opposition to the proposed Woodfibre LNG project, and over 1,035 people who have sent a [letter](#) in opposition to this specific amendment application.

We urge you to reject Woodfibre LNG’s request to amend Conditions 3.8 and 6.4 of the revised Decision Statement issued in 2018.

Section 68 (2) of the Impact Assessment Act states that: “*The Minister may add, remove or amend a condition only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.*”¹

On Woodfibre LNG’s own website, it states:

- that Woodfibre LNG is committed to: “*...advanc[ing] the LNG industry via innovative programs and adopting best practices*”;² and
- “*We aim to minimize impacts to local ecosystems.*”³

It is our assertion that the amendment submitted by Woodfibre LNG fails to meet the requirements laid out in Section 68 of the Impact Assessment Act (IAA), and fails to meet the company’s own obligations to adopt best practices and minimize impacts to local ecosystems. We urge you to consider the following in your decision-making process:

¹ [Impact Assessment Act](#) (2019). S.C. 2019, c. 28, s. 1. Section 68.

² Woodfibre LNG website (retrieved 2023) [United Nations Sustainable Development Goals](#).

³ Woodfibre LNG website (retrieved 2023) [Sustainability](#).



1. Current interpretation of the Impact Assessment Act could set a dangerous precedent

The rationale for the current amendment to Conditions 3.8 and 6.4 by Woodfibre LNG is that these conditions are not “technically or economically feasible” as per Section 22(1) b of the Impact Assessment Act (IAA).⁴

22 (1) *The impact assessment of a designated project, whether it is conducted by the Agency or a review panel, must **take into account** the following factors:*

...

(b) *mitigation measures that are **technically and economically feasible** and that would mitigate any adverse effects of the designated project;*

The Impact Assessment Agency of Canada (IAAC)’s *Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions* appears poised to approve these changes to Conditions 3.8 and 6.4 based on this interpretation of the Impact Assessment Act (IAA).

IAAC staff have also indicated via emails^{5,6} and in a meeting that conditions **must** be technically and economically feasible for the proponent.

However, this narrow interpretation fails to take into account the second part of Section 22 (1) b:

“...and that would mitigate any adverse effects of the designated project;”

It also fails to take into account Section 68(2) which states:

Minister’s power — decision statement

68 (1) *The Minister may amend a decision statement, including to add or remove a condition, to amend any condition or to modify the designated project’s description. However, the Minister is not permitted to amend the decision statement to change the decision included in it.*

Limitation — condition

(2) *The Minister may add, remove or amend a condition **only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.***

Limitation and application

(3) *The Minister may add or amend a condition only if the new or amended condition could be established under subsection 64(1) or (2). Subsection 64(3) applies with respect to the new or amended condition if it could be established under subsection 64(2).*

⁴ [Impact Assessment Act](#) (2019). S.C. 2019, c. 28, s. 1. Section 22 (1) b.

⁵ Julie Mailloux, Manager, Decision Statements, Impact Assessment Agency of Canada / Government of Canada, email message to My Sea to Sky RE: Proposed changes to conditions for Woodfibre LNG, 2022-11-24.

⁶ Email from Decision Statement Team / National Programs Divisions, Impact Assessment Agency of Canada / Government of Canada to My Sea to Sky RE: Proposed changes to conditions for Woodfibre LNG. Sent 2023-01-30.



Woodfibre LNG has provided **no evidence** that the proposed amendments to Conditions 3.8 and 6.4 will not increase the extent to which the effects are adverse.

Neither has the proponent provided any evidence that the existing conditions are not “technically or economically feasible.” No economic feasibility study has been provided, and Woodfibre LNG’s own analyses demonstrate that, yes, the current conditions are technically feasible.

My Sea to Sky is extremely concerned that this interpretation of the Act could set a very dangerous precedent whereby any proponent that wishes to cut costs at the expense of the environment can claim that a condition is not “*technically or economically feasible.*”

The issue at stake is whether it is acceptable to weaken environmental regulations if they are not easy for a project to comply with. But if a project is not able to comply with the conditions listed in its Environmental Assessment Decision Statement, then the project should not have been approved in the first place and should not be permitted to continue. **The alleged inability to meet a standard is not a valid justification to lower the standard.**

We strongly urge both IAAC staff and Minister Guilbeault to carefully consider the big picture implications of allowing Woodfibre LNG to weaken the conditions of its Decision Statement.

If these proposed changes to Conditions 3.8 and 6.4 are approved, it is our opinion that the *Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions* by IAAC **fails to uphold the purpose of the Impact Assessment Act** as highlighted below in bold text:

6 (1) *The purposes of this Act are*

(a) **to foster sustainability;**

(b) **to protect the components of the environment, and the health, social and economic conditions that are within the legislative authority of Parliament from adverse effects caused by a designated project;**

(b.1) **to establish a fair, predictable and efficient process for conducting impact assessments that enhances Canada’s competitiveness, encourages innovation in the carrying out of designated projects and creates opportunities for sustainable economic development;**

(c) **to ensure that impact assessments of designated projects take into account all effects — both positive and adverse — that may be caused by the carrying out of designated projects;**

(d) **to ensure that designated projects that require the exercise of a power or performance of a duty or function by a federal authority under any Act of Parliament other than this Act to be carried out, are considered in a careful and precautionary manner to avoid adverse effects within federal jurisdiction and adverse direct or incidental effects;**

...

(j) **to ensure that an impact assessment takes into account scientific information, Indigenous knowledge and community knowledge;**



(k) to ensure that an impact assessment takes into account alternative means of carrying out a designated project, including through the use of best available technologies;

...

(m) to encourage the assessment of the cumulative effects of physical activities in a region and the assessment of federal policies, plans or programs and the consideration of those assessments in impact assessments;

...

2. A decision on the amendment must be deferred until publication of the Ocean Noise Strategy

The timing of this amendment request is concerning in light of the forthcoming release of the Fisheries and Oceans Canada (DFO) Ocean Noise Strategy for Canada report. This report will be a guiding document to address underwater noise in our oceans. While the document will not be regulatory in nature, it will help to inform understanding and management of ocean noise.⁷ Given the cumulative nature of underwater noise impacts, and a lack of coordinated action to manage cumulative noise,⁸ incorporating the findings of the Ocean Noise Strategy would help to ensure that the proposed project would not adversely affect marine mammals. The Ocean Noise Strategy will help to inform the coordination and planning of underwater noise and inform assessment and management plans.⁹ As such, **we request that a decision on the current amendment be postponed until publication of the Ocean Noise Strategy**, anticipated in early 2023, and that the Strategy inform the final recommendations made by IAAC staff to the Minister.

3. Proponent's rationale for requested changes to Condition 3.8 is faulty

In their June 2022 request for amendment, Woodfibre LNG proposes to delineate a pinniped-specific exclusion area of 125 meters, a >98% reduction from the 7,322 meter radius protection zone established in the original Decision Statement conditions. We urge you to **reject the Proponent's requested change to Condition 3.8** as it is likely to increase adverse effects on pinnipeds in Átl'ka7tsem / Howe Sound.

Almost all marine animals rely on sound to communicate, navigate, find food, reproduce, and evade predators. In the North Pacific, underwater noise has been doubling in intensity every ten years since the 1950s.¹⁰ This noise doubling is due to increased commercial shipping, nearshore and small vessel traffic, and marine construction.¹¹ The rationales provided for this request include that populations of pinnipeds are stable, that seals and sea lions are curious and "*undisturbed by in-water construction activities*," and that they can avoid underwater noise by emerging from the water.¹²

⁷ Fisheries and Oceans Canada (2022). [Mitigating the impacts of ocean noise](#).

⁸ Merchant et al (2017) [Marine noise budgets in practice](#), Conservation Letters, 11(3).

⁹ Breeze et al (2022) [Efforts to advance underwater noise management in Canada: introduction to the Marine Pollution Bulletin Special Issue](#). Marine Pollution Bulletin 178.

¹⁰ Heise, Kathy (2018) [Underwater noise interferes with marine animal communication](#), Ocean Watch, B.C. Coast Edition.

¹¹ Chapman and Price (2011) [Low frequency deep ocean ambient noise trend in the North Pacific](#). Journal of Acoustical Society of America 129, EL 161.

¹² Woodfibre LNG Project, Squamish, British Columbia, [Request to Amend the Decision Statement Issued Under Section 54 of CEAA 2012](#) (2022)



Let us examine these rationales individually.

a. **Proponent’s claim: “Populations of pinnipeds are stable”**

The Proponents argue that populations of pinnipeds in Átl’k̓a7tsem / Howe Sound are stable. Harbour seals are a keystone species in the ecosystem because they are the primary prey species for Bigg’s killer whales; thus, maintaining a healthy and stable population is vital. While harbour seal populations grew substantially beginning in the 1980s, following industrial cleanup of Átl’k̓a7tsem / Howe Sound, numbers have declined somewhat since 2001, and traditional haul-out sites have been abandoned in favour of more challenging haul-out sites.¹³ Thus, while populations may be stable for now, that is only due to the cleanup of industrial sites in the region, and they remain vulnerable to anthropogenic disturbance.

Per the application for amendment by Woodfibre LNG, “no formal collection of non-harbour seal pinniped population data has been captured,”⁹ so the Proponent is operating with incomplete species data. Stellar sea lions have only recently returned to Átl’k̓a7tsem / Howe Sound after long absence, thanks to Átl’k̓a7tsem / Howe Sound’s ongoing recovery from decades of industrialization. Traditionally, Bowen Island was an important sea lion hunting site for Squamish Nation hunters, and it appears that Steller sea lions may now be reoccupying traditional habitat. However, Steller sea lion numbers remain low, and they are listed as a Species of Special Concern by COSEWIC because there are only five breeding sites in BC and the species is sensitive to anthropogenic disturbance.¹⁴

The Federal government has a legal obligation to protect species at risk. The Species at Risk Act “is a key federal government commitment to prevent wildlife species from becoming extinct and secure the necessary actions for their recovery. It provides for the legal protection of wildlife species and the conservation of their biological diversity.

“The purposes of the Act are to prevent Canadian indigenous species, subspecies, and distinct populations from becoming extirpated or extinct, to provide for the recovery of endangered or threatened species, and encourage the management of other species to prevent them from becoming at risk.”¹⁵

It is short-sighted to amend Condition 3.8 based on the absence of Steller sea lion haul out spots near the project area, as this species may well reestablish such sites if it remains undisturbed. While Steller sea lion populations appear to be growing in the area thanks to continuous efforts to revitalize the ecosystem, this is not the time to test the species’ recovery by exposing them to increased anthropogenic stressors and risk the reversal of current positive trends.

b. **Proponent’s claim: “Pinnipeds are undisturbed by in-water construction activities”**

The Proponent claims that seals and sea lions are curious and “undisturbed by in-water construction activities,” and as such, a “125-meter pinniped-specific exclusion area boundary would fully mitigate

¹³ Nordstrom et al (2020) [Pinnipeds: population stable since the 1990s](#), Ocean Watch, Howe Sound 2020

¹⁴ [Steller Sea Lion](#) (*Eumetopias jubatus*), Canada Species at risk public registry.

¹⁵ Government of Canada (2023) [Species at Risk Act: description](#). Website accessed 2023-01-29.



potential injury to pinnipeds considering the EAC Application's noise modeling assessment and conservative assumptions." We do not believe that the evidence supports this claim.

Human-caused underwater noise can reduce marine mammals' ability to communicate, find food, escape predators, and survive, and can cause injury or permanent hearing loss. Peak underwater **sound pressure levels from impact pile driving can be on the order of 200 dB** at a range of **300 m** from piles.¹⁶ Temporary (TTS) and permanent hearing loss (PTS) in harbour seals can occur at **181 dB and 199 dB**, respectively.¹⁷ Complete recovery from temporary hearing loss in pinnipeds can take up to 48 hours,¹⁸ during which time we can presume that individuals might be at elevated risk of predation and struggle to locate prey.

A study on sound exposure in harbour seals predicted that half of the seals received sound levels from pile-driving exceeding auditory damage thresholds, despite no individual coming closer than 4.7 km to active construction and only 20% of individuals approaching within 10 km. Of those seals approaching within 10 km, 60% were predicted to exceed PTS thresholds.¹⁹ A more recent analysis of that same data found that up to 50% of seals were predicted to experience TTS and up to 17% to experience PTS.²⁰ This study highlights the fact that the study of auditory damage in marine animals is rapidly evolving and still poorly understood, and demonstrates the need for additional research prior to the weakening of marine mammal protections. The precautionary principle must be applied.

c. **Proponent's claim: "Pinnipeds can avoid underwater noise by emerging from the water"**

While it is true that seals and sea lions can raise their heads above the surface of the water or emerge from the water fully, this does not mean they will not be adversely impacted by construction sounds. Harbour seals, which are classified as phocids, hear almost as well in air as they do underwater. Otariids including sea lions have in-air hearing abilities similar to those of their terrestrial counterparts; California sea lions have more acute hearing in air than in water.²¹ As social animals, all pinniped species rely on airborne vocalizations for communication and group dynamics.²²

A recent study shows that pile driving can result in significant displacement of marine mammal populations up to 25 km away from the pile driving activity; within a 25 km radius of the pile driving operation, harbour seal usage decreased by between 19 and 83% during periods when underwater noise levels reached between 166 and 178 dB. Within 5 km of construction, seal usage decreased by up

¹⁶ Dahl et al (2014) [The underwater sound field from impact pile driving and its potential effects on marine life](#). Acoustics Today 11(2): 18-25.

¹⁷ Reichmuth et al (2019) [Long-term evidence of noise-induced permanent threshold shift in a harbor seal \(Phoca vitulina\)](#). The Journal of the Acoustical Society of America, 146(4), 2552-2561.

¹⁸ Kastak et al (2004) [Noise-induced temporary threshold shifts in pinnipeds: effects of noise energy](#). The Journal of the Acoustical Society of America 116(4).

¹⁹ Hastie et al (2015) [Sound exposure in harbour seals during the installation of an offshore wind farm: predictions of auditory damage](#). Journal of Applied Ecology 52: 631-640.

²⁰ Whyte et al (2020) [Estimating the effects of pile driving sounds on seals: pitfalls and possibilities](#). The Journal of the Acoustical Society of America 147: 3948-3958.

²¹ Kastak & Schusterman (1998) [Low-frequency amphibious hearing in pinnipeds: methods, measurements, noise, and ecology](#). Journal of the Acoustical Society of America, 103(4): 2216-2228.

²² Schusterman and Van Parijs (2003) [Pinniped vocal communication: an introduction](#). Aquatic Mammals, 29(2): 177-180.



to 93% during pile driving.²³ Another study found up to 60% reductions in seals hauled out on a sandbank 10 km away from pile-driving activity.²⁴

In the United States, the Marine Mammal Protection Act defines Level B harassment as acts that have the potential to “*disturb a marine mammal or marine mammal stock in the wild by disrupting behavioural patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.*”²⁵ NOAA has provided acoustic thresholds for noise levels that constitute Level B harassment. For all marine mammals, these thresholds are set at 120 dB re 1 µPa for continuous underwater noise, including vibratory pile driving, and 160 dB re 1 µPa for impulsive underwater noise sources, including impact pile driving. For in-air sounds, NOAA predicts that harbour seals would experience Level B harassment at levels of 90 dB, while all other pinnipeds would be behaviourally harassed at 100 dB.²⁶

Woodfibre LNG’s application states that “*The 160 dB behavioural impact area is estimated to extend 7,322 m from the (impact) pile installation sound source.*”

Given these far-reaching behavioural modifications in response to pile-driving, we believe that the Proponent should be required to maintain the original exclusion area boundary. Failing that, the Proponent must commit to continuous underwater and in-air noise monitoring; and avoid pile-driving during harbour seal and Steller sea lion breeding seasons (late July through August).⁷

The science on underwater noise impacts is rapidly evolving, and a recent 2019 evaluation of noise exposure criteria for marine mammals recommends updating the scientific recommendations for residual hearing effects in marine mammals.²⁷ We are concerned that the guidance provided by staff at the Department of Fisheries and Oceans may not be aligned with the latest scientific understanding.

