

Environmental Assessment Revitalization Process

Discussion Paper Engagement
June 2018

Overview

- Environmental assessment (EA) revitalization process update
- Overview of the Discussion Paper
 - What We Heard
 - Proposed EA process
- Next steps in EA revitalization

EA Revitalization Process Update

The Premier of British Columbia has mandated the Minister of Environment and Climate Change Strategy (Minister George Heyman) to:

“Revitalize the Environmental Assessment process ... to ensure the legal rights of First Nations are respected, and the public's expectation of a strong, transparent process is met.”

Objectives of Revitalization

EA revitalization is intended to result in changes to EA legislation, regulations, policies and practices that:

- Enhance public confidence, transparency and meaningful participation
- Advance reconciliation with First Nations
- Protect the environment while offering clear pathways to sustainable project approvals

WHAT WE HAVE DONE AND WHAT IS NEXT:

The Environmental Assessment Revitalization process

Environmental Assessment Process Announced

March 7th, 2018

Initial Engagement Phase

February - April, 2018



Environmental Assessment Advisory Committee:

- Independent committee to provide recommendations
 - 2 co-chairs
 - 10 members
 - 75 hours of meetings
 - Report & 33 recommendations

[Read the Report of the Committee](#)



First Nations Workshops:

- Led by FNEMC on behalf of FNLC and supported by EAO
- 4 regional workshops in Terrace, Prince George, Kamloops and Nanaimo
 - Over 60 nations participated
- 1 province wide forum in Vancouver
 - Over 70 nations participated

[Read the Summary of Regional Workshops](#)



Direct Engagement:

- 67 Indigenous nations represented
- 7 Industry & business associations represented (63 representatives)
- 44 EA practitioners at workshop
- 33 NGO representatives at workshops

[Read the Summary of Direct Engagements](#)



June, 2018

Discussion Paper

Discussion paper informed by the outcomes of workshops, engagements and recommendations of the Environmental Assessment Advisory Committee



June 18 - July 20, 2018

Comment Period on Discussion Paper



You are here



Late Summer / Fall, 2018

What We Heard Report & Intentions Paper

Documents are created to outline what we heard and the intended direction of B.C.'s new environmental assessment process



Late Fall, 2018

Revitalization

New legislation introduced to support B.C.'s revitalized environmental assessment process



ENVIRONMENTAL ASSESSMENT REVITALIZATION DISCUSSION PAPER



Discussion Paper Overview

- Brings together input from the three streams of engagement
- Identifies actions the Province is considering and potential key features of a revitalized Act
 - Codifies or advances existing practices, and
 - Includes new practices
- Addresses the 3 objectives of revitalization
- Breaks down the revitalized process step by step
- Identifies key questions for feedback/consideration

EA Revitalization

What We Heard Overview

What We Heard: Indigenous Groups

- Recognition of Indigenous governments as decision makers
- Early engagement enables development of positive relationships
- Indigenous information requirements inform project design/development
- Predictable and sufficient capacity funding
- Option for Indigenous-led assessments

