



ACT REVIEW PREPARATION PHASE

WHAT WE LEARNED AND SUMMARY OF ENGAGEMENT

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BRITISH
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EAO

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An Acknowledgement

The Environmental Assessment Office (EAO) thanks everyone who engaged during the preliminary work on its review of the 2018 Environmental Assessment Act, whether you attended a meeting or a workshop, in person or virtually, responded to an online survey or contributed to one of the written submissions that we received.

We sincerely appreciate the time, effort and energy put into the engagement process by all participants.

Note on Terminology

As part of its preparation for the review of the 2018 Environmental Assessment Act, the EAO consulted and cooperated with First Nations and Indigenous governing bodies and engaged with First Nations organizations and an Indigenous Advisory Council (which included First Nation and Métis representation).

Frequently in this document, the term “Indigenous” and “Indigenous peoples” is used to collectively refer to all the groups above and “Indigenous organizations” is used to reflect the First Nations organizations and the Indigenous Advisory Council. However, when specific feedback refers only to First Nations or participating Indigenous nations that have specific procedural rights under the Act, that term is used. If feedback from a participant used a specific term, that language is used and retained in direct quotes or paraphrased responses. This document also sometimes uses the term “engagement” to broadly refer to consultation and cooperation and related engagement when describing the EAO’s work.



1.0 INTRODUCTION

The *Environmental Assessment Act* 2018 (the Act) was brought into force on December 16, 2019. Under the Act the Minister of Environment and Parks (Minister) is required to initiate a review of the Act within five years of it coming into force and determine what changes, if any, should be made to the legislation¹. The required legislative review, referred to as the “Act Review,” began with preparatory work that launched late 2023 and continued throughout 2024. This report summarizes findings from early engagement on the Act Review.

In November 2023, the Minister of Environment and Climate Change Strategy² directed the EAO to undertake early engagement with targeted groups that represent key partners and participants in the environmental assessment (EA) process, and to use the feedback received to develop recommendations to the Minister on the Act Review. Engagement during this phase, known as Act Review Preparation, was designed to obtain feedback on experiences with the Act and its regulations, to help identify potential areas of focus and priority topics for the Act Review. It also provided the EAO with the opportunity to begin dialogue on the Act Review with First Nations as part of consultation and cooperation under the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act) and the [Interim Approach to Implementing the Requirements of Section 3 of the Declaration Act](#) (Interim Approach).

During 2024, the EAO consulted and cooperated³ with First Nations and Indigenous Governing Bodies (IGBs) and engaged with First Nations organizations and the Minister’s Advisory Council on Indigenous Women (which included First Nation and Métis representation) on the process and the subject matter for the Act Review. It also engaged with industry stakeholders, provincial and federal ministries and agencies and the Union of BC Municipalities (UBCM), as well as EAO staff.

Participants were asked to describe the successes and challenges they have had with the Act and its regulations, and provide recommendations for areas of focus for the Act Review. A thematic analysis of the feedback gathered was undertaken to identify areas where there have been challenges with implementation of the new policies and processes under the Act.

The analysis of feedback, along with the direct experiences of proponents, First Nations, and EAO staff participating in EAs over the past five years, and new direction from recent government mandates are informing the areas of focus for the Act Review. See [7.0 Next Steps](#) below for more information on the path ahead.

During Review Preparation, the EAO conducted 20 workshops and hosted 11 bilateral meetings. The EAO also received 13 written submissions and 79 responses to online surveys. Throughout the Review Preparation phase, it was communicated that, during the Act Review, there will be engagement opportunities for all interested parties, including environmental assessment certificate holders, proponents, local governments, environmental assessment practitioners and professional associations



¹ Section 76 of the Act states that “within five years after the date this section comes into force, the minister must initiate a review of this Act to determine what changes, if any, should be made.”

² Honourable George Heyman, former Minister of Minister of Environment and Climate Change Strategy

³ The term “consult and cooperate” is used for groups and organizations with rights recognized under Section 35 of the Constitution Act of 1982. The term “engage” is used for all other parties.

2.0 OVERVIEW OF FINDINGS

This **What We Learned and Summary of Engagement Report** reflects the external input the EAO received during Review Preparation from 35⁴ B.C. First Nations, IGBs and Indigenous organizations, from representatives of 13 industry associations and other industry stakeholders, and the Union of BC Municipalities (UBCM).

Distinct themes emerged from the analysis of the feedback from each group, and is organized by group that participated in Review Preparation engagement. [Section 4](#) of the report discusses the key themes that emerged in discussions with First Nations, IGBs and Indigenous organizations, [Section 6](#), the key themes that emerged with industry associations, and [Section 7](#), those themes emerging from engagement with UBCM.

Details on who was engaged, how they were engaged, and what methods were used to analyze feedback received, are discussed for each group in the appendices of the report: [Appendix 1](#) (First Nations, IGBs and Indigenous organizations); [Appendix 2](#) (Industry Stakeholders); and [Appendix 3](#) (UBCM).

The EAO identified several common themes across groups:

- **Process efficiency** – the EAO received comments on proponent readiness, the quality of information, capacity and cost of participation, and process certainty. There were different views on whether legislated timelines are valuable and helpful, and too long or too short. The EAO also heard feedback about duplication of regulatory processes between the EAO and other permitting agencies.
- **Decision-making** – a predominant focus of First Nations’ feedback was an interest in shared decision-making, including free, prior and informed consent (FPIC), and the importance of Indigenous decision-making. The EAO also heard from industry an interest in more transparency around decision-making, including decisions made through dispute resolution processes, and an appeals process for certificate holders and proponents.
- **Reviewability thresholds** – reviewability of projects encompasses how and whether a project is reviewable under the Act, thus bringing it into the EA process. This was a key topic of interest for industry participants, with the EAO receiving comments related to the effectiveness of thresholds and other criteria that trigger processes under the Act (i.e., whether a project requires an environmental assessment, project notification, or other process).

As part of its Act Review Preparation phase, the EAO engaged with EAO staff, provincial ministries and agencies that provide technical expertise in EAs, and the federal Impact Assessment Agency, which works closely with the EAO on EAs for projects requiring both a provincial and a federal review.

Among this feedback, the EAO heard that timelines are challenging to meet, First Nations require more resourcing and capacity, and improving the quality of proponent applications and information would enhance the efficiency of assessment process.

Feedback from government agencies on their experience with the implementation of the Environmental Assessment Act has been considered in the EAO’s planning and analysis in identifying priorities for the Act Review.

⁴ Overall, 44 First Nations, IGBs and Indigenous organizations participated in the various engagement opportunities, but some declined to provide feedback.

- **Post-decision activities** – once a project has been issued an EA certificate or an Exemption Order under the Act, it enters the post-decision phase of EA. The EAO received comments about this phase, including feedback on the amendment process, substantial start determinations, the development and implementation of certificate conditions and management plans, and First Nations participation in compliance and enforcement activities. Overall, groups reported that the lack of a policy and legislative framework for post-decision activities is confusing for participants and leads to inconsistent regulation of these activities.
- **Indigenous participation** – the EAO received comments related to how participating Indigenous nations are involved and engaged in EA processes, including for dispute resolution, as well as on the depth of that engagement. The EAO also heard concerns about a lack of capacity, funding, and other resources required for meaningful Indigenous participation.
- **Assessment of effects** – the EAO received feedback about the scope and areas that are assessed in an EA, how and what specific matters are assessed, and the weight given to the effects in assessing impacts. Feedback was clear about the significance of cumulative effects assessment within EAs, including concerns about insufficient baseline data to conduct proper cumulative effects assessments.



3.0 CONSULTATION, COOPERATION & ENGAGEMENT WITH FIRST NATIONS, INDIGENOUS GOVERNING BODIES AND INDIGENOUS ORGANIZATIONS

3.1. Why the EAO Consults and Cooperates

British Columbia's Declaration Act establishes the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) as the Province's framework for reconciliation, as called for by the [Truth and Reconciliation Commission's Calls to Action](#). Section 3 of the Declaration Act requires that the government consult and cooperate with Indigenous peoples to bring provincial laws into alignment with the UN Declaration. An [Interim Approach](#) developed in 2022 establishes guidance and principles for meeting the obligation to consult and cooperate when making any policy decision that will lead either to new legislation, or the amendment of existing legislation. This includes beginning the co-development of legislation and policy, and exploring the relationship of the policy ideas to the standards of the UN Declaration, at the earliest possible stage⁵.

The Act Review Preparation Phase was intended as an opportunity for the EAO to work together with First Nations and IGBs in the legislative review from the beginning, to co-design the consultation and cooperation process, and to co-develop the proposed areas of focus and processes for the Act Review. For a discussion on how consultation and cooperation was undertaken, who participated, and how feedback was analyzed, please see [Appendix 1](#).

