



Submission

In response to Transport Canada's Ports
Modernization Review

Vancouver Fraser Port Authority

December 3, 2018

1 Table of Contents

2	Introduction	1
2.1	Purpose of this submission	1
2.2	Our approach to this submission	1
2.3	About the Port of Vancouver and the Vancouver Fraser Port Authority	2
2.4	Historical context	2
3	Core Recommendations	5
3.1	Governance structure	5
3.2	Government oversight and a differentiated port structure	7
3.3	Indigenous perspectives on boards of directors	10
3.4	Borrowing limit	11
3.5	Land management and transactions	12
3.6	Industrial land	13
3.7	Environmental review	13
3.8	Enforcement of <i>Canada Marine Act</i> responsibilities	16
4	Other Recommendations	17
4.1	Innovation and trade logistics	17
4.1.1	National transportation strategy	18
4.1.2	Strategic sharing of supply chain data	18
4.1.3	Infrastructure investment	19
4.1.4	Management of supply chain conflict	20
4.1.5	Managing anchorages outside of the port’s jurisdiction	20
4.1.6	Cabotage restrictions in the Coasting Trade Act and Pilotage Act	21
4.1.7	Inland terminals, short-sea shipping and other approaches to goods movement	22
4.1.8	Innovation	23
4.2	Partnering with Indigenous peoples	24
4.2.1	The need for Indigenous policy guidance	26
4.2.2	Incorporating Indigenous perspectives into port authority governance	26
4.2.3	Consulting with Indigenous Peoples	27
4.2.4	Sharing of the gross revenue charge	27
4.3	Sustainability and port communities	28
4.3.1	Promoting sustainability	28
4.3.2	Climate change	29
4.3.3	Environmental protection	30
4.3.4	Coordinated inter-agency review	31
4.3.5	Community trust and support	31
4.3.6	Strong voice for trade	32

- 4.4 Port safety and security 33
- 4.5 Port governance 34
 - 4.5.1 Board appointments 34
 - 4.5.2 Land acquisition and disposition 35
 - 4.5.3 Land use 37
 - 4.5.4 Land tenure/ leases 38
 - 4.5.5 Payment in lieu of taxes/property taxation..... 38
- 5 Conclusion..... 40**
- 6 Appendices..... 41**
 - 6.1 Full List of Recommendations 41
 - 6.2 Summary of current environmental programs..... 46
 - 6.3 Summary of community engagement and outreach..... 54

2 Introduction

2.1 Purpose of this submission

This submission is in response to the Honourable Marc Garneau, Minister of Transport's March 12, 2018 announcement of the Ports Modernization Review. The stated purpose of the review is to increase Canada Port Authorities' ability to promote sustainable and inclusive economic growth through effective governance and innovative operations. Government set out five key objectives:

- Supporting the competitiveness of Canada's economy by facilitating the movement of goods and passengers
- Strengthening relationships with Indigenous peoples and local communities
- Promoting environmentally sustainable infrastructure and operations
- Enhancing port safety and security
- Optimizing governance and accountability, including with respect to financial management

On May 8, 2018 Transport Canada released a discussion paper to provide guidance and context to the review.

2.2 Our approach to this submission

The Vancouver Fraser Port Authority has considered our response to the Ports Modernization Review very carefully and has structured this submission around our eight core recommendations, augmented by 58 detailed recommendations centred on the five key objectives of the review.

Many of our recommendations have been previously identified in the following submissions to government:

- March 31, 2015 submission to the Canada Transportation Act Review Panel and May 31, 2016 submission in response to the Report of the Canada Transportation Act Review Committee
- July 30, 2016 submission to Transport Canada's Long-Term Agenda for the Marine Transportation System
- February 2017 submission in response to the Government of Canada proposal to privatize ports and other federal assets
- April 6, 2018 submission to Government of Canada in response to Bill C-49: An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make other consequential amendments to other Acts
- May 18, 2018 submission to Government of Canada in response to the consultation paper on Information Requirement and Time Management regulations for the proposed Impact Assessment Act
- May 18, 2018 submission to Government of Canada in response to the consultation paper on approach to revising the Project List for the proposed Impact Assessment Act
- June 29, 2018 Submission to Government of Canada regarding changes to the Project List that impact ports

A full list of our recommendations can be found in the Appendix (Section 6.1) on page 41.

2.3 About the Port of Vancouver and the Vancouver Fraser Port Authority

The Port of Vancouver is Canada's largest port, handling more than one in every three dollars of Canada's foreign trade in goods beyond North America, as well as significant volumes of regional and North American trade. Port activities generate almost four million dollars in taxes per day across the country for all levels of government.

The Vancouver Fraser Port Authority is responsible for the stewardship of federal port lands and waters in and around Vancouver, British Columbia. Like all Canada Port Authorities, the Vancouver Fraser Port Authority is accountable to the federal Minister of Transport and was established by the Government of Canada pursuant to the *Canada Marine Act*, which sets out a mandate for the port authority to facilitate Canada's trade objectives, ensuring goods and passengers are moved safely and efficiently, while protecting the environment and considering local communities. The Port of Vancouver borders 16 municipalities and intersects the asserted and established traditional territories and treaty lands of several Coast Salish First Nations.

Operations within the Port of Vancouver are managed by industry and government agencies. Terminals are private operations that contract directly with shippers and freight services, including railroads, shipping lines and trucking companies. Laws and regulations are overseen by many different authorities, such as Transport Canada, the Canadian Coast Guard, and many more. Crime and cargo security are managed by local and federal police forces, the Canadian Border Services Agency, and others.

Sustainability has always been a part of the legislated mandate of a port authority, and the vision of the Vancouver Fraser Port Authority is for the Port of Vancouver to be the world's most sustainable port. We define a sustainable port as one that delivers economic prosperity through trade, maintains a healthy environment, and enables thriving communities through collective accountability, meaningful dialogue and shared aspirations.

We produced our first sustainability report using the Global Reporting Initiatives G4 guidelines in 2010 and produce a sustainability report every two years. Our last report was released in May 2017 and can be found here: [Vancouver Fraser Port Authority 2016 Sustainability Report](#).

We are pleased that our commitment to sustainability was recently recognized by the Governance Professionals of Canada. On October 25, 2018, the Vancouver Fraser Port Authority was awarded a 2018 Governance Professionals of Canada Excellence in Governance award for its sustainability governance practices. These awards are given out annually to recognize the critical role that governance plays in sustaining the value of Canada's public companies, crown corporations, government agencies, and not-for-profit organizations, in contributing to the competitiveness of Canada's economy. The port authority won in the category of Best Practices in Sustainability and Environmental, Social, Governance (ESG), which specifically considers the board of directors' responsibilities for the company's sustainability policies and strategies and the board's role in designing processes that effectively address its own sustainability.

2.4 Historical context

In order to provide meaningful recommendations on how Canada's ports system should be modernized to make it relevant for the future needs of Canadians, it is helpful to understand the historical context of the port system in Vancouver.

Federal management of the Port of Vancouver has evolved since the establishment of the port just over a hundred years ago. In 1913, separate harbour commissions were created for the Burrard Inlet, the main arm of the Fraser River, and the north arm of the Fraser River. Each of these harbour commissions was placed in the control of local harbour commissioners who had a great deal of autonomy.

In 1936 certain existing harbour commissions across the country, including in Vancouver, were centralized under the authority of the National Harbours Board in Ottawa, which in turn was responsible to Parliament through the Minister of Transport. Local administrations had little autonomy and key decisions were made by National Harbours Board administration in Ottawa.

In 1983, the administration of the federal port system was reorganized once again and National Harbours Board ports were decentralized under the *Canada Ports Corporation Act* into seven autonomous local port corporations, including the Vancouver Port Corporation. There still existed a second tier of ports in this structure, known as harbour commissions, which included the Fraser River Harbour Commission and the North Fraser Harbour Commission. These harbour commissions had less autonomy than port corporations for certain activities such as leasing federal property or establishing by-laws.

In 1998 the *Canada Marine Act* was adopted by Parliament to provide further local autonomy by creating a system of Canada Port Authorities that are competitive, efficient and commercially oriented. Three of those port authorities included the Vancouver Port Authority, the Fraser River Port Authority and the North Fraser Port Authority, all of which were amalgamated in 2008 to become the Vancouver Fraser Port Authority. Today, there are total of 18 Canada Port Authorities.

The current port authority system of arms-length, commercially self-sufficient agents of the Crown has worked well to meet Canada's trade needs. Since the *Canada Marine Act* came into effect, Canada's trade with Asia has grown significantly, and much of that trade growth has moved through the Port of Vancouver. Figure 1 shows that international cargo volumes in the Port of Vancouver have grown by 62 per cent over the last two decades, representing a compound annual growth rate of 2.7 per cent and a total volume growth of 43 million metric tonnes. The *Canada Marine Act* has enabled the Vancouver Fraser Port Authority to grow the Port of Vancouver to be one of the leading ports in North America, primarily by being able to meet commercial needs by raising capital, and by conducting project and environmental reviews to facilitate and lead sustainable infrastructure development.

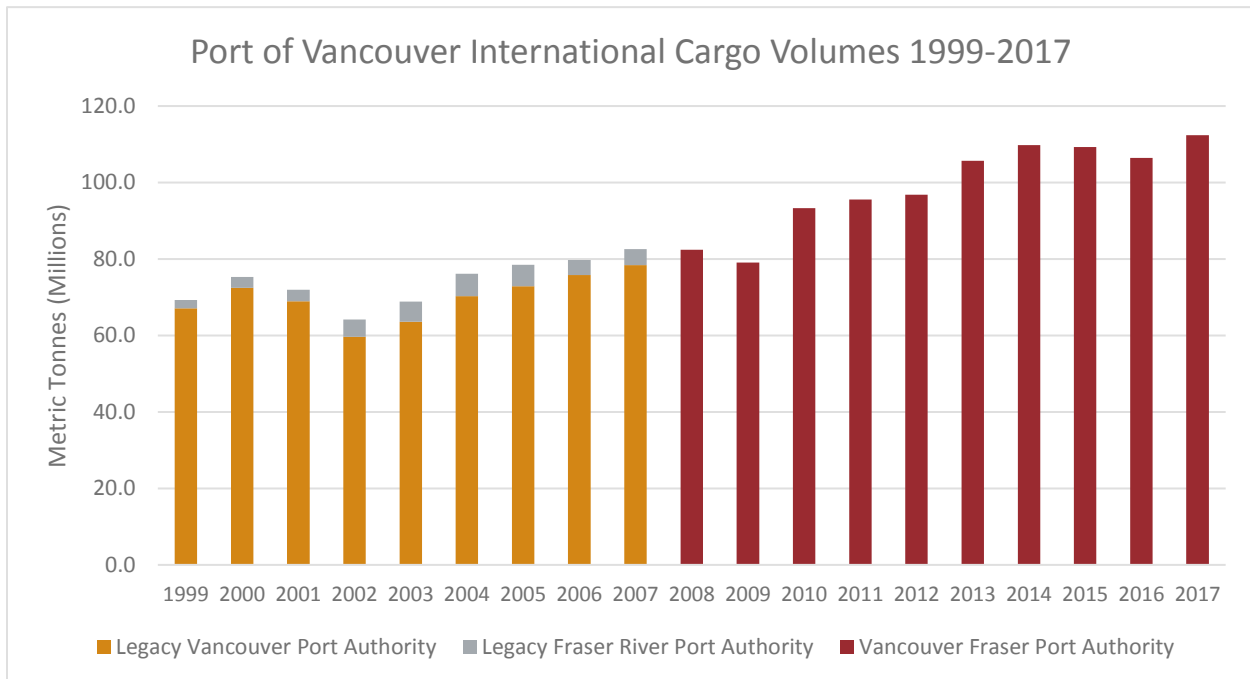


Figure 1: Port of Vancouver international cargo volumes 1999-2017

Below are some of the important changes that have occurred in the Port of Vancouver since the *Canada Marine Act* was enacted:

- Delivered significant cargo growth, terminal development and associated economic benefits, both locally and to Canada, much of it through investment of over \$7.5 billion in regional goods movement infrastructure in recent years
- Created a sophisticated, amalgamated port authority in the Lower Mainland able to promote long-term planning and deliver coordinated infrastructure for the region, including a thorough Land Use Plan, proactive environmental programs, extensive safety and operational procedures, and sustainable financial practices that see port authority investment in port infrastructure of about \$90 million each year
- Expanded the reach and leadership of the organization throughout the supply chain through big-data visibility initiatives that drive policies and programs, such as the Truck Licensing System and the Supply Chain Visibility Project
- Delivered trade-enabling infrastructure for Canada through port authority-led collaborations such as the Asia Pacific Gateway Collaboration Initiative and the Gateway Transportation Collaboration Forum
- Provided leadership in port sustainability such as the development of the sustainable gateway definition and world-leading environmental programs including the ECHO Program to protect at-risk whales
- Created a robust and effective process for environmental review and permitting that has been independently assessed by third-party experts and found to be robust, transparent and resulting in sound decisions
- Improved relationships with local communities through proactive engagement programs, community outreach and liaison committees, and consultation above and beyond standard or regulations

3 Core Recommendations

3.1 Governance structure

The current governance structure for Canada Port Authorities, as established by the *Canada Marine Act* in 1998, has worked extremely well because it has allowed for the commercialization of ports that has facilitated national trade growth while considering local community perspectives and providing for a high level of environmental protection. Further, the current system of Canada Port Authorities, operating in a financially sustainable manner without material government subsidies, strikes a good balance between commercial focus and enabling trade.

Therefore, while the Vancouver Fraser Port Authority believes there is room to improve and strengthen the governance structure, care should be taken to not dilute the national focus and balanced mandate of the entire ports system and individual port authorities.

Canada Port Authorities are created by the Minister of Transport by issuing letters patent that incorporate the authority. Port authorities are structured like an incorporated business, much like a public company. However, there are no shares and the port authority is effectively "owned" by the federal government through Transport Canada. This allows port authorities to operate in a commercially nimble way, which helps ensure Canada's trade needs are well met, ultimately supporting our national economy.

Canada Port Authorities earn revenues from leases and fees, but they are not profit-centric in a private sector sense and are not focused on earning additional lease revenue for the sake of profit maximization. They must be self-sustaining, and revenues must cover expenses as well as generate funds to be invested in common-use port infrastructure, such as port roadways, overpasses, interchanges, staging areas, rail yards, bridges, tunnels and rail lines, marine navigation channels, harbour maintenance, and patrol. In the case of the Vancouver Fraser Port Authority, approximately 90 per cent of net revenue is invested back in trade-enabling infrastructure each year, which represents an investment of approximately \$1 billion over the last 10 years.

With respect to revenue from leases, the Vancouver Fraser Port Authority's general rental philosophy is that the local real estate market should guide the amount of rent charged for the use of its lands. This serves as an objective, fair and equitable indicator of marketplace conditions, protects against competitive inequality between tenants, avoids subsidization of the private sector, and encourages more efficient use of limited land resources. Canada Port Authorities are also required to pay an annual gross revenue charge to government that is laid out in their letters patent.

Canada is a trading nation and its ports are strategic assets of economic development. The fact that port-related policies, investments and operations are orchestrated around a national imperative is critical to the country and has allowed Canada's ports to thrive, particularly on the West Coast. Growing trade with Asia, the needs of other provinces to export commodities, and the challenges of local opposition to development are all reasons why that national perspective must be maintained.

While there is no question that the Port of Vancouver is of strategic economic importance to the region and the Province of British Columbia, Figure 2 clearly illustrates the importance of the port across the entire country. Almost 48 per cent of the Canadian cargo that moves through the Port of Vancouver comes from outside of British Columbia, and over 54 per cent of the value of Canadian goods moving through the port is from outside of British Columbia.

