

# Strathcona

RESIDENTS' ASSOCIATION

c/o Strathcona Community Centre  
601 Keefer Street Vancouver, BC V6A 3V8

April 24, 2018

Honourable George Heyman  
Minister of Environment and Climate Change Strategy  
Victoria, B.C.  
[ENV.Minister@gov.bc.ca](mailto:ENV.Minister@gov.bc.ca)

SENT BY EMAIL

Dear Minister Heyman,

**Re: Request for a Provincial Environmental Assessment of the Centerm Expansion Project under the Reviewable Projects Regulation**

We were advised last Friday April 20, 2018 that the Vancouver Fraser Port Authority (“VFPA”) issued a permit for the proposed Centerm Expansion Project (“the Project”). This is our request that the Project be reviewed under the BC Environmental Assessment Act (“BC EA Act”) and that the Project not be exempted from a provincial environmental assessment (“EA”).

We also write in response to letters to the Strathcona Residents Association (“SRA”) from the BC Environmental Assessment Office’s (“EAO”) Associate Deputy Minister Kevin Jardine (dated November 14, 2017) and Kim Walters, Project Assessment Manager (dated April 20, 2018) indicating that the Province has yet to determine whether the Project requires a provincial EA. In particular, we provide additional information in reference to our initial request for a provincial EA of the Project (September 26, 2017) to underscore the need for an EA of the Project.

We are now joined by other community groups, including the Burrardview Community Association and the Grandview Woodland Area Council, in calling for the Province to fulfill its responsibilities towards Vancouver residents who will be impacted by the Project. We are three Vancouver area communities that will be significantly and adversely impacted by the Project.

A provincial EA of the Project is required for the following reasons:

1. The Project clearly qualifies as a ‘Reviewable Project’ under Part 8 (Transportation Projects) of the BC Environmental Assessment Act (“BC EA Act”) Reviewable Projects Regulation (“the Regulation”);

2. The VFPA's Project and Environment Review ("PER") process, which the Federal Court recently ruled is **not** an environmental assessment process under the *Canadian Environmental Assessment Act, 2012*,<sup>1</sup> cannot be considered an adequate substitute for a provincial EA as the scope of its review as it is missing three out of five of the pillars of the provincial EA process; namely, effects on health, social conditions, and economy. Unlike the provincial EA process, the VFPA's process does not consider cumulative effects or make significance determinations on environmental, social, economic, health or heritage effects. Nor does it have the legislative authority to set enforce conditions aimed at addressing impacts that fall within provincial jurisdiction (For more information, see Appendices A and B);
3. The Project, after all proposed mitigation measures are considered, has the potential to cause significant adverse environmental, social, and health effects on our communities which are located on provincial lands adjacent to federal port lands. Nonetheless, the VFPA's PER process has **not** included any meaningful commitments for protective mitigation and monitoring measures to address substantial health and social impacts posed by the Project to our communities;
4. The Project involves the shipment of contaminated dredged sediments to provincially licensed disposal facilities, and therefore triggers provincial legislation as per the BC *Environmental Management Act* (SBC 2003, c. 53) ("EMA") and related *Contaminated Sites Regulation*. It would be highly irregular for the Province to issue a provincial permit for a Reviewable Project without first requiring the Project to have an Environmental Assessment Certificate under the *BC EA Act*. Where the Province has jurisdiction related to a Reviewable Project, there must be a provincial EA (For more information, see Appendix C);
5. The VFPA, in reviewing and approving its own Project, is caught in a conflict-of-interest. An arms-length provincial EA is essential to ensuring the perception of an unbiased, objective assessment of effects of the Project.
6. The PER process lacks the transparency mechanisms that a provincial EA process would require, for example, an EA working group that includes municipal representatives or the posting of submissions from government and the public throughout the course of the EA for public review via the EAO's project website.
7. There is no basis or precedent for the province to not undertake an EA of a Reviewable Project simply because it is located on federal lands. (For more information, see Appendix D). However, strong precedents exist for provincial-federal cooperation in the assessment of projects that fall, partly or in whole, within a federal port's jurisdiction, including but not limited to:

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<sup>1</sup> *Communities and Coal Society v. Canada (Attorney General)* 2018 FC 35, para. 44. "As a federal authority, the Port Authority was... not required to carry out a full environmental assessment or issue a decision statement; that would have been necessary only if the project was a "designated project" under the CEAA."