The article states that: “*Scientific findings in the last decade provide substantial new insight but also underscore remaining challenges in deriving simple, broadly applicable quantitative exposure criteria for such diverse taxa. These criteria should be considered with regard to relevant caveats, recommended research, and with the expectation of subsequent revision.*”²⁷

We need to use the precautionary principle when changing these conditions to ensure that wildlife are not harmed, and Woodfibre LNG must be held to the highest standards.

In conclusion, Woodfibre LNG’s claims are inaccurate, and we believe that the proposed amendments to Condition 3.8 could result in increased adverse effects on pinnipeds and, in particular, species at risk. We urge

²³ Russell et al. (2016) [Avoidance of wind farms by harbour seals is limited to pile driving activities](#). Journal of Applied Ecology 53(6): 1642-1652

²⁴ Edren et al. (2004) [Effect from the construction of Nysted Offshore Wind Farm on seals in Rodsand seal sanctuary based on remote video monitoring](#). Ministry of the Environment, Denmark.

²⁵ [Marine Mammal Protection Act](#) (amendments of 1994), NOAA Fisheries.

²⁶ [National Marine Fisheries Services: Summary of Marine Mammal Protection Act Acoustic Threshold](#) (2022). NOAA Fisheries.

²⁷ Southall, B.L. et. al (2019) Marine Mammal Noise Exposure Criteria: Updated Scientific Recommendations for Residual Hearing Effects. Aquat. Mamm. 45, 125–232. <https://doi.org/10.1578/AM.45.2.2019.125>



you to reject the proposed amendment and hold Woodfibre LNG to Condition 3.8 as written in the Decision Statement reissued in 2018.

4. Kitimat is not a fair comparison to justify similar mitigation measures in Howe Sound

In addition to the rationales discussed above, the IAAC Draft Analysis recommendation to approve changes to Condition 3.8 includes as a factor that *“similar mitigation measures for frequent pinniped presence were approved for Fisheries Act authorizations in the LNG Canada Export Terminal Project and the Rio Tinto Terminal Expansion Project.”*²⁸

We do not believe this justifies the approval of similar measures here, for several reasons.

First, existing conditions for pinnipeds in the two locations are not equivalent. While Átl'ka7tsem / Howe Sound has a history of intense industrial impacts - namely the Woodfibre pulp mill and the Britannia Mine - these institutions have been inactive for some time now. The pulp mill closed in 2006, and the Britannia Mine closed in 1974. Harbour seal populations in Átl'ka7tsem / Howe Sound began to recover in the 1980s following closure of the Britannia Mine, and Steller sea lions only returned to the ecosystem quite recently.

In contrast, pinnipeds in the Douglas Channel, where the Kitimat site lies, have been exposed to constant anthropogenic disturbance since the opening of the Alcan / Rio Tinto mine in the early 1950s. In fact, this was used as justification for the easing of pinniped mitigation measures at the Kitimat LNG site. IAAC in that case stated that, *“due to the evidence provided by the Proponent, the populations of both Steller sea lion and harbour seals seems to be thriving in an environment where industrial activity is already present.”*²⁹ This justification is not valid for Átl'ka7tsem / Howe Sound, where seals and sea lions will be naive to construction sounds and are thus more vulnerable to behavioural impacts due to marked increases in noise levels.

The levels and distance to which underwater noise propagates also vary widely depending on substrate, water quality, depth, and channel width. The rationale to use the same mitigation measures here as elsewhere can only be used if the Proponent shows that site conditions are equivalent. This portion of Howe Sound is a narrow fjord with dense rock walls and an underwater seamount, and the Proponent has not provided modeling of sound transmission in this type of system.

Furthermore, approval of similar mitigation measures elsewhere cannot, by itself, provide justification for similar measures at this site. Before replicating their relaxed mitigation efforts here, monitoring of the impacts must take place to determine whether those mitigation efforts were adequate to prevent detrimental or adverse effects on pinnipeds in the Douglas Channel. Construction of LNG Canada's Phase I terminal began in 2018, and although the project is now more than 70% complete,³⁰ no assessment of construction impacts on pinnipeds has been released to the public. In the absence of such an assessment, measures undertaken at those sites should not be used as justification for similar measures here.

²⁸ IAAC (2022) [Draft analysis of proposed changes to the Woodfibre LNG project decision statement conditions](#). Impact Assessment Agency of Canada.

²⁹ IAAC (2020) [Draft Analysis of LNG Canada Development Inc.'s Proposed Changes to the LNG Canada Export Terminal Project](#). Section 3.1.3.

³⁰ Jang, B (2022) [In Kitimat, B.C., Canada's first LNG export terminal rises](#). The Globe and Mail, September 28, 2022.



Finally, Woodfibre LNG is located in the Átl'ka7tsem / Howe Sound UNESCO Biosphere Region, which is recognized internationally as a cultural and ecological treasure. Biosphere Regions are “*areas of global ecological significance that make an ongoing commitment to the United Nations to strive for sustainability...where people are inspired to find ways to live and work in harmony with nature.*”³¹ Through this designation, the Government of Canada demonstrated a commitment to support sustainable development and uphold environmental Best Management Practice (BMP) in Átl'ka7tsem / Howe Sound.³² Standards that may be acceptable for other locations are not acceptable for a UNESCO Biosphere Region. The project must be held to the highest standards.

5. Indirect and cumulative impacts must be considered

As per **Section 6 (1) m** of the Impact Assessment Act,¹ the purpose of the Act is to “*to encourage the assessment of the cumulative effects of physical activities in a region.*” We believe it is a mistake to view noise from in-water construction in isolation, and that Woodfibre LNG has failed to assess cumulative effects of its proposed changes to Condition 3.8.

While pile-driving and other construction activities will be temporary in nature, they are just one contributing factor to the increasing challenges of auditory overload affecting marine mammals in our waters. Between 1950 and 2000, ship traffic has doubled, and shipping noise has increased by 3dB, equivalent to a doubling in noise intensity, every ten years.³³

Despite broad agreement within the scientific community that cumulative noise levels in the ocean risk ecosystem health, a framework for coordinated action and management is lacking³. Woodfibre LNG has also failed to consider the cumulative impacts of construction, operation of a liquefaction plant, and increased ship traffic on noise levels in its amendment application. This oversight must be rectified, as cumulative anthropogenic noise is a critically important component of water quality, and one that we have a responsibility to manage.

Additionally, this proposal fails to address indirect impacts to pinnipeds that may incur from impacts to their food sources. A recent study on Pacific herring and salmon showed increased vigilance behaviours in response to increased noise levels, and that such behavioural changes can result in high ecological costs, both to the fish and their predators, due to increased energy consumption and loss of foraging time.³⁴ Herring have been shown to be highly vulnerable to underwater noise, in part because they use sound to direct their activities and respond to their environments,³⁵ and studies have shown decreased abundance up to 37 km from seismic surveys.³⁶ The area surrounding the Woodfibre project site includes key herring spawning habitat, which has

³¹ Howe Sound Biosphere Region Initiative (retrieved 2023) [What is a Biosphere Region?](#)

³² UNESCO website (retrieved 2023) [Biosphere Reserves: What are Biosphere Reserves?](#)

³³ Jones, N (2019) [Ocean uproar: saving marine life from a barrage of noise](#). Nature 568: 158-161.

³⁴ van der Knaap et al (2022) [Behavioural responses of wild Pacific salmon and herring to boat noise](#). Marine Pollution Bulletin 174.

³⁵ California Department of Transportation (2020) [Technical guidance for the assessment of hydroacoustic effects of pile-driving on fish](#).

³⁶ Slotte et al. (2004) [Acoustic mapping of pelagic fish distribution and abundance in relation to a seismic shooting area off the Norwegian west coast](#). Fisheries Research 67(2): 143-150



major ecological and cultural significance in the region.³⁷ Herring are a major food source for pinnipeds in Átl'ka7tsem / Howe Sound, and behavioural impacts on them and on other prey species could have cascading effects throughout the marine food chain.

6. Átl'ka7tsem / Howe Sound is a UNESCO Biosphere Reserve

The 2021 designation of Átl'ka7tsem / Howe Sound as a UNESCO Biosphere Reserve emphasizes its importance as critical refuge and habitat for species at risk in the Salish Sea. Despite persistent negative impacts of past and current industrial activity as demonstrated by the British Columbia Water Quality Guideline exceedances observed during Woodfibre LNG's baseline studies, Átl'ka7tsem / Howe Sound is experiencing an ongoing ecological revival, including the return of previously extirpated species such as Steller sea lion and sea otter.

The ecological and cultural value of Átl'ka7tsem / Howe Sound has been further confirmed by the recent investment of almost \$1 million over four years to increase biodiversity conservation efforts in the Átl'ka7tsem / Howe Sound Biosphere Region; efforts which would be undermined by the proposed amendments to conditions 3.8 and 6.4.

These designations have been made subsequent to the original decision statement on the Woodfibre LNG project. As a result, they were not taken into account during the initial process. We believe that the Proponent's amendment application provides an opportunity to rectify this, and to allow the UNESCO designation to inform better management of the ecosystem during project development.

7. Comments from Environment and Climate Change Canada on Condition 6.4 were misrepresented in IAAC's Draft Analysis

As highlighted in a public submission by Environment and Climate Change Canada (ECCC) dated December 19th 2022,³⁸ we are concerned that the IAAC draft analysis misrepresented comments provided by ECCC regarding Woodfibre LNG's proposed changes to Condition 6.4.

The IAAC draft analysis falsely stated that: "*Environment and Climate Change Canada (ECCC) advised the Agency that the proposed changes to condition 6.4 to clarify exceedances attributable to the Project are not expected to increase the extent to which the effects of the Project, as assessed during the environmental assessment, are adverse.*" ECCC requested that this sentence be removed.

ECCC flagged several errors and misrepresentations in IAAC's draft analysis, and it appears from their submission that the proposed changes to Condition 6.4 could increase the adverse effects of the project. We also note that IAAC has erroneously stated on page 3 of the draft analysis that Woodfibre LNG has begun construction. What other errors has the draft IAAC report included in its analysis and recommendations? We are particularly concerned about the implications of failing to properly incorporate and attribute commentary from another agency. An omission of this magnitude erodes trust in the agency and the environmental

³⁷ van Oostdam et al (2022) [Slhawt'/Herring Survey Report](#), Átl'ka7tsem/Howe Sound

³⁸ ECCC (December 2022) "[Re: Woodfibre LNG - Environment and Climate Change Canada's comments on the Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions.](#)"



assessment process overall, and challenges our faith that comments and concerns from the general public will be heard and heeded.

We request that an updated Draft Analysis incorporating these comments from ECCC be released to the public, and that a second public comment period be posted to enable the public to provide comments on more complete and accurate information.

It is our view that if ECCC determines that the proposed amendments to Condition 6.4 will increase adverse effects of the project, then these changes should not be approved as per Section 68(2) of the Impact Assessment Act.

8. The proposed amendments to Condition 6.4 should be rejected

The Proponent requests amendment to Condition 6.4 on the basis of feasibility. Holding the Proponent to the condition as laid out in the original EA is not, in our opinion, onerous or infeasible but simply less convenient. This does not represent a sound argument for amending the condition. The Proponent seeks to modify Condition 6.4 as follows, with proposed text bolded and underlined:

*“The Proponent shall, **during construction and operation**, monitor water quality and sediment, using as a benchmark the Canadian Council of Ministers of the Environment's Water Quality Guidelines for the Protection of Aquatic Life and Interim Sediment Quality Guidelines for the Protection of Aquatic Life, and shall communicate any exceedance(s) of the Guidelines **attributable to the Project** to relevant government authorities and Aboriginal groups, and implement additional mitigation measures to remedy those exceedances **or reduce the associated risk to human health.**”*

We object to each of these changes and urge you to reject them.

a. “...during construction and operation”

Limiting water quality monitoring to the construction and operation period leaves open the possibility of water contamination following eventual retirement of the site. Given Át'l'ka7tsem / Howe Sound's history of industrial pollution and corporate abdication of responsibility for cleanup thereof, it is reasonable to require post-operation water quality monitoring to ensure that Woodfibre LNG performs adequate decontamination as needed. Long-term monitoring is of even greater importance in sites such as this one where residual contamination remains in the subsurface, due to the risk of remobilization of contaminants.³⁹

We concur with ECCC's recommendations that “*monitoring must occur during all Project phases, not only during construction and operation.*” The request that potential detrimental effects on water quality 25-45 years hence should be permanently out of scope should be summarily denied. To maintain best practices, the Project must continue monitoring water quality until the site is fully closed and decommissioned.

³⁹ Denham et al (2020) [Improving long-term monitoring of contaminated groundwater at sites where attenuation-based remedies are deployed](#). Environmental Management 66: 1142-1161.



b. **“...attributable to the Project”**

We object as well to the insertion of the words *“attributable to the Project.”* Due to the site’s history as a pulp mill, contamination of the sea-floor below and adjacent to proposed construction remains, despite site remediation work. Construction activities are likely to release and remobilize pollutants that have accumulated in seafloor sediments over time as a result of pulp mill activities.⁴⁰ We are concerned that by modifying the language to monitor only for effects attributable to the Project, Woodfibre LNG seeks to abdicate responsibility for contaminants introduced by previous industrial activities but remobilized by new construction work. Although the 2015 Environmental Assessment Report concluded that mobilization of legacy contaminants could be minimized with mitigation, granting this change to the condition could be interpreted to mean that mitigation for legacy contaminants is not the responsibility of the Proponent.

When Woodfibre LNG purchased the Woodfibre site from Western Forest Products in February 2015, site clean-up and remediation was a condition of purchasing the site.^{41,42,43,44} Woodfibre LNG was well-aware of the contaminants located on the site prior to purchasing the site in 2015 as per the Keystone Environmental report titled “Uplands Human Health and Ecological Risk Assessment” dated 31st October 2014.⁴⁵ We are concerned that, by introducing this proposed amendment to Condition 6.4, Woodfibre LNG is attempting to abdicate its responsibility to monitor water quality and sediment on the site and remediate accordingly to avoid exceedances. Woodfibre LNG has a history of failing to report spills at the site to the appropriate authorities.⁴⁶

c. **“...or reduce the associated risk to human health”**

The focus of Condition 6.4 should be the protection of aquatic life, not solely the protection of human health. Limiting risks only to human health is inappropriate given both the context of Átl’ka7tsem / Howe Sound as a UNESCO Biosphere Region, as well as the likelihood of indirect impacts to human health by failing to adequately protect overall water quality. We concur with the recommendations by ECCC that the phrase *“or reduce the associated risk to human health”* should be omitted because it could allow the Proponent to avoid mitigation of contamination by instead limiting human exposure to contaminants. Without additional details, this amendment effectively clears Woodfibre LNG of responsibility for any amount of contamination up to and including exceedances harmful to human health, but not marine, avian, or terrestrial species. This is an alarmingly broad concession and we do not believe this fulfills the intention of the original condition.

⁴⁰ Hieb et al (2021) [In-water bridge construction effects on manatees with implications for marine megafauna species](#). Journal of Wildlife Management 85(4): 1-12.

⁴¹ Thuncher, J (2015) [Woodfibre LNG finalizing \\$25m land purchase in Squamish](#). Business in Vancouver, published 2015-01-22.

⁴² Offshore Energy (2015) [Western Forest Products completes sale of pulp mill site to Woodfibre LNG](#). Offshore Energy, published 2015-02-09.