What We Heard: Industry Associations

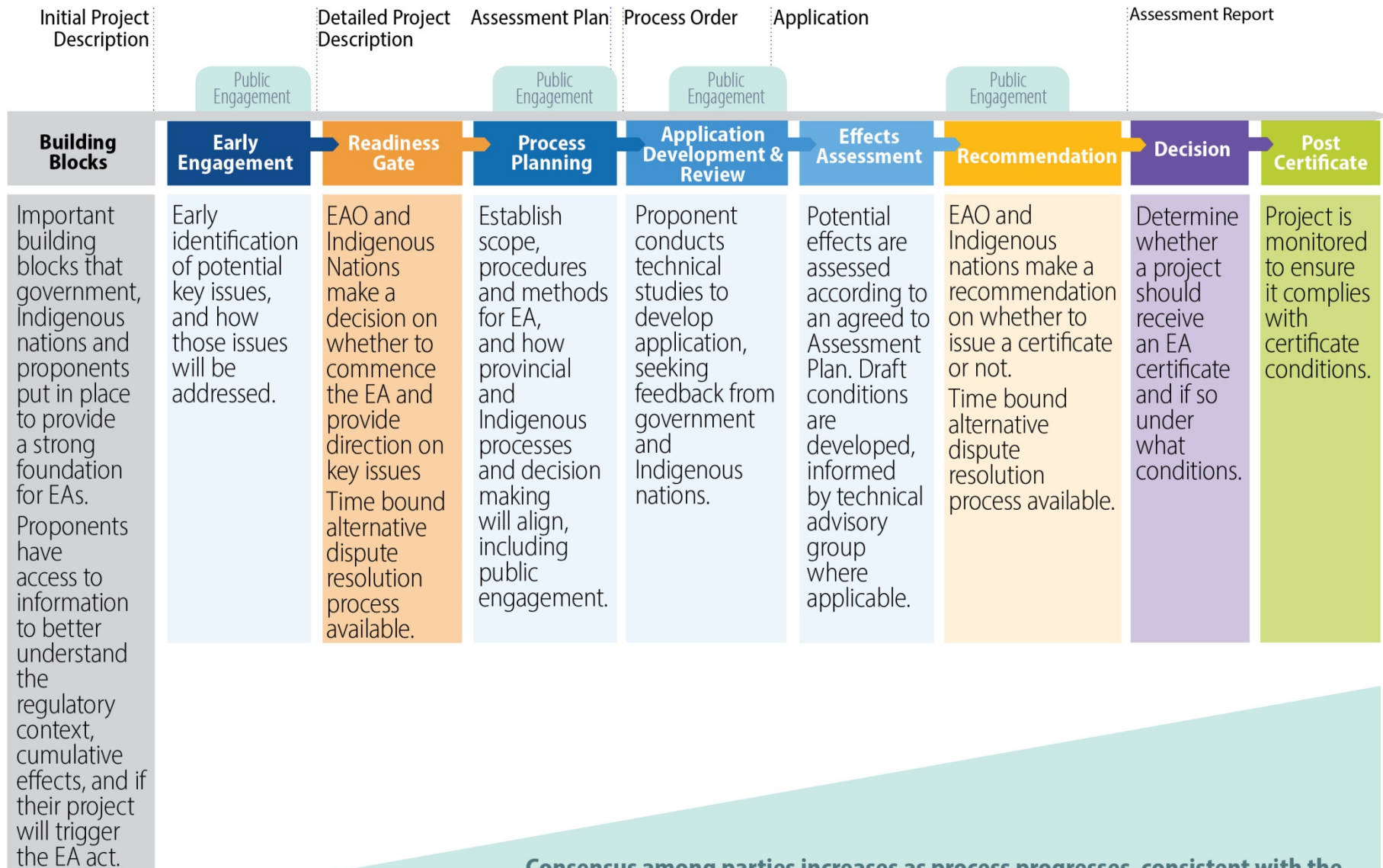
- Investor confidence
- Certainty and predictability of EA process
- Many aspects of the current EA process are successful
- Flexibility for individual proponents to employ new or innovative approaches including the ways in which proponents build and advance relationships with Indigenous groups and stakeholders

What We Heard: Non-Government Organizations

- Lack of public confidence in the purpose of EA, the process, and decisions
- Importance of addressing sustainability and public interest
- Concerns beyond EA (regional planning, cumulative effects)

EA Revitalization Discussion Paper Overview

PROPOSED ENVIRONMENTAL ASSESSMENT PROCESS



Consensus among parties increases as process progresses, consistent with the United Nations Declaration on the Rights of Indigenous Peoples

Building Blocks

Setting the stage for successful project assessments

- Will need to build over time and will require work across government not just by EAO
- Province to establish G2G agreements and relationships with Indigenous nations, which may include EA
- Support independence of scientific data; recognize indigenous knowledge; advance availability of data across project EAs
- Introduce legal framework for regional and strategic EAs
- Province advances other, related strategic initiatives (e.g. PR, LUP, CEF)

Early Engagement

Building early understanding of issues and opportunities

- Engagement on initial project description; informs development of a detailed project description
- Indigenous nations identify if they have rights and title that would be impacted
- Engagement with Indigenous and provincial governments, local communities and the public
- Identification of potential key issues and consideration of how issues will be addressed
- Set timelines that would vary based on project and context
- Key document and process to inform “readiness” decision and subsequent EA scoping

Readiness Gate

Decision whether to commence and direction on the key issues

- EAO and Indigenous nations make a decision on EA commencement and provide direction on key issues
- Time bound alternative dispute resolution process
- Possible early decision by Minister and Indigenous governing bodies that a project is clearly irreconcilable with existing law or defined policy objectives supported by reasons for decision, or if a project should proceed directly to permitting

Alternative Dispute Resolution: EA Advisory Committee Recommendations

- Time-bound alternative dispute resolution process to:
 - Provide constructive direction
 - Support for reconciliation within the EA process
 - Address disputes arising from implementation of UNDRIP in the EA process
 - Apply indigenous laws and legal process to address disputes among Indigenous nations in areas of shared territories in relation to EAs when requested to do so