- A cooperative federal-provincial EA for the Pacific Northwest LNG facility, a project proposed on lands entirely within the federal jurisdiction of the Prince Rupert Port Authority;
  - A cooperative federal-provincial EA for the Vancouver Convention Centre Expansion Project 2004 which includes both provincial and port jurisdiction;
  - A cooperative federal-provincial EA for the Vancouver Airport Fuel Delivery Project between 2008 and 2015 where most of the project footprint is on federal lands; and
  - A harmonized EAO-VFPA EA for the Pattullo Bridge Replacement Project which is currently underway. The project footprint falls within federal and provincial lands.
8. A high level of public concern has been expressed in relation to the Project. In particular, the communities of Strathcona, Burrardview, and Granview Woodland are greatly concerned about additional traffic congestion, noise pollution, and air pollution, as well as the impacts on human health that may result from the Project.

In light of your current efforts, and those of the BC Environmental Assessment Office (“EAO”), to revitalize the provincial EA process in order to restore public trust and to ensure that new projects are subject to robust and transparent reviews, we call upon you to make certain that a provincial EA is undertaken for this Project. If the Province were, in effect, to abdicate its responsibilities towards provincial residents by substituting the VFPA’s highly deficient permitting process for a provincial EA through an exemption mechanism, we believe this would send the wrong message to the public at a time the EAO is attempting to rebuild public trust in a new revitalized EA process.

**Please know that our community is not against the terminal expansion. Rather, we request that you direct the EAO to initiate options for a cooperative EA with the VFPA that would be conducted in partnership between the two jurisdictions to ensure that key areas within provincial jurisdiction, including but not limited to public health and social conditions, are adequately assessed, and where adverse effects are found, appropriate mitigation and monitoring measures are put into place to protect the many thousands of Vancouver citizens who will be negatively impacted by the expansion of the Centerm facility, both now and into the future.**

## Conclusion

We call upon you, as the Minister of Environment, to begin restoring public confidence in the provincial EA process by requiring that the Project – a reviewable project under the BC EA reviewable projects regulation - meets all five pillars of a provincial environmental assessment. The existing process, whereby the VFPA oversees the assessment of its own large-scale projects, free of any arms-length federal or provincial oversight, is a prime example of the

*BC Liberal Party's* failed, closed-door policy of "professional reliance." As you yourself have said: "The public must be assured that we have a strong transparent process in place that upholds the highest environmental standards." We wholly support this position and trust your ministry, as well as the Premier and fellow NDP and Green Party MLA's, will see this project as a perfect opportunity to transform your admirable words into meaningful action.

Please note that this letter has been endorsed by three Vancouver community associations of neighbourhoods located in proximity to the Project and the Project's supply-chain transport corridors, neighbourhoods that together constitute more than 45,000 citizens of the City of Vancouver. In addition, we will be circulating this letter for endorsement by additional community groups and organizations that will be adversely impacted by the Project. On behalf of these organizations, we request that you inform us as soon as possible when the Province will commence an EA of the Project to ensure that a transparent, robust, and "revitalized" provincial EA process is applied to this Project.