3.2. Overview of Findings

Thirty-five First Nations, Indigenous governing bodies and First Nations organizations participated in the EAO's engagement during the Act Review Preparation Phase. The EAO heard a wide range of feedback across many topics. The following is a summary of the most frequently mentioned themes in the feedback from these groups, which is followed by further expansion of the input provided on each theme:

Indigenous decision-making in EA processes

The EAO received the most feedback related to First Nations seeking equal decision-making power in EA processes, emphasizing the need to recognize their inherent jurisdiction and rights. Engagement participants expressed their view that the EAO process remains rooted in colonial structures where the Crown retains final authority. Participants commented that the Act fails to uphold FPIC, allowing projects to proceed despite First Nation objections. They pointed out that Section 7 of the Act makes FPIC for EA processes contingent on government agreements, and contradicts the government's Declaration Act commitments. Additionally, the EAO heard that Indigenous Knowledge should be formally incorporated into decision-making rather than treated as supplementary to Western science. The EAO also heard that dispute resolution mechanisms lack binding decision-making power for First Nations, reinforcing Crown authority.

Resourcing and capacity for Indigenous peoples

Another significant theme that emerged was related to the significant barriers to meaningful participation in EA processes that First Nations face due to inadequate resourcing and funding. The EAO heard that government capacity funding is often insufficient, which can force Nations to negotiate agreements with project proponents. These take additional time

⁵ "At the earliest stage of policy development for potential legislation – when the Province is identifying the problem statement (what is the issue or problem we are trying to address or solve through potential policy and legislation?) – dialogue with Indigenous Peoples is required. Dialogue at this stage is to identify priorities, begin to consider how the policy and potential legislation may affect Indigenous Peoples, and begin to identify how it may be consistent with the UN Declaration". *Interim Approach to Implementing the Requirements of Section 3 of the Declaration of the Rights of Indigenous Peoples Act*, page 7

and can create financial uncertainty as amounts aren't assured. Without a formal funding regulation, many struggle to hire experts or conduct thorough project reviews. Additionally, limited human resources and overlapping consultation requests can overwhelm Indigenous communities.

Timelines

There were many comments related to Indigenous peoples facing difficulties participating in EA processes, due to both legislated and document review timelines that may not align with their own decision-making structures. Community engagement, leadership discussions and cultural considerations require time, and short review periods don't support adequate responses. The EAO heard that there is a lack of flexible, co-developed timelines to ensure Indigenous concerns are fully addressed before EA processes advance.

The EAO also heard a moderate amount of feedback related to the following themes:

Determining Indigenous participation and depth of engagement

- Use of strength of claim and participating Indigenous nations
- Geographic scope of project impacts

First Nations, EAO and proponent collaboration in EA processes

- Relationship-building and respect
- Communication, addressing feedback and the feedback loop
- Collaboration in relation to reviewable projects
- Indigenous participation in compliance and enforcement

EA considerations and how they are conducted

- Determining project reviewability
- Cumulative effects
- Assessment matters⁶
- First Nation's ability to conduct effect assessments
- Sustainability
- Information requirements
- Use of Indigenous knowledge, science and worldviews

Ensuring consistency across laws, policies, decisions and agreements

- Alignment with other legislation, legal decisions, plans, programs and treaties
- Supporting the implementation of the UN Declaration
- Alignment of laws to the UN Declaration

3.3. Themes that emerged from consultation and cooperation and related engagement

3.3.1 Indigenous decision-making in EA processes

The most prominent theme the EAO heard about was the ability of First Nations to both inform and have equal decision-making power within EA processes. The EAO learned about the importance of recognizing the inherent jurisdiction of First Nations and their right to participate in decision-making in matters that would affect their rights, through representatives chosen by themselves. Nations want the EAO to recognize the deep impacts of colonization on land, governance and

⁶ Topics to be addressed in every assessment. Current topics are listed in Section 25 of the Act.

relationships and integrate decolonial principles⁷ into EA decision-making. Moving forward, there was a call for the EA process to centre around Indigenous decision-making, enforce FPIC and recognize Indigenous jurisdiction as equal to that of the Crown.

Acknowledging Indigenous peoples' rights in the course of assessments and decision-making under the Act

Feedback emphasized that the Act and EA processes do not always adequately acknowledge or protect Indigenous rights, including treaty rights. The EAO heard that Nations have inherent jurisdiction over their lands and must be recognized as key decision-makers in EAs. There was concern that the EAO prioritizes industry and public interests over Indigenous rights and title, with decisions seen as inconsistent with [section 35](#) of the Constitution.

Some feedback noted that “rights impacts assessments must be Indigenous centered in both the collection and analysis of information and evidence. For rights impact assessment to be meaningful there also needs to be an effective, systematic way of adapting decisions that give rise to the effects revealed through the assessments.”

Use of Indigenous knowledge, science and worldviews in decision-making

The EAO learned that there is a need for better integration of Indigenous knowledge, science and worldviews in relation to decision-making during EAs. A key concern was that Indigenous knowledge is treated as supplementary rather than equal to Western science when considering decisions. It was suggested that “the Act should be expanded to formally incorporate Indigenous Knowledge and Indigenous Conditions into the decision-making process.”

Colonial power structure of government

Input received reflected that the EA process is fundamentally structured within a colonial framework, which has replaced “Indigenous title, language, culture, spirituality, economic, political, social and legal systems.”

The EAO heard that government systems continue to operate through colonial power structures that disempower Indigenous peoples. This not only undermines Indigenous sovereignty and rights, but also perpetuates historical injustices through current processes such as EAs. Power disparities between the Crown and First Nations put Nations at a disadvantage in colonial processes today.

“The Review should also consider the effects of the continued disempowerment of Indigenous forms of decision-making, when they are usurped and displaced by western colonial forms of knowledge, laws and decision-making.”

First Nations' ability to inform decisions and be equal governments and decision-makers

The EAO heard concerns that where First Nations have the ability to inform decisions (non-legislated and legislated), their input may not be meaningfully considered. Commenters emphasized the need for clearer guidelines on how Indigenous input influences decisions, and transparency around how their own effects assessments are weighed in final conclusions.

There were frequent comments suggesting that the Act fails to recognize First Nations as equal decision-makers, limiting their ability to influence decisions despite extensive participation. Although they hold inherent rights, title and governance over their lands, participants pointed out that because the Crown retains ultimate authority for any decisions, it undermines Indigenous self-determination.

⁷ Guiding ideas and values used to challenge, dismantle, and move beyond colonial systems of power, knowledge, and governance.

There were strong calls for First Nations to be recognized as equal partners in decision-making, for them to review and approve final project conditions, and to implement mechanisms that ensure their concerns are genuinely considered throughout all EA processes.

Some of the input gathered reflecting this feedback is presented below:

- The Act “fails to recognize Indigenous group decision-making authority over matters that effect their rights, title and resources.”
- “Recognize Decision-Making Authority: provide Indigenous groups with equal decision-making power and integrate their role into every phase of the EA and decision-making processes.”
- The “opinion of Indigenous nations are requested but the Crown always has the final say of what requirements are needed in a reviewable project application. To me, collaboration indicates equal standing between parties and not one with the ultimate say and the other just with opinions.”

“Why would we participate in the front end of a process and wear out our capacity when we know that it isn’t necessarily reflected at the decision-making process?”

Decision-making and free, prior and informed consent

The EAO frequently heard that the Act’s current framework does not align with the principle of FPIC as outlined in the [UN Declaration on the Rights of Indigenous Peoples](#) (UN Declaration). Instead of requiring consent, the Act focuses on consensus-seeking, which only mandates that decision-makers attempt to reach agreement, but does not require that they obtain First Nation consent before making a decision about whether to approve a project.

Participants provided feedback that [Section 7](#) of the Act implies First Nation consent is only required if there is an agreement with the Province, a framework they believe creates a discriminatory and inconsistent application of consent requirements. This gives the government discretion to approve projects without First Nation consent, which contradicts the obligation to uphold FPIC. The EAO heard that the Province should remove the limitation in [Section 7](#) that ties recognition of Indigenous consent to Crown agreements.

A strong view was that the review of the Act must ensure its full alignment with FPIC by granting First Nations equal decision-making power, embedding consent as a requirement in the EA process and eliminating provisions that allow projects to proceed without First Nation approval.

The EAO also received feedback that clear criteria should be established for how the Ministers consider FPIC when making final project decisions. Otherwise, a lack of transparency in how Indigenous input is incorporated into final decisions creates uncertainty about whether FPIC is being respected.