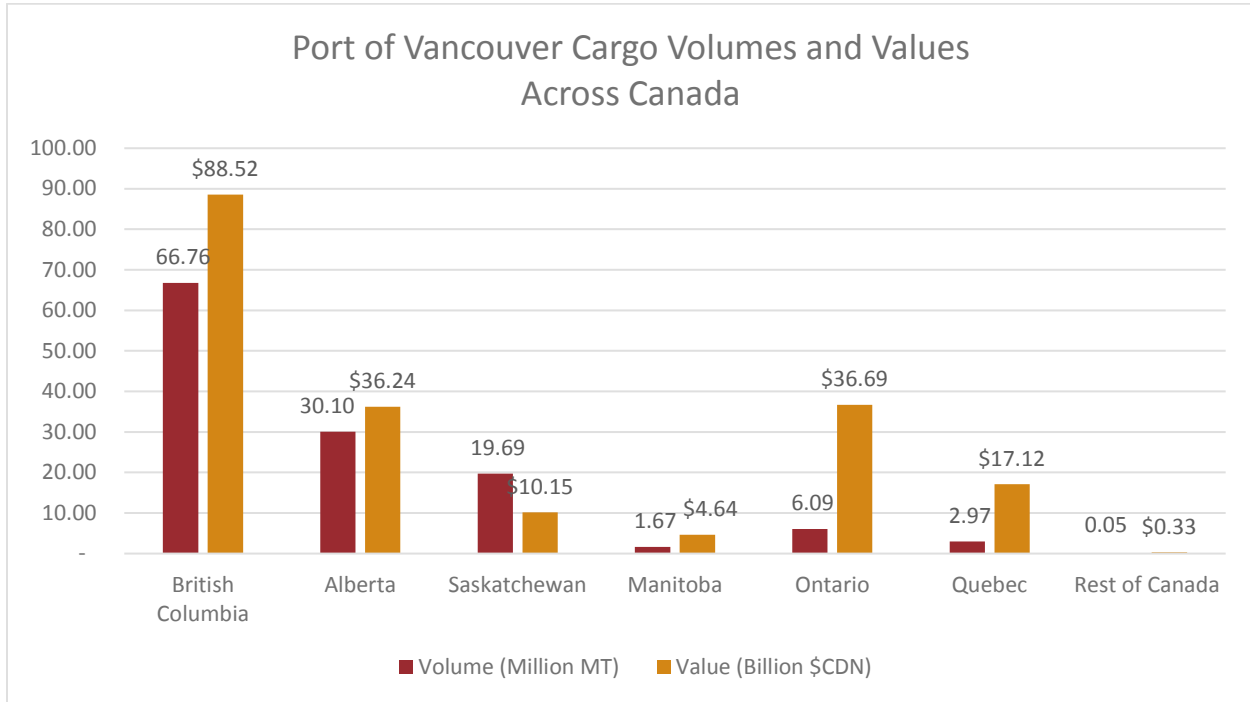


Figure 2: 2017 Port of Vancouver Cargo Volumes and Values across Canada- origin or destination of cargo (estimated by the Vancouver Fraser Port Authority)

Calls for more local representation in port governance and affairs often fail to recognize the significant competitive and operating advantage that Canadian ports have by maintaining a national focus on their operations. One need look only to many municipally-governed U.S. ports with locally-appointed or elected board members to see how they struggle to grow and adapt because of an inability to balance broad trade objectives with local community concerns, resulting in a lack of federal funding support and development of trade-enabling infrastructure. Canada Port Authorities are better able to plan, and secure funding for, the nation's trade needs because those needs come before local interests. The Vancouver gateway has realized investment and trade partnerships in recent years far beyond that of nearby competitive U.S. ports, largely because of the current governance model.

The *Canada Marine Act* establishes the governance model for the board of directors for Canada Port Authorities, setting criteria for the qualifications, terms of appointment, eligibility, and other related matters in each port authority's letters patent. The Vancouver Fraser Port Authority's letters patent establish that the governing directors are appointed by four bodies as follows:

- Federal government appoints eight members, seven of which are recommended by port users through a user nominating committee
- Province of British Columbia appoints one member
- Prairie provinces of Alberta, Saskatchewan and Manitoba collectively appoint one member
- 16 municipalities that border the port authority's jurisdiction collectively appoint one member

It is a common misconception that board members appointed by the various levels of government are to represent the interests of their nominating body at board meetings. All board members, regardless of who nominated them, have a responsibility to understand the interests of their nominating bodies as well as other stakeholders. However, once appointed

to the board, members have a fiduciary obligation to represent the interests of the port authority.

Port authorities, as they are currently structured, maintain a healthy, but delicate balance between the need to be globally competitive and commercially viable, and the requirement to protect the environment and consider local communities, and therefore it is not advisable to change the size of the board nor take away its business focus. We also caution against skewing the balance on the board more towards commercial interests with the risk of the national trade agenda becoming captive to more specific commercial interests of local stakeholders.

Core Recommendation:

- *Keep the existing governance structure for port authorities established in the Canada Marine Act.*

3.2 Government oversight and a differentiated port structure

The *Canada Marine Act* sets out how Canada Port Authorities are governed, and includes various checks and balances to ensure port authorities always operate in the public interest.

Among other things, a port authority's letters patent set out the code of conduct governing the directors and officers of the port authority, as well as specify the extent of the activities the port authority may undertake, the limits of a port authority's ability to contract as agent for Her Majesty, and the limits of the port authority to borrow money.

Any changes to the letters patent require supplementary letters patent, which are issued by the Minister of Transport if the changes are relating to activities that are core to the port authority's operations. If the changes are not core to port operations, the supplementary letters patent must be approved by the president of the Treasury Board and the Minister of Finance. If the changes are to a port authority's borrowing limit, they must be approved by the Governor in Council, on the recommendation of the ministers of transport and finance.

In addition to the governance structure set out by the *Canada Marine Act* and other acts, there are several mechanisms in place that provide oversight to port authority matters:

- Canada Port Authorities must annually submit to the Minister of Transport a five-year business plan containing such information as the minister may require, including any material changes from previous business plans
- Port authorities are required to file an annual, audited financial report. Additionally, the Vancouver Fraser Port Authority has elected to publish a management discussion and analysis report and a bi-annual sustainability report
- Canada Port Authorities are subject to a special examination every five years that assesses whether the port authority's systems and practices provide reasonable assurance that their assets are safeguarded and controlled, financial, human and physical resources are managed economically and efficiently, and operations are carried out effectively
- Local board approval combined with users' right to appeal to the Canadian Transportation Agency provides robust oversight of fees, and users can, and on occasion do, take fee-setting decisions to judicial review. The Vancouver Fraser Port Authority chooses to consult with users on fees beyond the minimum level of consultation required by legislation
- With respect to project and environmental reviews as per CEAA 2012 (set to be replaced by the new *Impact Assessment Act*):

- Port authorities are required to report annually to Parliament on all granted environmental decisions, a report which is made public by government
- The federal government has the ability to decide to review a project that would otherwise have been reviewed by the port authority
- The federal government can review decisions made by the port authority
- Any regulatory decision of the port authority can be challenged by way of a judicial review
- In addition to restrictions on land use outlined in the letters patent, any land a port authority seeks to purchase requires supplementary letters patent from Transport Canada

As noted earlier in this submission, the degree of government oversight and local autonomy in managing Canada's ports has changed a number of times since ports were formally established in the country. The existing governance structure established by the *Canada Marine Act* is largely the same for all 18 Canada Port Authorities, regardless of size, the degree to which a port is focused on international or domestic trade, or a port's organizational scope and resources available for operations.

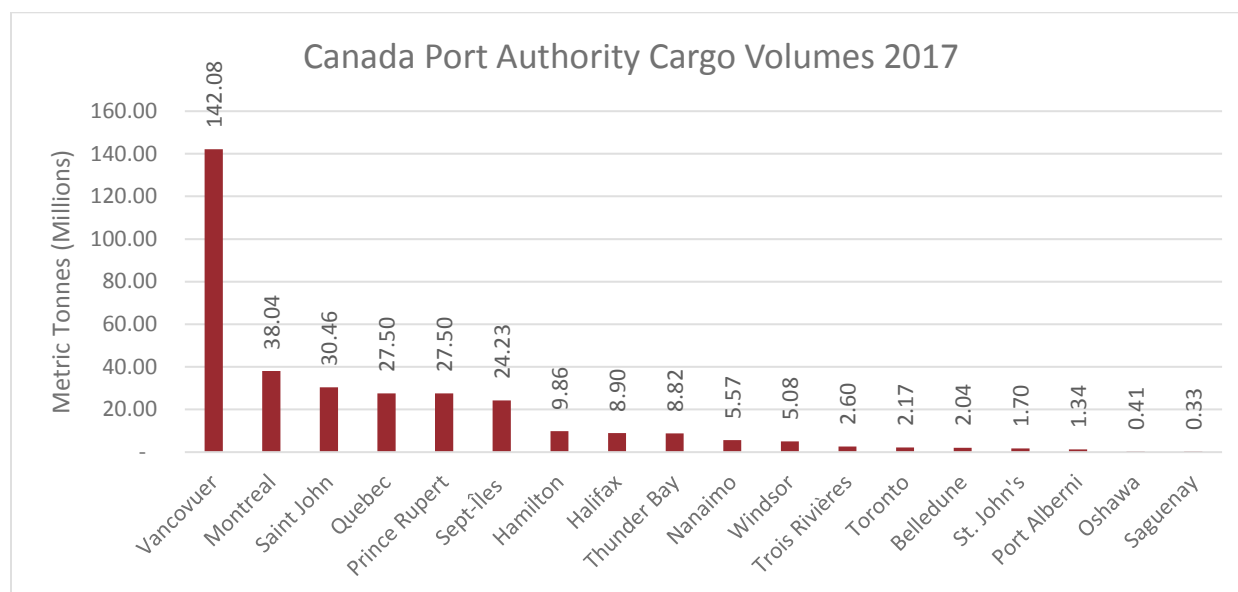


Figure 3: Total 2017 cargo volumes at all 18 Canada Port Authorities (data provided by Canadian Sillings)

In 2017, nearly 339 million metric tonnes of international and domestic cargo moved through the ports overseen by the 18 Canada Port Authorities. As illustrated in Figure 3, the Vancouver Fraser Port Authority handled over 42 per cent of this cargo, not only representing Canada's largest port, but larger than the total of the next five largest ports combined.

This difference in the scale of the ports is also noted when comparing the financial resources available to each port authority in terms of revenue. Figure 4 shows the total revenues of all Canada Port Authorities, demonstrating that the Vancouver Fraser Port Authority's revenue is significantly greater than all other port authorities. In fact, the Vancouver Fraser Port Authority's revenue is greater than the combined revenue of the next three largest revenue-producing port authorities. As mentioned previously, profits earned after deducting expenses from those revenues are reinvested into port infrastructure, which, in the case of the Vancouver Fraser Port Authority, amounts to about \$80 million per year.

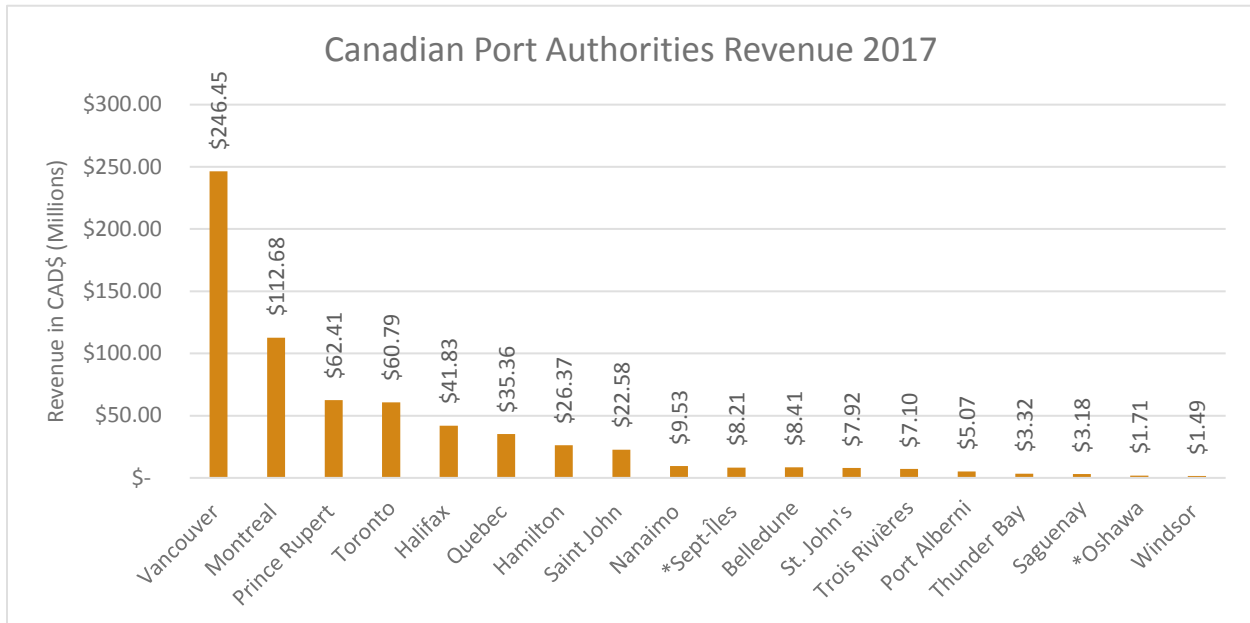


Figure 4: Total 2017 revenues for all 18 Canada Port Authorities revenues (*2016 data)

These differences in both cargo volumes and revenues demonstrate that the scale of operations across the 18 Canada Port Authorities is vast, yet the enabling legislation for all of Canada's port authorities is the same, and with the same degree of government oversight.

The Ports Modernization Review is driven largely by growing public interest in the activities of ports and port authorities, particularly large ports like the Port of Vancouver. Increasingly, the public, and therefore government, want to know that the activities and operations of ports and port authorities are in the public interest, across all three pillars of sustainability.

There are generally two ways to address the growing interest in ports and port authorities: More government oversight is one. The other is high quality, rigorous and transparent processes and programs delivered by port authorities that allow for appropriate public input. Ideas for both will be outlined elsewhere in this submission.

However, more broadly and given the expanding expectations of government and Canadians generally of port authorities, a "one size fits all" governance solution may no longer make sense. In addition to the fact that public expectations for addressing the impact of port growth and operations of Canada's ports are not the same across the country, port authorities have vastly different resources available to undertake activities and programs that provide greater transparency and rigour. It would therefore be unrealistic to expect smaller port authorities to meet standards set with larger port authorities in mind.

Creating a differentiated (or tiered) ports system, recognizing the varying capacities of larger and smaller ports, could allow varying degrees of government oversight and required activities that are in the public interest. There may be ways to require larger and better resourced port authorities, such as the Vancouver Fraser Port Authority, to operate within a national framework that demonstrates responsiveness, innovation and transparency, and thereby gives government the confidence that the port authority is appropriately addressing the public interest.

One way this could be done is by strengthening the role and purpose of the requirement for Canada Port Authorities to have a land use plan. Currently, the land use plan requirements

in the *Canada Marine Act* are quite minimal. There is no requirement for the plan to conform to a national transportation strategy (see recommendation 9), nor is there a requirement for the Minister of Transport to approve the plan, or any requirement for a port authority to regularly update the plan. Strengthening the requirements for some port authorities to include policy statements and other information in their plans may allow for more streamlined government oversight in certain areas such as approval for land management (see recommendation 5), borrowing provisions for projects identified in their plans (see recommendation 4), and for port authorities to continue to make environmental determinations (see recommendation 7).

There may be other mechanisms that could be used to ensure government oversight, but given the vast differences in the level of complexity of the operations of Canada Port Authorities, it is likely necessary to develop some form of differentiation in their governance.

Core Recommendation:

- *Develop a differentiated structure of port authorities that require varying degrees of government oversight based on the size of the ports.*

3.3 Indigenous perspectives on boards of directors

Reconciliation with Indigenous peoples is a key theme of this review and an important priority of the current federal government, and bringing Indigenous perspectives to the boards of directors of Canada Port Authorities should be done, and done in a meaningful way.

As noted in section 3.1, the Vancouver Fraser Port Authority's letters patent establish that the governing directors are appointed by four bodies, including the federal government, the Province of British Columbia, the combined provinces of Alberta, Saskatchewan and Manitoba, and the combined 16 municipalities that border the port authority's jurisdiction.

Seven of the federal government appointees are recommended by a port user nominating committee. A port user is defined as a person (including a partnership, an association, a body corporate or an individual) who makes commercial use of, or provides services at, the port.

We suggest two possible ways to bring Indigenous perspectives to the Vancouver Fraser Port Authority's board of directors. One would be a direct appointment in a manner similar to how appointments are made by provincial and local governments, and the other would be to add Indigenous representation to the user nominating committee.