⁴³ Aldous, R (2013) [Former Woodfibre site tentatively sold](#). Squamish Chief, published 2013-01-13.

⁴⁴ Aldous, R (2014) [Woodfibre environmental cleanup ongoing: official](#). Squamish Chief, published 2014-07-11.

⁴⁵ Keystone Environmental (2014) [Uplands Human Health and Ecological Risk Assessment, Former Squamish Pulp Mill, Woodfibre, BC](#).

⁴⁶ Thuncher and Garstin (2014) [Not properly notified of spill: Squamish Mayor](#). Published 2016-9-14.



9. Issues with the Professional Reliance approach

In this draft analysis, IAAC staff appear to rely on Woodfibre LNG's application and statements and treat them as both accurate and factual. This is extremely problematic from a professional reliance standpoint.

The professional reliance approach has repeatedly failed to protect the communities around Átl'ka7tsem / Howe Sound through the broken environmental assessment processes (both Provincial and Federal) we have experienced for Woodfibre LNG, FortisBC's pipeline and compressor station, and the proposed Burnco gravel mine. To briefly summarize some of the key issues that we have identified:

- 1) Lack of baseline data and peer-reviewed science;
- 2) Conflict of interest and inherent bias of studies that are commissioned and managed by the proponent;
- 3) Selective suppression of reports commissioned by the proponents;

This has resulted in a loss of public trust in the Environmental Assessment process, which is further exacerbated by the failure of the BC Environmental Assessment Office (BC EAO) and the Impact Assessment Agency of Canada (IAAC) to meaningfully engage the public or to incorporate public feedback into policy decisions.

We encourage IAAC to critically evaluate the claims in Woodfibre LNG's application to amend Conditions 3.8 and 6.4, and to recognize that the proponent has a clear conflict of interest given the benefits the proponent stands to gain if they are successful in weakening these two conditions.

10. Lack of notification and other issues with the IAAC amendment process

While we appreciate that, in response to a request from our organization, the public comment period was extended until January 30, 2023, the original comment period was to be between November 17 and December 19, 2022, during a time of year when people are busy with travel, family engagements, and end-of-year work commitments. This is an issue that we have flagged repeatedly over the last nine years, as *"a process that limits the time for government and stakeholders to scrutinize applications is unfair given that Proponents are typically far less restricted in how long they have to assemble their applications."*⁴⁷

IAAC states that it values public participation as *"an essential part of an open, informed and meaningful impact assessment process,"*⁴⁸ but short timelines such as these place an unrealistic burden on the general public to have a clear understanding of the environmental assessment process; review highly technical written materials; engage directly with IAAC and Woodfibre LNG for clarification; ensure that any and all comments are within the scope of the amendment review; and complete all of this within a short time window. Because of these unrealistic expectations, an unfair burden is laid on citizen-led organizations like My Sea to Sky to distill the information and share it with the general public.

We request that IAAC address these issues by taking the following actions:

⁴⁷ Joseph et al (2015) Good practices for environmental assessment. Impact Assessment & Project Appraisal, Volume 33 Issue 4, Pages 238-254. <https://doi.org/10.1080/14615517.2015.1063811>

⁴⁸ Impact Assessment Agency of Canada (2019) [Interim Guidance: Public Participation under the Impact Assessment Act](#): Introduction, page 3.



- ensure that stakeholder groups are notified of amendment applications well in advance, with clear timelines for public comment to facilitate planning and engagement, and to give organizations enough time to secure support from relevant experts;
- extend the public comment period to allow a minimum of two months to ensure organizations can seek expert support and meaningfully engage in the process;
- provide funding to enable organizations to hire experts and/or fund staff time, given that public comment periods can require a major reallocation of resources for small organizations like ours.

11. Suggested changes to the amendment

In summary, although it is our hope that the requested amendments will be rejected outright and the Proponent be held to the original conditions of the Decision Statement, at a minimum we request that the following changes be made:

- Postpone a decision on the amendment application until the Ocean Noise Strategy has been released and the findings therein have been incorporated into Woodfibre LNG's plans, and used to inform the Minister's decision on the proposed amendment to Condition 3.8;
- Insert language in Condition 3.8 to require monitoring of noise levels in air **and** water to reflect pinniped hearing sensitivity in both media;
- In order to reduce potential conflict of interest, require that a trained marine mammal observer be brought in from an external agency, not as an employee of Woodfibre LNG;
- Maintain the original exclusion zones for all marine mammals, and require detailed plans for monitoring of pinnipeds and cetaceans within 7.3 km to ensure that the exclusion zones are adhered to. Given the difficulty of locating marine mammals at distance—the maximum reported detection range for harbour porpoises using a hydrophone is 400 m, for instance⁴⁹—assurance that adequate monitoring will be performed is vital.
- As per **Section 72 (1)** of the Impact Assessment Act, the Minister can require a proponent to provide more information before considering an amendment to the decision statement. We strongly recommend that Woodfibre LNG must be able to provide evidence that Conditions 3.8 and 6.4 are not “technically or economically feasible” and prove that the proposed amendments will not increase the extent of adverse effects.

While recognizing that this public comment period is narrowly focused on these two conditions, we must remind your agency that developing new fossil fuel infrastructure at a time when a global climate crisis has been universally acknowledged by the scientific community, and building a facility that will lock in substantial greenhouse gas emissions, both in BC and at the point of fuel usage, is inexcusable.

⁴⁹ Williamson et al. (2017) [Diurnal variation in harbour porpoise detection - potential implications for management](#). Marine Ecology Progress Series 570: 223-232.



IN CONCLUSION

My Sea to Sky is strongly opposed to Woodfibre LNG's proposed amendments to Conditions 3.8 and 6.4 and we call on Minister Guilbeault to reject these changes.

Woodfibre LNG has failed to provide evidence that these conditions are not *"technically and economically feasible"* or that these proposed changes will not increase the extent of adverse effects as required by Sections 22 and 68 of the Impact Assessment Act.

We call on IAAC to heed the recommendations we have made in this submission, and to ensure that in future more weight is given to the views of scientists, local communities, and those most at risk from the environmental impacts of a given project than to the financial interests of private industry.

We support the submissions made by the District of Squamish, Howe Sound Biosphere Region Initiative, the Sunshine Coast Conservation Association, Concerned Citizens Bowen, Fiona Beaty, Graham Parkinson, and many other concerned citizens, and we reiterate the concerns that they have highlighted with this proposed amendment to Conditions 3.8 and 6.4.

Please feel free to contact us for further information or clarification.

Sincerely,

Rhiannon Fox, M.Sc.

Environmental Scientist and Campaign Coordinator

My Sea to Sky

Email: rhiannon@myseatosky.org

Phone: +1 (236) 979-4208

Tracey Saxby BA/BSc (Hons I)

Marine Scientist and Executive Director

My Sea to Sky

Email: tracey@myseatosky.org

Phone: +1 (604) 892-7501

Eoin Finn B.Sc., Ph.D., MBA

Research Director

My Sea to Sky

Email: eoin@myseatosky.org

Phone: +1 (604) 715-7991



Copied to:

Squamish Nation Band Council
The Honourable Joyce Murray, Minister of Fisheries and Oceans
The Honourable Jonathan Wilkinson, Minister of Natural Resources and MP for North Vancouver
Patrick Weiler, MP for West Vancouver—Sunshine Coast—Sea to Sky Country
Premier David Eby
MLA Hon. Josie Osborne, Minister of Energy, Mines, and Low Carbon Innovation
MLA Hon. George Heyman, Minister of Environment and Climate Change Strategy
MLA Hon. Bowinn Ma, Minister of Emergency Management and Climate Readiness
MLA Jordan Sturdy, West Vancouver-Sea to Sky
MLA Nicolas Simons, Powell River-Sunshine Coast
District of Squamish
District of West Vancouver
Bowen Island Municipality
Village of Lions Bay
Town of Gibsons
Resort Municipality of Whistler
Gambier Island Local Trust Area
Squamish Lillooet Regional District
Sunshine Coast Regional District
Ruth Simons, Át'ka7tsem / Howe Sound Biosphere Region

Acronyms

BC EAO = BC Environmental Assessment Office
COSEWIC = Committee on the Status of Endangered Wildlife in Canada
ECCC = Environment and Climate Change Canada
IAA = Impact Assessment Act
IAAC = Impact Assessment Agency of Canada
SARA = Species at Risk Act

From: [Markey R](#)
To: [Council](#)
Subject: BC Terminated Nurses and Health care
Date: Tuesday, January 31, 2023 11:50:18 AM

Dear Mayor and Council Members,

We are BC nurses working towards holding our union, the BC Nurses Union, accountable for not only refusing to represent us, but also for its contribution in the intentional collapse of our healthcare system.

https://www.youtube.com/watch?v=AWkL_i-70vM&t=1s

Why?

Since November, 2021, thousands of nurses have been terminated in BC and remain unable to work in this province due to the NDP's continued resolve to block educated and experienced healthcare workers from our healthcare system.

The BC Nurses Union role is to represent its members and to protect workers' rights. The following link has an in depth story of all the evidence we have uncovered in the last year, as well as, the continued lack of protection we are receiving from many levels of provincial government.

<https://www.youtube.com/watch?v=86LK7oKqSmg&t=20s>

We are forwarding this information to you so that you have some knowledge of the provincial and union abuse that we have been subjected to.

If you would like to contact us, our email is:

stopmannow@gmail.com

www.bcnursesfightmandates.ca

Thank you for your time and for actively holding our NDP government accountable. We are grateful.

The BC Terminated Nurses

From: [Tracey Saxby](#)
To: [Council](#)
Cc: eoin@myseatosky.org; "[Rhiannon Fox](#)"
Subject: Woodfibre LNG's request to amend Conditions 3.8 and 6.4 of its Decision Statement
Date: Thursday, February 2, 2023 2:10:08 PM
Attachments: [2023-01-30 MS2S to IAAC re W LNG amendment to conditions 3.8 and 6.4.pdf](#)
[2022-01-30 SCCA Comments on Woodfibre LNG Project Request to Amend the 2018 revised Decision Statement.pdf](#)

Dear Mayor and Council,

Woodfibre LNG has recently applied for an [amendment](#) to conditions 3.8 and 6.4 of its Federal Environmental Assessment [Decision Statement](#).

Please see our letter to Minister Guilbeault (attached) outlining our significant concerns with these proposed changes (see in particular Section 1).

While the public comment period ended on 30th January, Minister Guilbeault is the final decision maker on these proposed changes, and **I strongly encourage council to advocate directly with the Minister not to approve Woodfibre LNG's proposed amendments to conditions 3.8 and 6.4.**

We put together a [guide](#) to help understand this process, and what Woodfibre LNG is asking for.

Woodfibre LNG's rationale for amending the condition statements is that they are not *"technically or economically feasible."*

The issue at stake is whether it is acceptable to weaken environmental regulations if they are not easy for a project to comply with. But if a project is not able to comply with the conditions listed in its Environmental Assessment Decision Statement, then the project should not have been approved in the first place and should not be permitted to continue. **The alleged inability to meet a standard is not a valid justification to lower the standard.**

My Sea to Sky is extremely concerned that, if approved, this interpretation of the Impact Assessment Act could set a very dangerous precedent whereby any proponent that wishes to cut costs at the expense of the environment can claim that a condition is not "technically or economically feasible."

For more information, I recommend reading the following submissions from independent scientists, professionals, and other organizations to better understand what is at stake if these changes are approved:

- [Ruth Simons](#), Howe Sound Biosphere Region Initiative
- [Valeria Vergara](#), PhD, Cetacean Conservation Research Program Co-Director, Raincoast Conservation Foundation
- [Fiona Beaty](#), PhD Candidate, Zoology, University of British Columbia
- [Jessica Schultz](#), PhD Candidate, Biodiversity Science, University of Guelph
- [Graham Parkinson](#), Geoscience and Environmental professional
- Sunshine Coast Conservation Association (see attached)

Thank you for your consideration of our request.

Best Regards,

Tracey Saxby
Executive Director
My Sea to Sky
PO Box 2668, Squamish BC, V8B 0B8
Cell: +1 (604) 892-7501
Email: tracey@myseatosky.org
Web: <http://myseatosky.org>

We respectfully acknowledge that we work in the traditional, unceded territories and ancestral lands of the x^wməθk^wəyəm (Musqueam), Sk̓wx̓wú7mesh (Squamish), and Sel̓ilwítlh (Tseil-Waututh) Nations.



January 30, 2023

Julie Mailloux
Manager, Decision Statements
Impact Assessment Agency of Canada / Government of Canada
julie.mailloux@iaac-aeic.gc.ca / Tel: (613) 293-6881

Re: Comments on Woodfibre LNG Project Request to Amend the 2018 revised Decision Statement Issued Under Section 54 of CEAA 2012

Dear Julie:

The Sunshine Coast Conservation Association (SCCA) is opposed to the request by Woodfibre LNG (Applicant) to amend Condition 3.8 (Protection of Marine Mammals) and Condition 6.4 (Water Quality Monitoring and Mitigation) of the 2018 IAAC Decision Statement for the Woodfibre LNG Project (Project), pursuant to Section 68(1) of the Impact Assessment Act (Act). We don't believe the proposed amendments align with requirements under the Act¹ to

1. Protect the environment, health, social and economic conditions within the legislative authority of Parliament from adverse effects caused by the Project and **avoid significant adverse environmental effects.**
2. Exercise the **precautionary principle** and adhere to **scientific principles** of scientific integrity, honesty, objectivity, thoroughness, and accuracy.
3. **Foster sustainability**, consider cumulative effects of project activities, federal policies, plans and programs.

ADVERSE ENVIRONMENTAL IMPACTS

Current Status - The BC Environmental Assessment Office (EAO) conducted the substituted environmental assessment (EA) of the Woodfibre LNG Project (the Project) under section 34(1) of the Canadian Environmental Assessment Act, 2012. The Conditions of the federal Decision Statement issued in March 2016 (and reissued in March 2018) were developed based on mitigation measures and follow-up requirements identified by the EAO and reviews by federal authorities. The Applicant did not identify any feasibility issues with the Conditions at the time.

¹ <https://laws.justice.gc.ca/eng/acts/l-2.75/index.html>

Proponent Request - The Applicant has requested amendments to Condition 3.8 (Protection of Marine Mammals) and Condition 6.4 (Water Quality Monitoring and Mitigation) because, it claims, it cannot carry out the Project in the manner currently described in the Conditions due to technical and economic feasibility issues.

SCCA Comments and Additional Amendment Requests

The Agency has been clear that the Act compels the Minister not to approve an amendment that would increase adverse impacts. We agree with the Agency's interpretation in this regard.

However, we are confused by the Agency's comments and apparent interpretation that (under the Act) it "must ensure" Conditions are technically and economically feasible for the Applicant.

Factors which must be considered in an impact assessment are set out under section 22 (1) of the Impact Assessment Act. As we read it, section 22 of the Act compels the Agency to consider (not ensure) technical or economic feasibility of a project. Section 22 1(b) further clarifies that the Agency must consider whether mitigation that is technically and economically feasible also mitigates adverse effects. Further yet, section 22 (e) requires the Agency to consider alternative means of carrying out the designated project that are technically and economically feasible, including through the use of best available technologies, and the effects of those means.

Pursuant to section 63 of the Act, the Minister's determination in respect of a project must consider the extent to which the project contributes to sustainability; the adverse effects of the Project are significant; the implementation of mitigation measures are appropriate; and the extent to which the effects of the project affect the Government of Canada's ability to meet its environmental obligations and commitments in respect of climate change. The Minister has no obligation to ensure a Project is economically feasible for an Applicant.

Once a decision is made and Conditions imposed (pursuant to section 68 of the Act) the Minister must not change the decision, nor amend a Condition if doing so would increase adverse environmental effects.