The following represents some of the input gathered:

- “Review and update the Act to align with the principles of UNDRIP, DRIPA and FPIC, addressing any gaps and enhancing coordination to reflect a genuine commitment to these frameworks in practical application.”
- The concept of “seeking consensus” in the Act does not meet the standard of FPIC, as defined in Articles 19 and 32(2) of the UN Declaration. FPIC requires that Indigenous consent is obtained, not just that consultation occurs.
- The Act should create a consent “gate” at multiple stages of the EA process, preventing projects from advancing without First Nation approval.

“The Act Review should advance alignment with the DRIPA, ensuring that consent arrangements and consent-based decision-making are properly empowered and addressed in the legislative review.”

Decision-making and dispute resolution

The EAO heard feedback on the framework and functioning of dispute resolution under the Act and the Dispute Resolution Facilitators Regulation, most specifically related to how decisions are made during a dispute.⁸ There were opinions that the Regulation does not align with the UN Declaration, particularly because it does not incorporate FPIC. Key issues include the unilateral appointment of facilitators without First Nation consent, non-binding outcomes that leave final decision-making power with the Crown, and a lack of consent-based decision-making throughout the process. Additionally, feedback included that the dispute resolution process lacks transparency in how the Minister participates and doesn't adequately protect the confidentiality of Indigenous knowledge.

“Tools like the Dispute Resolution process is limited to consultation rather than offering genuine decision-making power, restricting First Nations' control over matters affecting their rights, lands, waters, and resources.”

3.3.2 Determining Indigenous participation and depth of engagement

Under the Act, all First Nations that may be adversely affected by a project can identify as a participating Indigenous nation. Broad procedural rights are granted and affirmed to participating Indigenous nations throughout the Act. The extent of consultation will vary with the circumstances and will be determined by the nature of the proven, aboriginal or treaty rights impacted and the degree of that impact. The EAO also follows a distinction-based approach to recognize and respect the unique rights, interests and ways of governing of all Indigenous peoples (First Nations, Métis and Inuit).

Use of strength of claim and participating Indigenous nations

The EAO heard from participants that the continued reliance on *strength of claim* to determine consultation depth is problematic, as there is no clear legislative framework for addressing overlapping claims or conflicting impact assessments among First Nations.

There were concerns that the Act lacks clear mechanisms for determining which First Nations may be more impacted by a project, or how to address conflicting information on impacts. It also does not provide guidance on resolving jurisdictional issues when multiple First Nations have overlapping claims to a project area, leaving Nations to navigate these disputes on their own. The EAO learned that Section 7 of the Act is unclear on how overlapping Nations are prioritized, especially when some consent to a project while others oppose it.

“Strength of claim is a relic of colonial denial policies that the Declaration Act was designed to eliminate. Continued reliance on such an approach, even if by another name, is not consistent with the UN Declaration.”

Participants noted that the current framework allows any First Nation to identify as a participating Indigenous nation, regardless of potential project impacts, which

complicates decision-making and raises concerns about undermining established title assertions. This has led to frustration, with some First Nations feeling that the process to identify participating Indigenous nations reflects a failure in how strength of claim is considered.

⁸ For the purposes of the Review Preparation phase, the EAO also took into consideration feedback it heard from First Nations during the development of the Regulation in 2024.

It was suggested that the term “participating Indigenous nation” in the Act be amended to “participating First Nation” to better reflect land-based rights in British Columbia.⁹ At the same time, there was a comment that the EAO’s use of the broader term “Indigenous” should consider that Métis and Inuit people also reside in BC and contribute to society, highlighting the importance of recognizing diverse Indigenous identities beyond relationships solely with First Nations.

Geographic scope of project impacts

The EAO heard that the ability of First Nations to self-identify as a participating Indigenous nation without clear governance authority over a project area complicates decision-making in the EA process. Some participants commented that the EA process does not adequately consider the broader geographic scope of project impacts and may exclude First Nations whose territories are affected, but not in close proximity to a project. One participant said “the Act does not recognize the jurisdiction of Indigenous nations, only the centers that are located nearby are recognized when completing the socio-economic impact assessment. All Nations affected should have the same assessment.” Conversely, concerns were raised about Nations asserting interests in areas outside of their traditional territories, where they have no jurisdiction, yet still are involved in assessments.

3.3.3 Resourcing and capacity for First Nations

First Nations let the EAO know that they can face significant challenges due to inadequate funding, limited capacity and engagement fatigue.

Financial capacity

First Nations communicated that they face significant financial barriers to meaningful participation in EA processes due to insufficient capacity funding from the EAO. They shared that funding often falls far short of what is needed to hire technical experts to ensure First Nations have access to specialized knowledge for reviewing complex projects proposals. The EAO heard that stable, long-term funding is also required for Nation-led environmental monitoring programs to ensure that post-project impacts are properly assessed.

“Our rights may be acknowledged but without adequate funding to meaningfully participate in the review process, we run the risk of becoming informed spectators.”

First Nations expressed they can feel forced into time-consuming and unequal negotiations with proponents to negotiate financial agreements. The EAO heard that without a standard process for securing this financial support, it results in inconsistent and unpredictable funding levels. Some commenters believed that financial support for First Nations should come directly from the government, rather than necessitating agreements with project proponents.

⁹ There are no existing land, water, or air-based Métis rights or associated inherent jurisdiction in British Columbia that trigger the same Crown obligations that are owed to First Nations under section 35(1) of the Constitution Act, 1982 or international law, including the duty to consult and accommodate and the need to obtain free, prior, and informed consent. Accordingly, Métis are not rights-holders in any of the Province’s processes, matters, projects or initiatives that relate to the land, water or air in British Columbia, or associated jurisdiction related to land, water or air. The Inuit do not have a historical homeland in British Columbia, so there are no existing land, water or air-based Inuit rights or associated jurisdiction in British Columbia that trigger the same Crown obligations that are owed to First Nations under section 35(1) of the Constitution Act, 1982 or international law.

There was concern that a regulation under Section 48 of the Act to establish set costs for proponents to pay Nations has yet to be enacted, and that the EAO doesn't have a formal capacity-funding policy for all EA processes.

Human resources capacity

During engagement, the EAO heard that many First Nations face significant challenges in participating in EA processes due to limited human resources and competing consultation demands. Reviewing complex project proposals, assessing impacts and engaging in meaningful consultation often requires staffing levels and expertise that many Nations do not have. Some feedback highlighted that EA participation requires dedicated staff, but many First Nations aren't able to support full-time personnel.

Simultaneous it was pointed out that EA and post-certificate processes contribute to consultation fatigue, and reliance on external consultants hinders the development of internal expertise. Participation in Technical Advisory Committees is also difficult without sufficient resources to review reports, attend meetings and retain experts. Suggestions included reforming consultation processes to reflect these limitations, reducing the number of concurrent engagement requests, coordinating timelines, providing advance notice for project reviews and funding permanent EA liaisons within First Nation governments to support long-term engagement and knowledge-retention.

3.3.4 Timelines

Legislated timelines

Legislated timelines can create challenges for First Nations when participating in EA processes. The EAO heard that decision-making requires time for community engagement and leadership discussions, but EA timelines do not align with Indigenous decision-making processes. This can force First Nations to rush responses back to the EAO or the proponent.

In addition, current EA timelines do not account for other activities, such as permitting, policy reforms, reconciliation initiatives and regulatory changes that First Nations may also be engaged in.

Some specific feedback related to legislated timelines within the Act included:

- The Act does not provide sufficient mechanisms for First Nations to extend legislated timelines when necessary.
- Due to rushed timelines, a First Nation may experience the EA process moving forward into subsequent phases, without feeling like their concerns were adequately addressed. Legislated timelines need to be extended to address unresolved issues before advancing to subsequent phases of the EA process.
- Proponents influence project timelines when they submit applications, triggering the consultation process on their terms rather than when Nations are prepared.

“The Act should be reviewed to determine whether the legislated timelines for each phase of an environmental assessment meets the purposes of the Act and the Environmental Assessment Office under section 2(2) of the Act.”

Engagement and document review timelines

The EAO received feedback related to the length of time First Nations are given to consult and cooperate with the EAO, as well as the amount of time given to review documents.

The EAO heard that short and rigid review timelines, such as 30-day periods, are inadequate for First Nations to conduct thorough analysis, engage in meaningful consultation and provide informed responses. Much like in legislated timelines, review periods are often imposed without accounting for Indigenous governance structures, capacity constraints or consultation needs, and fail to consider external factors like elections or Nation-specific processes that can impact

participation. The lack of co-developed timelines and late delivery of reports further limits the ability of Nations to contribute effectively to decision-making.

The following presents the range of views heard:

- Regulatory efficiency efforts are being prioritized, but they often fail to account for Indigenous governance structures and consultation requirements.
- There is no standard timeline for sharing reports across projects, creating inconsistencies in the consultation process.
- Some First Nations have had positive experiences with regular meetings and document reviews, particularly when ‘heads-up’ reports provide advance notice about upcoming materials and workload expectations.