While the preference would be a direct appointment, this would be difficult since there is no formal organization or agreement through which Indigenous groups could make such an appointment if it was decided that the nomination should be made by those groups who have interest in the Port of Vancouver. The port authority currently consults with over 40 First Nations, depending on the project, so achieving a consensus on a nominee would be a challenge.

An alternative approach could be to include an Indigenous representative on the user nominating committee and provide expanded guidance about expected board diversity to the user nominating committee.

The user nominating committee establishes and administers a process for soliciting the names of nominees who would be suitable and qualified candidates to fill vacancies amongst

the user-nominated directors, and then provides the Minister of Transport with a list of those candidates.

An Indigenous organization could be added to this group, or the overall composition and purpose of the nominating committee could be re-examined.

It would also be good to set out explicit expectations in line with the Governor in Council appointment process designed to attract qualified candidates who will also help to reflect Canada's diversity in terms of linguistic, regional, and employment equity groups (i.e., women, Indigenous peoples, persons with disabilities, and members of visible minorities) as well as members of ethnic and cultural groups. Work also needs to be done to ensure that the nominating committee has a good process to make the opportunity attractive to qualified Indigenous nominees and individuals who can bring forward Indigenous perspectives to the board.

Core Recommendation:

- *Bring meaningful Indigenous perspectives to the boards of directors for Canada Port Authorities by reconstituting the purpose and composition of the nominating committees to specifically include Indigenous representation, and set out clear guidelines for the nominating committees to ensure Indigenous people are considered as candidates recommended to the Minister of Transport as a potential board member.*

3.4 Borrowing limit

In order for ports to be more responsive and properly plan for trade growth, government needs to move away from a fixed borrowing limit for large ports with strong financial and governance capacity.

Borrowing limits are often set historically, based on out-of-date financial information, and don't reflect a Canada Port Authority's full, current financial capacity. For example, the debt to earnings before interest, tax, depreciation and amortization (EBITDA) ratio is a key metric used by lenders and credit rating agencies to measure financial strength. Vancouver Fraser Port Authority's current \$510 million borrowing limit was set upon the amalgamation of the three Vancouver-area port authorities in 2008. Vancouver Fraser Port Authority's debt to EBITDA ratio in that year, calculated assuming we had fully borrowed up to our maximum \$510 million borrowing limit, would have been 7:1. Based on EBITDA in 2017 and the same 7:1 ratio applied in 2008, we would now be able to borrow \$1 billion and maintain the same financial strength as we had in 2008 when the \$510 million borrowing limit was set. The fact that the current borrowing limit is expressed as a fixed quantum without considering the steady improvement of our underlying financial position has the effect of arbitrarily restricting our borrowing capacity at 50 per cent of what it should be based on well-established credit metrics. The opposite could also be true, if a Canada Port Authority experiences declining EBITDA over time; a fixed-quantum borrowing limit would essentially allow it to borrow at increasingly high financial risk.

The experience of Canada Port Authorities is that the process to obtain changes to a borrowing limit is very long, and typically materially exceeds Transport Canada's own target timelines. Resource constraints within Transport Canada and Finance Canada can be causes for these delays, and borrowing limit application processes can also stall, or even be forced to restart, during and after staff changes and/or elections. These delays impact project delivery timelines and make it more difficult to build infrastructure to meet market demands.

Before projects go to procurement, bidders need to know that port authorities have the ability to fund their portion of a project without lengthy government approvals. When further government approvals around borrowing limits are required, projects carry unnecessary, and often, political risks. These risks cause market players to decline to bid or build extra contingencies into their construction bids, which increases project costs, and limits a port authority's returns, possibly to a point where the project may no longer be viable.

A far better approach would be to allow port authorities to borrow up to an amount that would allow them to maintain an acceptable investment grade rating, or as a minimum, allow them to borrow up to an amount which is equal to a certain multiple of previous years' EBITDA. If implemented, this change would allow a Canada Port Authority's borrowing limit to adjust automatically as its financial capacity grows, be more responsive to future investment opportunities, and reduce overall project risk and cost. This change would make Canada Port Authorities more competitive overall without exposing government to unnecessary financial risks.

Core Recommendation:

- *Allow port authorities to borrow up to an amount that would allow them to maintain an acceptable investment grade rating, or as a minimum, allow port authorities to borrow up to an amount which is equal to a certain multiple of prior years' EBITDA.*

3.5 Land management and transactions

The *Canada Marine Act* and a port authority's letters patent describe in much detail the permitted uses for property a port authority manages on behalf of the federal government and owns directly through acquisition. These permitted uses tend to be differentiated among the forms of ownership whether they are Schedule B (federal real property), Schedule C (other real property held in the name of the port authority) or held through a subsidiary. In the case of the Vancouver Fraser Port Authority, uses are also further defined by their historic use under the three legacy port authorities that amalgamated in 2008.

This core recommendation is supported by a number of detailed recommendations starting on page 35 of this submission

There is an opportunity to simplify the highly structured use provisions but also widen permitted uses where appropriate to better enable port authorities to manage their land resources within their local context while facilitating the nation's marine trade. Further flexibility on land tenure provisions, which are also differentiated among forms of ownership, would also allow port authorities to respond to development and user needs in a more effective way.

A key function for a growing port such as the Port of Vancouver is the ability of the port authority to manage our land assets to align with changing needs through transactions and, in particular, by way of acquisition of new property. The current limitations and government oversight on land transactions (acquisition, disposition and exchange) are onerous and port authorities need more flexibility to operate effectively and in a timely way in highly competitive real estate markets such as the Lower Mainland of British Columbia.

For example, timeframes for supplementary letters patent for acquisitions and restrictions on property exchange parameters place port authorities at a disadvantage in the local market relative to private sector participants. While the use of subsidiaries for acquisitions

may mitigate this to some extent, limits on port authority lending to their subsidiaries creates another hurdle to pursuing transactions on a timely basis. A number of specific recommendations relating to land transactions, leases and land use are made on page 35 with an aim to provide port authorities with a greater ability to properly manage lands while ensuring an appropriate level of government oversight.

Core Recommendation:

- *Grant port authorities greater flexibility and autonomy for land management and land transactions while improving procedures and timeframes for those transactions remaining under direct government oversight.*

3.6 Industrial land

The loss of industrial land in the Lower Mainland is reaching crisis levels.

Studies completed by Metro Vancouver indicate that approximately 860 acres of industrial land have been converted to other uses in the five-year period from 2010 to 2015, and that, in the face of estimated demand of approximately 3,500 acres, only about 1,000 acres of large parcels of industrial land suitable for logistics facilities remain.

While a balance of land uses in a region is necessary to ensure the many competing needs are met, the ability to continue to meet the nation's trading objectives through Canada's major West Coast port will be constrained unless industrial land is protected. Canada's importers, exporters and e-commerce providers require an increasing supply of suitable land served by effective transportation infrastructure, and are being forced to seek that land inland and far away, which will lead to inefficient and higher-cost cargo logistics, higher emissions from transportation, and decreased competitiveness of the Port of Vancouver and thus of Canadian supply chains.

Despite increasing awareness of this issue regionally, the municipal and regional land use planning framework is failing to address the industrial land shortage. The federal government needs to aggressively engage in the issue through consultation, policy and legislation to protect the national interest of Canada's trade capacity through the West Coast.

Core Recommendation:

- *The federal government should adopt a leadership role to better protect trade enabling uses in the local regions of port authorities through consultation, policy and legislation.*

3.7 Environmental review

Canada Port Authorities have been the permitting authority for federal port lands and waters since the introduction of the *Canada Marine Act* in 1998, and they conduct environmental reviews of projects in accordance with Section 67 of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012). The Vancouver Fraser Port Authority was pleased to see this authority is retained in what is proposed to be Section 82 under the new *Impact Assessment Act* because we believe it is in the best interests of facilitating Canada's trade while protecting the environment and considering impacts on local communities.

As a federal permitting authority under CEAA 2012 (and building on our experience as a regulated authority with review responsibilities under former CEAA (1992)), the Vancouver Fraser Port Authority developed a review methodology called the Project and Environmental Review Process to determine whether or not a project is likely to cause significant adverse environmental effects and inform our decision-making requirements under Section 67 of CEAA 2012, and the new Section 82. Our process meets regulatory objectives under CEAA 2012, the *Canada Marine Act*, and the Vancouver Fraser Port Authority's letters patent.

Specifically, our process is used for all proposed physical works and activities on federal lands and waters partially or wholly within the Vancouver Fraser Port Authority's jurisdiction, ranging from minor works such as pile replacement, waterlot cleanup and repair of utilities, to large, complicated projects like terminal capacity increases and conversion of a terminal to accommodate a new sector (e.g. breakbulk to bulk). In 2017 the Vancouver Fraser Port Authority completed reviews of 220 project applications, which included eight larger projects with potential for environmental effects.

Detailed information about our process, including guidelines that set out requirements for public consultation and technical studies, is available to the public on our website.

Studies and materials submitted by proponents are posted to the website for public review and comment, and proponents of larger projects with potential effects on adjacent communities are required to provide opportunities for public comment. Proponents must then consider the feedback from the public in their project planning and design. For larger projects, with potential for environmental effects, the port authority posts project decisions on our website along with a report summarizing the results of our review, and conditions required to reduce environmental effects beyond mitigation outlined in the proponent's application. This level of process, rigour, and transparency is necessary considering the significant ongoing investment and development at Canada's largest port, the dense population that surrounds it, and the legitimate expectations of the public.

We believe that our review process is the most robust and transparent of Canada's port authorities. It has been third-party validated and, relative to other federal agency review processes, appears to be best-in-class. Two other port authorities, the Quebec Port Authority and the Prince Rupert Port Authority, have also implemented transparent environmental review processes that provide opportunities for public review and comment. Smaller port authorities tend to rely on CEAA to handle larger project applications, but it is unclear based on the review of public information whether other works on federal lands and waters are undergoing any formal review by those port authorities.

The Vancouver Fraser Port Authority understands that the government of Canada, specifically the Canadian Environmental Assessment Agency, is considering changing the marine terminal entry Section 24 (c) of the *Regulations Designating Physical Activities (the Project List)* by removing the caveat of historical use of such lands or designation in a land use plan to capture terminal expansions as well as new terminals. Any new or expanded marine terminal designed to handle ships larger than 25,000 DWT would become a designated project, including brownfield development and conversion of an existing terminal to another use, projects that would currently undergo our permitting and review process.

In our opinion, the current *Regulations Designating Physical Activities* already successfully capture those projects with the potential to result in significant adverse environmental effects in areas of federal jurisdiction. As currently worded, sections 24(c) and 25(b) of the *Regulations Designating Physical Activities* effectively identify the port-related projects that have potential to pose significant risks to areas of the environment that fall under federal jurisdiction. New or expanded terminals on existing port-terminal sites are considered redevelopments and not greenfield developments. Further, the use of those lands and

waters for that purpose have already been pre-assigned in our land use plan, which has itself been the subject of an extensive, two-year public consultation. They do not warrant being designated projects as the land and waterways are already being used or have already been used as port terminals.

There is no question that changing the Project List as contemplated would mean smaller capital projects (relative to designated projects) with low potential for environmental effects but high economic significance would not go forward, and larger projects with moderate effects that can be mitigated in all likelihood would also not go forward.

Therefore, the changes, if implemented, would have significant and negative impacts on the competitiveness of Canada's ports, especially Canada's largest, the Port of Vancouver. The cost of delay or inhibited development is significant, both in terms of increased capital cost and lost economic benefits. In recent years, such projects have amounted to about \$3 billion of investment in gateway infrastructure in Vancouver. Our analysis suggests that if the Canadian Environmental Assessment Agency were to conduct the review of marine terminal expansion projects as indicated above, these review processes could take over twice as long as they currently do under the Vancouver Fraser Port Authority's Project and Environmental Review process.

We recognize that government has a strong interest in addressing public concerns and perceptions about port authority permitting, and we believe there are ways that government could compel port authorities to deliver excellence in this regard without taking away their permitting authority.

At a minimum, port authorities should be required to implement a robust and transparent review process for those projects they review. To that end, existing port authority review processes could provide a scalable template. Further, in our May 18, 2018 submission to Government of Canada in response to the *Consultation Paper on Approach to Revising the Project List* we identified ideas whereby government could provide greater scrutiny of a port authority review processes. These included implementing a fairness advisor, validating periodically a port authority's ability to conduct environmental reviews, or creating a federal certification process whereby the review process of a federal agency is evaluated or accredited by meeting certain standards.

To add a further level of transparency, port authorities could be required to identify in their land use plans where opportunities exist for future expansion or redevelopment of a marine terminal so the public is aware of the development potential before project permit applications are made and projects undergo environmental review by the port authority. Section 3.2 of this submission provides further ideas on how to strengthen the land use requirement provisions of the *Canada Marine Act*.

We also understand that some members of the public take exception to the notion of port authorities reviewing project applications for projects in which they have "a financial or commercial interest," and that government may want to address this concern.

Many federal permitting agencies, not to mention all levels of government including municipalities, regularly review projects in which they have a financial interest, such as future tax or other revenues. However, ultimately, those benefits are presumably in the public interest since they are put to public use. For port authorities, the financial benefits of larger projects would include additional fees (such as harbour dues and berthage and wharfage fees) from increased use of the port due to capacity expansions. These contribute to higher revenues, which are reinvested in port infrastructure, after expenses, to increase the effectiveness of the port, a Crown asset, and its ability to handle more of Canada's trade. The only shareholder of a port authority is the Government of Canada. The notion

that a port authority would undermine its legislative obligation to protect the environment, such as by compromising its permitting process to realize greater profit, is nonsensical.

We are of the view that the authority of Canada Port Authorities to review projects and make environmental determinations should not be changed in regulation. To the extent that government has a concern about perceptions of conflict with regard to any specific project, government already has the option to designate projects to be reviewed by the Canadian Environmental Assessment Agency on a case by case basis.

Core Recommendation:

- *Port authorities as a federal authority should continue to make environmental determinations (for non-designated projects) and the language as it is currently written in Sections 24 (c) and 25 (b) of the Regulations Designating Physical Activities should be maintained. In doing so, provide some means of validating a federal agency review process, and/or require port authorities to provide full transparency around project and permit reviews and ensure appropriate public participation to inform permitting decisions.*

3.8 Enforcement of *Canada Marine Act* responsibilities

Keeping people safe and secure and protecting the environment are mandated responsibilities of Canada Port Authorities. For the Vancouver Fraser Port Authority, these objectives are reflected in our mission statement and are key focus areas in our definition of a sustainable port. However, while these responsibilities are the lifeblood of our work, we lack meaningful powers of enforcement, which can compromise our ability to effectively carry out our mandate.

The *Canada Marine Act* delegates two areas of security-related responsibility to Canada Port Authorities:

- Maintenance of order and safety of persons and property in the port
- Maintenance of marine transportation security

Under the existing legislation, Canada Port Authority enforcement officers attempting to enforce a violation of the *Port Authorities Operating Regulations* have limited options. The officers may issue a warning or proceed on summary conviction using a long-form report to the federal prosecutor for charges. These remedies exist on opposite ends of the spectrum with nothing in between, which offer few options for enforcement of the *Canada Marine Act* and the *Port Authorities Operations Regulations*.

Through the Association of Canadian Port Authorities (ACPA), the Vancouver Fraser Port Authority is working with Transport Canada's Centre of Enforcement Expertise to address the "in between" offences with an enforcement option through a designation of additional provisions as contraventions that would provide enforcement officers with a new range of ticketable offences to deal with instances of non-compliance. We are encouraged with this work, and in March 2018 the Vancouver Fraser Port Authority received authorization to issue our first ticketable offence.

However, much more is needed to ensure that our full list of proposed offences is addressed so that we can effectively deal with other instances of non-compliance. Examples from the 84 newly proposed safety and order contraventions include:

- Failure to immediately comply with the port authority instruction to cease any activity likely to jeopardize the safety or health of persons, or the integrity of port assets
- Failure to immediately comply with port authority instruction to take precautions reasonably necessary to mitigate or prevent any activity to adversely affect habitat, soil, air or water quality
- Failure to comply with conditions of a proper authorization when conducting any activity for which authorization is required

The *Marine Transportation Security Act* provides the Minister of Transport with the authority to create regulations, security measures and rules to protect the security of Canada's marine transportation system. The *Marine Transportation Security Regulations* provide Transport Canada with a means to oversee compliance of the marine transportation security system.