Sincerely,

Dan Jackson "Signed"  
Jeff Murton "Signed"  
Trefor Smith "Signed"  
Wilson Liang "Signed"  
Charis Walko "Signed"

#### **Council of the Strathcona Residents Association**

cc. Burrardview Community Association  
Grandview Woodland Area Council  
Melanie Mark, MLA, Vancouver-Mount Pleasant  
Shane Simpson, MLA, Vancouver-Hastings  
Dr. Andrew Weaver, MLA, Oak Bay-Gordon Head  
Sonia Fursteneau, MLA, Cowichan Valley  
Jenny Kwan, MP, Vancouver East  
Grand Chief Stewart Phillip, UBCIC  
Tim Stevenson, Councillor, City of Vancouver  
Elizabeth Ball, Councillor, City of Vancouver  
Adriane Carr, Councillor, City of Vancouver  
Melissa De Genova, Councillor, City of Vancouver  
Heather Deal, Councillor, City of Vancouver  
Kerry Jang, Councillor, City of Vancouver  
Raymond Louie, Councillor, City of Vancouver

Andrea Reimer, Councillor, City of Vancouver  
George Affleck, Councillor, City of Vancouver  
Hector Bremner, Councillor, City of Vancouver  
Gregor Robertson, Mayor, City of Vancouver  
Michael Wiebe, Commissioner, Vancouver Parks Board  
Vancouver Parks Board  
Kevin Jardine, Associate Deputy Minister, EAO  
Scott Bailey, Assistant Deputy Minister, EAO  
Paul Craven, Executive Director, Strategic Services and Compliance, EAO  
Michael Shepard, Executive Project Director, EAO  
Kimberly Walters, Project Assessment Manager, EAO  
Randy Pecarski, Deputy Director of Planning, City of Vancouver  
Sandhu Johnston, City Manager, City of Vancouver

Appendices:

Appendix A: The Port's PER process is not equivalent to provincial EA process

Appendix B: Existing levels of cumulative effects warrant a provincial EA

Appendix C: A Reviewable Project that impinges upon provincial jurisdiction requires a provincial EA

Appendix D: Precedents for cooperative Federal-Provincial EA

Enclosures:

Hastings-Kiwassa Urban Design Guidelines

Metro Vancouver Staff Comments on the Proposed Centerm Expansion Project

Diagram comparing the provincial EA process to the PER process

## Appendix A: The Port's PER process is not equivalent to provincial EA process

The VFPA's PER process lacks key pillars of assessment required under the BC EA Act and does therefore does not consider important components of human environment (health, social, economic effects) that are integral to the provincial EA process.

In addition, the key procedural and methodological gaps in the PER process make it an unsuitable substitute for a transparent and robust provincial EA process (see attached diagram comparing the provincial EA process to the PER process). In its assessment, the PER process for the Project has excluded key methodological steps that are required under the EAO's current guidance for conducting EAs assessments (i.e., *Guideline for the Selection of Valued Components and Assessment of Potential Effects, 2013*), including the following:

- Selection and scoping of valued components ("VCs"), i.e., the components of the biophysical and human environment that must be studied, and establishment of appropriate assessment spatial boundaries;
- Identification of appropriate environmental, social, and health indicators for assessment of project effects;
- Adequate descriptions of current conditions (i.e., the context) of biophysical and human VCs before impacts from the Project;
- Adequate identification of mitigation and monitoring measures, especially related to air quality, public health, and social conditions;
- Characterization of residual effects, above and beyond those that can be mitigated;
- Determination of whether there are significant environmental effects in relation to selected VCs, including cumulative effects; and
- Characterization of the likelihood of effects, especially related to risks of accidents and malfunctions.

In short, the VFPA's PER process does not qualify as an environmental assessment process.