“Timelines need to be co-developed with Indigenous nations. Meaningful consultation and obtaining consent for the project at every point in the process, can only occur where timelines meet the needs of the Nations.”

3.3.5 Indigenous, EAO and proponent collaboration in EA processes

The EAO heard that building strong, lasting relationships is essential to improving EA processes. It was emphasized that trust and effective communication are often undermined by inconsistent engagement, poor follow-through on commitments and a lack of clarity on how Indigenous input is used. Nations called for more meaningful collaboration—and highlighted the need for clearer roles, stronger accountability, and early, respectful involvement from both the EAO and project proponents.

Relationship-building and respect

Successful EA processes rely on strong, respectful relationships between Indigenous peoples, proponents and government agencies. The EAO heard that without relationship-building, communication breakdowns and lack of trust result. Poor communication, frequent staff turnover and inconsistent adherence to commitments can strain relationships. The following represents some of the comments we heard:

- There have been successful relationships when there is collaboration and regular meetings with the proponent and the EAO with honest and open dialogue.
- Proponents sometimes treat engagement with First Nations as a procedural checkbox rather than a meaningful partnership.
- To improve relationship-building the EAO should “develop strategies to maintain effective communication and collaboration among all parties involved in consultation activities, including government officials, proponents and consultants.” Additionally, “facilitate the re-establishment of connections with project proponents following staff or ownership changes.”

Communication, addressing feedback and the feedback loop

The EAO heard about the importance to Indigenous peoples not only to have their input acknowledged but also to understand how it is incorporated into plans, decisions and processes. While feedback is often solicited, First Nations felt there is a lack of transparency about how it is used, and they are frequently uncertain about whether their responses have influenced outcomes. First Nations respondents suggested that improvements are needed to ensure their input leads to tangible results rather than being merely acknowledged. The EAO heard that they should provide regular updates on how Indigenous input has shaped key phases—such as the readiness decision, effects assessment and final decision. Furthermore, a clear mechanism to identify when and how Indigenous concerns will be addressed was suggested.

Specifically the EAO was also told:

- Improvements are needed to ensure that Indigenous input leads to tangible outcomes rather than just being acknowledged and moved forward to the next phase.
- Final conditions in environmental assessment certificates are not shared with participating Indigenous nations before submission, creating uncertainty about how their input was considered.
- The EAO should obtain consent before posting materials on its project information website EPIC, to ensure that a First Nation’s comments and tracked changes are incorporated before moving to the next EA phase.

Collaboration in relation to reviewable projects

The EAO heard that collaboration in EA processes must go beyond consultation and include co-designing processes at every step with First Nations to reflect their authority, jurisdiction and decision-making power. This would include clear commitments to implement Indigenous project recommendations and certificate conditions. The EAO learned that some Nations feel that their participation in EA processes is often treated as advisory rather than collaborative, leading to frustration and a lack of trust in the process. One remark was that “there’s a recurring pattern in consensus-seeking where Indigenous concerns are acknowledged but not resolved, with issues simply being carried forward to the next phase of the process without resolution.” However, some remarks indicated that “the EAO is very strong on consistent collaboration at least on the operational level.”

“To me, collaboration indicates equal standing between parties and not one with the ultimate say and the other just with opinions.”

The EAO also received feedback on how proponents work with Indigenous peoples within EA processes. Comments highlighted concerns that proponents hold too much influence over the EA process, sometimes submitting weak initial project proposals and that “responsibility is left with the Indigenous nation to determine how the project effects should be minimized.” Collaboration requirements between Indigenous peoples and proponents lack clear legal definition, making implementation inconsistent and dependent on proponent commitment. Nations called for more consistent early, transparent engagement, and stronger legislative and policy clarity to ensure proponents are better prepared, accountable and respectful of Indigenous rights and jurisdiction throughout the process.

Indigenous participation in compliance and enforcement

The EAO heard that First Nations should be meaningfully involved in monitoring projects and enforcing compliance with environmental management plans (EMPs) and conditions throughout the life of a project. Feedback emphasized that EMPs should not be developed without Indigenous involvement, as these projects directly impact their lands and rights. However, First Nations noted they are not consistently included in post-decision environmental management planning, and many post-certification plans are highly technical, making them difficult to review without adequate expertise or resources. Participants highlighted the need for full provincial funding to support environmental monitoring and enforcement, as well as the importance of enabling First Nations to conduct independent monitoring rather than relying on government or industry self-reporting. The lack of formal enforcement authority also limits their ability to hold proponents accountable.

3.3.6 Environmental assessment considerations and processes

The EAO heard concerns about the EA process with regards to project reviewability, cumulative effects, assessment matters, Nation-led effects assessments, sustainability and the integration of Indigenous knowledge.

Determining reviewability

Nations provided feedback about the Reviewable Projects Regulation and the process to assess whether a proposed project meets the criteria for requiring an EA under the Act. Some First Nations asserted that reviewability thresholds should be lowered to increase the number of projects subject to EA, as projects just below these thresholds often raise significant concerns for First Nations. They felt that expanded reviewability under the Act would allow potential adverse impacts on Indigenous rights and the environment to be identified and addressed earlier in the planning process. Feedback also emphasized the need to revise criteria to prevent project splitting, where large-scale developments are broken into smaller parts to avoid triggering an EA but can result in serious cumulative effects. Additionally, the EAO heard that significant amendments proposed to expand an already-approved project's scope or increase cumulative effects should also prompt an EA.

Some specific comments included:

- The EAO should establish “a more defined and inclusive process to ensure that scoping for new applications and amendments is not restricted by provincial policy and includes consensus-seeking with Indigenous nations.”
- “For efficiency reasons, it may not make sense to use EAA processes designed for major projects when assessing smaller-scale developments. Accordingly, a review of Reviewable Projects Regulation thresholds should also consider the need for streamlined procedures to apply to assessments of smaller projects.”
- “Revise the criteria used to designate projects and establish different thresholds for triggering an EA. Engage First Nations early in the process of defining these criteria to ensure their input is effectively integrated into decisions about when an EA is required.”

Cumulative effects

Despite cumulative effects assessments being mandatory in EAs, some participants highlighted that project-by-project evaluations fail to capture broader regional and long-term impacts, which often disproportionately affect Indigenous communities. They stressed the need for collaboration between the EAO, proponents and First Nations to assess combined impacts across territories. Many Nations are developing their own cumulative effects frameworks, and there were suggestions that the EAO formally recognize these in legislation or as part of project information requirements. It was suggested that the Province relies on individual project EAs, and that the cumulative effects of multiple projects therefore are not considered or tracked in any systematic, effective, or meaningful way.

“The province’s cumulative effects framework similarly lacks a comprehensive approach, focusing narrowly on this Western residual effect concept. A shift is recommended to a more holistic approach that considers broader impacts across the physical and cultural landscape through back casting and forecasting approaches to truly understand the establishment of barriers on Indigenous peoples.”

Assessment matters

The EAO received feedback on the potential impacts that should be considered in an EA. The EAO heard that some key environmental, cultural and social concerns are unaddressed or overlooked – for example, project financial viability, project failure risk, impacts on private land, climate change impacts and unregulated activities that may have caused environmental damage before an assessment. The EAO heard that EAs can overemphasize species-at-risk while failing to

account for the abundance and health of key wildlife populations that are vital to First Nations. It was suggested that Nations should be able to require a valued component be included in an EA, despite where there are suggestions that impacts will be negligible. Far-reaching environmental effects should be assessed, First Nations asserted, as a project could affect an entire ecosystem.

The EAO heard that there is a lack of clarity on how Indigenous women’s voices are included in the EA process, despite the disproportionate impacts that resource development, displacement and violence have on Indigenous women. There was a call for assurance that Indigenous women are being protected in the EAO’s work and that their voices are being included and uplifted. The EAO was encouraged to utilize an Indigenous gender-based analysis plus (IGBA+) toolkit within EAs, and to encourage proponents to use it within their work.

“Indigenous women often stand up for those who don’t have voices – how can we protect those Indigenous women?”

First Nation's ability to conduct effect assessments

The EAO learned that some First Nation’s had experienced success in conducting their own assessment on the effects of a project on their rights and interests under Section 19(4) of the Act. In doing so they felt they were able to sufficiently influence the outcome of an EA and the conditions for EA certificates. One participant commented that “only they (Nations) can assess the impact on their Nation. The only people who can assess the infringements on their rights and needs are Indigenous peoples.” However, the EAO hear that while Section 19(4) of the Act provides a good foundation for First Nation participation, it requires further refinement and earlier application to be more effective.