Both the *Marine Transportation Security Act* and the regulations delegate the responsibility of marine transportation security to Canada Port Authorities, however, there is no enforcement authorities available to the port authorities for ensuring compliance of the legislated responsibilities.

The *Canada Marine Act* delegates the responsibility of maintenance of marine transportation security however, does not explicitly grant the legislative authority for a port authority to enforce any security measures. These powers need to be granted to Canada Port Authorities.

Core Recommendation:

- Provide port authorities with the legislative authority to enforce safety, security and environmental protection measures in the *Canada Marine Act* including the delegated responsibilities under the *Marine Transportation Security Act* and the *Marine Transportation Security Regulations*.

4 Other Recommendations

4.1 Innovation and trade logistics

Canada's trade depends on its transportation networks, including ports, and the success of the country as a trading nation will depend on the future ability of those networks to facilitate goods movement. According to several reports, including from the Van Horne Institute and the Canada West Foundation, Canada is lagging on development of its trade strategy and related infrastructure, which is, and will continue to, restrict the country's ability to get goods to market.

Vancouver Fraser Port Authority recommends several opportunities to improve Canada's trade capacity and the ability of port authorities to move goods. Many of these have been expressed by others, referenced in various consultations, and form core recommendations in the port authority's earlier submissions to the *Canada Transportation Act* Review Panel and submission to Transport Canada's Long-Term Agenda for the Marine Transportation System. Some are repeated here for emphasis and more detail can be found in those previous submissions.

4.1.1 National transportation strategy

The port authority strongly supports the development of a national transportation strategy in collaboration with the provinces, Indigenous governments, municipalities and industry.

The strategy should be evidence-based and provide for the identification and protection of national transportation corridors, including surrounding land suitable for trade-related business and infrastructure. Such a strategy would also drive long-term infrastructure planning and funding decisions.

The port authority also calls on government for the express separation of freight and passenger rail in areas where conflicts are constraining one or both. In the Lower Mainland, the Westcoast Express passenger service is causing significant capacity constraints for goods movement that cannot be easily resolved due to land availability and other limitations. With growth contemplated for the passenger service and trade growth potential assured based on forecasts, continued conflict cannot be sustained.

Recommendations:

- *Develop a national transportation strategy in collaboration with the provinces, municipalities, Indigenous governments and industry that provides for the identification and protection of national transportation corridors, including surrounding land suitable for trade-related business and infrastructure.*
- *Separate freight and passenger rail in areas where it impacts goods movement to and from ports.*

4.1.2 Strategic sharing of supply chain data

Tremendous potential exists around the strategic sharing of data among supply chain participants to optimize the supply chain. Ensuring data availability would stimulate ongoing performance improvement, maximize accuracy of overall forecasts, tap available capacity and maximize efficiency.

As data would be operational and transactional in nature, it should be aggregated in a way that protects commercial sensitivities but provides strategic insight. Such data would also support the identification, protection and development of national transportation corridors and infrastructure planning. An example of how the sharing of data can benefit all participants in the supply chain is the Vancouver Fraser Port Authority's recently completed Supply Chain Visibility Project. Using data supplied by railways, terminal operators and cargo owners, the project provides a consolidated view of the port's bulk sector (coal, grain and fertilizers) supply chain performance. The project allows the port authority, Transport Canada and industry users to monitor the "health" of the western Canada supply chain on a near real-time basis, from cargo origin through to vessel loading in Vancouver, as well as supporting the port authority's transportation planning and infrastructure development initiatives.

While the Vancouver Fraser Port Authority supports the introduction of regulation as a means to ensure data is shared, we encourage regulation that promotes transparency to stimulate performance improvement, rather than seeking to regulate performance.

If data collection is to be managed by Canadian Transportation Agency or other government agency, the agency will need to be properly resourced. Canada Port Authorities, as federally constituted agencies, could also play a lead role in the data gathering processes for their gateways, with Transport Canada providing a framework to ensure data availability.

Recommendation:

- *Develop policy, legislation, and/or regulation to ensure the timely strategic sharing of data among supply chain participants to optimize supply chain performance.*

4.1.3 Infrastructure investment

Vancouver Fraser Port Authority commends the government for its commitment to infrastructure spending through the National Transportation Corridor Fund, which has provided more than \$222 million to support nine Vancouver Fraser Port Authority-led projects. As the government decides how it will commit the next phase of the National Transportation Corridor Fund, the port authority wants to ensure that trade-enabling common-user infrastructure in and around western Canada ports and trade corridors continues to be at the forefront of investment.

Over the past several years, federal government investment of \$1.4 billion supported projects worth \$3.5 billion in West Coast gateway infrastructure and inspired further public and private investment for a total of over \$7.5 billion to date.

Recently-proposed and funded projects are focused on strategic transportation infrastructure in British Columbia's Lower Mainland, and include principal road and rail connections stretching across western Canada and south to the United States, key border crossings, and West Coast ports. The approach, known as the Gateway Transportation Collaboration Forum, has been collaborative, bringing together governments at all levels, the local transportation authority, and industry and gateway stakeholders. Through a dedicated secretariat, this collaboration has worked to determine priority projects, establish businesses cases to support funding agreements, secure funding, and execute on projects.

Over the next several years, the port authority is forecasting an additional 33 million tonnes of cargo through the port – nearly equivalent growth to the annual throughput of the Port of Montreal. Recent statistics show steady overall volume, a trend that is expected for a few years. Long-term forecasts are also robust, particularly in light of agreements such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and government's commitment to strengthen bi-lateral relationships with China and India. The relevance of these forecasts are supported by the terminal infrastructure investments already committed by private sector investors.

To accommodate that growth, the port authority and others are delivering on and identifying further opportunities for trade-enabling infrastructure that will improve road and rail access to benefit producers and shippers across Canada through greater efficiency, increased capacity and lower operating costs. The projects brought forward would result in increased employment, reduced travel time for road users, reduced noise levels and increased tax revenues to all levels of government. They would also be built sustainably, mitigate environmental impacts as a result of efficiencies in the supply chain, increase public safety and security, and reduce road and rail conflicts.

In total, over \$2.5 billion worth of projects have been identified in coordination with Transport Canada, the Province of British Columbia, local governments, and First Nations.

Recommendations:

- *The National Transportation Corridor Fund should continue to be focused on common user, goods movement trade-enabling infrastructure projects that have national importance and can prove to have significant, long-term economic impact. The fund should continue to allow for private sector proponents and should only require one public sector partner – the federal government - but should incentivize additional support from provinces, municipalities and/or First Nations. The port authority supports and will continue to assist with the delivery of the government's plan to stimulate the economy through projects that will result in long-term measurable economic benefits.*
- *Government is encouraged to continue to allocate funding based on the regional opportunities with the most economic potential. In other words, rather than allocating trade corridor funding somewhat equally across the country, there should be a continued focus on identifying and allocating funding where it offers the greatest chance to capitalize on emerging markets, grow the Canadian economy and have positive long-term impact.*
- *Funding should be expanded for the \$2 billion, 11-year, National Transportation Corridor Fund to meet the substantial need for further investment.*
- *The federal government should implement a secretariat to oversee joint-funding opportunities for common infrastructure projects on the West Coast to ensure critical projects proceed for the benefit of Canada's trade agenda and the broader economy and the maximum leverage of federal investments is achieved.*

4.1.4 Management of supply chain conflict

The Vancouver Fraser Port Authority has the ability to prioritize the sequence of marine vessel movement through the protocols established in our *Port Information Guide*-listed Traffic Control Zones. A key example is the priority and unobstructed movement of tankers or of any vessel subject to restrictive tidal windows.

There are a few locations in the Port of Vancouver where marine and rail traffic conflict. As an example, at the CN Rail Bridge in Second Narrows, the marine mode occasionally conflicts with the rail mode, and priority is traditionally given to movements in the marine mode, thereby sometimes resulting in delays to rail traffic. In the next few years, port traffic is anticipated to grow and the Vancouver Fraser Port Authority will require regulatory authority to optimize traffic. This will be important as most deep sea vessel movements are dependent on a short window of slack water at Second Narrows.

Recommendation:

- *Provide the Vancouver Fraser Port Authority with powers to determine transportation priority in locations where there is potential conflict between transportation modes, such as in the Second Narrows in Vancouver Harbour.*

4.1.5 Managing anchorages outside of the port's jurisdiction

Deep sea vessel anchorages within the Port of Vancouver are well used year round, and often the demand for anchorages is greater than the number of anchorages available within the port. When no suitable anchorages are available within the port, deep sea vessels destined for the Port of Vancouver will anchor outside of the Vancouver Fraser Port

Authority's jurisdiction, particularly in the southern Gulf Islands, raising issues among local communities regarding noise and light from ships, environmental impacts, views, and time at anchor.

In response to community concerns that the southern Gulf Island anchorages were not being managed and ships could anchor when and for as long as their operators chose, Transport Canada developed an interim protocol to manage the anchorages, in collaboration with the Chamber of Shipping of British Columbia, the Shipping Federation of Canada, the Pacific Pilotage Authority, the Vancouver Fraser Port Authority and the Nanaimo Port Authority. In circumstances when the ports of Nanaimo or Vancouver anchorages are full, the Vancouver Port Authority is tasked with assigning southern Gulf Island anchorages, managing a ship's time at anchor, and ensuring operators keep noise and light impacts to the minimum required for safety.

Increasing demand for anchorages within close proximity to the Port of Vancouver is driven by trade growth and the reliability and efficiency of the supply chain moving cargo into and out of the port, especially the rail network, and even more when there is high demand for rail and/or inclement weather that slows operations. Ships servicing the dry bulk cargo sectors have the longest anchorage dwell times, and ships serving the grain trade have the highest anchorage utilization of all cargo types. This rail demand and supply imbalance affects product flow through the supply chain, leading shippers to use vessels at anchorage as buffers for supply chain disruptions.

It is estimated that the existing anchorage space in the Port of Vancouver will be inadequate for future cargo growth scenarios. As a result, it should be anticipated that the demand for anchorages outside of the port's jurisdiction, such as the southern British Columbia anchorages, will increase. Historically, and notwithstanding the interim protocol now being tested by Transport Canada, outside of port jurisdiction there are no specific practices and procedures in place to manage anchorages in a manner that considers safety, efficiency, environmental protection and impacts on local communities.

Recommendation:

- *To the extent that Canada Port Authorities are sometimes required to assign anchorages outside of their navigational jurisdiction, they should be provided with the tools required to efficiently allocate and administer such anchorages. A clear process should also be introduced for the development and approval of new anchorages to accommodate the increasing size and number of vessels required to meet the growth of Canada's international trade.*

4.1.6 Cabotage restrictions in the Coasting Trade Act and Pilotage Act

The Fraser River is a vitally important resource not only for the Lower Mainland and British Columbia, but for Canada and international trade. Port activities on the river rival Canadian traffic on the St. Lawrence Seaway, both in terms of cargo tonnage and jobs. In 2016, port terminals on the Fraser River handled almost 30.6 million metric tonnes of cargo, supporting 55,500 jobs.

In order to support this trade, approximately three million cubic metres of material needs to be dredged annually to maintain this important shipping channel, at a cost (net of sand sales) to the Vancouver Fraser Port Authority of approximately \$11-12 million each year. This is a significant annual operating cost, but it is critical for the Vancouver Fraser Port Authority to manage dredging operations as efficiently as possible.

Canadian cabotage restrictions set out in the *Coasting Trade Act* and the *Pilotage Act* do not allow foreign dredgers to perform maintenance dredging work on the Fraser River unless very onerous waiver conditions are met, thus limiting the number of potential companies who can undertake this expensive work. Dredging companies operate in a globally competitive marketplace, and most other international ports enjoy open competition for dredging contracts.

We are encouraged that under the terms of the Canada-European Union Comprehensive Economic and Trade Agreement, Canadian companies now have the flexibility to hire dredging services from European Union entities, namely:

- European Union entities located in a European Union member state may use vessels of any registry
- European Union entities located outside a European Union member state, that are owned or controlled by nationals of the European Union or Canada, must use European Union-registered vessels

These changes will certainly be welcomed by East Coast port authorities, but will have limited benefit to West Coast port authorities due to the cost of repositioning assets from Europe. To provide an equal benefit to West Coast port authorities, these cabotage restrictions need to be lifted so that any internationally owned/registered dredging company can compete for work in Canada whether in the government or private sector. The decision to award a contract would then be based on competitive business terms, not the flag of the vessel. Equally, a foreign flagged vessel should not be restricted from employment of a foreign flag crew having clearly demonstrated expertise in the operation of the vessel.

Finally, foreign flag dredgers, regardless of size, should have a mechanism to apply for and be granted a pilotage waiver.

Recommendation:

- *Amend the Coasting Trade Act and Pilotage Act to allow foreign dredgers to perform maintenance dredging work and allow for the exemption for projects of critical national significance.*

4.1.7 Inland terminals, short-sea shipping and other approaches to goods movement

Canada Port Authorities do not have commercial arrangements with supply chain participants beyond lease payments and fees for port usage. As such, port authorities remain unbiased as to the various means of moving goods. Those who use the supply chain marketplace will decide what options represent the best combination of cost and reliability, and it would be inappropriate for a federal port authority to promote any one participant. Should the federal government wish to support a specific participant, it would be advisable to do so solely through provision of funding towards common user infrastructure, and only where the option is also clearly and actively supported by market participants.

Recommendation:

- *If government decides it is going to support market supply chain options by providing funding to inland terminals and short-sea shipping, it should ensure that funds are for common user infrastructure.*

4.1.8 Innovation

In its 2015 report to the Minister of Transport, the Canada Transportation Act Review Committee had much to say about innovation in the transportation sector. In our response to the committee's report we acknowledged that the ability to be innovative is fundamental to port and supply chain competitiveness.

New technologies, such as automation in terminal facilities and autonomous vehicles, have the potential for near-term dramatic impact on transportation generally and for goods movement specifically. Terminal operators who lease federal port lands will ideally keep up with new advances in order to remain competitive, but this cannot be assured, particularly given the required capital investment.

The question remains to what extent the Canadian government recognizes the global integration of the supply chain and how quickly shippers will choose alternatives if financially more attractive.

The U.S. and Europe are making significant advances in terminal automation and driverless technology. These changes will force new regulations and legislation that will have direct impact on Canada's ability to trade effectively. If Canada is to maintain competitiveness, the focus must be not only on effective goods movement through trade corridors and infrastructure improvements, but also through the development and adoption of appropriate technologies for both goods and people movement. To the extent Canada is not already developing and capitalizing on transportation innovation, education and implementation, it must start now.

Furthermore, while the port authority supports innovation in the marine sector, success cannot be ensured without addressing the related impacts on the unionized work force. Any strategy to bring automation into the port context will be subject to intense labour resistance if not properly managed. Therefore, any suite of programs to improve innovation must give full and due consideration to how related labour relations will be brought into planning and implementation.

One opportunity for improving innovation in the transportation sector is for the federal government to create an "innovation hub" tasked to focus on innovation in defined problem areas. Government could partner with the private sector, other authorities (such as port authorities), non-government organizations, and academia, starting with a foundation of authoritative transportation-related data that would inform decision making with respect to policy, innovation and investment. The innovation hub may be outside of Transport Canada but have a clear relationship with the transportation ministry to ensure long-term commitment. Its financing could be through contributions from interested partners, with government providing its convening power and the expertise of Statistics Canada and the National Research Council, among others.

In addition, much innovation is needed to address the effects of climate change, and the port authority believes full integration of environmental protection into all supply chain operations should be a goal of any innovation effort. The Vancouver Fraser Port Authority has already built sustainable infrastructure projects, introduced emissions standards in the container trucking sector and is now investigating the potential of e-highways, among other

initiatives. However, much more needs to be done. In the section of this submission related to climate change (see page 29) we have included additional recommendations supporting innovative means to address climate change in the marine sector.

There is an opportunity for government to require infrastructure projects to incorporate innovation in design, such as including provisions for incorporating clean technologies in efforts to combat climate change and strive for zero emissions. The transportation sector is one of the fastest growing emissions sectors, so "game changers" are needed to meet Canada's climate change objectives.