## Appendix B: Existing levels of cumulative effects warrant a provincial EA

The cumulative effects of port expansion and related industrialization upon some of the oldest heritage communities of the City of Vancouver have been entirely overlooked by the PER process. A critical omission from the Port's review pertains the failure to adequately assess project-specific cumulative effects on air quality, and related health effects, and propose adequate monitoring and mitigation measures. A 2012 air quality study conducted by Metro Vancouver shows that our communities (cited in the report as "south Burrard Inlet communities") already experience unusually high elevated levels of sulphur-dioxide and particulate emissions and associated health risks not experienced in other areas of Vancouver and the Lower Fraser Valley. The area of the study - the Central Burrard Inlet Area, which includes and borders large areas of the Strathcona, Grandview Woodland, and Burrardview communities. It was chosen in part due to the proximity of densely populated neighbourhoods to the industrial activities at the port and the projected emission increases expected from the expansion of those activities. As noted,

A wide variety of emission sources are situated within this relatively small geographical area. **These sources include ocean-going vessels, cruise ships, harbour vessels, non-road engines (including cargo handling and construction equipment), heavy-duty trucks, locomotives, small aircraft, commuter traffic, and industrial sources such as a refinery and bulk shipping terminals, as well as commercial and residential sources. According to the California Air Resources Board, health risks from diesel PM are highest in areas of concentrated emissions such as near ports, rail yards, freeways, or warehouse distribution centers.** (California Air Resources Board 2008)<sup>2</sup>

These cumulative impacts on air quality and health were not assessed by the PER process.

The serious health impacts from diesel particulate matter (PM) has been well substantiated by the March 2016 Health Canada publication titled, *Human Health Risk Assessment from Diesel Exhaust*. Diesel PM is associated with:

- Premature death in people with heart or lung disease,
- Nonfatal heart attacks,
- Irregular heartbeat,
- Aggravated asthma,
- Decreased lung function, and

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<sup>2</sup> *Burrard Inlet Area Local Air Quality Study – Monitoring Program Results*, Air Quality Policy and Management Division, Metro Vancouver. December 2012, pp.7-8.

- Increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.<sup>3</sup>

Vulnerable groups, such as children, seniors and others with existing medical conditions such as respiratory disease, are particularly vulnerable to air pollutants such as PM. Health Canada notes that children can be more sensitive to air pollution than people in other age groups.

This is because children breathe in more air in relation to their body weight. This means that they breathe in more contaminants, so air pollution can affect them more. Children living in areas with heavy traffic have a higher risk of having breathing problems than other children. Exposure to traffic pollution can worsen asthma in children and may increase the risk of asthma development.<sup>4</sup>

Given the high percentage of senior and children living in proximity to the Project (there are 2 elementary schools, an expanding senior care home and several daycare centres in Strathcona alone), the doubling of adverse air emissions from the Project poses the risk of significant adverse health effects on vulnerable populations in our communities. **The failure of the PER process to assess cumulative effects of air quality and associated impacts on health is major information gap that must be remedied. A provincial EA is required to ensure that cumulative effects on air quality and associated adverse effects on the health of community residents is properly assessed and appropriate mitigation and monitoring measures are put into place.**

Air quality impacts are only one of several effects of increased throughput capacity at port terminals such as Centerm. In addition to omitting consideration of cumulative effects on air quality and related health effects, the PER process has also ignored the project-specific and cumulative social effects of increased rail and large truck traffic on our communities. For example, the PER process provided no baseline data or trends analysis related to the steady increase in container traffic over the past 20 years through Centerm (i.e., approximately 200,000 TEUs in 2004, now nearly 600,000 TEUs annually) and adjacent terminal facilities, and the steady increased effects this rapid increase of industrial activity, including diesel truck and rail traffic, is having on the environment, health, and well-being of neighbouring communities. Moreover, the PER process has not considered how the project-specific effects will combine with the effects of existing and foreseeable expansion of industrial operations at the port, or with significant population growth and residential development, (i.e., along the Hasting corridor and East Strathcona), all of which will be occurring within the same, relatively small geographic area in East Vancouver, over the next 5-10 years. **The assessment of cumulative effects of increased industrial port activities on the social and health conditions in adjacent residential neighbourhoods is essential for identifying the mitigation and monitoring measures**

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<sup>3</sup> United States Environmental Protection Agency, <https://www.epa.gov/mobile-source-pollution/how-mobile-source-pollution-affects-your-health>, accessed April 22, 2018,

<sup>4</sup> <https://www.canada.ca/en/health-canada/services/air-quality/road-traffic-air-pollution.html>, "Risks to young children", accessed April 22, 2018.