Sustainability

The EAO heard feedback on how a project’s sustainability is measured during an EA and how the EAO is promoting sustainability as prescribed in the Act. A recurring theme was that the Act and the EAO prioritizes economic development over sustainability.

Participants noted that the Act is misaligned with broader sustainability goals, such as climate action, salmon restoration and species-at-risk protection. Participants expressed that economic benefits are often concentrated among those directly involved in the project, while local communities are most affected by negative socio-economic and environmental impacts. Additionally, proponents do not always integrate sustainability best practices into their projects from the outset, instead making incremental improvements only after concerns are raised. It was suggested there is a perceived conflict of interest within the Act between economic and environmental objectives that allows for projects to be justified based on economic benefits while failing to account for long-term environmental consequences.

“Balancing environment and well-being with sound economy can be difficult, but the Act and decision makers still tend to put more weight on economic benefit than environment and well-being from comments and decisions so far.”

Specific feedback heard was:

- “The lack of experience with EAA processes in BC demonstrates a fundamental mismatch between the mandate of the Environmental Assessment Office – promoting sustainability and supporting reconciliation with Indigenous peoples – and the scope of environmental assessment in BC.”
- “The Review should also consider the definition of ‘sustainability,’ and whether its current use in the Act actually promotes sustainability or implicitly frames adverse impacts on the environment, cultural well-being and health as the necessary price of economic development.”
- To better promote sustainability, a funded, rigorous third-party review and gap analysis of proposed projects and their potential impacts would be beneficial.

Information requirements

The EAO heard some feedback related to how information is collected and used in EAs. The EAO learned that rushed or incomplete information-gathering can lead to weaker assessments and longer review timelines when Indigenous peoples request additional data. Proponents can be unprepared with the level of information Nations expect, leading to delays and disputes over data accuracy. Wildlife data collection was felt to be inadequate by some First Nations, often relying on short-term fieldwork rather than comprehensive, long-term monitoring in collaboration with Indigenous communities. First Nations felt there is a lack of oversight in ensuring that sources used in assessments are appropriate, reliable and do not misrepresent Indigenous knowledge.

Use of Indigenous knowledge, science and worldviews

Earlier in this document feedback was included that related to how Indigenous knowledge, science and worldviews were used in decision-making. The EAO also heard about how these knowledge systems are valued and incorporated generally in EA processes. Feedback included that Indigenous knowledge is often undervalued in EAs, despite its vital and long-standing role in understanding ecosystem health, cumulative impacts and culturally significant areas. The EAO learned that the current system prioritizes Western scientific methods, treating Indigenous knowledge as supplementary rather than equal and fails to meaningfully integrate traditional use studies, stewardship practices and Indigenous perspectives throughout the EA process. Concerns were also raised about confidentiality provisions that allow the disclosure of Indigenous knowledge without consent, contradicting Article 31 of the [UN Declaration](#).

3.3.7 Ensuring consistency across laws, policies, decisions and agreements

Alignment with other legislation, legal decisions, plans, programs and treaties

The EAO heard that EA legislation struggles to keep pace with case law, creating inconsistencies, especially regarding Indigenous rights. As court decisions come forward, it was noted that Nations do not see room in the legislation to consider these. Feedback suggested projects may continue to advance through the EA process without clear alignment to evolving policy and regulatory changes, creating inconsistencies in decision-making. The EAO learned that there should be a consideration of how the Act interacts with broader policy, regulatory frameworks and plans, ensuring consistency across different legislative areas. Some specific comments representing these views are:

- The Act Review should include “an evaluation of whether each aspect of the Act is consistent with modern treaty rights and interests in British Columbia.”
- “A review of most recent case law decisions (example *Yahey v. BC* 2021) and relationship with the Act is warranted.”
- “There is a lack of clarity on the implications of the Supreme Court opinion regarding the federal Impact Assessment Act, 2019 in relation to substituted and coordinated projects under the provincial EA Acts (2002, 2018). It is important to understand the legal and procedural impacts of this opinion to ensure that projects meet judicial expectations and respect Indigenous rights.”

Supporting implementation of the United Nations Declaration on the Rights of Indigenous Peoples

The EAO learned about concerns regarding the lack of clarity and consistency in how the Act overall supports the implementation of the UN Declaration. The EAO heard that “while one of the purposes of the EAO is to “support the implementation of the Declaration, the EA process set out in the Act itself, as currently drafted, does not meaningfully do so.” Some sections of the Act reference the UN Declaration in broad terms but First Nations felt they fail to ensure that Indigenous rights, decision-making authority and jurisdiction are meaningfully upheld in practical terms.

It was pointed out that the Act currently outlines purposes solely for the EAO, not for the Act itself, which participants felt weakens its interpretive clarity and legal alignment with the UN Declaration and its implementation. There was interest in reviewing and updating the Act to align with the principles of the UN Declaration, addressing any gaps and enhancing coordination to reflect a genuine commitment to these frameworks in practical application.

The EAO heard that “given that the Act was established before [the Declaration on the Rights of Indigenous Peoples Act], there may be inconsistencies with [the UN Declaration] that require more coordination. To ensure these principles are effectively integrated, actionable steps must be taken to involve Indigenous communities throughout all phases of the EA process and decision-making processes.”

Alignment of laws

The EAO learned that there is an expectation from some Nations and organizations that the review of the Act and its regulations will include a full alignment-of-laws exercise under Section 3 of the Declaration Act, which requires the Province to work in consultation and cooperation with Indigenous peoples to take all measures necessary to ensure BC laws are consistent with the UN Declaration. Because the Act was developed before the Declaration Act’s enactment in 2019, it was not created with the requirement to ensure consistency with the UN Declaration, and First Nations indicated that this has resulted in gaps in both the text and its implementation. One remark noted that the “the Minister’s discretion with respect to the scope of the Review must be exercised within the parameters of this overarching legislative obligation.” The EAO heard that despite past indications of willingness to revise the Act, substantive alignment efforts have yet to be undertaken by the EAO.



4.0 INDIGENOUS PARTICIPATION IN THE ACT REVIEW

As part of the consultation and cooperation for the Act Review Preparation, the EAO asked participants how they would like to be engaged in subsequent phases. Feedback was received through letters, email, virtual workshops, bilateral meetings, written submissions and a survey on EAO's [EPIC.engage](#) web engagement platform. The preferred methods identified were bi-lateral meetings, followed by virtual workshops, in-person workshops and written submissions. There was a low interest in another online survey. Participants also provided considerations for planning the subsequent consultation and cooperation processes related to the Act Review, as outlined below.

Timelines for requesting feedback need to be adjusted

The EAO received multiple comments that its timelines for engaging on substantive files can be unreasonable. First Nations made the following suggestions:

- Provide additional time for technical staff to share information with others. Noting that the Act Review is a substantive priority, staff will need to discuss the information internally and with their community and elders.
- No summer engagement. Summer is not an appropriate time to conduct consultations, as it is harvest season, salmon season and many First Nations may be preparing for or dealing with wildfire season.
- Co-develop timelines with First Nations. Instead of prescribing timelines and expecting participants to comply with the needs of the Crown, the EAO should ask what timelines would work in early communications.
- Provide plenty of advanced communications, including but not limited to, small batches of background information and upcoming events in digestible notifications.

Multiple or themed meetings in lieu of long, single meeting structures

It was flagged that a single meeting is unlikely to provide a space for fulsome and meaningful discussion for such a large topic as the Act Review. It was suggested to break up the meetings into three or four shorter meetings to discuss specific sections or subject matter.

Thorough background information is needed

Participants identified that a deeper understanding of the Act is required to provide useful feedback. Suggestions ranged from providing a quick fact sheet that speaks of mechanisms in the Act that we are focused on, to providing a case study of projects that have undergone the processes under the Act.

Zoom virtual workshop links were frustrating

Some participants found the Zoom registration process frustrating, as it did not automatically add the meeting to calendars. Instead, it sent a confirmation email with a link to join the event. For participants who registered well in advance, which was encouraged, the emails were hard to find. It was suggested the EAO send calendar invites instead.

Consideration of an Indigenous-led review

Some participants encouraged the EAO to consider a fully independent legal and technical review of the Act facilitated by First Nations, funded by the Province and without the EAO's involvement.

Funding considerations

First Nations have been told to use the Declaration Act Engagement funding for "alignment of laws" and for consultations. It was flagged to the EAO that it is not a sufficient amount of funding and additional funding should be considered.



5.0 ENGAGEMENT WITH INDUSTRY – KEY THEMES

Stakeholder engagement during the Review Preparation was undertaken to understand the successes and challenges that have been experienced by users of the Act and its regulations since they came into force in late 2019. As previously discussed, engagement at this stage was limited to groups that represent key participants in the EA process, with industry associations selected to represent EA certificate holders and proponents with projects undergoing an EA. Eleven industry associations and two EA certificate-holders participated in the Act Review Preparation engagement. For a detailed discussion on who participated on behalf of industry, how they were engaged, and how their feedback was analyzed, please see [Appendix 2](#).