The Applicant's statement that the "*...two conditions in the Decision Statement [that] are not technically and economically feasible to implement*" (page 2) is incorrect. The Applicant's own modelling demonstrates that eliminating impact is technically feasible by stopping pile driving when any marine mammals enter waters closer than 7,322m.

The Applicant suggests that simply changing the "language" of the conditions "*maintains the intended outcomes of each condition*" (page 2). This is not correct.

Condition 3.8 requires the Applicant to “*establish and maintain marine mammal underwater noise impact areas for all construction activities where underwater noise levels are predicted to exceed 160 decibels at a reference pressure of one micropascal to avoid adverse behavioural change in or injury to marine mammals.*” Including pinnipeds. (page 5-6).

Without providing scientific evidence to show that reducing the distance from 7,322m to 125m will not result in adverse behavioural change to pinnipeds, (nor identifying what the noise at 125m might be and the harm it could inflict), there is no assurance that a change in language would result in the described outcome.

PRECAUTIONARY AND SCIENTIFIC PRINCIPLES

Condition 3.8 Protection of Marine Mammals

Current Status - Modeling by the Applicant has shown that underwater noise generated by unmitigated construction activity such as pile driving would “...generate noise levels that exceed the pinniped injury threshold of 190 decibels (dB) within 73 m of the noise source. The cetacean injury threshold of 180 dB was estimated at 340 m from the noise source. The 160 dB behavioural disturbance threshold for marine mammals was estimated to extend 7,322 m from impact pile installation activities” (pages 2-3).

Proponent Request - Although willing to accept these distances for cetaceans, the proponent is requesting that the disturbance distance for pinnipeds (Harbour Seals, California, and Steller Sea Lions) be reduced to 125m. To accomplish this, the Applicant wishes to change the language from the inclusive term of ‘marine mammals’ to distinguish between cetaceans and pinnipeds and to create differing exclusion areas for each (pages 7-8).

SCCA Comments and Additional Amendment Requests

The Applicant states that Steller Sea Lions are the only Species-at-Risk Act (SARA) Schedule 1 listed pinniped species observed in Howe Sound and fails to explain that pinnipeds are not the only SARA listed marine mammal in the Sound. Nonetheless, the Applicant writes “*There are no known important migratory pathways or foraging / breeding grounds for any Schedule 1 SARA-listed marine mammal species in the CPA. There is also no marine mammal critical habitat in the CPA (EAO 2015).*” This statement is incorrect.

All the observed Killer Whales in Howe Sound are SARA listed. Bigg’s, Off-Shore and Northern Resident Killer Whales are Threatened. The Southern Residents are Endangered. Clear evidence of the importance of Howe Sound to the Southern Resident Killer Whales (SRKW), who were evaluated under the Species-at-Risk Act as facing Imminent Threat in 2018, was the 2021 inclusion of Howe Sound in Transport Canada’s Interim Order ‘400m Approach Zone’.

Transport Canada wrote: “The area in which the 400-metre approach distance applies was expanded in 2021 to include Howe and Barkley Sounds. The addition of these two sounds ensures greater coverage of waters identified in the SARA Recovery Strategy as part of Southern Resident killer whale range, particularly as whales have become less predictable in recent years”²

The Applicant determined in 2013 - 2015 that the *threshold specific noise level* of 160dB at a reference pressure of one micropascal causes injury and/or adverse behavioural changes in marine mammals. Since then, much international scientific underwater noise research on marine mammals has been conducted, putting this generalized number in doubt³. It is now known, for example, that anthropogenic noise at different frequencies can impact the Killer Whales’ ability to communicate, avoid vessel strikes and foraging ability⁴. Noise has now been identified by the federal government as one of four **Key Threats to the endangered SRKW**.

As Fisheries & Oceans Canada, Transport Canada and Environment & Climate Change Canada are currently leading a multi-year, multi-million-dollar program to halt the decline of this small but distinct SRKW population, we request the IACC re-examine the current noise threshold to determine a safe reference for cetaceans, and Southern Resident Killer Whales specifically.

Recent data obtained by the Applicant from the BC Cetacean Sighting Network notes that since 2009 there has been an increasing trend of cetacean observations in Howe Sound and that the most frequent sightings of cetaceans are the Killer Whales⁵. If future scientific studies show that Howe Sound is a critical winter foraging area for the SRKW⁶, then further noise restrictions, including results from vessels speeds and the location of the certified vessel route, must be identified, and incorporated as updated Environmental Conditions.

²<https://tc.canada.ca/en/frequently-asked-questions-2021-interim-order-respecting-protection-killer-whales-orcinus-orca-waters-southern-british-columbia>

³ Southall, B.L., Finneran, J.J., Reichmuth, C., Nachtigall, P.E., Ketten, D.R., Bowles, A.E., Ellison, W.T., Nowacek, D.P., Tyack, P.L., 2019. Marine Mammal Noise Exposure Criteria: Updated Scientific Recommendations for Residual Hearing Effects. *Aquat. Mamm.* 45, 125–232. <https://doi.org/10.1578/AM.45.2.2019.125>

⁴ Vagle, S., Burnham, R., Thupaki, P., Konrad, C., Toews, S., Thornton, S.J. 2021. Vessel presence and acoustic environment within Southern Resident Killer Whale (*Orcinus orca*) critical habitat in the Salish Sea and Swiftsure Bank area. DFO Can. Sci. Advis. Sec. Res. Doc. 2021/058. x + 66 p.

⁵; B.C. Cetacean Sightings Network (BCCSN). 2022. Howe Sound Sightings Dataset Howe Sound Sightings Data 1973-2021 in Letter from Ocean Wise to Stantec Consulting Ltd., dated February 1, 2022. Data obtained from the B.C. Cetacean Sightings Network (2022) were collected opportunistically with limited knowledge of temporal or spatial distribution of observer effort. As a result, absence of sightings at any location does not demonstrate absence of cetaceans. From Woodfibre LNG Project, Squamish, British Columbia Request to Amend the Decision Statement Issued Under Section 54 of CEEA 2012, Attachment A Updated Marine Mammal Data for Howe Sound

⁶ “J-pod makes an appearance in Howe Sound”, K. Bartlett, Coast Reporter, Friday, December 23, 2022. An Ocean Wise Whale Initiative pilot project will begin studying the wintering habits of whales in the Salish Sea from the Sunshine Coast to Cowichan Bay this spring.

With regard to pinnipeds, pile driving activities would generate noise creating 160dB at 7,322m distance. The Applicant does not specify the actual noise level that pinnipeds would experience at 125m distance during these same pile driving activities. Instead, there are references provided to other Projects that have had their pinniped-specific exclusion areas reduced. This is not acceptable. Evidence needs to be presented showing that injury will not occur in the proposed 125m exclusion area. For example, in reviewing acoustic harassment/deterrent devices used in fish farm settings to scare away Sea Lions in both Canadian⁷ and international settings there is concern that they may in fact be suffering temporary hearing loss. This damage (deafness) may account for their seeming adaptability to acoustic deterrents.

Steller Sea Lions are among the pinnipeds known to visit the proposed development area. They are currently listed on the Federal Species-at-Risk Registry as Special Concern. As such, the Minister prepared a Management Plan for the species and habitat which included Measures for their Conservation in 2005. These measures were re-assessed and confirmed in 2015. The “Report on the Progress of Management Plan Implementation for the Steller Sea Lion (2018)”⁸ states that although the likelihood may be low, “...Noise stress may have long-term effects on Steller Sea Lion vital rates and body condition and may contribute to disruption of foraging and increased energetic costs...”

Management Objective 5 in the aforementioned Plan reads: “Minimize the exposure of Steller Sea Lions to acute sound levels known to cause behavioural or physical harm in pinnipeds” (page 12). Until the Applicant can cite evidence that the requested 125m pinniped-specific exclusion area will not, during the 160dB/7322m noise producing activities, result in physical or behavioural harm, the Applicant must abide by the technically feasible 7,322m exclusion area.

Steller Sea Lions are also regulated under the Marine Mammal Regulation as part of the Fisheries Act. The ability to hunt them if a nuisance to a fish farm was removed once the species was SARA listed. Currently Section 7 appears to allow disturbance of these mammals if authorized, Part 5 Marine Mammal Disturbance describes under what conditions they may be disturbed Section 38 (1) (a)-(f); all note that the disturbance must result in a benefit to the animal. It is difficult to see how authorizing a severely reduced noise exclusion zone would provide a benefit to the sea lion or any other pinniped.⁹

⁷ Jamieson, G. S., and P. F. Olesiuk, 2001, “Salmon Farm-Pinniped Interactions in British Columbia: An Analysis of Predator Control, Its Jurisdiction and Alternate Approaches”, CSAS Research Document 2001/142. Permission received to cite January 23, 2023. No updated research has been conducted by Fisheries & Oceans Canada.

⁸ https://wildlife-species.canada.ca/species-risk-registry/virtual_sara/files/Pr-OtarieStellarSealion-v00-2018Dec-Eng.pdf p. 8

⁹ <https://laws-lois.justice.gc.ca/eng/regulations/sor-93-56/fulltext.html>

Finally, the 2020 Canadian Science Advisory Secretariat released an update on the status of Stellar Sea Lions and noted the important ecological role that pinnipeds, including Stellar Seal Lions have in the food webs and hence ecosystem models of the Pacific Northwest.¹⁰ It is likely that their recently increased numbers are helping to feed and recover the population of their chief predator, the SARA listed Bigg's Killer Whales. It is therefore not appropriate that the Steller Sea Lions visiting Howe Sound be exposed to underwater noise that can injure them.

Condition 6.4 Water Quality Monitoring

Current Status - *"The Proponent shall monitor water quality and sediment, using as a benchmarks the Canadian Council of Ministers of the Environment's Water Quality Guidelines for the Protection of Aquatic Life and Interim Sediment Quality Guidelines for the Protection of Aquatic Life, and shall communicate any exceedance(s) of the Guidelines to relevant government authorities and Aboriginal groups, and implement additional mitigation measures to remedy those exceedances".* The applicant monitored both surface (freshwater) and marine waters between May 2020 and December 2021 and found that there were chemical exceedances both in fresh and marine waters according to the above Guidelines.

Proponent Request – The Applicant believes that the current Condition unfairly assigns responsibility to the Project to meet the above Guidelines as there is no distinction between what will be produced by the Project and what is generated from other anthropogenic or natural processes. Further, they argue that Section 6 of the Decision Statement relates primarily to human health, e.g., concern for bioaccumulation of contaminants in animals (and plants) that are then eaten by people (page 11). They request that the Conditions be changed to include monitoring water quality and sediment during construction and operation so that they are responsible only for exceedances of the Guidelines attributable to the Project and that those exceedances are dealt with by remedial mitigation measures or reduction of the associated risk to human health.

SCCA Comments & Additional Amendment Requests

In its comments on the Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions of December 2022,¹¹ Environment and Climate Change Canada clarified that it did not advise the Agency that the proposed changes would not increase the extent of the effects, nor did it ask how the Proponent would determine if exceedances are attributable to the Project. ECCC did not state that monitoring for effects that are attributable to the Project during construction and operation would not result in additional adverse effects.

¹⁰ DFO. 2020. Status of Steller Sea Lions (*Eumetopias jubatus*) in Canada. DFO Can. Sci. Advis. Sec. Sci. Advis. Rep. 2020/046, p.11.

¹¹https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-80060/comment-59127/20221219_Woodfibre%20LNG_DS%20amendment_condition%206.4_ECCC%20comments.pdf

ECCC notes that monitoring alone does not prevent effects from occurring. ECCC also noted the guidelines referenced in condition 6.4 as a benchmark for monitoring, are for the protection of aquatic life, and are not appropriate for the protection of human health.

We agree with ECCC that the Condition should be amended to specify that water quality and sediment will be monitored using the Canadian Council of Ministers of the Environment's Water Quality Guidelines for the Protection Of Aquatic Life and Interim Sediment Quality Guidelines for the Protection of Aquatic Life "during construction and operation". We echo ECCC's comment that monitoring must continue for the life of the Project and the Condition should be amended to add "decommissioning and closure of the Project".

We do not accept the request to change the Condition for the applicant to only be responsible for mitigating water quality parameters attributable to the project as they relate to human use. We do not agree that human health is the sole focus of this Condition. We strongly object to the request to add the phrase '*or reduce the associated risk to human health*' to this condition. We concur with ECCC that the Project should not result in bioaccumulation of deleterious substances in the food web that could impact people who might consume that flora and fauna. However, meeting the Guidelines for Aquatic Life is not solely for the benefit of human life. The Project should result in water quality that improves on the current condition of both fresh and marine water overall. Not just for humans.

For example, one of the four threats facing the endangered SRKW is the availability of prey – primarily Chinook salmon. Environment and Climate Change Canada (ECCC) has recently made public an on-line tool: Pollutants Affecting Whales and their Prey (PAWPIT) that identifies such pollutants and in addition to mapping point sources of such pollutants in the Salish Sea. Efforts will be undertaken to remediate certain marine sites showing elevated levels of listed pollutants in addition to introducing legislation to ban the use of other pollutants.

Knowing that SRKW are increasing their visits to Howe Sound, we believe that the parameters of water quality monitoring should be reviewed against PAWPIT. Given the legacy of the site, and the nature of the Project, monitoring should be extended to include PAWPIT- listed chemicals that may be found in both situations. Remediation plans should be developed in advance for each situation should monitoring confirm the presence of any of these pollutants; the plans should be specified in a revised Condition.

If it is determined that the primary focus of the Condition 6.4 is primarily human, then the final phrase must at least require the "elimination of risk to human health", not the much weaker position of "reduce the risk to human health".

FOSTERING SUSTAINABILITY

Current Status - Fresh and marine waters are critical components of the Átl'ka7tsem Howe Sound bioregion. As the area and its inhabitants recover from generations of heavy industrial use, pollution and overfishing, First Nations, all levels of government, scientific and academic institutions, NGOs, and communities are working to ensure that Átl'ka7tsem Howe Sound's marine and freshwater ecosystems are stewarded and managed sustainably. Not compromised and diminished through "death by a thousand cuts".

Átl'ka7tsem Howe Sound was recently recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as an internationally significant Biosphere Region, "where nature and humanity thrive." Through its nomination and support of this prestigious designation, the Government of Canada committed to support sustainable development, uphold, and improve on environmental Best Management Practices (BMP) for development in this world-class region.

Sustainable development (by definition) should not exceed existing Guidelines to protect species and address chemical presence in water. Rather, truly sustainable industries should contribute to improving habitat and water quality for the benefit of all species. Indeed, Woodfibre espouses on its website that its *"commitment to sustainability is well-aligned with our goal of strong corporate citizenship at the local, provincial, national, and global levels. We aim to minimize impacts to local ecosystems."*¹² Meanwhile, it is asking the government to approve increased adverse impacts on the environment in Howe Sound.

Further, last fall, the Minister announced an investment of more than \$926,000 to support biodiversity conservation in the Biosphere Region, from Canada's Enhanced Nature Legacy program. The program "responds to the global biodiversity crisis, threats to Canada's ecosystems and wildlife and pressures for sustainable recovery and well-being of Canadians". It aims to strengthen protection and recovery of species at risk and their habitats. Relaxing IAA Conditions to accommodate adverse effects from industry in a United Nations Biosphere Region, would be a deep contradiction of Canada's commitment to these values.

SCCA Comments & Additional Amendment Requests

The SCCA remains opposed to the Woodfibre LNG Project and the amendments to Condition 3.8 (Protection of Marine Mammals) and Condition 6.4 (Water Quality Monitoring and Mitigation). We request that the IAAC rejects its request to amend these Conditions.

¹² <https://woodfibrelng.ca/about-woodfibre/sustainability/>

The applicant has provided no evidence to support assertions that the proposed amendments will not result in increased adverse effects. The IAA and the Minister are not obligated to ensure the economic feasibility of this oil and gas Project for the Applicant. They are obligated to protect against increased environmental impacts.