Process Planning

Set clear and predictable plans and requirements for the EA

- Establish:
 - scope, procedures and methods for EA
 - how provincial and Indigenous processes and decision-making will align
 - funding, timelines, and opportunities for public participation
- 180 days
- Technical Advisory Group

Application Development & Review

Iterative, participatory approach for the development and review of the project application

- Proponent conducts technical studies, seeking feedback from government and Indigenous nations
- Application Development: Feedback on data collection and analysis will help identify and resolve key issues, which reduces delays in final review stage
- Application Review: EAO, Indigenous nations and all EA participants review and comment on the draft application within time limits

Effects Assessment and Recommendation

Reaching assessment conclusions and making a recommendation to decision makers

- Potential effects assessed according to approach in Assessment Plan
- Proposed conditions and recommendation to decision-makers are developed
- Informed by advice from technical advisory group, and input provided by the public and local communities
- Bound by time set out in Assessment Plan (100 to 200 days)

Decision

Determining whether a project should receive an EA certificate and if so under what conditions

- Ministers make a decision:
 - In consideration of recommendations of the EAO,
 - In consideration of the decisions of Indigenous nations
 - According to defined decision criteria
- Ministers issue reasons for their decision
- Collaboration, earlier process agreements and dispute resolution mechanisms aim to contribute to consistency between provincial and Indigenous decisions

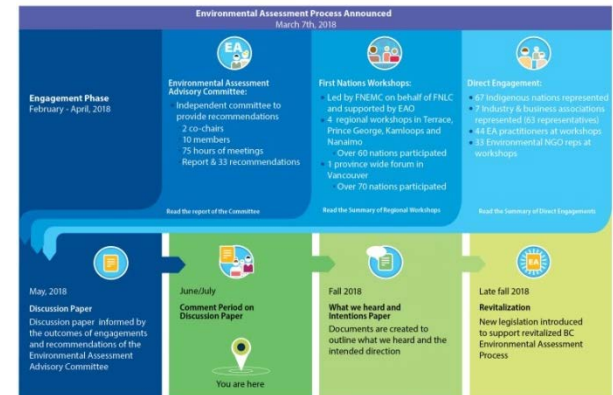
Post Certificate

Ensuring projects are in compliance with their EA certificates

- Ongoing monitoring, compliance inspections and, where required, enforcement actions
- Ensure that projects are designed, built, operated and decommissioned/reclaimed in compliance with their EA certificates
- Linkages with other agencies or groups that have a role in post-EA permitting or compliance and enforcement

EA Revitalization Next Steps

- Comment Period on the Discussion Paper until July 30th with interim reports on feedback received
- Ongoing engagement with Indigenous nations and stakeholders
- *What We Heard Summary* (expected August 2018)
- *Intentions Paper* (expected early September 2018)
- New legislation introduced
- Early Fall 2018: anticipated engagement with external stakeholders on the *Reviewable Projects Regulation*



Highlights: Reconciliation

- Secure and timely funding for Indigenous nations (UNDRIP 4 and 39)
- Opportunity for Indigenous-led EAs in whole or part (UNDRIP 3-5 and 18)
- Enable consensus-based decision-making with Indigenous nations throughout the EA (UNDRIP 32)
- Recognition of decisions made by Indigenous nations and incorporation of information needed to support those decisions (UNDRIP 32)
- Time bound alternative dispute resolution process (UNDRIP 40)
- Indigenous participation in post-certification activities (UNDRIP 29.1)

Highlights: Public Confidence

- Framework of the EA process is clearly set out in legislation
- Revise Reviewable Projects Regulation
- A variety of types and means of public engagement supported by plain language materials
- Public participation funding program
- EA decisions are based on legislated decision criteria and supported by published reasons for decision
- Early engagement on project design and siting
- Transparent online posting of all substantive project EA information including post-certificate compliance information
- EA certificate conditions evaluated for effectiveness
- Review legislation in five years

Highlights: Protecting the Environment; A Clear Pathway

- Readiness Gate: Early decision on whether to commence the EA
 - includes direction on key issues
- Cumulative effects assessment informed by:
 - Cumulative Effects Framework
 - Regional and strategic assessments as available
- Apply the precautionary principle to seek to avoid significant adverse effects
- Strengthen social impact assessment by introducing new guidance; assess positive impacts
- Legislated decision criteria related to sustainable development objectives

Highlights: Process Certainty and Predictability

- Timelines and costs are clear at outset
- Early identification of issues reduces timeline delays
- One project, one assessment reduces regulatory burden
- Consensus-based decision-making with Indigenous nations provides certainty in process
- Interaction between EAs and permitting process is strengthened and clearly understood
- Practical transition provisions