Themes that emerged from an analysis of the feedback reflected industry’s desire for a more streamlined, efficient and transparent EA process that balances regulatory oversight with practical considerations for project proponents. While the EAO heard there are successful features of the 2018 Act, overall, the EA process is perceived by industry as complex, time-consuming and costly. The themes are discussed, as follows, in order of the overall number of comments received that were related to each theme.

5.1 Reviewability of Projects

Reviewable Projects Regulation

The Reviewable Projects Regulation (RPR) establishes criteria for determining whether a project is a reviewable project under the Act and therefore requires an EA. If a project falls into a project category listed in the RPR and meets the thresholds (e.g. land disturbance area, production levels) and other criteria set out for the specific project category, it requires an EA. If a project falls into a project category but does not meet the thresholds for the project type, it may still be a reviewable project if it meets or exceeds one or more of the “effects” thresholds set out in section 4 of the RPR. Overall, the EAO heard calls to review and amend RPR project design thresholds to ensure they are appropriate and do not unnecessarily trigger assessments, with comments often focusing on the specific thresholds that apply to the industry sector providing the feedback.

“Renewable energy projects...should be exempt from assessment, up to a certain reasonable scale, to enable the Government of BC and BC Hydro to achieve critical climate and energy objectives...”

There were requests to either exempt projects that support government strategies, such as the government’s clean energy strategy, from the EA process, or have these projects be subject to alternative approval processes. There were also calls for projects subject to other substantial provincial planning processes, such as the All-Season Resort Policy, which applies to certain resort projects, to be exempted from provisions of the Act.

Comments noted the complexity of the RPR, and the challenges faced in interpreting its thresholds. It was observed that the RPR definitions for certain projects do not align with those in other provincial legislation for the same projects, adding to the complexity of using the RPR to determine reviewability.

Other feedback recommended more appropriate proxies for the impact of certain projects. For example, “area of land disturbed” was recommended as a more appropriate proxy for the impact of resort developments, rather than the “bed-units” currently used in thresholds for the RPR’s Tourist Destination Resort project categories.

“Members have noted that Reviewable Projects Regulation (RPR) is difficult to interpret and is complex.”

Representatives of sand, stone and gravel operators requested that the reviewability thresholds that apply to their sector be adjusted to support the existence of profitable, medium-sized projects. They explained that the expense of the EA

process is currently challenging the financial viability of mid-sized sand and gravel operations, leaving only small or extremely large projects able to operate in British Columbia.

There was concern expressed that the multiple thresholds used to determine reviewability for modifications to certain projects is unreasonable, and that certain specific details in the reviewability criteria, such as “contaminant weighting factor” (CWF), are unknowable at the design stage of a project.

The need to update the RPR to create specific project categories and thresholds to appropriately capture projects that are founded on emerging technologies, such as hydrogen, was noted.

The EAO also heard recommendations that project design thresholds align with federal thresholds, and that projects which require federal approval should be exempt from requiring an EA.

Feedback related to the RPR’s effects thresholds was limited to comments related to the greenhouse gas emissions (GHG) threshold, with respondents noting that it is difficult to determine GHG emissions at the design stage of a project.

Project notification - thresholds and process

If a project falls into an RPR project category and does not meet the thresholds for that category, or any of the RPR effects thresholds, the proponent is still required to notify the EAO about the project if it meets any of the thresholds set out in section 5 of the RPR. Once a project notification is received by the EAO, a determination is made as to whether the project should be referred to the Minister to make a decision on whether to designate the project as a reviewable project that requires an EA.

“Notification when a project comes close to a threshold seems ineffective and confusing. In effect, it puts the threshold just below the notification level, thus reducing the threshold.”

Comments related the RPR threshold that triggers the requirement to notify if a proposed project is within 15 % of its RPR project design threshold, suggested that this threshold effectively reduces all RPR project design thresholds by 15%. As was heard in relation to the GHG effects thresholds, above, it was noted that determining GHG emissions at the design stage of a project is difficult, and it is therefore difficult to know whether a proposed project meets this notification threshold.

The feedback the EAO received on the project notification process itself, notes that it is complex and confusing and adds little value to the review of issues related to a proposed project. The EAO also heard that the legislated time limit for the Chief Executive Assessment Officer to make a decision related to a project notification received by the EAO (60 days), is too long and in most cases is not being met.

Designation process

If a project is not automatically reviewable under the criteria set out the RPR, it may still be designated a reviewable project through an application from an individual or organization. A request must be made in writing to the Minister to designate a project as reviewable and, after considering the criteria set out in section 11 of the Act, the Minister may decide, among other things, to designate the project as reviewable.

“There needs to be clarification of the process gate where designation decisions can be submitted and further clarity that there will be no further requests”.

The EAO heard concerns from industry that the designation process can be used by third parties as a mechanism to fetter or delay the approval of projects. There were also calls for the EAO to establish a clearer and more transparent designation process, including criteria related to how and when designation requests can be made, who can comment on a request once it has been made, and legislated time limits related to the processing of designation requests.

5.2 Efficiency and Effectiveness of the EA Process

Successes with the 2018 Environmental Assessment Act

Overall, industry feedback depicted the EA process as complex, time-consuming, and costly, with concerns that it can potentially deter investment and delay project approvals. However, successes with the current Act were also noted in the feedback.

“Investors have been clear — the efficiency of review processes and decision timelines matter”.

The Technical Advisory Committee and the Early Engagement phase of the EA process were both identified as successful features of the 2018 Act.

Feedback suggests that formal early engagement, as required by the Act, encourages the early involvement of participants in the EA process, and promotes collaboration with Indigenous communities.

“...members have experienced firsthand the value of early engagement and the establishment of the Technical Advisory Committee for the environmental process review. Through early engagement, questions and concerns can be addressed proactively and collaboratively with the EAO and parties can ensure the goals of the Act are met”.

The EAO also heard that the introduction of positive effects assessment into the EA process, in contrast to the historical focus on adverse effects alone, has been effective, as it allows for socio-economic and environment plans to be prioritized.

Several comments support the idea that the Act fosters collaboration and creates opportunities for Indigenous communities to participate in EA reviews and joint venture projects.

Timelines and scope

Feedback from industry placed strong emphasis on the need for legislated timelines for all stages and steps of the EA process, including condition review, amendments and engagement periods. There were also requests to establish time limits for other associated processes, such as project notification and designation. The EAO heard from industry representatives that legislated timelines should be shorter, and that steps within processes with non-legislative timelines should be minimized.

Industry expressed concern about timelines not being met, with concerns that this may lead to uncertainty and lack of investor confidence in British Columbia. There was a call for existing timelines to be adhered to by all parties, and that penalties for government not meeting its legislated timelines be established.

As well as timelines, industry noted the need for certainty related to project scope, and the list of rights-holders and First Nations to be engaged. The EAO heard that uncertainty of scope leads to lack of clarity and process inefficiency.

Duplication of regulatory processes

As mentioned in the discussion of feedback related to determining the reviewability of projects, above, the EAO heard concerns that certain types of projects, such as mountain resorts, are subject to other provincial regulatory and planning processes as well as the EA requirement. There were calls to consider potential duplications and inefficiencies that can arise when more than one regulatory and planning process is required.

“...a duplicate process creates an unwelcome climate for future investment due to increase process, time, and cost...”.

Post-certificate regulatory efficiency and effectiveness

The EAO heard that the lack of a clear policy and legislative framework for post-certificate activities adds to the cost and complexity of complying with certificate conditions and management plans. Feedback included recommendations that clearly defined processes be developed for amending and extending certificates and exemption orders and making substantial start determinations, and that time limits be established for consulting and engaging with First Nations on management plans required under environmental assessment certificates for approved projects.

There were calls to ensure that the EAO's compliance and enforcement activities continue throughout the transfer process, and to establish either a formal appeal process or a dispute resolution mechanism for certificate holders that want to challenge compliance and enforcement decisions.

“The requirement for detailed management, construction and operating plans has led to scope creep into the post EA permitting process, especially given their use in certificate compliance and enforcement”.

The EAO heard the need for better regulatory coordination between the EA and permitting processes, and that management plans often contain details that would be more appropriately dealt with during permitting. It was noted that the wording of EA certificate conditions can sometimes lead to requiring two separate management plans with duplicative requirements and overlapping criteria. There was a recommendation from industry that EAs address high-risk issues and leave lower-risk issues to be addressed by permitting.