Canada has a further international responsibility and commitment to ensure sustainable development in Átl'ka7tsem Howe Sound, while protecting and fostering the continued ecological recovery of the region and species at risk. Consequently, there should not be any reduction of existing Environmental Conditions protecting the commons in this area, regardless of perceived economic benefit of any development project. As scientific evidence mounts, Environmental Conditions should continue to be updated and strengthened on an ongoing basis to reflect up to date scientific understanding, regulation, and commitments made by the government.

Thank you for your time and attention to our concerns.

Regards,



Suzanne Senger

Executive Director

Sunshine Coast Conservation Association

604-741-8859

executive@thescca.ca

<https://thescca.ca>



Monday 30th January, 2023

To:

The Honourable Steven Guilbeault
Minister of Environment and Climate Change
House of Commons
Ottawa, Ontario, K1A 0A6

Compliance Promotion & Follow-up Team
Impact Assessment Agency of Canada
160 Elgin Street, 22nd Floor
Ottawa, Ontario K1A 0H3

RE: Reject Woodfibre LNG’s request to amend Conditions 3.8 and 6.4 of the revised Decision Statement (2018) issued under Section 54 of CEAA 2012

Dear Minister:

My Sea to Sky is a people-powered environmental organization that was founded in 2014 to defend, protect, and restore Átl’ka7tsem / Howe Sound.

We are writing on behalf of 21,345 people who have signed a [petition](#) in opposition to the proposed Woodfibre LNG project, and over 1,035 people who have sent a [letter](#) in opposition to this specific amendment application.

We urge you to reject Woodfibre LNG’s request to amend Conditions 3.8 and 6.4 of the revised Decision Statement issued in 2018.

Section 68 (2) of the Impact Assessment Act states that: “*The Minister may add, remove or amend a condition only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.*”¹

On Woodfibre LNG’s own website, it states:

- that Woodfibre LNG is committed to: “...*advanc[ing] the LNG industry via innovative programs and adopting best practices*”;² and
- “*We aim to minimize impacts to local ecosystems.*”³

It is our assertion that the amendment submitted by Woodfibre LNG fails to meet the requirements laid out in Section 68 of the Impact Assessment Act (IAA), and fails to meet the company’s own obligations to adopt best practices and minimize impacts to local ecosystems. We urge you to consider the following in your decision-making process:

¹ [Impact Assessment Act](#) (2019). S.C. 2019, c. 28, s. 1. Section 68.

² Woodfibre LNG website (retrieved 2023) [United Nations Sustainable Development Goals](#).

³ Woodfibre LNG website (retrieved 2023) [Sustainability](#).



1. Current interpretation of the Impact Assessment Act could set a dangerous precedent

The rationale for the current amendment to Conditions 3.8 and 6.4 by Woodfibre LNG is that these conditions are not “technically or economically feasible” as per Section 22(1) b of the Impact Assessment Act (IAA).⁴

22 (1) *The impact assessment of a designated project, whether it is conducted by the Agency or a review panel, must **take into account** the following factors:*

...

(b) *mitigation measures that are **technically and economically feasible** and that would mitigate any adverse effects of the designated project;*

The Impact Assessment Agency of Canada (IAAC)’s *Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions* appears poised to approve these changes to Conditions 3.8 and 6.4 based on this interpretation of the Impact Assessment Act (IAA).

IAAC staff have also indicated via emails^{5,6} and in a meeting that conditions **must** be technically and economically feasible for the proponent.

However, this narrow interpretation fails to take into account the second part of Section 22 (1) b:

“...and that would mitigate any adverse effects of the designated project;”

It also fails to take into account Section 68(2) which states:

Minister’s power — decision statement

68 (1) *The Minister may amend a decision statement, including to add or remove a condition, to amend any condition or to modify the designated project’s description. However, the Minister is not permitted to amend the decision statement to change the decision included in it.*

Limitation — condition

(2) *The Minister may add, remove or amend a condition **only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.***

Limitation and application

(3) *The Minister may add or amend a condition only if the new or amended condition could be established under subsection 64(1) or (2). Subsection 64(3) applies with respect to the new or amended condition if it could be established under subsection 64(2).*

⁴ [Impact Assessment Act](#) (2019). S.C. 2019, c. 28, s. 1. Section 22 (1) b.

⁵ Julie Mailloux, Manager, Decision Statements, Impact Assessment Agency of Canada / Government of Canada, email message to My Sea to Sky RE: Proposed changes to conditions for Woodfibre LNG, 2022-11-24.

⁶ Email from Decision Statement Team / National Programs Divisions, Impact Assessment Agency of Canada / Government of Canada to My Sea to Sky RE: Proposed changes to conditions for Woodfibre LNG. Sent 2023-01-30.



Woodfibre LNG has provided **no evidence** that the proposed amendments to Conditions 3.8 and 6.4 will not increase the extent to which the effects are adverse.

Neither has the proponent provided any evidence that the existing conditions are not “technically or economically feasible.” No economic feasibility study has been provided, and Woodfibre LNG’s own analyses demonstrate that, yes, the current conditions are technically feasible.

My Sea to Sky is extremely concerned that this interpretation of the Act could set a very dangerous precedent whereby any proponent that wishes to cut costs at the expense of the environment can claim that a condition is not “*technically or economically feasible.*”

The issue at stake is whether it is acceptable to weaken environmental regulations if they are not easy for a project to comply with. But if a project is not able to comply with the conditions listed in its Environmental Assessment Decision Statement, then the project should not have been approved in the first place and should not be permitted to continue. **The alleged inability to meet a standard is not a valid justification to lower the standard.**

We strongly urge both IAAC staff and Minister Guilbeault to carefully consider the big picture implications of allowing Woodfibre LNG to weaken the conditions of its Decision Statement.

If these proposed changes to Conditions 3.8 and 6.4 are approved, it is our opinion that the *Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions* by IAAC **fails to uphold the purpose of the Impact Assessment Act** as highlighted below in bold text:

6 (1) *The purposes of this Act are*

(a) **to foster sustainability;**

(b) **to protect the components of the environment, and the health, social and economic conditions that are within the legislative authority of Parliament from adverse effects caused by a designated project;**

(b.1) **to establish a fair, predictable and efficient process for conducting impact assessments that enhances Canada’s competitiveness, encourages innovation in the carrying out of designated projects and creates opportunities for sustainable economic development;**

(c) **to ensure that impact assessments of designated projects take into account all effects — both positive and adverse — that may be caused by the carrying out of designated projects;**

(d) **to ensure that designated projects that require the exercise of a power or performance of a duty or function by a federal authority under any Act of Parliament other than this Act to be carried out, are considered in a careful and precautionary manner to avoid adverse effects within federal jurisdiction and adverse direct or incidental effects;**

...

(j) **to ensure that an impact assessment takes into account scientific information, Indigenous knowledge and community knowledge;**



(k) to ensure that an impact assessment takes into account alternative means of carrying out a designated project, including through the use of best available technologies;

...

(m) to encourage the assessment of the cumulative effects of physical activities in a region and the assessment of federal policies, plans or programs and the consideration of those assessments in impact assessments;

...

2. A decision on the amendment must be deferred until publication of the Ocean Noise Strategy

The timing of this amendment request is concerning in light of the forthcoming release of the Fisheries and Oceans Canada (DFO) Ocean Noise Strategy for Canada report. This report will be a guiding document to address underwater noise in our oceans. While the document will not be regulatory in nature, it will help to inform understanding and management of ocean noise.⁷ Given the cumulative nature of underwater noise impacts, and a lack of coordinated action to manage cumulative noise,⁸ incorporating the findings of the Ocean Noise Strategy would help to ensure that the proposed project would not adversely affect marine mammals. The Ocean Noise Strategy will help to inform the coordination and planning of underwater noise and inform assessment and management plans.⁹ As such, **we request that a decision on the current amendment be postponed until publication of the Ocean Noise Strategy**, anticipated in early 2023, and that the Strategy inform the final recommendations made by IAAC staff to the Minister.

3. Proponent's rationale for requested changes to Condition 3.8 is faulty

In their June 2022 request for amendment, Woodfibre LNG proposes to delineate a pinniped-specific exclusion area of 125 meters, a >98% reduction from the 7,322 meter radius protection zone established in the original Decision Statement conditions. We urge you to **reject the Proponent's requested change to Condition 3.8** as it is likely to increase adverse effects on pinnipeds in Átl'ka7tsem / Howe Sound.

Almost all marine animals rely on sound to communicate, navigate, find food, reproduce, and evade predators. In the North Pacific, underwater noise has been doubling in intensity every ten years since the 1950s.¹⁰ This noise doubling is due to increased commercial shipping, nearshore and small vessel traffic, and marine construction.¹¹ The rationales provided for this request include that populations of pinnipeds are stable, that seals and sea lions are curious and "*undisturbed by in-water construction activities*," and that they can avoid underwater noise by emerging from the water.¹²

⁷ Fisheries and Oceans Canada (2022). [Mitigating the impacts of ocean noise](#).

⁸ Merchant et al (2017) [Marine noise budgets in practice](#), Conservation Letters, 11(3).

⁹ Breeze et al (2022) [Efforts to advance underwater noise management in Canada: introduction to the Marine Pollution Bulletin Special Issue](#). Marine Pollution Bulletin 178.

¹⁰ Heise, Kathy (2018) [Underwater noise interferes with marine animal communication](#), Ocean Watch, B.C. Coast Edition.

¹¹ Chapman and Price (2011) [Low frequency deep ocean ambient noise trend in the North Pacific](#). Journal of Acoustical Society of America 129, EL 161.

¹² Woodfibre LNG Project, Squamish, British Columbia, [Request to Amend the Decision Statement Issued Under Section 54 of CEAA 2012](#) (2022)



Let us examine these rationales individually.

a. **Proponent's claim: "Populations of pinnipeds are stable"**

The Proponents argue that populations of pinnipeds in Átl'ká7tsem / Howe Sound are stable. Harbour seals are a keystone species in the ecosystem because they are the primary prey species for Bigg's killer whales; thus, maintaining a healthy and stable population is vital. While harbour seal populations grew substantially beginning in the 1980s, following industrial cleanup of Átl'ká7tsem / Howe Sound, numbers have declined somewhat since 2001, and traditional haul-out sites have been abandoned in favour of more challenging haul-out sites.¹³ Thus, while populations may be stable for now, that is only due to the cleanup of industrial sites in the region, and they remain vulnerable to anthropogenic disturbance.

Per the application for amendment by Woodfibre LNG, "*no formal collection of non-harbour seal pinniped population data has been captured,*"⁹ so the Proponent is operating with incomplete species data. Stellar sea lions have only recently returned to Átl'ká7tsem / Howe Sound after long absence, thanks to Átl'ká7tsem / Howe Sound's ongoing recovery from decades of industrialization. Traditionally, Bowen Island was an important sea lion hunting site for Squamish Nation hunters, and it appears that Steller sea lions may now be reoccupying traditional habitat. However, Steller sea lion numbers remain low, and they are listed as a Species of Special Concern by COSEWIC because there are only five breeding sites in BC and the species is sensitive to anthropogenic disturbance.¹⁴

The Federal government has a legal obligation to protect species at risk. The Species at Risk Act "*is a key federal government commitment to prevent wildlife species from becoming extinct and secure the necessary actions for their recovery. It provides for the legal protection of wildlife species and the conservation of their biological diversity.*

*"The purposes of the Act are to prevent Canadian indigenous species, subspecies, and distinct populations from becoming extirpated or extinct, to provide for the recovery of endangered or threatened species, and encourage the management of other species to prevent them from becoming at risk."*¹⁵

It is short-sighted to amend Condition 3.8 based on the absence of Steller sea lion haul out spots near the project area, as this species may well reestablish such sites if it remains undisturbed. While Steller sea lion populations appear to be growing in the area thanks to continuous efforts to revitalize the ecosystem, this is not the time to test the species' recovery by exposing them to increased anthropogenic stressors and risk the reversal of current positive trends.

b. **Proponent's claim: "Pinnipeds are undisturbed by in-water construction activities"**

The Proponent claims that seals and sea lions are curious and "*undisturbed by in-water construction activities,*" and as such, a "*125-meter pinniped-specific exclusion area boundary would fully mitigate*

¹³ Nordstrom et al (2020) [Pinnipeds: population stable since the 1990s](#), Ocean Watch, Howe Sound 2020

¹⁴ [Steller Sea Lion](#) (*Eumetopias jubatus*), Canada Species at risk public registry.

¹⁵ Government of Canada (2023) [Species at Risk Act: description](#). Website accessed 2023-01-29.



potential injury to pinnipeds considering the EAC Application's noise modeling assessment and conservative assumptions." We do not believe that the evidence supports this claim.

Human-caused underwater noise can reduce marine mammals' ability to communicate, find food, escape predators, and survive, and can cause injury or permanent hearing loss. Peak underwater **sound pressure levels from impact pile driving can be on the order of 200 dB** at a range of **300 m** from piles.¹⁶ Temporary (TTS) and permanent hearing loss (PTS) in harbour seals can occur at **181 dB and 199 dB**, respectively.¹⁷ Complete recovery from temporary hearing loss in pinnipeds can take up to 48 hours,¹⁸ during which time we can presume that individuals might be at elevated risk of predation and struggle to locate prey.

A study on sound exposure in harbour seals predicted that half of the seals received sound levels from pile-driving exceeding auditory damage thresholds, despite no individual coming closer than 4.7 km to active construction and only 20% of individuals approaching within 10 km. Of those seals approaching within 10 km, 60% were predicted to exceed PTS thresholds.¹⁹ A more recent analysis of that same data found that up to 50% of seals were predicted to experience TTS and up to 17% to experience PTS.²⁰ This study highlights the fact that the study of auditory damage in marine animals is rapidly evolving and still poorly understood, and demonstrates the need for additional research prior to the weakening of marine mammal protections. The precautionary principle must be applied.

c. **Proponent's claim: "Pinnipeds can avoid underwater noise by emerging from the water"**

While it is true that seals and sea lions can raise their heads above the surface of the water or emerge from the water fully, this does not mean they will not be adversely impacted by construction sounds. Harbour seals, which are classified as phocids, hear almost as well in air as they do underwater. Otariids including sea lions have in-air hearing abilities similar to those of their terrestrial counterparts; California sea lions have more acute hearing in air than in water.²¹ As social animals, all pinniped species rely on airborne vocalizations for communication and group dynamics.²²

A recent study shows that pile driving can result in significant displacement of marine mammal populations up to 25 km away from the pile driving activity; within a 25 km radius of the pile driving operation, harbour seal usage decreased by between 19 and 83% during periods when underwater noise levels reached between 166 and 178 dB. Within 5 km of construction, seal usage decreased by up

¹⁶ Dahl et al (2014) [The underwater sound field from impact pile driving and its potential effects on marine life](#). Acoustics Today 11(2): 18-25.

¹⁷ Reichmuth et al (2019) [Long-term evidence of noise-induced permanent threshold shift in a harbor seal \(Phoca vitulina\)](#). The Journal of the Acoustical Society of America, 146(4), 2552-2561.

¹⁸ Kastak et al (2004) [Noise-induced temporary threshold shifts in pinnipeds: effects of noise energy](#). The Journal of the Acoustical Society of America 116(4).

¹⁹ Hastie et al (2015) [Sound exposure in harbour seals during the installation of an offshore wind farm: predictions of auditory damage](#). Journal of Applied Ecology 52: 631-640.

²⁰ Whyte et al (2020) [Estimating the effects of pile driving sounds on seals: pitfalls and possibilities](#). The Journal of the Acoustical Society of America 147: 3948-3958.