**necessary for the protection of the future health and well-being of Vancouver citizens who live in proximity to the Port and its supply-chain transport corridors.**

In relation to plans to increase residential density next to the port, the City of Vancouver has recently issued a plan, the Hastings-Kiwassa Urban Design Guidelines, that proposes significant mixed-use development within less than a 1km radius of the Centerm facility and immediately adjacent to the main supply-chain transport corridors connected to the Project. These include the construction of mid-rise and high-rise residential housing in close proximity to major port-related transportation corridors (i.e., the Burrard Inlet rail line, Hastings Street and Clark Drive trucking corridors). This is a trend that will see tens of thousands of additional city residents adversely affected by air quality, noise, and traffic impacts associated with the Project. For example, two new housing complexes in Strathcona, located immediately adjacent to the Burrard Inlet rail line and within 500m of the Centerm facility, are about to open: the 283-unit Strathcona Village complex on Hastings Street (between Campbell and Raymur Streets) and the new 39-unit “Sugar Mountain” modular housing complex at 1311 Franklin Street. There is also the new 10-story Villa Cathay Care home (224 units) being built right beside the Burrard Inlet Line (at Raymur and Union), a 15-story development adjacent to the supply-chain truck route at Hastings and Clark, and two additional residential units proposed the Burrard Inlet Line (one on Glen Street and another on Raymur Street). We have enclosed for your reference a copy of the City of Vancouver’s 2017 Hastings-Kiwassa Urban Design Guidelines that outlines plans for significant residential growth over the next several years in areas immediately adjacent to the Centerm project. Simply put, increased residential density and increased industrial activities are incompatible, unless adequate monitoring and mitigation measures are put into place. **Again, we state that a provincial EA – that includes a cumulative effects assessment on air quality, social conditions and health – is necessary to identify what mitigation and monitoring measures are needed to protect the health and well-being of our communities’ residents in the face of increased cumulative industrial effects related to the port.**

## Appendix C: A Reviewable Project that impinges upon provincial jurisdiction requires a provincial EA

Effects of the project fall within provincial areas of responsibility, both through provincial project permitting requirements under the BC *EMA* and through the potential adverse environmental effects of project on-site and supply-chain components on provincial lands and residents. Project effects on the health and social well-being of communities located on provincial lands include, but are not limited to, the following:

- The Project will permit container traffic at Centerm to expand from a peak volume in 2015 of 576,000 twenty-foot-equivalent units (“TEUs”), to a maximum of 1.3 Million TEUs, a **125% increase of container traffic beyond current levels.**<sup>5</sup> This significant increase in container throughput at Centerm and along connected supply-chain transport routes substantially increases the risks of accidents and malfunctions and correlating air quality, noise, and social impacts on community health and safety, (e.g., the March 4, 2015 fire at Centerm, potential rail and truck accidents);
- Substantial increases in air pollution emissions (100%) and noise levels on top of existing baseline levels have the potential for significant impacts on human health;
- 24-hour construction and significant expansion of existing rail and truck operations pose adverse noise effects and traffic congestion effects along Hastings Street to community members in proximity to major transportation routes (including Hastings Street, Clark Drive, and the Burrard Inlet line) for a period of approximately two years;
- Sizable increases in rail traffic (more than three times increase current levels) and truck traffic (increasing by nearly 183,000 additional truck movements annually) through our neighbourhoods have the potential for significant adverse effects on the social conditions in our neighbourhoods, including, but not limited to, traffic congestion along Clark Drive and Venables/Prior Street (increased frequency of severe traffic blockages), and congestion at rail crossings along the Burrard Inlet line resulting from increased Centerm rail traffic, with secondary community safety effects from cars rat-running through community streets and blockages to emergency response vehicles; and
- Permanent alteration of the public’s enjoyment of visual, social, and cultural qualities of Crab Park through Project-related dredging and infilling within the Crab Park embayment.