Recommendations:

- *Create an innovation hub tasked to focus on innovation in defined problem areas in the transportation sector.*
- *Develop regulations and policies to deal with technological change, particularly automated vehicles.*

4.2 Partnering with Indigenous peoples

The Vancouver Fraser Port Authority operates within the traditional territories of more than 40 Coast Salish Indigenous groups and in proximity to the treaty settlement lands of the Tsawwassen First Nation. All Canada Port Authorities have an obligation to engage any Indigenous group whose established or potential Aboriginal interests, rights or title could be adversely affected by their decisions. Canada Port Authorities also have a responsibility to engage Indigenous groups for reasons of good governance, collaboration and strong relationships. Canada Port Authorities' approaches to engagement with Indigenous groups varies widely across Canada, and even within British Columbia. The Vancouver Fraser Port Authority's engagement with Indigenous groups falls along a broad spectrum and includes the following:

- Consultation related to permitting decisions with the potential to adversely impact:
 - Aboriginal rights per section 35 of the *Constitution Act, 1982*
 - Current use of lands and resources for traditional purposes by Aboriginal peoples per Section 5.1.c. of the *Canadian Environmental Assessment Act, 2012*
- Consultation regarding policy, and operational or other decisions for reasons of good governance or to address potential adverse impacts to Aboriginal rights
- Community investment in support of Indigenous communities and in line with our three pillars of community investment – environment, community enrichment and education
- Other initiatives to foster collaboration and strong relationships between the port authority, the broader port community and Indigenous groups

Generally, the terms "Aboriginal" and "Indigenous" both refer to people inhabiting or existing in Canada from the earliest times prior to the arrival of colonists. Specifically however, the term "Aboriginal", which includes the Indian [or First Nation], Inuit and Métis peoples of Canada, will be used in this submission when referring to rights protected by section 35 of the Constitution Act, 1982. The term "Indigenous" will be used more generally and when describing certain federal government departments, policies or initiatives, and when referring to the United Nations Declaration on the Rights of Indigenous Peoples.

The port authority's current approach to consultation with Indigenous groups, in place since January 2012, occurs as part of our project and environmental review permitting process and is structured in accordance with Canada's *Updated Guidelines for Federal Officials to*

Fulfill the Duty to Consult - March 2011. We also adhere to the following guiding principles for consultation:

- We acknowledge the treaty lands and asserted traditional territories intersecting the lands and waters we manage
- We recognize that Aboriginal consultation is different and separate from public consultation
- We enter all consultation processes in good faith
- When the duty to consult arises, we consult before decisions are made
- When possible, our consultation is coordinated with other agencies
- We strive for one point of contact
- Our consultation processes seek to be clear, open and honest
- Our consultation procedures are forward-looking

Underpinning the port authority's many interactions with Indigenous groups is our vision to be the most sustainable port in the world. Indigenous individuals helped us to develop our accompanying definition of a sustainable port:

"A sustainable port delivers economic prosperity through trade, maintains a healthy environment, and enables thriving communities through collective accountability, meaningful dialogue and shared aspirations."

As it relates to Indigenous groups, a sustainable port:

- "Respects First Nations' traditional territories and values traditional knowledge
- Embraces and celebrates Indigenous culture and history
- Understands and considers the contemporary interests and aspirations of Indigenous peoples"

From our experience and conversations with local Indigenous groups, as well as in their public statements, Indigenous groups have a variety of interests that have implications for the Vancouver Fraser Port Authority, including:

- Desire for reconciliation for the Port of Vancouver's past, present and future operations and development within their traditional territories
- Consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *Principles respecting the Government of Canada's relations with Indigenous peoples*, a desire for:
 - Free, prior and informed consent to activities occurring and proposed within their traditional territories
 - A governance role, joint decision-making, co-management and revenue sharing
- Concern about impacts to archaeological and cultural resources, fish, fish habitat and cultural fishing practices
- Concern about the cumulative environmental and socio-economic impacts of port growth and development combined with the impacts of other significant projects taking place in and around the Lower Mainland of British Columbia
- Interest in training, employment and contracting opportunities

Since 2012, the Vancouver Fraser Port Authority's consultation processes have matured, leading to a more nuanced understanding of potential impacts of projects, improved willingness on the part of our organization, applicants and Indigenous groups to discuss and address impacts, and opportunities to pose 'better' questions during consultation. We have streamlined both internal and external processes; created guidance documents for staff and applicants; developed information-sharing mechanisms between the port authority, Indigenous groups, and relevant federal departments and agencies; worked with Indigenous

groups to better understand and align processes and timelines; and leveraged opportunities identified through formal consultation processes to enhance relationships and support the contemporary interests and aspirations of Indigenous groups. The results have been robust consultation records, more productive participation from Aboriginal groups, and improved relationships, though significant complexity and opportunity remains.

4.2.1 The need for Indigenous policy guidance

Since the federal government election in October 2015, Government of Canada initiatives and announcements regarding Indigenous peoples have brought the reconciliation of Indigenous rights and interests to the forefront. While discussion of these matters is both helpful and needed, some interpretations of initiatives and announcements have resulted in disparate understandings and views among Indigenous groups, port authorities, industry and other federal agencies and departments. There is an accompanying perceived lag in the provision of specific and updated policy guidance to inform discussions and manage expectations, which, at times, is leading to inconsistent approaches to Indigenous matters among different federal agencies and departments. This, combined with pending legislative changes, is creating an uncertain environment and significant challenge to making timely, meaningful progress.

In order to support a consistent approach to Indigenous engagement among port authorities and other government departments and agencies, updated policy guidance is required, especially as legislative changes come into effect. This will help to ensure consistent approaches to Indigenous engagement and potentially avoid further conflict and potential legal challenge.

There is currently no policy guidance with respect to the management of Indigenous archaeological and cultural heritage resources. Federal policy currently relates specifically to national parks and appears to allow for federal entities to follow provincial policy where it exists. For port authorities, adhering to provincial policy can be a challenge where concerns of attornment exist. Federal policy guidance for port authority-managed federal lands would assist in addressing this matter.

Recommendation:

- *Provide updated Indigenous engagement policy guidance for all federal departments and agencies in order to ensure a consistent starting point for all federal officials in delivering Indigenous engagement. Guidance should set policy and expected standards for Indigenous engagement, while allowing each federal department, agency or port authority to reflect its unique mandate and areas of responsibility.*

4.2.2 Incorporating Indigenous perspectives into port authority governance

In Vancouver, many local Indigenous groups' social and economic objectives are tied to environmental stewardship and enhancement. Therefore, there may be opportunities to integrate Indigenous perspectives and sustainability objectives more overtly into the Vancouver Fraser Port Authority governance framework.

With respect to land use planning, there may be an opportunity to raise the requirement for Indigenous involvement in the development of port authority land use plans. Current requirements stipulate very minimal engagement with communities and there is no agreement regarding requirements for Indigenous consultation. The Vancouver Fraser Port

Authority undertook a two-year process that fully involved communities, users and Indigenous groups in the development of our most recent land use plan. This process was, however, 'optional' as the requirements set out in the *Canada Marine Act* are not explicit about consultation requirements and merely requires port authorities to hold a single public meeting.

Recommendations:

- *Integrate Indigenous perspectives and sustainability objectives more overtly into the port authority governance framework.*
- *Raise the requirements for Indigenous involvement in the development of port authority land use plans.*
- *Create a mechanism and funding model for use by port authorities and Indigenous groups whose traditional territories include port authority-managed lands and waters to engage in traditional and/or current use studies to inform future port operations and development and foster greater understanding and reconciliation.*
- *Identify opportunities for Indigenous procurement practices to be included in the governance framework, as well as to incorporate Indigenous knowledge in environmental stewardship and monitoring in relation to environmental conditions flowing from permitting responsibilities. Federal guidance and support would be needed in this regard.*
- *Consider opportunities to support collaboration between port authorities and Indigenous groups, whose traditional territories include port authority managed land and waters, on the restoration and improvement of environmentally-sensitive habitat and wildlife.*

4.2.3 Consulting with Indigenous Peoples

The Vancouver Fraser Port Authority has a well-developed approach and process for consulting with Indigenous groups during port authority environmental assessments and project review processes. There are, however, diverse approaches among port authorities across the country.

Recommendation:

- *Require port authorities to develop and use an Aboriginal consultation policy, guidelines, or framework based on federal government guidance and best practices.*

4.2.4 Sharing of the gross revenue charge

In accordance with Canada Port Authorities' letters patent, port authorities are required to pay an annual charge to the Minister of Transport based on their gross revenue. This gross charge could instead be directed to Indigenous and local communities that host national transportation infrastructure because they are subject to the day-to-day impacts of trade, such as proximity effects, pollution and congestion. This sharing of the revenue is also consistent with the United Nations Declaration on the Rights of Indigenous Peoples and the Principles respecting the Government of Canada's relations with Indigenous peoples, Indigenous peoples have a desire for full participation in the economic benefits of port operations and development.

Recommendation:

- *Develop a benefits policy for Indigenous and local communities that host national transportation infrastructure and consider the re-direction of some or all of the federal gross revenue charge from port authorities to these Indigenous and local communities.*

4.3 Sustainability and port communities

4.3.1 Promoting sustainability

The Vancouver Fraser Port Authority is committed to collaborating with industry, communities, Indigenous peoples and government to move the Port of Vancouver towards a more sustainable future. In 2010, we embarked on a long-range scenario planning process with over 100 individuals and organizations that have a stake in the future of the port. The Port 2050 process identified four plausible scenarios for the future, including one we believe is worth aspiring to: The Great Transition. This scenario represents a shift to a low-carbon

As part of the Vancouver Fraser Port Authority's commitment to sustainability, we currently have over 26 separate environmental programs that we either lead or actively participate in.

A summary list of all these programs is provided in Section 6.2 of the appendices, starting on page 46.

economy that balances economic, environmental and social sustainability. In 2013, we engaged over 800 individuals with an interest in the port to help us define what sustainability means for the Port of Vancouver. This work led to creation of a new vision in 2016: to be the world's most sustainable port. We continue to integrate and embed sustainability throughout our business and in all the work that we do.

Our vision is aspirational and bold, but we believe it is necessary to ensure continued prosperity and livability for our port, the region and our country.

We believe that an emphasis on sustainability is not only the right thing to do for our port and our community, but it is the expectation of all Canadians for ports across the country. As such, the governance framework for Canada Port Authorities should include requirements to incorporate sustainability, such as a sustainability policy, and the integration of sustainability into the organization's governance, values, decision-making, strategy, infrastructure development and operations, in a transparent and accountable manner.

Increasingly, leading port authorities are drawing on internationally recognized standards, such as the Global Reporting Initiative Sustainability Reporting Standard, to track, communicate and manage sustainability performance. Sustainability reporting is a best-practice and provides communities, Indigenous peoples, government and industry with a transparent and accountable overview of a port's sustainability performance and its contribution to Canada's sustainable development goals as outlined in the United Nation's Sustainable Development

On October 25, 2018, the Vancouver Fraser Port Authority was awarded a 2018 Governance Professionals of Canada Excellence in Governance award for its sustainability governance practices. The port authority won in the category of Best Practices in Sustainability and Environmental, Social, Governance (ESG), which specifically considers the board of directors' responsibilities for the organization's sustainability policies and strategies and the board's role in designing processes that effectively address its own sustainability.

Goals, adopted by Canada in 2015. The Vancouver Fraser Port Authority produced its first sustainability report using the Global Reporting Initiatives G4 guidelines in 2010, and we produce this report every two years. Our last report was released in May 2017 and can be found here: [Vancouver Fraser Port Authority 2016 Sustainability Report](#).

Encouraging port authorities to report on sustainability performance would help improve transparency and accountability on this important topic. However, the Vancouver Fraser Port Authority cautions against setting prescriptive standards or requirements as they could be problematic for some port authorities, in particular those overseeing small ports.

Recommendations:

- *Include in the governance framework for Canada Port Authorities a requirement to incorporate sustainability in governance decisions and policies, and to consider the United Nations Sustainable Development Goals adopted by Canada in 2015, and/or the World Ports Sustainability Initiative.*
- *Encourage Canada Port Authorities, in particular larger ones, to report on sustainability performance using industry accepted standards such as the Global Reporting Initiative Sustainability Reporting Standard.*

4.3.2 Climate change

Transportation is the largest source of greenhouse gas emissions in British Columbia, and on-road freight is the fastest growing source. This is similarly the case for Canada as a nation. Globally, greenhouse gas emissions from ocean-going vessels are estimated at roughly three per cent of global emissions, larger than Canada as a nation. The Vancouver Fraser Port Authority prepares an inventory of greenhouse gas emissions and air pollutants every five years and these inventories indicate greenhouse gas emissions from the operations of the Port of Vancouver are increasing, and are forecast to increase significantly out to 2030 and beyond. These trends are inconsistent with British Columbia's and Canada's greenhouse gas reduction targets.

In addition, ports are exposed to considerable risk due to climate change, in particular resulting from sea level rise.

Wide-spread collaboration and action is needed to address climate mitigation and adaptation risks. Port authorities will require technical and financial assistance to respond to these issues, and climate mitigation and adaptation plans are needed to ensure port authorities are prepared and strategic in their actions. Fortunately, viable solutions are available to reduce port contributions to climate change and to adapt to rising sea levels. These solutions will be necessary so that Canada can continue to grow trade while meeting its climate change commitments.

Recommendations:

- *Require Canada Port Authorities to prepare and maintain a climate adaptation and mitigation plan as part of, or alongside, their land use plan.*
- *Establish a fund dedicated to advancement of innovative, clean and low carbon technologies in trade-related applications (including heavy duty trucks, cargo-handling equipment and marine activities), and require federal government funding of trade corridor projects to include support infrastructure for clean technologies (such as the installation of multi-fuel innovation hubs that support natural gas, renewable diesel or gas, hydrogen, and/or electric charging).*
- *Provide direct financial and technical support to port authorities and host/local communities to reduce port-related greenhouse gas emissions and air pollutants that adversely affect human health, such as diesel particulate matter and nitrogen oxide emissions.*

4.3.3 Environmental protection

Environmental protection is becoming increasingly important as ports undergo considerable growth to support Canada's trade interests. Discharges to land, air and water are likely to increase unless new regulatory or policy measures are in place to mitigate impacts of growth. For example, the waterfront lands and waters managed by port authorities are sensitive to storm water discharges from port tenants and users, and adjacent lands such as combined storm and sewer outfalls managed by municipalities. The handling of dry and liquid bulk cargoes generates fugitive emissions that can impact communities and surrounding habitats. Port authorities will require an enhanced set of policy tools to address these issues and protect the environment and communities.

Currently, provincial governments, or municipalities as their delegated authorities, issue permits for stationary air emissions sources on port lands such as fugitive dust emissions or vapours from dry and liquid bulk terminals. This is a potential issue in so far as the permitting authority may cancel or withhold a permit, thereby obstructing terminal operations and the federal undertaking they represent. Operational continuity risks act as a barrier to prospective investments in these terminals. Clarity on these matters would assist port authorities and provincial and regional governments in coordinating jurisdictions related to air emissions permitting, and would provide assurance of operational continuity to terminal operators.

Recommendations:

- *Clarify federal jurisdictional authority related to permitting of air emission sources on federal lands and waters managed by port authorities, and provide port authorities with policy tools to administer permitting of air emissions as appropriate.*
- *Implement storm water management requirements/regulations to protect water quality in lands and waters managed by port authorities, including for example, combined storm and sewer outfalls managed by municipalities that discharge into port authority waters.*

4.3.4 Coordinated inter-agency review

At present, the Vancouver Fraser Port Authority notes an apparent lack of ownership for non-port aspects of some project applications. Various federal government agencies (Health Canada, Environment and Climate Change, Fisheries and Oceans Canada, Canada Environmental Assessment Agency) could do far more to provide assistance, quantify and deliver on service levels, and generally help address the challenges of multi-jurisdictional reviews, and this assistance would go a long way towards earning public trust and acceptance. However, these agencies would need to be appropriately resourced and able to provide timely responsive service in order to be useful. We are hopeful that the proposed *Impact Assessment Act* will address this issue, but its importance needs to be emphasized.

There are options to provide for processes or bodies that can serve to coordinate local interests and input, express public confidence in reviews, and provide greater transparency to decisions. In the Lower Mainland, two now defunct such organizations brought together all federal, provincial and local agencies with any jurisdiction in port waters to address issues and strategic planning, review projects, coordinate environmental management of critical ecosystems, provide a framework to protect and improve ecosystems while accommodating the economy and a growing population, find solutions to environmental problems, and stimulate consensus amongst government agencies.