Industry expressed a desire for clarity around the roles of the Technical Advisory Committee and other ministries in the implementation of environmental assessment certificate conditions and management plans, and the need for a mandate that authorizes and obligates the EAO to oversee, and ensure the continuation of, other ministries' participation in the implementation of management plans and conditions.

Effects assessment and technical review

Overall, industry representatives felt there is a need for more guidance to assist proponents in the assessment of effects. Specific requests were related to guidance for the assessment of positive effects of projects, the effects of wind turbines on birds and bats, and the effects of solar and battery projects.

It was recommended that guidance be developed to assist proponents in implementing government's New Industry Net Zero requirements as part of an EA, and to clarify what proponents' roles are in Indigenous-led effects assessments.¹⁰

With respect to cumulative effects assessment, there were not only requests for clearer guidance on how to conduct cumulative effects assessments, but observations that the pre-contact baseline work¹¹ required for cumulative effects assessments should be undertaken outside the scope of project assessments.

“...it is not possible for project proponents to provide pre-contact baseline information. Proponents can provide data on effects related to their projects using existing conditions. We recommend any requirement for pre-contact baseline work be removed from environmental assessment and deferred to various land and resource planning forums”

¹⁰ Under Section 19 (4) of the Act, participating Indigenous nations may carry out an assessment with respect to potential effects of the project on the nation and on its rights recognized and affirmed by section 35 of the *Constitution Act*.

¹¹ In the context of cumulative effects assessment, pre-contact baseline work refers to establishing environmental, cultural, and ecological conditions prior to significant human disturbance, particularly before European colonization or industrial development.

5.3 Other Themes Emerging from Engagement with Industry

Decision-making

With respect to decisions related to the EA process, the EAO heard from industry representatives that the Crown should be the final decision-maker. Industry also wanted transparency around what weight is given to public interest, versus First Nation interest, in decision-making, and what factors are considered by the EAO when seeking to achieve consensus at key decision-points in the EA process.

Process planning - Section 19 process orders

The EAO heard that, generally, plans that are developed during the Early Engagement and Process Planning phases of the EA, and established in the process order, are not being adhered to throughout the assessment process. There were specific recommendations to have the scope of the project, the scope of the assessment, and the list of who should be engaged, clearly defined and not subject to change during the assessment.

Feedback included comments that timelines around First Nation consultation and stakeholder engagement should either be legislated or put into the process order.

“The industry encourages the Minister to implement i) legislated timelines, ii) minimize process steps without a legislated timeframe, iii) confirm Rightsholder lists, and iv) establish a clear and defined project scope for the environmental assessment.”

Indigenous participation in environmental assessment

- **Consultation** – the EAO heard feedback about establishing specific milestones around First Nation consultation, with legislative timelines related to First Nation response. More generally, industry felt that the EAO is downloading onto proponents its obligations as a statutory decision-maker to consult with First Nations.
- **Participating Indigenous nations** – industry representatives indicated a desire for clarity on who can be a participating Indigenous nation, and what role they play in the EA process. There were calls for the current legislated timelines for identifying and establishing participating Indigenous nations to be adhered to, and for transparency around seeking consensus with a participating Indigenous nation.
- **Government-to-government agreements and First Nations law** – the EAO heard that proponents would like more clarity around what their roles, and those of other EA participants, play in government-to-government agreements with First Nations. The importance of ensuring that the EA process can harmonize with the expanding First Nations’ law-making was noted. Examples include the Nisga'a Environmental Assessment Act under the Nisga'a Final Agreement, Land Codes under the Framework Agreement on First Nations Land Management Act, and federal arrangements such as the Indigenous Ministerial Arrangements Regulations being developed with the Canada Energy Regulator and Natural Resources Canada.
- **Indigenous-led assessments** – the EAO heard that while project proponents support the idea of Indigenous-led assessments (ILAs), industry stakeholders expressed concerns that the current approach can lead to inefficiencies and inconsistencies, including the duplication of studies and information requirements. There were calls for the EAO to develop clear criteria for conducting ILAs, clarify what proponents’ roles are in ILAs and, in collaboration with Indigenous people, develop guidance on funding for ILAs.
- **Capacity funding for First Nations** – feedback highlighted the importance of capacity funding to enable First Nations’ participation in environmental assessment and calls for the EAO to ensure that sufficient funding is continued in the future.

Dispute-resolution or appeals process for proponents and EA certificate holders

Calls for a dispute resolution mechanism between proponents and/or EA certificate holders and the EAO, or an appeals process for proponents or EA certificate holders who are unhappy with outcomes of government decisions, was included in industry feedback.

Aligning environmental assessment process with government strategies

Industry representatives also suggested the projects that help meet government goals, such as the Clean Energy Strategy, be exempted from the requirement for an environmental assessment, or to create a streamlined or modified approval process for such projects.

The EAO also heard from industry that the government’s Net Zero New Industry requirements increase uncertainty for proponents and should not be included in the assessment process.

Purposes of the Environmental Assessment Office

The Act introduced [legislated purposes of the Environmental Assessment Office](#), which includes promoting sustainability by protecting the environment, fostering a sound economy and the well-being of British Columbians and their communities and supporting reconciliation with Indigenous peoples in British Columbia.

Industry gave feedback stating that there is no evidence that the purposes set out in the Act are being achieved, despite their perception that the EA processes have become longer and more expensive for proponents in recent years.

“The stated objectives of the 2018 Act were to incorporate UNDRIP principals into the assessment process and improve public confidence in the environmental assessment process. There is no evidence that this has been achieved.”



6.0 ENGAGEMENT WITH UNION OF BC MUNICIPALITIES

The themes outlined below reflect the key areas of concern raised through UBCM resolutions and feedback received from UBCM members, as identified in UBCM’s submission. For discussion on how UBCM was engaged, and feedback analyzed, please see [Appendix 3](#).

6.1 Community and Local Government Engagement

Through resolution, UBCM’s membership has expressed clear interest in enhanced local government consultation to ensure that community concerns related to “the permitting process for resource extraction and other industrial projects” are addressed early and effectively, to the same level as First Nations. Local governments are requesting that, as an order of government, they be consulted during processes for issuing provincial authorizations, and properly engaged on all aspects of potential community impacts, including discharges, noise, social and economic factors, and emergency preparedness, to the same level as First Nations.¹²

6.2 Participant Capacity and Funding

Local government feedback noted that participation in EA places a significant burden on local governments, Indigenous communities and other interest-holders, given that many have limited capacity. UBCM’s membership has called for a provincial system to compensate local governments for staff time and other expenses spent on EAs, and measures that ensure project proponents bear a greater share of these costs.¹³

“The current practice of having project proponents develop assessment materials can also place an undue burden on participants to identify gaps and challenge the accuracy of findings. As a result, effective participation requires capacity and resourcing, including for expert support, research and materials review, and community engagement activities.”. *UBCM submission*

6.3 Effects Assessments and Environmental Assessment Practices

Cumulative effects assessment and environmental baselines

Local governments expressed a need for more effective methods to assess cumulative effects, including ones that consider the impacts of existing and historical projects.¹⁴ As a priority topic for the Act Review, UBCM recommended exploring methods for obtaining baseline data that precedes industrial and other development.

“UBCM members emphasize the need for stronger cumulative effects assessments to account for the total impact of multiple projects over time (Resolution 2017-B65). Current practices often rely on baselines that reflect an already degraded state, which leads to further ecological decline.”. *UBCM submission*

¹² UBCM Resolution 2016-B33

¹³ UBCM Resolution 2017-B113

¹⁴ UBCM Resolution 2017-B65

Climate change

The EAO heard that UBCM's membership has consistently endorsed resolutions proposing policy and actions related to both mitigating the risks and adapting to the effects of climate change.¹⁵ In light of increasing climate-related risks, UBCM calls for requirements for climate change effects to be more explicitly and robustly considered as part of environmental assessments. UBCM was informed by a member that the current regulatory regime disincentivizes local governments from undertaking foreshore restoration and climate adaptation projects, due to the time, cost and other resources required for these projects to undergo environmental assessments. It was recommended that restoration projects, and projects that enable communities to adapt to the effects climate change, be exempted from the environmental assessment requirement.

Health and public safety

As a priority topic for the Act Review, UBCM recommends considering opportunities to minimize adverse impacts of projects on health and public safety. Local governments felt that public health, including any impacts related to temporary worker accommodation,¹⁶ should be evaluated alongside environmental, social, and economic factors by conducting health impact assessments as a component of all assessments.¹⁷

Geographic Scope

UBCM's membership has highlighted the importance of evaluating the broader effects of major infrastructure projects, particularly on geographically distant communities.¹⁸ It was suggested that the Act Review explore how assessments can more effectively evaluate the full range of community and environmental impacts associated with increased transportation and industrial activities, beyond the geographic footprint of the project.