These social and health effects are being proposed in addition to existing impacts (from past and current industrial development) that in many instances are already close to exceeding acceptable air quality and other thresholds, and therefore have the potential to cause

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<sup>5</sup> Note: The current “practical capacity” of Centerm is 750,000 TEUs, but based on the VFPA’s own reports, maximum peak capacity has only reached 576,000 to date. The expansion proposed to increase current practical capacity of 750,000 TEUs to an expanded practical capacity of 1.3 Million TEUs, equals a 73% increase. An increase from the maximum container throughput to date, 576,000 TEUs, to 1.3M TEUs equals a 125% increase.

significant adverse effects on our communities. **Given that these areas of health and social well-being of residents within municipal boundaries fall outside of federal jurisdiction, they must be addressed through the provincial regulatory process.**

## Appendix D: Precedents for cooperative Federal-Provincial EA

Given that the health and social conditions of citizens on provincial lands are areas of provincial jurisdiction and responsibility, at minimum, the assessment of the Project should proceed through a cooperative provincial-federal EA. Such cooperation has, for a long time now, facilitated provincial EAs for projects proposed on federal lands. This principle was first fully articulated in the *Canada-British Columbia Agreement for Environmental Assessment Cooperation, 2004* (“Cooperation Agreement”) which was based on the principles of shared provincial-federal constitutional responsibilities for the environment. Furthermore,

Canada and British Columbia have agreed that, when an environmental assessment of a project is required by Canada pursuant to the Canadian Environmental Assessment Act and an environmental assessment is required by British Columbia pursuant to the Environmental Assessment Act, a cooperative environmental assessment will be undertaken to generate the type and quality of information and conclusions on environmental effects required by all Parties making decisions on the basis of the cooperative environmental assessment.<sup>6</sup>

The Cooperation Agreement establishes a set of procedures for conducting cooperative EAs for projects that are proposed on federal lands and that fall within the provincial reviewable project regulation for the purposes of ensuring that complementary federal and provincial EA requirements are efficiently met. Cooperative arrangements between the federal and provincial governments in the area of EA continue to be commonplace. As recently as 2014, the BC EAO conducted a cooperative EA with the Canadian Environmental Assessment Agency (“CEA Agency”) for the Pacific Northwest LNG facility, a project proposed on lands and waters entirely within the federal jurisdiction of the Prince Rupert Port Authority.

There is a strong precedent for the EAO to conduct EAs in a harmonized manner with the VFPA. Prior to 2012, moderate to large-scale projects proposed on Port lands subject to cooperative federal-provincial EAs also included: the Vancouver Convention Centre Expansion Project in 2004; the Vancouver Airport Fuel Delivery Project was subject to a cooperative provincial-federal EA between 2008 and 2015. Although both of these projects required a Project permit from the federal port authority at the time, the EAs for both projects were conducted jointly by federal authorities and the EAO. Most recently, the VFPA and the EAO have entered into a harmonized assessment agreement for the Pattullo Bridge Replacement Project.

Past and current examples of EA cooperation, as well as recent legal decisions (e.g., *Coastal First Nations v. BC*, 2016 BCSC 34) demonstrate that provincial and federal processes are not in conflict, nor are they mutually exclusive, but rather are actually complementary processes that

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<sup>6</sup> <https://www.canada.ca/en/environmental-assessment-agency/corporate/acts-regulations/legislation-regulations/canada-british-columbia-agreement/canada-british-columbia-agreement-environmental-assessment-cooperation-2004.html>

can ensure that the full scope of federal and provincial areas of jurisdiction that pertain to the environmental, socio-economic, and health effects of a project are considered through a single, efficient and harmonized process.