Recommendations:

- *Develop a more integrated and coordinated approach from federal departments and agencies to support timely development decisions on lands and waters managed by port authorities.*
- *Consider the establishment of processes or entities that can serve to coordinate local interests and input into environmental reviews and collaborative regional environmental policy development to better instill public confidence and greater transparency, and create efficiencies in multi-jurisdictional reviews.*

4.3.5 Community trust and support

Generally speaking, public trust in regulatory and permitting agencies is essential. The federal government review of related acts and regulations is a critical first step to building that trust. Additionally, in the port context, there are other opportunities.

In addition to greater transparency and rigour around environmental reviews and project permits, there is a need for a benefits policy for communities that host national transportation infrastructure because they are subject to impacts due to trade, such as proximity effects, pollution and congestion. It may also be possible to explicitly recognize

and provide some priority to communities that host national transportation infrastructure when making social infrastructure investment decisions. As noted in section 4.2.4, government also should consider the re-direction of some or all of the federal gross revenue charge from port authorities to Indigenous and local communities that host national transportation infrastructure.

Beyond the permitting process, there may also be an opportunity for port authorities to demonstrate actions and commitment to protecting the environment as a means of building trust. Consideration is already given for community amenities; perhaps environmental amenities and contributions could also be meaningful for communities through federally-led investments.

The Vancouver Fraser Port Authority is proud of our long history of active engagement and outreach with community, government, Indigenous groups and other stakeholders.

We have included a summary all of our engagements and outreach activities in Section 6.3 of the appendices, starting on page 54.

As mentioned in section 4.2.2 there is also an opportunity to raise the requirement for local community involvement in the development of port authority land use plans.

Port authorities could also be required to have and use a public consultation policy, guidelines or framework based on best practices. In addition, port

authorities could also be expressly mandated to identify priority impacts on communities, conduct monitoring and report on that monitoring. For example, noise and air quality impacts on communities are top concerns, and Vancouver Fraser Port Authority already monitors and reports to the public on noise in real-time.

It may also be possible for the federal government to consider introduction of thresholds on impacts such as noise, including mitigation requirements for development that is adjacent to ports and that would compel local and regional governments to create buffer zones and/or require building code design changes to consider impact abatement in buildings.

Recommendations:

- *Consider giving priority to communities that host national transportation infrastructure when making social infrastructure investment decisions.*
- *Raise the requirements for local community involvement in the development of port authority land use plans.*
- *Require port authorities to adopt a public consultation policy, guidelines, or framework based on best practices.*
- *Require port authorities to identify priority impacts on communities, conduct monitoring and report on that monitoring (e.g. noise and air quality impacts).*
- *Develop thresholds for impacts such as noise, including mitigation requirements for development that is adjacent to ports that would compel local and regional governments to create buffer zones and/or require building code design changes to consider impact abatement in buildings.*

4.3.6 Strong voice for trade

Having a strong federal voice in support of trade, environmental protection, health and safety would go a long way to supporting the decisions and actions of Canada Port Authorities and earning public acceptance and trust.

For example, the federal government could facilitate the ongoing discussion of the importance of gateways to the national agenda and benefits to the regions in which they are located. There is also a need to press for provincial and local regulations that protect the ability of ports to prosper and grow, such as the protection of trade-enabling lands and trade corridors. Additionally, the expressed confidence in the port authority permitting process and related studies, such as from Health Canada or Canadian Environmental Assessment Authority, would provide objective balance to permitting decisions.

Recommendation:

- *The federal government should facilitate the ongoing discussion of the importance of gateways to the national agenda and benefits to the regions they are located.*

4.4 Port safety and security

Safety and security in all Canada Port Authorities is of paramount importance and both are key focus areas for the Vancouver Fraser Port Authority's vision to be the world's most sustainable port.

The primary purpose of a Canada Port Authority is to facilitate Canadian trade in a sustainable way and with regard for communities. We are not the lead agency when it comes to emergencies, but we do provide assistance as we can. Usually this takes the form of working with first responders and other agencies, providing information on a situation through our 24/7 operations centre, our security cameras, our patrol boats and even our drone.

Municipal first responders, such as police and firefighters, generally manage emergencies that occur on federal port lands, and for marine pollution the *Canada Shipping Act (2001)* provides Transport Canada the regulatory framework for enforcement. In the case of a report of pollution in the water, including oil or fuel spills, Canada operates under the *National Spill Response Protocol*, which specifies that the Canadian Coast Guard is responsible for ensuring the cleanup of ship-sourced spills of oil and other pollutants.

Transport Canada requires marine security exercises be conducted every 18 months, and the Vancouver Fraser Port Authority regularly conducts at least annual emergency exercises to rehearse response to security, marine and natural disaster incidents, both internally and externally, including in collaboration with the inter-agency Marine Emergency Response Coordination Committee (MERCC). Participating agencies include the Vancouver Fraser Port Authority, the Canadian Coast Guard, Royal Canadian Marine Search and Rescue, Vancouver Police Department, Vancouver Fire and Rescue Services, E-Comm 9-1-1, BC Emergency Health Services, Canada Border Services Agency, Indigenous groups and other agencies. While there is good coordination between the various agencies, much more could be done to enable more effective cross-jurisdictional collaboration.

The creation of a single maritime safety agency with the ability to direct incident response amongst federal agencies is needed. Today, we have a situation whereby Transport Canada regulates oil spill response but the Canadian Coast Guard is the designated first responder. This can create confusion, delay and inefficient decision making prior to the establishment of incident command. Most countries have recognized the need for a single maritime safety agency having clear authority to manage any form of maritime incident with a designated senior (deputy minister level) official charged with making the required tough decisions.

The Vancouver Fraser Port Authority and others in the shipping community have long called for increased funding for the Canadian Coast Guard, recognizing we must protect our coasts for generations to come, and as such we are pleased with the government's announcement

in 2016 of a national coastal strategy that will help establish Canada as a world leader in marine safety through its Oceans Protection Plan. The port authority is particularly supportive of the federal government's plans to fully resource the Canadian Coast Guard, which is critical to effectively responding to spills on our coasts.

The Oceans Protection Plan is an important step toward restoring public confidence in marine safety on the West Coast and we encourage government to continue to make advancements in all of the key priority areas of the program.

Effective spill response includes, among other requirements, the ability to respond quickly and communicate effectively, both as the lead in a unified command structure and to the public. Canadian Coast Guard should be clearly identified as the lead on spill response planning, management, response and oversight. Further, the coast guard must have the ability (resources and skills) to take charge and make timely decisions. Serious consideration should be given to changing the reporting structure for the coast guard, for example, it could report into Transport Canada or some other ministry where there would be greater alignment on key objectives. Alternatively, it could become some sort of special operating agency reporting to cabinet. Whatever the reporting structure, a powerful and competent authority will go a long way to addressing what is clearly a risk to Canada's environment and its international shipping reputation.

Recommendations:

- *Create a framework for more effective cross-jurisdictional collaboration with clearly assigned authority and responsibilities.*
- *Create a single maritime safety agency with the ability to direct incident response amongst federal agencies.*
- *Provide regulated port authorities with access to the Canadian Ship Source Oil Pollution Fund.*
- *Fully resource the Canadian Coast Guard to be able to properly respond to spill emergencies in the Lower Mainland.*

4.5 Port governance

Part A of this submission includes six core recommendations that relate to the governance of Canada Port Authorities in terms of overall mandate, degree of government oversight, and the tools and financial instruments the port authorities can use to help facilitate Canada's trade. The following additional recommendations will further enhance the ability of Canada Port Authorities to deliver value to port users and enable Canada's trade.

4.5.1 Board appointments

Long lag times in port authority board member appointments has the effect of creating unnatural turnover rates and terms that are much shorter or longer than those set out in the *Canada Marine Act*. Timely appointments are needed to maintain the interest of strong potential candidates, and ensure continuity of corporate knowledge and general operating efficiency.

Specific to Vancouver Fraser Port Authority, allowing the board the flexibility to appoint one at-large member from the list of nominees provided to government by the nominating committee would give the board the flexibility to fill any voids in needed skillsets.

Recommendations:

- *Ensure timely board appointments.*
- *Allow the board of directors the flexibility to appoint one at-large member from the list of nominees provided to government by the nominating committee in order to fill voids in needed skillsets.*

4.5.2 Land acquisition and disposition

Current land transaction requirements can limit the ability of Canada Port Authorities to compete for lands needed for port expansion. Port authorities need as much flexibility in managing land transactions as possible, particularly in the Vancouver area, which faces a highly competitive land market, rapidly increasing land value and a shortage of available industrial land. This could be accomplished by amending Vancouver Fraser Port Authority letters patent, the *Canada Marine Act* or other acts, regulations or guidelines.

Market pressures in the Vancouver region demand that participants react quickly and with flexibility to opportunities as they arise. While the target timeframe (often exceeded) for approval of supplementary letters patent on land transactions is three months, this is usually not acceptable to vendors, placing the Vancouver Fraser Port Authority at a disadvantage with private sector purchasers. Faster issuance of supplementary letters patent and allowing the ability to amend our own Schedule C after closing would put the Vancouver Fraser Port Authority in a more competitive position. While transactions can be timelier through a subsidiary, current lending restrictions from the Vancouver Fraser Port Authority to our subsidiaries limits this option, especially in the high value real estate market of the Lower Mainland.

Canada Port Authorities should have the flexibility to acquire land at values competitive within their local markets without non-market based restrictions currently in place. For example, exchanges involving Schedule B lands within the required 15 per cent value restriction are very difficult to achieve. More flexibility allowing value differences to be balanced with cash or other non-cash considerations would allow port authorities better access to exchange opportunities to manage their land portfolios.

Port authority lands held in Schedule B may include parcels that are difficult to lease or develop for port purposes and may also be difficult to exchange for lands that offer greater potential to create trade opportunities. In these situations, it would be beneficial for port

The Vancouver Fraser Port Authority and agricultural land

The port authority owns 95 hectares of agricultural land in Richmond next to the largest logistics hub in the region, several hundred acres of which is owned, and was developed by, the port authority for goods movement facilities. The land is currently leased for farming, which we expect to continue for the foreseeable future, but could be used for future expansion of our logistics hub.

The port authority would rather not purchase agricultural land, but large parcels of industrial zoned land that could be used for goods movement are being rapidly depleted, mostly due to conversion to commercial or residential use approved by municipalities, or to stratification for small industry use. Collectively, this conversion of unprotected industrial land by municipalities throughout the region has negatively affected regional and national economies, is threatening the competitiveness of the port and is further pressuring the conversion of protected agricultural land.

If we decide to convert agricultural land, in the spirit of cooperative federalism, we intend to work with the Agricultural Land Commission and stakeholders to mitigate any lost productivity.

authorities to be able to dispose of such properties and retain the proceeds for reinvestment in replacement Schedule B lands. Port authorities could each establish a fund restricted to such purposes to ensure funds are allocated accordingly. In addition, while not specifically precluded from exchanging Schedule B for Schedule C land and vice versa, there currently is no clarity on this option.

With the severe shortage of expansion options in the Vancouver region and high competition for industrial land for non-port related purposes, the Vancouver Fraser Port Authority could benefit from other opportunities to meet the needs for growing trade. While the port authority has been successful in negotiating important acquisitions and exchanges, there are situations when the use of federal expropriation powers could assist in acquiring lands for trade-related purposes, such as infrastructure projects. The Minister of Public Works holds federal expropriation powers, but there is no guidance on how to request the use of these powers, as a last resort, to protect national trade interests. In addition, other federal real property in the region being underutilized for federal interests, and with the potential to support trade growth, could be made available to the Vancouver Fraser Port Authority as an addition to our Schedule B assets, through transfer of administration. This would assist the port authority in meeting our trade mandate while optimizing the use of existing federal assets.

Recommendations:

- *Improve federal procedures and timeframes for significantly faster issuance of supplementary letters patent, and subsequent use of same, allowing port authorities to operate effectively in a highly competitive market where success is dictated by market forces as opposed to government processes.*
- *Authorize port authorities to dispose of less productive Schedule B land and hold the proceeds of sale in a restricted fund for the sole purpose of reinvesting in replacement Schedule B lands.*
- *Allow more flexibility in federal land transaction procedures for property exchanges whose value differences can be addressed through cash payments and other non-cash considerations.*
- *Give port authorities authority to exchange Schedule B lands for Schedule C lands and vice versa.*
- *Amend Vancouver Fraser Port Authority letters patent to grant autonomy to amend Schedule C to reflect additions/deletion of Schedule C lands.*
- *Remove the restriction on Vancouver Fraser Port Authority's lending to subsidiaries to allow greater nimbleness in acquiring new land.*
- *Transfer administrative control of surplus federal lands from other federal departments to local port authorities where such lands can support uses under the Canada Marine Act.*
- *Ensure port authorities the right of first offer on any other available federal land in their regions before it is offered to any non-federal entity or to the general marketplace so that opportunities can be pursued for uses under the Canada Marine Act.*
- *Determine a process to allow port authorities to petition the Government of Canada to exercise federal expropriation powers to protect lands essential to Canada's international trade capacity.*

4.5.3 Land use

Permitted uses of land under Canada Port Authorities' letters patent are unnecessarily restrictive, such as limiting some uses to 'grandfathered' areas, and can put limits on how land is used that may not suit a particular port over time.

With greater flexibility in uses, port authorities can better strategically manage their land resources to ultimately create enhanced opportunities for trade-enabling purposes. For example, through widened permitted uses on specific sites, port authorities could generate revenue from land resources that can be reinvested in port infrastructure. Also, purchasing property and maintaining its non-port use until conversion to port use is practical would enable revenue generation, particularly when land assembly is involved. Purchasing land and maintaining its non-port use over the longer term could allow for buffering of port activities from residents, a significant community benefit. Additional flexibility in use to allow for accessory uses required to support a primary trade-related industrial zone, such as retail services necessary for the local workforce, as well as evolving e-commerce uses within traditional distribution warehouses, would ensure development remains viable while responding to the changing needs of logistics providers and consumers.

Recommendation:

- *Widen the scope of permitted uses under the Canada Marine Act and port authority letters patent to create better flexibility for ports to strategically manage their land resources while enhancing income generation and trade opportunities.*

4.5.4 Land tenure/ leases

The Vancouver Fraser Port Authority's letters patent limit tenure periods for different uses and are also inconsistent among the forms of ownership of port lands. While the Vancouver Fraser Port Authority has largely been able to accommodate tenure needs within these parameters, greater consistency would ease administration and open opportunities for uses requiring greater terms on lands other than Schedule B. Local authority to lease land up to 99 years would also create flexibility for port authorities to enhance value of their assets in certain situations and provide an alternative to disposal of land assets.

Port authorities are currently required to obtain supplementary letters patent when leasing land from third parties without regard for the length of tenure. This creates an impediment when dealing with landowners, particularly in the private sector, who may not be willing to wait for federal procedures to complete. Optimally, port authorities should be able to lease land from others for port purposes without issuance of supplementary letters patent, tracking such tenures on their own, or minimally be able to enter into tenures of up to 60 years without application for supplementary letters patent.

How leases of federal port lands and waters are managed by the Vancouver Fraser Port Authority

The Vancouver Fraser Port Authority's general rental philosophy is that the local real estate market should guide the amount of rent charged for the use of its lands. This serves as an objective, fair and equitable indicator of marketplace conditions, protects against competitive inequality between tenants, avoids subsidization of the private sector, and encourages more efficient use of limited land resources.

Port authorities must carefully consider prospective tenants of federal port lands and waters, including existing tenants seeking renewals, because Canada's long-term trade needs must be protected. Therefore, all leasing decisions must be viewed through the lens of a port authority's mandate to facilitate Canada's trade objectives, ensuring goods are moved safely, while protecting the environment and considering local communities.

Canada's trade objectives imply clearly that Canada's west coast ports need to grow. In the Vancouver area, where the supply of industrial land is at a critical low and space for marine terminal expansion is virtually non-existent, the port authority has no option but to refuse new and renewal leases to businesses that have little or no connection to trade or marine shipping, regardless of whether those businesses have historical operations in the port.