²¹ Kastak & Schusterman (1998) [Low-frequency amphibious hearing in pinnipeds: methods, measurements, noise, and ecology](#). Journal of the Acoustical Society of America, 103(4): 2216-2228.

²² Schusterman and Van Parijs (2003) [Pinniped vocal communication: an introduction](#). Aquatic Mammals, 29(2): 177-180.



to 93% during pile driving.²³ Another study found up to 60% reductions in seals hauled out on a sandbank 10 km away from pile-driving activity.²⁴

In the United States, the Marine Mammal Protection Act defines Level B harassment as acts that have the potential to “*disturb a marine mammal or marine mammal stock in the wild by disrupting behavioural patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.*”²⁵ NOAA has provided acoustic thresholds for noise levels that constitute Level B harassment. For all marine mammals, these thresholds are set at 120 dB re 1 µPa for continuous underwater noise, including vibratory pile driving, and 160 dB re 1 µPa for impulsive underwater noise sources, including impact pile driving. For in-air sounds, NOAA predicts that harbour seals would experience Level B harassment at levels of 90 dB, while all other pinnipeds would be behaviourally harassed at 100 dB.²⁶

Woodfibre LNG’s application states that “*The 160 dB behavioural impact area is estimated to extend 7,322 m from the (impact) pile installation sound source.*”

Given these far-reaching behavioural modifications in response to pile-driving, we believe that the Proponent should be required to maintain the original exclusion area boundary. Failing that, the Proponent must commit to continuous underwater and in-air noise monitoring; and avoid pile-driving during harbour seal and Steller sea lion breeding seasons (late July through August).⁷

The science on underwater noise impacts is rapidly evolving, and a recent 2019 evaluation of noise exposure criteria for marine mammals recommends updating the scientific recommendations for residual hearing effects in marine mammals.²⁷ We are concerned that the guidance provided by staff at the Department of Fisheries and Oceans may not be aligned with the latest scientific understanding.

The article states that: “*Scientific findings in the last decade provide substantial new insight but also underscore remaining challenges in deriving simple, broadly applicable quantitative exposure criteria for such diverse taxa. These criteria should be considered with regard to relevant caveats, recommended research, and with the expectation of subsequent revision.*”²⁷

We need to use the precautionary principle when changing these conditions to ensure that wildlife are not harmed, and Woodfibre LNG must be held to the highest standards.

In conclusion, Woodfibre LNG’s claims are inaccurate, and we believe that the proposed amendments to Condition 3.8 could result in increased adverse effects on pinnipeds and, in particular, species at risk. We urge

²³ Russell et al. (2016) [Avoidance of wind farms by harbour seals is limited to pile driving activities](#). Journal of Applied Ecology 53(6): 1642-1652

²⁴ Edren et al. (2004) [Effect from the construction of Nysted Offshore Wind Farm on seals in Rodsand seal sanctuary based on remote video monitoring](#). Ministry of the Environment, Denmark.

²⁵ [Marine Mammal Protection Act](#) (amendments of 1994), NOAA Fisheries.

²⁶ [National Marine Fisheries Services: Summary of Marine Mammal Protection Act Acoustic Threshold](#) (2022). NOAA Fisheries.

²⁷ Southall, B.L. et. al (2019) Marine Mammal Noise Exposure Criteria: Updated Scientific Recommendations for Residual Hearing Effects. Aquat. Mamm. 45, 125–232. <https://doi.org/10.1578/AM.45.2.2019.125>



you to reject the proposed amendment and hold Woodfibre LNG to Condition 3.8 as written in the Decision Statement reissued in 2018.

4. Kitimat is not a fair comparison to justify similar mitigation measures in Howe Sound

In addition to the rationales discussed above, the IAAC Draft Analysis recommendation to approve changes to Condition 3.8 includes as a factor that *“similar mitigation measures for frequent pinniped presence were approved for Fisheries Act authorizations in the LNG Canada Export Terminal Project and the Rio Tinto Terminal Expansion Project.”*²⁸

We do not believe this justifies the approval of similar measures here, for several reasons.

First, existing conditions for pinnipeds in the two locations are not equivalent. While Átl'ka7tsem / Howe Sound has a history of intense industrial impacts - namely the Woodfibre pulp mill and the Britannia Mine - these institutions have been inactive for some time now. The pulp mill closed in 2006, and the Britannia Mine closed in 1974. Harbour seal populations in Átl'ka7tsem / Howe Sound began to recover in the 1980s following closure of the Britannia Mine, and Steller sea lions only returned to the ecosystem quite recently.

In contrast, pinnipeds in the Douglas Channel, where the Kitimat site lies, have been exposed to constant anthropogenic disturbance since the opening of the Alcan / Rio Tinto mine in the early 1950s. In fact, this was used as justification for the easing of pinniped mitigation measures at the Kitimat LNG site. IAAC in that case stated that, *“due to the evidence provided by the Proponent, the populations of both Steller sea lion and harbour seals seems to be thriving in an environment where industrial activity is already present.”*²⁹ This justification is not valid for Átl'ka7tsem / Howe Sound, where seals and sea lions will be naive to construction sounds and are thus more vulnerable to behavioural impacts due to marked increases in noise levels.

The levels and distance to which underwater noise propagates also vary widely depending on substrate, water quality, depth, and channel width. The rationale to use the same mitigation measures here as elsewhere can only be used if the Proponent shows that site conditions are equivalent. This portion of Howe Sound is a narrow fjord with dense rock walls and an underwater seamount, and the Proponent has not provided modeling of sound transmission in this type of system.

Furthermore, approval of similar mitigation measures elsewhere cannot, by itself, provide justification for similar measures at this site. Before replicating their relaxed mitigation efforts here, monitoring of the impacts must take place to determine whether those mitigation efforts were adequate to prevent detrimental or adverse effects on pinnipeds in the Douglas Channel. Construction of LNG Canada's Phase I terminal began in 2018, and although the project is now more than 70% complete,³⁰ no assessment of construction impacts on pinnipeds has been released to the public. In the absence of such an assessment, measures undertaken at those sites should not be used as justification for similar measures here.

²⁸ IAAC (2022) [Draft analysis of proposed changes to the Woodfibre LNG project decision statement conditions](#). Impact Assessment Agency of Canada.

²⁹ IAAC (2020) [Draft Analysis of LNG Canada Development Inc.'s Proposed Changes to the LNG Canada Export Terminal Project](#). Section 3.1.3.

³⁰ Jang, B (2022) [In Kitimat, B.C., Canada's first LNG export terminal rises](#). The Globe and Mail, September 28, 2022.



Finally, Woodfibre LNG is located in the Átl'ka7tsem / Howe Sound UNESCO Biosphere Region, which is recognized internationally as a cultural and ecological treasure. Biosphere Regions are “*areas of global ecological significance that make an ongoing commitment to the United Nations to strive for sustainability...where people are inspired to find ways to live and work in harmony with nature.*”³¹ Through this designation, the Government of Canada demonstrated a commitment to support sustainable development and uphold environmental Best Management Practice (BMP) in Átl'ka7tsem / Howe Sound.³² Standards that may be acceptable for other locations are not acceptable for a UNESCO Biosphere Region. The project must be held to the highest standards.

5. Indirect and cumulative impacts must be considered

As per **Section 6 (1) m** of the Impact Assessment Act,¹ the purpose of the Act is to “*to encourage the assessment of the cumulative effects of physical activities in a region.*” We believe it is a mistake to view noise from in-water construction in isolation, and that Woodfibre LNG has failed to assess cumulative effects of its proposed changes to Condition 3.8.

While pile-driving and other construction activities will be temporary in nature, they are just one contributing factor to the increasing challenges of auditory overload affecting marine mammals in our waters. Between 1950 and 2000, ship traffic has doubled, and shipping noise has increased by 3dB, equivalent to a doubling in noise intensity, every ten years.³³

Despite broad agreement within the scientific community that cumulative noise levels in the ocean risk ecosystem health, a framework for coordinated action and management is lacking³. Woodfibre LNG has also failed to consider the cumulative impacts of construction, operation of a liquefaction plant, and increased ship traffic on noise levels in its amendment application. This oversight must be rectified, as cumulative anthropogenic noise is a critically important component of water quality, and one that we have a responsibility to manage.

Additionally, this proposal fails to address indirect impacts to pinnipeds that may incur from impacts to their food sources. A recent study on Pacific herring and salmon showed increased vigilance behaviours in response to increased noise levels, and that such behavioural changes can result in high ecological costs, both to the fish and their predators, due to increased energy consumption and loss of foraging time.³⁴ Herring have been shown to be highly vulnerable to underwater noise, in part because they use sound to direct their activities and respond to their environments,³⁵ and studies have shown decreased abundance up to 37 km from seismic surveys.³⁶ The area surrounding the Woodfibre project site includes key herring spawning habitat, which has

³¹ Howe Sound Biosphere Region Initiative (retrieved 2023) [What is a Biosphere Region?](#)

³² UNESCO website (retrieved 2023) [Biosphere Reserves: What are Biosphere Reserves?](#)

³³ Jones, N (2019) [Ocean uproar: saving marine life from a barrage of noise](#). Nature 568: 158-161.

³⁴ van der Knaap et al (2022) [Behavioural responses of wild Pacific salmon and herring to boat noise](#). Marine Pollution Bulletin 174.

³⁵ California Department of Transportation (2020) [Technical guidance for the assessment of hydroacoustic effects of pile-driving on fish](#).

³⁶ Slotte et al. (2004) [Acoustic mapping of pelagic fish distribution and abundance in relation to a seismic shooting area off the Norwegian west coast](#). Fisheries Research 67(2): 143-150



major ecological and cultural significance in the region.³⁷ Herring are a major food source for pinnipeds in Átl'ka7tsem / Howe Sound, and behavioural impacts on them and on other prey species could have cascading effects throughout the marine food chain.

6. Átl'ka7tsem / Howe Sound is a UNESCO Biosphere Reserve

The 2021 designation of Átl'ka7tsem / Howe Sound as a UNESCO Biosphere Reserve emphasizes its importance as critical refuge and habitat for species at risk in the Salish Sea. Despite persistent negative impacts of past and current industrial activity as demonstrated by the British Columbia Water Quality Guideline exceedances observed during Woodfibre LNG's baseline studies, Átl'ka7tsem / Howe Sound is experiencing an ongoing ecological revival, including the return of previously extirpated species such as Steller sea lion and sea otter.

The ecological and cultural value of Átl'ka7tsem / Howe Sound has been further confirmed by the recent investment of almost \$1 million over four years to increase biodiversity conservation efforts in the Átl'ka7tsem / Howe Sound Biosphere Region; efforts which would be undermined by the proposed amendments to conditions 3.8 and 6.4.

These designations have been made subsequent to the original decision statement on the Woodfibre LNG project. As a result, they were not taken into account during the initial process. We believe that the Proponent's amendment application provides an opportunity to rectify this, and to allow the UNESCO designation to inform better management of the ecosystem during project development.

7. Comments from Environment and Climate Change Canada on Condition 6.4 were misrepresented in IAAC's Draft Analysis

As highlighted in a public submission by Environment and Climate Change Canada (ECCC) dated December 19th 2022,³⁸ we are concerned that the IAAC draft analysis misrepresented comments provided by ECCC regarding Woodfibre LNG's proposed changes to Condition 6.4.

The IAAC draft analysis falsely stated that: "*Environment and Climate Change Canada (ECCC) advised the Agency that the proposed changes to condition 6.4 to clarify exceedances attributable to the Project are not expected to increase the extent to which the effects of the Project, as assessed during the environmental assessment, are adverse.*" ECCC requested that this sentence be removed.

ECCC flagged several errors and misrepresentations in IAAC's draft analysis, and it appears from their submission that the proposed changes to Condition 6.4 could increase the adverse effects of the project. We also note that IAAC has erroneously stated on page 3 of the draft analysis that Woodfibre LNG has begun construction. What other errors has the draft IAAC report included in its analysis and recommendations? We are particularly concerned about the implications of failing to properly incorporate and attribute commentary from another agency. An omission of this magnitude erodes trust in the agency and the environmental

³⁷ van Oostdam et al (2022) [Slhawt'/Herring Survey Report](#), Átl'ka7tsem/Howe Sound

³⁸ ECCC (December 2022) "[Re: Woodfibre LNG - Environment and Climate Change Canada's comments on the Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions.](#)"



assessment process overall, and challenges our faith that comments and concerns from the general public will be heard and heeded.

We request that an updated Draft Analysis incorporating these comments from ECCC be released to the public, and that a second public comment period be posted to enable the public to provide comments on more complete and accurate information.

It is our view that if ECCC determines that the proposed amendments to Condition 6.4 will increase adverse effects of the project, then these changes should not be approved as per Section 68(2) of the Impact Assessment Act.

8. The proposed amendments to Condition 6.4 should be rejected

The Proponent requests amendment to Condition 6.4 on the basis of feasibility. Holding the Proponent to the condition as laid out in the original EA is not, in our opinion, onerous or infeasible but simply less convenient. This does not represent a sound argument for amending the condition. The Proponent seeks to modify Condition 6.4 as follows, with proposed text bolded and underlined:

*“The Proponent shall, **during construction and operation**, monitor water quality and sediment, using as a benchmark the Canadian Council of Ministers of the Environment's Water Quality Guidelines for the Protection of Aquatic Life and Interim Sediment Quality Guidelines for the Protection of Aquatic Life, and shall communicate any exceedance(s) of the Guidelines **attributable to the Project** to relevant government authorities and Aboriginal groups, and implement additional mitigation measures to remedy those exceedances **or reduce the associated risk to human health.**”*

We object to each of these changes and urge you to reject them.

a. **“...during construction and operation”**

Limiting water quality monitoring to the construction and operation period leaves open the possibility of water contamination following eventual retirement of the site. Given Át'l'ka7tsem / Howe Sound's history of industrial pollution and corporate abdication of responsibility for cleanup thereof, it is reasonable to require post-operation water quality monitoring to ensure that Woodfibre LNG performs adequate decontamination as needed. Long-term monitoring is of even greater importance in sites such as this one where residual contamination remains in the subsurface, due to the risk of remobilization of contaminants.³⁹

We concur with ECCC's recommendations that *“monitoring must occur during all Project phases, not only during construction and operation.”* The request that potential detrimental effects on water quality 25-45 years hence should be permanently out of scope should be summarily denied. To maintain best practices, the Project must continue monitoring water quality until the site is fully closed and decommissioned.

³⁹ Denham et al (2020) [Improving long-term monitoring of contaminated groundwater at sites where attenuation-based remedies are deployed](#). Environmental Management 66: 1142-1161.



b. **“...attributable to the Project”**

We object as well to the insertion of the words *“attributable to the Project.”* Due to the site’s history as a pulp mill, contamination of the sea-floor below and adjacent to proposed construction remains, despite site remediation work. Construction activities are likely to release and remobilize pollutants that have accumulated in seafloor sediments over time as a result of pulp mill activities.⁴⁰ We are concerned that by modifying the language to monitor only for effects attributable to the Project, Woodfibre LNG seeks to abdicate responsibility for contaminants introduced by previous industrial activities but remobilized by new construction work. Although the 2015 Environmental Assessment Report concluded that mobilization of legacy contaminants could be minimized with mitigation, granting this change to the condition could be interpreted to mean that mitigation for legacy contaminants is not the responsibility of the Proponent.