Recommendations:

- *Allow the Vancouver Fraser Port Authority to lease land from third parties without issuance of supplementary letters patent.*
- *Increase a Canada Port Authority's authority to lease land up to 99 years.*
- *Align tenure parameters across all forms of ownership.*

4.5.5 Payment in lieu of taxes/property taxation

An opportunity for improvement in payment in lieu of taxes (PILT) lies in establishing better cost certainty and reducing disputes with receiving municipalities. Under the federal

Payments in Lieu of Taxes Act, valuations for PILT purposes are determined by port authorities with tax rates set by provincial and municipal bodies under separate legislation depending on the jurisdiction in Canada. Valuations reflect changing real estate market conditions.

In the Vancouver gateway, this has meant a steep increase in land values resulting in higher payments to municipalities but continuing pressure for appeals on land valuations for PILT purposes. To address the property valuation methodology gap that has occurred between the process used by assessment authorities and port authorities to determine market value, Public Works and Government Services Canada previously undertook a comprehensive study as an effort to standardize "best practices" in valuing special purpose properties, such as those controlled by port authorities.

Implementing the recommendations from that work would be a positive step towards solving the valuation disparity that occurs between assessment authority valuations and port authority valuations. More recent work has also been completed by the Association of Canadian Port Authorities through its *White Paper on Payments in Lieu of Taxes (March 2017)* in which a number of potential improvements to the application of PILT to port authorities were proposed. Many suggestions address the inconsistencies in application and valuation challenges across Canada, but also important issues of valuation. The recommendations should be reviewed to ensure the unique situation of ports under the *Payments in Lieu of Taxes Act* is considered such that the competitiveness of our nation's ports is enhanced.

Locally, the 16 municipalities that border the Port of Vancouver have generally sheltered residential owners from higher tax increases by shifting more of the burden to business through mill rate increases, particularly to industrial class property. This has been particularly difficult for port users given the large investment required for port infrastructure and rapidly escalating land values. The port authority would welcome steps, such as those already taken by B.C., in part through the *Ports Property Tax Act*, to prevent such transfers of property tax burden to industrial and port-related property by capping industrial mill rates in relation to residential rates.

Property tax levels of port users are becoming a serious issue that can undermine the ability of terminals and other port industries to be competitive and viable contributors to the local and national economies. Taxation needs to be fair and reflect the burden of services provided by local municipalities, but also support continued investment in port facilities to facilitate Canada's trade. This is an area where the federal government can take a leadership role to provide the right balance while promoting its international trade objectives.

Recommendations:

- *Establish better cost certainty to reduce disputes with receiving municipalities by implementing the recommendations of Public Works and Government Services Canada, which studied the best practices in valuing special purpose properties such as those controlled by port authorities, along with the related recommendations made by the Association of Canadian Port Authorities.*
- *Take action to prevent the transfer of the property tax burden to industrial and port-related property by providing guidance on valuation reflecting restrictions under the Canada Marine Act, capping industrial mill rates and creating clear exemptions for port related improvements in a manner similar to that set out in the B.C. Ports Property Tax Act.*
- *Exempt waterlots and waterways, particularly navigational channels, from PILT and property taxation. In the event this is not granted, PILT and tax payments should be adjusted by the cost of dredging such areas.*

5 Conclusion

Vancouver Fraser Port Authority is encouraged by the opportunities that can come from this Ports Modernization Review, and the enthusiasm expressed by all of those interested in this review thus far. We are hopeful that this review will provide government with ideas and recommendations to ensure Canada's ports are well-positioned to innovate and compete well into the future.

6 Appendices

6.1 Full List of Recommendations

1. *Keep the existing governance structure for port authorities established in the Canada Marine Act.*
2. *Develop a differentiated structure of port authorities that require varying degrees of government oversight based on the size of the ports.*
3. *Bring meaningful Indigenous perspectives to the board of directors for Canada Port Authorities by reconstituting the purpose and composition of the nominating committees to specifically include Indigenous representation, and set out clear guidelines for the nominating committees to ensure Indigenous people are considered as candidates recommended to the Minister of Transport as a potential board member.*
4. *Allow port authorities to borrow up to an amount that would allow them to maintain an acceptable investment grade rating, or as a minimum, allow port authorities to borrow up to an amount which is equal to a certain multiple of prior years' EBITDA.*
5. *Grant port authorities greater flexibility and autonomy for land management and land transactions while improving procedures and timeframes for those transactions remaining under direct government oversight.*
6. *The federal government should adopt a leadership role to better protect trade enabling uses in the local regions of port authorities through consultation, policy and legislation.*
7. *Port authorities as a federal authority should continue to make environmental determinations (for non-designated projects) and the language as it is currently written in Sections 24 (c) and 25 (b) of the Regulations Designating Physical Activities should be maintained. In doing so, provide some means of validating a federal agency review process, and/or require port authorities to provide full transparency around project and permit reviews and ensure appropriate public participation to inform permitting decisions.*
8. *Provide port authorities with the legislative authority to enforce safety, security and environmental protection measures in the Canada Marine Act including the delegated responsibilities under the Marine Transportation Security Act and the Marine Transportation Security Regulations.*
9. *Develop a national transportation strategy in collaboration with the provinces, municipalities, Indigenous governments and industry that provides for the identification and protection of national transportation corridors, including surrounding land suitable for trade-related business and infrastructure.*
10. *Separate freight and passenger rail in areas where it impacts goods movement to and from ports.*
11. *Develop policy, legislation, and/or regulation to ensure the timely strategic sharing of data among supply chain participants to optimize supply chain performance.*
12. *The National Transportation Corridor Fund should continue to be focused on common user, goods movement trade-enabling infrastructure projects that have national importance and can prove to have significant, long-term economic impact. The fund should continue to allow for private sector proponents and should only require one*

public sector partner – the federal government - but should incentivize additional support from provinces, municipalities and/or First Nations. The port authority supports and will continue to assist with the delivery of the government's plan to stimulate the economy through projects that will result in long-term measurable economic benefits.

- 13. Government is encouraged to continue to allocate funding based on the regional opportunities with the most economic potential. In other words, rather than allocating trade corridor funding somewhat equally across the country, there should be a continued focus on identifying and allocating funding where it offers the greatest chance to capitalize on emerging markets, grow the Canadian economy and have positive long-term impact.*
- 14. Funding should be expanded for the \$2 billion, 11-year, National Transportation Corridor Fund to meet the substantial need for further investment.*
- 15. The federal government should implement a secretariat to oversee joint-funding opportunities for common infrastructure projects on the West Coast to ensure critical projects proceed for the benefit of Canada's trade agenda and the broader economy and the maximum leverage of federal investments is achieved.*
- 16. Provide the Vancouver Fraser Port Authority with powers to determine transportation priority in locations where there is potential conflict between transportation modes, such as in the Second Narrows in Vancouver Harbour.*
- 17. To the extent that Canada Port Authorities are sometimes required to assign anchorages outside of their navigational jurisdiction, they should be provided with the tools required to efficiently allocate and administer such anchorages. A clear process should also be introduced for the development and approval of new anchorages to accommodate the increasing size and number of vessels required to meet the growth of Canada's international trade.*
- 18. Amend the Coasting Trade Act and Pilotage Act to allow foreign dredgers to perform maintenance dredging work and allow for the exemption for projects of critical national significance.*
- 19. If government decides it is going to support market supply chain options by providing funding to inland terminals and short-sea shipping, it should ensure that funds are for common user infrastructure.*
- 20. Create an innovation hub tasked to focus on innovation in defined problem areas in the transportation sector.*
- 21. Develop regulations and policies to deal with technological change, particularly automated vehicles.*
- 22. Provide updated Indigenous engagement policy guidance for all federal departments and agencies in order to ensure a consistent starting point for all federal officials in delivering Indigenous engagement. Guidance should set policy and expected standards for Indigenous engagement, while allowing each federal department, agency or port authority to reflect its unique mandate and areas of responsibility.*
- 23. Integrate Indigenous perspectives and sustainability objectives more overtly into the port authority governance framework.*
- 24. Raise the requirements for Indigenous involvement in the development of port authority land use plans.*

25. *Create a mechanism and funding model for use by port authorities and Indigenous groups whose traditional territories include port authority-managed lands and waters to engage in traditional and/or current use studies to inform future port operations and development and foster greater understanding and reconciliation.*
26. *Identify opportunities for Indigenous procurement practices to be included in the governance framework, as well as to incorporate Indigenous knowledge in environmental stewardship and monitoring in relation to environmental conditions flowing from permitting responsibilities. Federal guidance and support would be needed in this regard.*
27. *Consider opportunities to support collaboration between port authorities and Indigenous groups, whose traditional territories include port authority managed land and waters, on the restoration and improvement of environmentally-sensitive habitat and wildlife.*
28. *Require port authorities to develop and use an Aboriginal consultation policy, guidelines, or framework based on federal government guidance and best practices.*
29. *Develop a benefits policy for Indigenous and local communities that host national transportation infrastructure and consider the re-direction of some or all of the federal gross revenue charge from port authorities to these Indigenous and local communities.*
30. *Include in the governance framework for Canada Port Authorities a requirement to incorporate sustainability in governance decisions and policies, and to consider the United Nations Sustainable Development Goals adopted by Canada in 2015, and/or the World Ports Sustainability Initiative.*
31. *Encourage Canada Port Authorities, in particular larger ones, to report on sustainability performance using industry accepted standards such as the Global Reporting Initiative Sustainability Reporting Standard.*
32. *Require Canada Port Authorities to prepare and maintain a climate adaptation and mitigation plan as part of, or alongside, their land use plan.*
33. *Establish a fund dedicated to advancement of innovative, clean and low carbon technologies in trade-related applications (including heavy duty trucks, cargo-handling equipment and marine activities), and require federal government funding of trade corridor projects to include support infrastructure for clean technologies (such as the installation of multi-fuel innovation hubs that support natural gas, renewable diesel or gas, hydrogen, and/or electric charging).*
34. *Provide direct financial and technical support to port authorities and host/local communities to reduce port-related greenhouse gas emissions and air pollutants that adversely affect human health, such as diesel particulate matter and nitrogen oxide emissions.*
35. *Clarify federal jurisdictional authority related to permitting of air emission sources on federal lands and waters managed by port authorities, and provide port authorities with policy tools to administer permitting of air emissions as appropriate.*
36. *Implement storm water management requirements/regulations to protect water quality in lands and waters managed by port authorities, including for example, combined storm and sewer outfalls managed by municipalities that discharge into port authority waters.*

37. *Develop a more integrated and coordinated approach from federal departments and agencies to support timely development decisions on lands and waters managed by port authorities.*
38. *Consider the establishment of processes or entities that can serve to coordinate local interests and input into environmental reviews and collaborative regional environmental policy development to better instill public confidence and greater transparency, and create efficiencies in multi-jurisdictional reviews.*
39. *Consider giving priority to communities that host national transportation infrastructure when making social infrastructure investment decisions.*
40. *Raise the requirements for local community involvement in the development of port authority land use plans.*
41. *Require port authorities to adopt a public consultation policy, guidelines, or framework based on best practices.*
42. *Require port authorities to identify priority impacts on communities, conduct monitoring and report on that monitoring (e.g. noise and air quality impacts).*
43. *Develop thresholds for impacts such as noise, including mitigation requirements for development that is adjacent to ports that would compel local and regional governments to create buffer zones and/or require building code design changes to consider impact abatement in buildings.*
44. *The federal government should facilitate the ongoing discussion of the importance of gateways to the national agenda and benefits to the regions they are located.*
45. *Create a framework for more effective cross-jurisdictional collaboration with clearly assigned authority and responsibilities.*
46. *Create a single maritime safety agency with the ability to direct incident response amongst federal agencies.*
47. *Provide regulated port authorities with access to the Canadian Ship Source Oil Pollution Fund.*
48. *Fully resource the Canadian Coast Guard to be able to properly respond to spill emergencies in the Lower Mainland.*
49. *Ensure timely board appointments.*
50. *Allow the board of directors the flexibility to appoint one at-large member from the list of nominees provided to government by the nominating committee in order to fill voids in needed skillsets.*
51. *Improve federal procedures and timeframes for significantly faster issuance of supplementary letters patent, and subsequent use of same, allowing port authorities to operate effectively in a highly competitive market where success is dictated by market forces as opposed to government processes.*
52. *Authorize port authorities to dispose of less productive Schedule B land and hold the proceeds of sale in a restricted fund for the sole purpose of reinvesting in replacement Schedule B lands.*
53. *Allow more flexibility in federal land transaction procedures for property exchanges whose value differences can be addressed through cash payments and other non-cash considerations.*

54. *Give port authorities authority to exchange Schedule B lands for Schedule C lands and vice versa.*
55. *Amend Vancouver Fraser Port Authority letters patent to grant autonomy to amend Schedule C to reflect additions/deletion of Schedule C lands.*
56. *Remove the restriction on Vancouver Fraser Port Authority's lending to subsidiaries to allow greater nimbleness in acquiring new land.*
57. *Transfer administrative control of surplus federal lands from other federal departments to local port authorities where such lands can support uses under the Canada Marine Act.*
58. *Ensure port authorities the right of first offer on any other available federal land in their regions before it is offered to any non-federal entity or to the general marketplace so that opportunities can be pursued for uses under the Canada Marine Act.*
59. *Determine a process to allow port authorities to petition the government of Canada to exercise federal expropriation powers to protect lands essential to Canada's international trade capacity.*
60. *Widen the scope of permitted uses under the Canada Marine Act and port authority letters patent to create better flexibility for ports to strategically manage their land resources while enhancing income generation and trade opportunities.*
61. *Allow the Vancouver Fraser Port Authority to lease land from third parties without issuance of supplementary letters patent.*
62. *Increase a Canada Port Authority's authority to lease land up to 99 years.*
63. *Align tenure parameters across all forms of ownership.*
64. *Establish better cost certainty to reduce disputes with receiving municipalities by implementing the recommendations of Public Works and Government Services Canada, which studied the best practices in valuing special purpose properties such as those controlled by port authorities, along with the related recommendations made by the Association of Canadian Port Authorities.*
65. *Take action to prevent the transfer of the property tax burden to industrial and port-related property by providing guidance on valuation reflecting restrictions under the Canada Marine Act, capping industrial mill rates and creating clear exemptions for port related improvements in a manner similar to that set out in the B.C. Ports Property Tax Act.*
66. *Exempt waterlots and waterways, particularly navigational channels, from PILT and property taxation. In the event this is not granted, PILT and tax payments should be*

6.2 Summary of current environmental programs

The Vancouver Fraser Port Authority is committed to supporting healthy ecosystems and to the long-term sustainability of the port. The port authority leads, supports and develops programs and initiatives designed to manage and mitigate effects on the environment in and around the port. Our focus is on the stewardship of water, land and habitat within our jurisdiction. We also collaborate with community groups and environmental organizations to support conservation efforts and address environmental risks.

The following is a list of the 26 separate environmental programs that the Vancouver Fraser Port Authority either undertakes or is an active participant.

Project and environmental reviews

We require permits for all new activities or developments on or in port lands or waters. Through our Project and Environmental Review process, we review permit applications and make a determination on the potential environmental impact. Projects may also be required to comply with other environmental legislation, such as the *Fisheries Act*, which prohibits the release of harmful substances into water.

We will not authorize or allow a proposed project to proceed if it is likely to result in significant adverse environmental effects that cannot be mitigated. Applicants are required to demonstrate how they will reduce, eliminate, or mitigate for any impacts. Should a project be approved, the permit will include environmental conditions designed to reduce, avoid or mitigate potential impacts..

Land management

Environmental site assessments

Tenants and terminals leasing and operating on port land are required to follow all applicable environmental standards as part of their tenancy agreements with the port authority. We require tenants to conduct environmental site assessments at the start of their tenancy to establish the baseline environmental condition of the leased property, and then again at the end or renewal of their tenancy, to determine any changes in the environmental state of the lands. Where environmental contamination is identified, tenants are responsible to clean up and remediate to accepted criteria.

Site remediation and land renewal strategy

Contamination of port lands and waters is an unfortunate consequence of over 150 years of industrial waterfront activity in this region. The Vancouver Fraser Port Authority uses a combination of remediation and risk management approaches to address sites that have been contaminated through past activities.