When Woodfibre LNG purchased the Woodfibre site from Western Forest Products in February 2015, site clean-up and remediation was a condition of purchasing the site.^{41,42,43,44} Woodfibre LNG was well-aware of the contaminants located on the site prior to purchasing the site in 2015 as per the Keystone Environmental report titled “Uplands Human Health and Ecological Risk Assessment” dated 31st October 2014.⁴⁵ We are concerned that, by introducing this proposed amendment to Condition 6.4, Woodfibre LNG is attempting to abdicate its responsibility to monitor water quality and sediment on the site and remediate accordingly to avoid exceedances. Woodfibre LNG has a history of failing to report spills at the site to the appropriate authorities.⁴⁶

c. **“...or reduce the associated risk to human health”**

The focus of Condition 6.4 should be the protection of aquatic life, not solely the protection of human health. Limiting risks only to human health is inappropriate given both the context of Átl’ka7tsem / Howe Sound as a UNESCO Biosphere Region, as well as the likelihood of indirect impacts to human health by failing to adequately protect overall water quality. We concur with the recommendations by ECCC that the phrase *“or reduce the associated risk to human health”* should be omitted because it could allow the Proponent to avoid mitigation of contamination by instead limiting human exposure to contaminants. Without additional details, this amendment effectively clears Woodfibre LNG of responsibility for any amount of contamination up to and including exceedances harmful to human health, but not marine, avian, or terrestrial species. This is an alarmingly broad concession and we do not believe this fulfills the intention of the original condition.

⁴⁰ Hieb et al (2021) [In-water bridge construction effects on manatees with implications for marine megafauna species](#). Journal of Wildlife Management 85(4): 1-12.

⁴¹ Thuncher, J (2015) [Woodfibre LNG finalizing \\$25m land purchase in Squamish](#). Business in Vancouver, published 2015-01-22.

⁴² Offshore Energy (2015) [Western Forest Products completes sale of pulp mill site to Woodfibre LNG](#). Offshore Energy, published 2015-02-09.

⁴³ Aldous, R (2013) [Former Woodfibre site tentatively sold](#). Squamish Chief, published 2013-01-13.

⁴⁴ Aldous, R (2014) [Woodfibre environmental cleanup ongoing: official](#). Squamish Chief, published 2014-07-11.

⁴⁵ Keystone Environmental (2014) [Uplands Human Health and Ecological Risk Assessment, Former Squamish Pulp Mill, Woodfibre, BC](#).

⁴⁶ Thuncher and Garstin (2014) [Not properly notified of spill: Squamish Mayor](#). Published 2016-9-14.



9. Issues with the Professional Reliance approach

In this draft analysis, IAAC staff appear to rely on Woodfibre LNG's application and statements and treat them as both accurate and factual. This is extremely problematic from a professional reliance standpoint.

The professional reliance approach has repeatedly failed to protect the communities around Átl'ka7tsem / Howe Sound through the broken environmental assessment processes (both Provincial and Federal) we have experienced for Woodfibre LNG, FortisBC's pipeline and compressor station, and the proposed Burnco gravel mine. To briefly summarize some of the key issues that we have identified:

- 1) Lack of baseline data and peer-reviewed science;
- 2) Conflict of interest and inherent bias of studies that are commissioned and managed by the proponent;
- 3) Selective suppression of reports commissioned by the proponents;

This has resulted in a loss of public trust in the Environmental Assessment process, which is further exacerbated by the failure of the BC Environmental Assessment Office (BC EAO) and the Impact Assessment Agency of Canada (IAAC) to meaningfully engage the public or to incorporate public feedback into policy decisions.

We encourage IAAC to critically evaluate the claims in Woodfibre LNG's application to amend Conditions 3.8 and 6.4, and to recognize that the proponent has a clear conflict of interest given the benefits the proponent stands to gain if they are successful in weakening these two conditions.

10. Lack of notification and other issues with the IAAC amendment process

While we appreciate that, in response to a request from our organization, the public comment period was extended until January 30, 2023, the original comment period was to be between November 17 and December 19, 2022, during a time of year when people are busy with travel, family engagements, and end-of-year work commitments. This is an issue that we have flagged repeatedly over the last nine years, as *"a process that limits the time for government and stakeholders to scrutinize applications is unfair given that Proponents are typically far less restricted in how long they have to assemble their applications."*⁴⁷

IAAC states that it values public participation as *"an essential part of an open, informed and meaningful impact assessment process,"*⁴⁸ but short timelines such as these place an unrealistic burden on the general public to have a clear understanding of the environmental assessment process; review highly technical written materials; engage directly with IAAC and Woodfibre LNG for clarification; ensure that any and all comments are within the scope of the amendment review; and complete all of this within a short time window. Because of these unrealistic expectations, an unfair burden is laid on citizen-led organizations like My Sea to Sky to distill the information and share it with the general public.

We request that IAAC address these issues by taking the following actions:

⁴⁷ Joseph et al (2015) Good practices for environmental assessment. Impact Assessment & Project Appraisal, Volume 33 Issue 4, Pages 238-254. <https://doi.org/10.1080/14615517.2015.1063811>

⁴⁸ Impact Assessment Agency of Canada (2019) [Interim Guidance: Public Participation under the Impact Assessment Act](#): Introduction, page 3.



- ensure that stakeholder groups are notified of amendment applications well in advance, with clear timelines for public comment to facilitate planning and engagement, and to give organizations enough time to secure support from relevant experts;
- extend the public comment period to allow a minimum of two months to ensure organizations can seek expert support and meaningfully engage in the process;
- provide funding to enable organizations to hire experts and/or fund staff time, given that public comment periods can require a major reallocation of resources for small organizations like ours.

11. Suggested changes to the amendment

In summary, although it is our hope that the requested amendments will be rejected outright and the Proponent be held to the original conditions of the Decision Statement, at a minimum we request that the following changes be made:

- Postpone a decision on the amendment application until the Ocean Noise Strategy has been released and the findings therein have been incorporated into Woodfibre LNG's plans, and used to inform the Minister's decision on the proposed amendment to Condition 3.8;
- Insert language in Condition 3.8 to require monitoring of noise levels in air **and** water to reflect pinniped hearing sensitivity in both media;
- In order to reduce potential conflict of interest, require that a trained marine mammal observer be brought in from an external agency, not as an employee of Woodfibre LNG;
- Maintain the original exclusion zones for all marine mammals, and require detailed plans for monitoring of pinnipeds and cetaceans within 7.3 km to ensure that the exclusion zones are adhered to. Given the difficulty of locating marine mammals at distance—the maximum reported detection range for harbour porpoises using a hydrophone is 400 m, for instance⁴⁹—assurance that adequate monitoring will be performed is vital.
- As per **Section 72 (1)** of the Impact Assessment Act, the Minister can require a proponent to provide more information before considering an amendment to the decision statement. We strongly recommend that Woodfibre LNG must be able to provide evidence that Conditions 3.8 and 6.4 are not “technically or economically feasible” and prove that the proposed amendments will not increase the extent of adverse effects.

While recognizing that this public comment period is narrowly focused on these two conditions, we must remind your agency that developing new fossil fuel infrastructure at a time when a global climate crisis has been universally acknowledged by the scientific community, and building a facility that will lock in substantial greenhouse gas emissions, both in BC and at the point of fuel usage, is inexcusable.

⁴⁹ Williamson et al. (2017) [Diurnal variation in harbour porpoise detection - potential implications for management](#). Marine Ecology Progress Series 570: 223-232.



IN CONCLUSION

My Sea to Sky is strongly opposed to Woodfibre LNG's proposed amendments to Conditions 3.8 and 6.4 and we call on Minister Guilbeault to reject these changes.

Woodfibre LNG has failed to provide evidence that these conditions are not *"technically and economically feasible"* or that these proposed changes will not increase the extent of adverse effects as required by Sections 22 and 68 of the Impact Assessment Act.

We call on IAAC to heed the recommendations we have made in this submission, and to ensure that in future more weight is given to the views of scientists, local communities, and those most at risk from the environmental impacts of a given project than to the financial interests of private industry.

We support the submissions made by the District of Squamish, Howe Sound Biosphere Region Initiative, the Sunshine Coast Conservation Association, Concerned Citizens Bowen, Fiona Beaty, Graham Parkinson, and many other concerned citizens, and we reiterate the concerns that they have highlighted with this proposed amendment to Conditions 3.8 and 6.4.

Please feel free to contact us for further information or clarification.

Sincerely,

Rhiannon Fox, M.Sc.

Environmental Scientist and Campaign Coordinator

My Sea to Sky

Email: rhiannon@myseatosky.org

Phone: +1 (236) 979-4208

Tracey Saxby BA/BSc (Hons I)

Marine Scientist and Executive Director

My Sea to Sky

Email: tracey@myseatosky.org

Phone: +1 (604) 892-7501

Eoin Finn B.Sc., Ph.D., MBA

Research Director

My Sea to Sky

Email: eoin@myseatosky.org

Phone: +1 (604) 715-7991



Copied to:

Squamish Nation Band Council
The Honourable Joyce Murray, Minister of Fisheries and Oceans
The Honourable Jonathan Wilkinson, Minister of Natural Resources and MP for North Vancouver
Patrick Weiler, MP for West Vancouver—Sunshine Coast—Sea to Sky Country
Premier David Eby
MLA Hon. Josie Osborne, Minister of Energy, Mines, and Low Carbon Innovation
MLA Hon. George Heyman, Minister of Environment and Climate Change Strategy
MLA Hon. Bowinn Ma, Minister of Emergency Management and Climate Readiness
MLA Jordan Sturdy, West Vancouver-Sea to Sky
MLA Nicolas Simons, Powell River-Sunshine Coast
District of Squamish
District of West Vancouver
Bowen Island Municipality
Village of Lions Bay
Town of Gibsons
Resort Municipality of Whistler
Gambier Island Local Trust Area
Squamish Lillooet Regional District
Sunshine Coast Regional District
Ruth Simons, Át'ka7tsem / Howe Sound Biosphere Region

Acronyms

BC EAO = BC Environmental Assessment Office
COSEWIC = Committee on the Status of Endangered Wildlife in Canada
ECCC = Environment and Climate Change Canada
IAA = Impact Assessment Act
IAAC = Impact Assessment Agency of Canada
SARA = Species at Risk Act

From: [Agenda](#)
To: [Agenda](#)
Subject: FW: Village Update
Date: Friday, February 3, 2023 11:19:50 AM

From: wayne halstrom [REDACTED]
Date: January 21, 2023 at 9:39:44 AM PST
To: Arlene Halstrom [REDACTED]
Subject: Re: Village Update

Mr. Mayor and council:

I have read and appreciated the concise and well presented "state of the union" message contained in the Village Update.

Nobody ever said your jobs would be easy, but dealing with what remains "between the lines" in the report could not have helped.

It is clear to me that some changes were and are needed.

Arlene and I are fully supportive of your efforts and greatly appreciate the transparency.

Wayne and Arlene Halstrom

Sent from my iPad

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#); [Agenda](#)
Subject: RE: Kelvin Grove Trail
Date: Tuesday, January 31, 2023 12:40:22 PM

Hello Sue, your correspondence was received by Council in the 17 January agenda package and I was asked to respond. The Connector project has been put on-hold it has not been cancelled. I asked Staff to ensure that this correspondence be reintroduce when the project comes back to Council for a decision.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

From: Sue May [REDACTED]
Sent: December 30, 2022 1:41 PM
To: Council <council@lionsbay.ca>; Agenda <agenda@lionsbay.ca>
Subject: Kelvin Grove Trail

Regarding the Kelvin Grove Trail, it was our understanding that the paving of this trail would be included in the cancelled connector plan. If and when can this trail now be improved?

People living in the Kelvin Grove area must drive to the village or Lions Bay beach if they have strollers or wheelchairs as the trail is unnegotiable for them.

We have waited many years for this trail to be brought up to standard and we hope that this issue can be addressed sooner rather than later.

Sue and Carl May
[REDACTED]

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#)
Cc: [Lions Bay Reception](#)
Subject: RE: Loss of senior management in Lions Bay
Date: Tuesday, January 31, 2023 12:40:55 PM

Hello John,

Thank you for your email to Council. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a better response for you. My turn at being the councillor on correspondence duty will end on 31 January. Although some of this may no longer be news to you the answers to your questions are as follows.

Pam Rooke (CFO) resigned on 18 December 2022, her last day of work extended to 17 January 2023.

The services of Peter De Jong (CAO) were terminated without cause on 8 December 2022, his last day of work was 16 December 2022.

Council have appointed an Acting CAO, this is an interim position.

The Acting CAO has appointed an interim CFO.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

-----Original Message-----

From: John Phillips [REDACTED]
Sent: December 15, 2022 10:57 PM
To: Council <council@lionsbay.ca>
Cc: Lions Bay Reception <reception@lionsbay.ca>
Subject: Loss of senior management in Lions Bay

> To the Mayor and Council
> I wish to register my concern following the resignation of the CFO and
> termination of the CAO This leaves the Village without senior
> management at a critical time The morale of the staff remaining is severely affected and the Operations staff will be concerned for their jobs as well.
> For the proper operation of the Village we need to keep experienced staff doing critical work especially at this time of year.

> The CFO position is particularly important for a number of reasons. Financial controls are essential in managing costs. Reporting is required by law and there are important planning functions as well including Grant Applications for capital projects in the Village.

Pam Rooke was doing an excellent job and played a key role in obtaining grants for the Village from Federal and Provincial levels of government It is imperative that she be replaced with a competent CFO if we are to trust that finances will be under control and able to withstand audit.

The CAO has worked hard to avoid Liability Claims against the Village. Without this oversight we may be exposed to Lawsuits.

Also he has contributed in many other ways that we may not even know since no time was taken to determine the various aspects of his job and where control needed to be exercised by him.

Management of the Village is no small job and most of us do not know what is involved. How will his functions be carried out? Who carries liability and responsibility for management failures in the Village Administration?

> Furthermore I am concerned about the resignation of Norm Barmeir from Council.

> He was one source of continuity from the past and importantly he is the only person with expertise on water infrastructure which is the most important area of concern for Lions Bay apart from wild fires.

> I would like to know how the new Mayor and council plan to manage the Village safely and effectively following these resignations and the firing of the CAO.

Thank you.

> John Phillips

>

> Sent from my iPhone

From: [Neville Abbott](#)
To: [REDACTED] [Council](#)
Subject: RE: Council committees
Date: Tuesday, January 31, 2023 12:41:07 PM

Hello Ute,

Thank you for your email to Council. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a better response for you. My turn at being the councillor on correspondence duty will end on 31 January. Although some of this may no longer be news to you the answers to your questions are as follows.

The Standing Committee members are selected by the Mayor all are volunteer positions.

Terms of Reference for the Finance Standing Committee is on the Village website. Link here;

https://www.lionsbay.ca/sites/lionsbay.ca/files/2023-01/TOR%20Finance%20%26%20Audit%20Committee_0.pdf

The Finance Standing Committee members are selected by the Mayor, they are David Shore, Bruce McLachlan and Pieter Dorsman.

The other standing committees have not been established.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

From: [REDACTED]
Sent: December 15, 2022 12:44 PM
To: Council <council@lionsbay.ca>
Subject: Council committees
Importance: High

Dear Council,

I noted on the last Village Update that council has established 4 standing committees (finance, infrastructure, HR and policies, procedures and bl-law) and is asking for volunteers. May we please have the terms of reference and mandate for these committees so that volunteers may know what they are signing up for. Also, a link on the village update to access this information would also be helpful.

Yours truly,
Ute Philips

From: [Neville Abbott](#)
To: [REDACTED]; [Lions Bay Reception](#); [Council](#)
Subject: RE: amended letter
Date: Tuesday, January 31, 2023 12:41:27 PM

Hello Gail,

The Standing Committee members are selected by the Mayor all are volunteer positions.

I did not attend the meeting of 10 January that you have referred to.

From my review of the minutes of the open portion of the meeting minutes I can advise.

The Finance Standing Committee members are named as David Shore, Bruce McLachlan and Pieter Dorsman(absent).

There was no public participation mentioned.

The meeting was closed according to the Community Charter clauses; 90(1) (a), (d) and (n).
Described in the minutes as ***"....security of Village Finances; banking controls; and related liability considerations."***

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

From: Gail Craig <[REDACTED]>
Sent: January 12, 2023 3:53 PM
To: Lions Bay Reception <reception@lionsbay.ca>; Council <council@lionsbay.ca>
Subject: amended letter

Hi,
Apologize for a couple of typos in my initial letter sent to you this afternoon.
Here is the corrected version to replace it.
Thank you,
Gail

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#)
Cc: [Dave Butler](#)
Subject: RE: Building Code Compliance
Date: Tuesday, January 31, 2023 12:41:27 PM
Attachments: [Re.docx](#)

Hello Rose, this correspondence was received by Council in the 20 December meeting agenda package. Apologies for the tardy response.

I can confirm it is Councils expectation that our building codes will be followed.

I have also included in the copy the Village Inspector.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

From: Rose Dudley <[REDACTED]>
Sent: December 6, 2022 2:38 PM
To: Council <council@lionsbay.ca>
Subject: Building Code Compliance

Dear Mayor and Members of Council,
Please find my letter regarding building codes in the attachment below,
Sincerely,
Rose Dudley

From: [Neville Abbott](#)
To: [REDACTED]; [Ken Berry](#); [Council](#)
Subject: RE: Transparency questions
Date: Tuesday, January 31, 2023 12:41:53 PM

Hello Stephanie,

Thank you for your email to Council. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a better response for you. My turn at being the councillor on correspondence duty will end on 31 January. Although some of this may no longer be news to you the answers to your questions are as follows.

Pam Rooke (CFO) resigned on 18 December 2022, her last day of work extended to 17 January 2023.

The services of Peter De Jong (CAO) were terminated without cause on 8 December 2022, his last day of work was 16 December 2022.

I am not at liberty to advise of the details of Peter's termination package at this stage.

Council have appointed an Acting CAO, this is an interim position.

The Acting CAO has appointed an interim CFO.

The Standing Committee members are selected by the Mayor, all are volunteer positions.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

-----Original Message-----

From: Stephanie Beattie <[REDACTED]>
Sent: December 12, 2022 10:24 AM
To: Ken Berry <mayor.berry@lionsbay.ca>; Council <council@lionsbay.ca>
Subject: Transparency questions

Ken & Council,

Thank you for the beach meeting last Monday. Disappointing that the current council/Mayor didn't complete more due diligence completed prior to the meeting (property lines, septic etc) so that it could have been a more informative session. Also, I believe there was a town hall meeting in August....not that it matters but just confirming your email about not having one in 6 years. There may have been others when the Communications Tower was proposed as well but I don't have accurate notes on that.

Also checking in about transparency to confirm a few details after the most recent village update...

Was Peter De Jong fired or did he quit? Same with Pamela Rooke? When are their last days? I understand through different sources that Peter De Jong was fired 2 weeks prior to Christmas on his birthday, are you able to confirm this?

If they were fired, who will pay their severance packages?

How will their termination affect progress of the scheduled projects, now that the village will need to focus on hiring a new CAO and CFO?

The committees that have been asked to be formed - are they paid positions or volunteer roles? If volunteer, how will you determine commitment levels with those volunteers when most people lead very busy schedules - will it be a fair representation of the village or will the committees be selected based on availability of residents?

You've created a fresh slate but left only one councillor who has information from the past and insight into future projects.

Looking forward to hearing the truth with transparency and an action plan to keep the village in tact - because at the moment it definitely feels like the opposite.

Stephanie

From: [Neville Abbott](#)
To: [REDACTED]; [Ken Berry](#); [Council](#)
Subject: RE: Transparency questions
Date: Tuesday, January 31, 2023 12:42:15 PM

Hello Stephanie,

Thankyou for your correspondence was received by Council in the 20 December meeting agenda package. Apologies for the tardy response this is in part due me being unable to provide the answers you have requested. My turn at being the councillor on correspondence duty will end on 31 January.

Although I do not have a complete answer for you, I can advise.

The timing of the by-election is yet to be confirmed. The estimate for a consultant to run the by-election was +/- \$35,000. Council have asked staff to look into more cost-effective options.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

From: Stephanie Beattie [REDACTED]
Sent: December 13, 2022 12:08 PM
To: Ken Berry <mayor.berry@lionsbay.ca>; Council <council@lionsbay.ca>
Subject: Re: Transparency questions

Hello,

Could you please advise when the election will be taking place? Who will be officiating the election and when campaigning will commence.

Transparency and truth please, I'm sure I'm not the one asking for a schedule of events that led to the dismissal of Peter de Jong.

You are going to be running the village on no talent or experience just volunteers; Neville Abbott & Dave Butler are the last remaining people with recent council and office experience in the village besides your office staff who I can only imagine are upset and confused.

I hope the emails, comments and phone calls received from community members will be copied and pasted into all minutes for public viewing so that the platform of 'transparency' is top of mind for all residents.

Disappointing start to your 'leadership' Mayor Ken Berry & Council Members (this does not include Norm).

Stephanie

On Dec 12, 2022, at 3:36 PM, Stephanie Beattie [REDACTED] wrote:

In addition to my questions below, I would also like to know why Peter De Jong was presumably let go - what happened in order for this drastic event (so close to Christmas)?

On Monday, December 12, 2022, Stephanie Beattie <[REDACTED]> wrote:

Ken & Council,

Thank you for the beach meeting last Monday. Disappointing that the current council/Mayor didn't complete more due diligence completed prior to the meeting (property lines, septic etc) so that it could have been a more informative session. Also, I believe there was a town hall meeting in August....not that it matters but just confirming your email about not having one in 6 years. There may have been others when the Communications Tower was proposed as well but I don't have accurate notes on that.

Also checking in about transparency to confirm a few details after the most recent village update...

Was Peter De Jong fired or did he quit? Same with Pamela Rooke? When are their last days? I understand through different sources that Peter De Jong was fired 2 weeks prior to Christmas on his birthday, are you able to confirm this?

If they were fired, who will pay their severance packages?

How will their termination affect progress of the scheduled projects, now that the village will need to focus on hiring a new CAO and CFO?

The committees that have been asked to be formed - are they paid positions or volunteer roles? If volunteer, how will you determine commitment levels with those volunteers when most people lead very busy schedules - will it be a fair representation of the village or will the committees be selected based on availability

of residents?

You've created a fresh slate but left only one councillor who has information from the past and insight into future projects.

Looking forward to hearing the truth with transparency and an action plan to keep the village in tact - because at the moment it definitely feels like the opposite.

Stephanie

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#); [Ken Berry](#)
Subject: RE: Peter DeJong
Date: Tuesday, January 31, 2023 12:42:37 PM

Hi Alison,

Thank you for your email to Council. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a better response for you. My turn at being the councillor on correspondence duty will end on 31 January. Although some of this may no longer be news to you the answers to your questions are as follows.

I am not at liberty to advise of the details of Peter's termination package at this stage.

Neville Abbott

Councillor

The Village of Lions Bay

Cell: (604) 363-2667

From: Alison Dudley [REDACTED]
Sent: December 10, 2022 1:13 PM
To: Council <council@lionsbay.ca>; Ken Berry <mayor.berry@lionsbay.ca>
Subject: Peter DeJong

Dear Mayor and Council:

Thank you for the December 9 Village Update that mentioned that the CFO and CAO had moved on.

I'm under the impression that the CFO resigned because she found a new job, while the CAO was terminated and offered a severance package. Once the details of his termination are finalized, could you please make public the cost of this to the Village in the spirit of openness and transparency?

Thanks very much,

Alison Dudley
[REDACTED]

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#)
Subject: RE: Recent staff and Council member loss
Date: Tuesday, January 31, 2023 12:42:47 PM

Hi Rebecca,

Thank you for your email to Council. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a better response for you. My turn at being the councillor on correspondence duty will end on 31 January. Although some of this may no longer be news to you the answers to your questions are as follows.

Pam Rooke (CFO) resigned on 18 December 2022, her last day of work extended to 17 January 2023.

The services of Peter De Jong (CAO) were terminated without cause on 8 December 2022, his last day of work was 16 December 2022.

I am not at liberty to advise of the details of Peter's termination package at this stage.

The estimate for a consultant to run the by-election was +/- \$35,000. Council have asked staff to look into more cost-effective options.

Recruitment of interim positions of CAO & CFO were not advertised. My expectation is we will post through the normal channels for the permanent positions.

Neville Abbott

Councillor

The Village of Lions Bay

Cell: (604) 363-2667

From: Rebecca Caspersen <[REDACTED]>
Sent: December 10, 2022 11:24 AM
To: Council <council@lionsbay.ca>
Subject: Recent staff and Council member loss

Dear Mayor Berry and Council,

I hope you are all well.

I noted in Friday's Village Update that both the CAO and CFO will be "moving on".

I would like clarification on what that means. The press release provided no further details.

Have they both resigned? If, in fact, the CAO/CFO were terminated, what is the cost to the village for termination? Was there a package?

What is the cost for recruitment for the CFO and CAO? Also what is the cost of a by-election (for Norm's position on Council).

I believe in order to be transparent this information should be shared.

Will the recruitment process and job postings be shared more fully?

The loss of Norm on council (very saddened to hear this) and two staff members will leave a huge gap in experience and knowledge even with the transition period mentioned for the CAO.

Thank you.

Rebecca Caspersen

From: [Neville Abbott](#)
To: [REDACTED]; [Council](#)
Subject: RE: CFO and CAO
Date: Tuesday, January 31, 2023 12:42:58 PM

Hello Andrew,

Thank you for your email to Council on December 09. I apologise for the very delayed response. Councillors tasked with responding to correspondence from residents are required to reflect the voice of all of council but I have found it difficult to formulate an answer for you due to lack of clarity as to what council wants to say. In the absence of something substantive, it seemed better to delay until I had a real response for you. My turn at being the councillor on duty will end on 31 January so I can delay no more. Although some of this may no longer be news to you the answers to your questions are as follows.

Pam Rooke (CFO) resigned on 18 December 2022, her last day of work extended to 17 January 2023.

The services of Peter De Jong (CAO) were terminated without cause on 8 December 2022, his last day of work was 16 December 2022.

I am not at liberty to advise of the details of Peter's termination package at this stage.

Regards,

Neville Abbott
Councillor
The Village of Lions Bay
Cell: (604) 363-2667

-----Original Message-----

From: Andrew Wray [REDACTED]
Sent: December 9, 2022 6:49 PM
To: Council <council@lionsbay.ca>
Subject: CFO and CAO

Good evening... Thanks for the Village Update and I note that both Pamela Rooke and Peter de Jong are "moving on". Given that this aligns with the platform of the Mayor I have to assume that these moves were not voluntary. Please let us all know if there was any cost to the taxpayers for this termination.

Thanks,

Andrew

[REDACTED]

From: [REDACTED]
To: [Council](#)
Cc: [Anthony Tobin](#); [Finance](#)
Subject: RE: Last night's Council Meeting, Jan. 31. 2023
Date: Wednesday, February 1, 2023 12:07:08 PM

Attention; Mayor and Council !

As a long time resident of almost 50 years, no other Mayor & Council ever had to deal with as much as your current Mayor & Council.

New Mayor & Council (except Neville Abbott)
New Interim CAO
New Interim CFO
New Interim Active Municipal Clerk
New Fire Chief
And a By - Election

Including a dysfunctional CAO Office.

Lions Bay's Political Train seems to have suffererd a derailment.

Hopefully the sparks on the tracks will lessen with time for a smoother ride ahead.

I appreciate keeping your feet to the fire.

From my feeling in Council Chambers last night,
I feel deep gratitude to have Mr. Tobin and Mr. Miller on the team
providing their expert advise in moving forward.

Sincerely!

Trudi Luethy

From: [Agenda](#)
To: [Agenda](#)
Subject: FW: RE: Last night's Council Meeting, Jan. 31. 2023
Date: Friday, February 3, 2023 12:31:43 PM

From: Arlene Halstrom [REDACTED]
Sent: Wednesday, February 1, 2023 12:53 PM
To: Council <council@lionsbay.ca>
Subject: Fwd: RE; Last night's Council Meeting, Jan. 31. 2023

Good afternoon,

Trudi Luethy has graciously sent me a copy of the letter she forwarded to council Wayne and I would have attended if we had been somewhat more cognizant of time and place. Trudi brought me up to date with last night and I am so appreciative.

As my husband had stated earlier in his missive to council. "No one said it was going to be easy". Such apt words.

We are appalled at what has gone before and can only hope this new and dedicated group can find their way out of the created mess.

We have great faith in our new Mayor and wish this council a strong path forward.

Good Luck!

Sent From Arlene

From: [REDACTED]
To: [Marcus Reuter](#); [Norman Barmeier - Disabled](#); [Neville Abbott](#); [Ken Berry](#); [Michael Broughton](#)
Cc: [Lions Bay Reception](#)
Subject: My Concerns About the Promise of Openness and Transparency and Other Issues
Date: Thursday, February 2, 2023 1:49:13 PM

Dear Mayor and Members of Council,

Following my attendance at several Council Meetings this month, I feel the need to express my concerns about what I have observed.

I have already voiced alarm about the meeting on Friday January 13th. which could not go ahead because there was no quorum. Two members of Council were unable to attend a meeting scheduled at 3 p.m. because of work related or previously arranged appointment issues.

Along with a friend and myself in the gallery that day, were three gentlemen who I now know, from their recent appointments, were two members of the Finance Committee and the Interim part-time CFO. One of those men actually had the good grace to introduce himself to us as one who had been invited to join that committee.

The meeting took a bizarre turn when they, along with the Mayor and Council, left the room to have a five-minute meeting outside the Council Chambers in the rain, leaving my friend and I alone in the gallery. This action gave me no confidence, whatsoever, in the Mayor's promise of "openness and transparency".

At the meeting on Tuesday, January 31st, I spoke about the hiring practices where we now have a CAO who is a good friend of one of the Councillors and a newly appointed Interim CFO who, by his own admission at the meeting, is a friend of Mayor Berry. Both the Mayor and the Councillor assured me that these candidates had been chosen for their expertise, and the appointment of the interim CAO was, in fact, unanimous. I agree that their qualifications are impressive, but that the positions were never posted but given to friends of Council members is cause for concern.

We are continually being promised "Openness and Transparency" which the new Mayor, with the urging of several of his friends, has succeeded in persuading some residents that it was lacking prior to their election. I have seen no evidence to back up their claims.

Just for comparison, the former Mayor and Council, when hiring new staff, followed correct procedures. The position of CAO was posted, as one would expect, and Peter De Jong was hired with the respectful input of every member of Council. He was not previously known to the Mayor or any member of Council but was chosen from several impressive applicants as the best man for the job. I was taken aback at last night's meeting when one of the Councillors said publicly that he was meeting the newly appointed CFO for the first time. The hiring of staff is the responsibility of the CAO, but, in the past, the Mayor has, out of respect for his colleagues, sought their input.

One other concern I have is the appointment of three Village residents to a Finance Committee. While I understand that three members of Council will also be part of the Committee, I know, for a fact, that two of the village residents are close friends of one of the Councillors who will serve on that Committee. I believe that Village residents will be unnerved to learn that this committee will, amongst other powers granted to it:

1. " have access to any municipal records that may assist it in the fulfillment of its purpose and mandate".
2. " will monitor the financial management of the Village and provide timely advice and recommendations to Council on any matter affecting the financial integrity of the Village".
3. " will review the appointment of the external auditor, assess performance and make recommendations concerning appointment or re-appointment of the external auditor."

While it has been made very clear that non-elected members of the community will be required to sign a confidentiality agreement, the fact that these residents will have access to any confidential records within the meeting room, should be of grave concern to everyone in our Community.

Yours, Sincerely,

Rose Dudley

P.S. For your information, April 16th, which I believe you have chosen as the Saturday for the by-election, falls on a Sunday.