Depending on the condition and expected future use of the site, affected sites are treated with a variety of remedial techniques that may include on-site treatment, containment, or removal and disposal of contaminants at appropriate facilities.

Through site remediation, we are also reducing the impact of contamination on surface water and groundwater.

Water quality

We operate in an ecologically rich region with a high level of biodiversity, and maintaining good water quality is one of the key ways we can contribute to improved ecosystem health. Accidental spills, planned discharges, storm water runoff and unmanaged groundwater contamination can impact water quality and aquatic species.

Our approach to maintaining good water quality includes project and environmental reviews, storm water management, water discharge rules for vessels, partnerships in emergency management and response, and derelict vessel removal.

Storm water

Storm water from rainfall, snow, and ice melt can seep into groundwater or become runoff, which ultimately enters water bodies. When storm water flows over land, pavement, and building rooftops, it accumulates debris, soil and sediment, oil and grease, metals, and other pollutants that could negatively affect water quality.

As part of our Project and Environmental Review process, we have developed storm water pollution prevention plan guidelines that outline our expectations for storm water management and pollution prevention plans submitted by port tenants.

We recently assessed port authority-managed facilities for storm water quality and associated pollution risks and have implemented storm water pollution prevention plans at each facility.

Marine operations

The port authority's marine operations team selectively targets ocean-going vessel arrivals for boarding as required for EcoAction inspections, bunker transfer compliance, and to provide ECHO Program related information. They inform ships' officers of the port's environmental policies and other rules and procedures, and monitor compliance with the Port Information Guide, which contains a set of localized practices and procedures designed to promote safe and efficient navigation within port waters and support efforts to protect the marine environment.

For example, ship operators are required to meet protocols for vessel garbage, liquid discharge, black and grey water discharge, bilge and sludge discharge, and hold washing discharge.

The Port of Vancouver was the first port in North America to prohibit in-port ballast water exchange without prior mid-ocean exchange, a practice that became the basis of government requirements now enforced by Transport Canada. This practice prevents marine invasive species and contaminants from entering local waters.

Pollution and spill response

The Canadian Coast Guard is responsible for spill response as per the National Spill Preparedness and Response Protocol. We are not the lead agency when it comes to emergency response, but we do provide assistance as we can. Usually this takes the form of working with first responders and other agencies, providing information on a situation through our 24/7 operations centre, our security cameras, our patrol boats, and even our drone.

Fraser River Improvement Initiative

The Fraser River Improvement Initiative is a five-year program that began in 2012 to work with derelict vessels, structures and trespassing on the Fraser River. Derelict structures, vessels and trespassers are a risk to public safety and the environment in that they, block navigation and port activities, harm surrounding wildlife and habitat by leaching out toxic chemicals such as fuel, oil and paint, can smother and destroy environmentally sensitive habitats, and lower the quality of life for the surrounding community.

We identified priority sites by completing a risk assessment of all derelict sites. This involved determining the likelihood and severity of the potential impact to communities, in terms of public safety, environment, and navigation. We then started work on each site by

trying to contact owners and, where possible, working with them to ensure safe removal. The port authority committed approximately \$2 million over five years to the initiative.

As of January 2018, we have addressed 144 of 151 sites identified through the Fraser River Improvement Initiative.

Aquatic and terrestrial species

A remarkable variety of aquatic and terrestrial species that live within the Lower Mainland and our jurisdiction. A healthy environment relies on all levels of the ecosystem, from biofilm and small plants to robust fish and wildlife populations. Port operations and infrastructure development can cause habitat loss and degradation, introduce invasive species, and increase light and noise emissions, all of which can affect biodiversity and ecosystem productivity.

We manage potential impacts on species through project and environmental reviews, species at risk inventories and management plans, invasive species management, and our Land Use Plan.

A recent port authority study identified 32 federally-listed species at risk that are known or likely to be present in Burrard Inlet and the Fraser River, areas within our jurisdiction. Under Canada's Species at Risk Act, species at risk and designated critical habitat are legally protected from disturbance on federal lands. We carry out field testing to better protect species at risk and manage any port-related effects on these species and their habitats

For certain species at risk, such as the southern resident killer whales, we are taking active measures to improve habitat through programs such as ECHO.

Enhancing Cetacean Habitat and Observation

The Enhancing Cetacean Habitat and Observation (ECHO) Program is a Vancouver Fraser Port Authority-led collaborative initiative aimed at better understanding and managing the impact of shipping activities on at-risk whales throughout the southern coast of British Columbia.

The long-term goal of the ECHO Program is to develop mitigation measures that will lead to a quantifiable reduction in potential threats to whales as a result of shipping activities.

Much of the commercial vessel activity in the southern coast of British Columbia transits designated critical habitat of endangered southern resident killer whales as well as areas known to be of importance to other at-risk whales.

We are committed to conducting operations in a responsible and sustainable manner that safeguards and promotes continual protection of the environment. For these reasons, the ECHO Program has been developed.

Starting in November 2014, the ECHO Program advisory working group helped identify underwater noise as a priority focus area based on impacts to species-at-risk, in particular the southern resident killer whales. The ECHO Program supports a series of individual short-term projects, scientific studies and education initiatives. These projects help provide a better understanding of vessel-related cumulative regional threats, informing the development of mitigation solutions. To this end, the ECHO Program has convened several technical committees, made up of technical experts including marine mammal researchers, naval architects and acoustic specialists, to help develop a work plan for the ECHO Program to address underwater noise.

One way to address underwater noise is to slow down vessels. Starting in July and potentially extending until the end of October 2018, commercial vessels are encouraged to

slow down through Haro Strait when killer whales are present. Informed by a slowdown trial in 2017, this year the program is taking an adaptive approach to reducing noise from shipping when the whales are present in the area

Invasive species

Globally invasive species are considered to be the most significant threat to biodiversity after habitat loss. The introduction of invasive species can overrun native plants and aquatic habitats, displace animals, and negatively affect ecosystem productivity and biodiversity.

Invasive species enter port lands and waters through a number of pathways, including ballast water exchange and cargo shipments. Federal agencies, including the Canadian Food Inspection Agency, Transport Canada, Ministry of Environment and Climate Change, and Fisheries and Oceans Canada play lead roles in monitoring and preventing the introduction of invasive species through the port.

The port authority is focused on curbing the introduction and spread of invasive plant species throughout our jurisdiction. We collaborate in regional discussions relating to invasive species management, and have created an invasive plant inventory, identified activities that could lead to the introduction or spread of land-based invasive plant species, and developed best management practices for mitigation and treatment of invasive plants.

Our land-based invasive plant inventory has identified high-risk invasive plants existing or likely to exist within our jurisdiction, including several types of knotweed, cordgrass, giant hogweed and purple loosestrife. Non-native species of *Spartina*, commonly known as cordgrass, currently threaten coastal resources in British Columbia. These ecosystem invaders outcompete native plants and convert intertidal areas to homogenous cordgrass meadows, reducing food sources for waterfowl, resting sites for migratory birds, and production areas for shellfish.

Annually, we manage and treat key invasive plants, such as knotweed, within our jurisdiction. Moving forward, we will be working with tenants to develop management plans for high-risk, land-based invasive plant species.

Conservation

Our Land Use Plan designates certain areas for conservation. These areas are primarily intended for habitat conservation, enhancement, restoration, or habitat banking, and are not intended for development. One of these designated conservation areas is Maplewood Flats. Located in North Vancouver, this 24-hectare upland site is located within the Pacific Flyway for migratory birds and provides local birdwatchers with a protected environment to enjoy nature up close. Over 200 bird species have been recorded at the Maplewood Conservation area in the last ten years, making it one of the most diverse sites for birds in the Metro Vancouver region.

Habitat Enhancement Program

As part of our approach to environmental stewardship and sustainability, we have been proactively enhancing local habitat for more than 20 years.

Since 1991, our team has been creating, restoring and enhancing fish and wildlife habitat – including salt water marshes, intertidal marshes and eelgrass beds – to help maintain a balance between a healthy environment and future development that may be required for port operations.

The Habitat Enhancement Program is a Vancouver Fraser Port Authority initiative focused on creating, restoring and enhancing the viability and sustainability of fish and wildlife habitat. It was formalized through a 2012 Working Agreement with Fisheries and Oceans Canada.

The program is a proactive measure intended to provide a balance between a healthy environment and future development projects that may be required for port operations. There are a number of current and ongoing projects around the Lower Mainland.

In addition to working with Fisheries and Oceans Canada, we engage with all levels of government, regulators, First Nations and adjacent communities to tailor habitat enhancement projects to individual environments. For years, we have also collaborated with environmental organizations, such as Ducks Unlimited and the Pacific Salmon Foundation, to enhance local habitat.

Vancouver Aquarium's Marine Mammal Rescue Centre

The Vancouver Aquarium's Marine Mammal Rescue Centre is a hospital for sick, injured or orphaned marine mammals with the goal of rehabilitating and re-releasing the "patients" back into the wild. Since 2003 the Marine Mammal Rescue Centre has been located on port lands and we are proud to support them by leasing this land at no cost.

Air Quality

The port authority and port tenants and terminals are working to reduce port-related air emissions that affect air quality and contribute to climate change.

Our approach is guided by the following goals: protect air quality through the reduction of criteria air contaminants such as sulphur oxides, nitrogen oxides, and particulate matter emissions; reduce port contributions to climate change through reduction in greenhouse gas emissions and black carbon, promote a culture of continuous improvement and energy conservation throughout the port, with a focus on operational efficiency and clean technologies, and; collaborate with government and industry on the development of goals and objectives, performance monitoring, and progress reporting

Northwest Ports Clean Air Strategy

Air emissions readily cross regional and national boundaries, which is why we work collaboratively with other major ports and government agencies in the region to address air emissions.

We partner with the ports of Seattle and Tacoma and the Northwest Seaport Alliance to reduce port-related air emissions in the shared Georgia Basin-Puget Sound air shed. This shared strategy benefits from active input from Environment and Climate Change Canada, Metro Vancouver, the Puget Sound Clean Air Agency, the Washington State Department of Ecology, and the U.S. Environmental Protection Agency.

The overarching goals of the Northwest Ports Clean Air Strategy (NWPCAS), relative to a 2005 baseline, are: 75 per cent reduction in diesel particulate matter emissions per tonne of cargo by 2015 and 80 per cent by 2020; and 10 per cent reduction in greenhouse gas emissions per tonne of cargo by 2015 and 15 per cent by 2020

The strategy includes performance targets for each of the primary port emissions sources, including ocean-going vessels, harbour vessels, cargo-handling equipment, container trucks, locomotives and port administrative operations.

Emissions inventory

The port authority conducts an air emissions inventory at the Port of Vancouver every five years, at the same time as regional and national inventories are conducted. The results identify trends so we can improve our programs and policies, and ultimately reduce emissions.

The most recent port emissions inventory estimates air emissions from marine, rail, on-road, non-road, and administrative activities associated with the Port of Vancouver. The 2005 and 2010 port emissions inventories focused on land-side operations, to complement inventories prepared by Metro Vancouver for the region, and Environment Canada, for marine activities.

EcoAction Program

Our EcoAction Program, launched in 2007, offers discounts on harbour dues to vessels meeting voluntary environmental best practices that reduce emissions, underwater noise and other environmental impacts. These practices include obtaining third-party environmental designations and using cleaner fuels and technologies.

Ships may qualify for gold, silver or bronze levels by meeting voluntary, industry best practices. Depending on the level they qualify for, they earn up to 47 per cent off the port authority's basic harbour due rate.

Our Blue Circle Awards recognize shipping lines with the greatest fleet-wide participation in the EcoAction Program and terminal operators and other tenants participating in the Energy Action Initiative.

Energy Action Initiative

The Vancouver gateway moves more than 120 million tonnes of cargo annually, and moving cargo requires energy. Because the port is growing, more energy will be needed. Since power from BC Hydro is largely from lower-emission hydroelectric sources, meeting this demand with electricity from the grid can lower GHG emissions. In partnership with BC Hydro, our Energy Action initiative is helping ensure the port is ready for the future by advancing efficient, reliable, competitive and clean energy systems. We want to leverage low-emissions hydroelectric energy and maximize electrical energy efficiency.

We help port tenants identify and implement opportunities to reduce energy costs and increase operational productivity through access to technical support and financial incentives.

Climate Smart

We work with Vancouver-based social enterprise Climate Smart to provide a training program that supports our tenants work to measure and reduce GHG emissions, complementing their existing efforts. The initiative facilitates a port-focused peer group to share knowledge and practices for minimizing emissions, waste and costs, and the port authority funds 50 per cent of the cost to participate.

To-date, 22 tenants have gone through the training program, many electing to repeat the training. Ten tenants alone have reduced their annual greenhouse gas emissions by 4,340 tonnes, achieving annual cost savings of \$1,278,000.

Non-Road Diesel Emissions Program

We work with port tenants to accelerate upgrading of older, higher-emission diesel equipment through a combination of fees and rebates.

The program, developed with external and internal stakeholders, requires tenants to report and label all non-road diesel equipment and pay fees on older, higher emission equipment. When older equipment is replaced, upgraded or retrofitted, up to 80 per cent of the fees paid are rebated back to the tenant, provided they have a fuel efficiency plan in place that includes an idle reduction policy and opacity requirements.

Air quality monitoring

We use our emissions inventory to help us understand the quantity and source of pollutants emitted, but it does not tell us the impact of these pollutants in locations where people live, work and play. For example, pollutants are dispersed by wind and can react with other components to create different pollutants. Ambient air quality monitoring helps us understand the concentration of pollutants in the air at a given location, be it from port or non-port sources.

We collaborate with Metro Vancouver and other partners to monitor air quality around the port.

Container Trucks

We manage emissions from container trucks through our Truck Licensing System environmental requirements. In addition, we work with key stakeholders to improve the efficiency of operations in this sector through actions including extended gate hours, a truck reservation system and the installation of global positioning system (GPS) units on all trucks

All of the approximately 1,800 container trucks that access the port must enter into a Truck Licensing System agreement. This includes strict environmental requirements for engine age, emission controls and idle reduction.

Since 2008, we have phased in the requirement for trucks with 2006 engines and older to have an approved emission control device that reduces particulate matter per truck by 20 to 25 per cent, and as of 2016, any truck/engine added to the Truck Licensing System must be model year 2010 or newer. Beginning in 2022, no truck in the fleet older than 10 years will be permitted.

In addition to emission reductions measures, our Smart Fleet Strategy is intended to ensure the supply of container trucks is more closely aligned with port-related container trucking demand, and that truckers are paid fairly, using GPS data.

Shore power

Shore power is a technology that enables ships that are fitted with the necessary technical apparatus to shut down auxiliary engines and plug into the land-based electrical power. This significantly reduces emissions of pollutants that degrade air quality and greenhouse gas emissions that contribute to climate change. It also reduces engine noise.

Although it seems straightforward, shore power is not one-size-fits-all system. In fact, there are a number of conditions that affect whether a ship can plug in, including availability of terminal facilities, configuration of a terminal's shore power equipment, the location and limitations of the ship's shore power connection (if it has one at all), and the availability of power from BC Hydro.

In 2009, the Canada Place cruise ship terminal became the first in Canada and third in the world to offer shore power for cruise ships, and shore power for container ships will soon be available in 2018. Since 2009, shore power installations at the Port of Vancouver cruise ship terminal have eliminated 524 tonnes of air pollutants and 18,264 tonnes of greenhouse gases.

Noise monitoring

Local communities have raised concerns regarding impacts associated with port activities, such as ship engines and railcar movements, as well as warning signals and safety alarms designed to keep workers safe. Unfortunately, all of that noise can affect the quality of life for our neighbouring communities, particularly as our region grows.

The Vancouver Fraser Port Authority has a noise monitoring program to better understand the source and intensity of port-related noises and help respond to community concerns regarding noise. In the spring of 2013, the port authority contracted with Brüel & Kjær to deploy and maintain a series of permanent real-time noise monitoring terminals along the north and south shores of Burrard Inlet. In late 2014 and early 2015, additional noise monitoring terminals were deployed at Roberts Bank. We now have 11 long-term noise monitoring stations in locations across the port.

6.3 Summary of community engagement and outreach

The following two pages provide an overview all of the activities the Vancouver Fraser Port Authority engages with the community, government, Indigenous groups and other stakeholders. It describes our approach to engagement for 2016, and cites 2015 statistics to provide a sense of overall impact.