6.3 Post Certificate Activities

UBCM members highlighted a need for stronger post-approval monitoring and compliance mechanisms to ensure that project proponents adhere to approved mitigation measures.¹⁹ UBCM recommends an adaptive management approach, and engaging local governments in the permitting processes, to allow for project modifications in response to unforeseen impacts to ensure projects remain sustainable and responsible over time.



¹⁵ UBCM Resolutions 2022-NR41, 2019-B141, 2019-B135

¹⁶ Resolution 2023-NR37

¹⁷ Resolution 2015-B61

¹⁸ Resolution 2015-B96

¹⁹ Resolution 2023-NR37

7.0 NEXT STEPS

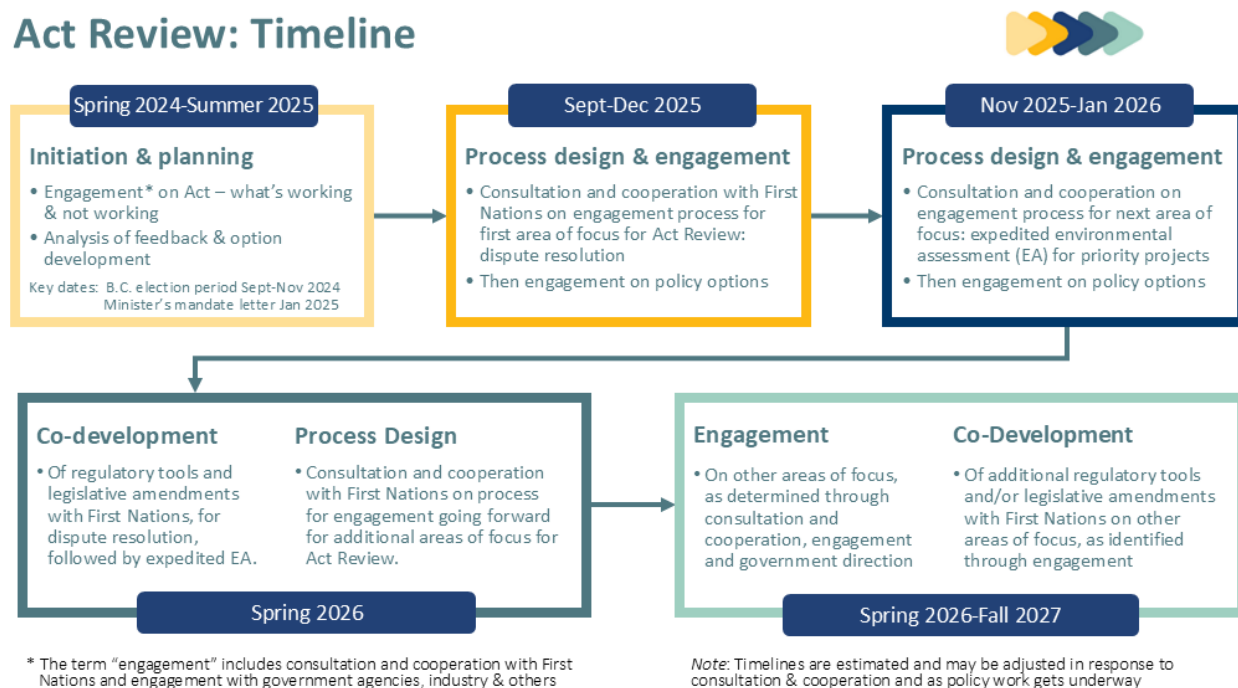
Moving forward, the EAO will undertake consultation and cooperation with First Nations to finalize priority areas of focus and overall Act Review process design. Then, the EAO will proceed with the substantive Act Review and begin broad engagement with First Nations, industry and government partners on various areas of focus to identify what changes, if any, should be pursued to improve the Act and address issues that have arisen from its implementation.

Analysis of what the EAO learned from participants in the preparatory phase of the Act Review generated potential areas of focus for the Act Review. Direct experience of proponents, First Nations, and EAO staff participating in EAs over the past five years has also been a critical input to areas of focus. Finally, new direction from recent government *mandates* to streamline government authorizations and create an expedited assessment process for designated projects has layered in additional requirements for the Act Review.

Areas of focus identified to date include dispute resolution, the framework for First Nation participation in environmental assessments, approaches to First Nations free, prior and informed consent, the types of projects that should be assessed, and ways to make the assessment process more efficient, predictable and timely. Other areas of focus may also emerge from ongoing engagement and consultation and cooperation during the Act Review.

The EAO proposes a sequenced approach to support deeper, more manageable consultation and engagement, addressing near-term priorities and then tackling longer-term issues. During fall 2025 through spring 2026, the EAO will consult and cooperate first on adjustments to the dispute resolution framework and then development of a regulation to establish an expedited environmental assessment process for designated priority projects. The Act Review will then move to other areas of focus, determining sequencing through internal and external engagement, through 2026 and 2027.

Act Review: Timeline



For further information on the Act Review process and engagement opportunities, please visit <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-process/act-review>.

APPENDIX 1: INDIGENOUS ENGAGEMENT – METHODOLOGY AND PARTICIPANTS

Indigenous engagement methodology

Two notifications from the EAO included information about the Act Review process, options available to consult and cooperate/engage, a link to a survey and guidance on providing a written submission.

The approach to engagement focused on open-ended questions, mainly asking participants for their successes and challenges with the Act, as well as their proposed areas of focus for the Act Review itself. The EAO didn't request ideas for solutions to any issues (as this will be part of the next phase); however, many participants shared proposed solutions to issues discussed, and some of those are included in this document.

A quantitative and qualitative analysis of feedback was undertaken by the EAO. For the analysis of qualitative data, an approach was used in which engagement session notes, survey responses and written submissions were reviewed and themes created as they emerged from the data. This process was iterative, with previously read content being re-read when a new theme was identified to ensure that no content was missed during the theming process. Once all data was themed, the EAO developed quantitative counts of the number of comments applied to each theme. Where appropriate, individual comments were applied to more than one theme. The goal was to be as inclusive as possible, ensuring that no theme was discounted in favour of another for an individual comment. The EAO provided all the comments that were received and how they were themed to those that engaged with the EAO in the Review Preparation phase. These themes can be found in Section 4.0 of the report, as the subheadings under each overall priority topic.

As the goal was to accurately reflect the areas of focus that emerged from the feedback received by the EAO, inclusion of any feedback or a specific comment doesn't imply that it represents the shared view of all groups who provided feedback. Where appropriate, different views provided on the same topic are highlighted. Feedback has been paraphrased unless in quotation marks.

Engagement Statistics

3 Virtual Workshops

11 Survey Responses

9 Written Submissions

11 Bi-lateral Meetings

Participating First Nations, Indigenous governing bodies and Indigenous organizations

In advance of gathering any feedback related to the Act Review, the EAO sent two notifications to 189 BC First Nations, five IGBs and six First Nations organizations. An Indigenous Advisory Council was also notified. The following is a list of all participants who engaged with the EAO during the Act Review Preparation phase.²⁰

²⁰ Overall, 44 First Nations, IGBs and Indigenous organizations participated in the various engagement opportunities, but some declined to provide feedback.

Participating First Nations / Organizations

First Nations

- 1 Cook's Ferry Indian Band
- 2 Cowichan Tribes
- 3 Fort Nelson First Nation
- 4 Gitga'at First Nation
- 5 Gwa'Sala-'Nakwaxda'xw Nations
- 6 Halalt First Nation
- 7 Halfway River First Nation
- 8 Homalco First Nation
- 9 Kwikwasut'inuxw Haxwa'mis First Nation
- 10 Lax Kwa'laams Band
- 11 Lheidli T'enneh Nation
- 12 Lhooskuz Dene Nation
- 13 Liard First Nation
- 14 Lower Nicola Indian Band
- 15 Lyackson First Nation
- 16 Malahat Nation
- 17 'Namgis First Nation
- 18 Nisga'a Nation
- 19 Penelakut Tribe
- 20 Popkum First Nation
- 21 Shishalh
- 22 Shuswap Band
- 23 Squamish Nation
- 24 Sumas First Nation
- 25 Taku River Tlingit First Nation
- 26 Tla'amin Nation
- 27 Tsartlip First Nation
- 28 Tsawwassen First Nation
- 29 Tsay Keh Dene Nation
- 30 Tseshaht First Nation
- 31 Tseil-Waututh Nation
- 32 T'Sou-ke First Nation
- 33 Ucluelet First Nation / Yuuʔuʔifʔath

Indigenous Governing Bodies

- 34 Citxw Nlaka'pamux Assembly
- 35 Gitxsan Laxyip
- 36 Haida Nation
- 37 Ktunaxa Nation Council
- 38 Office of the Wet'suwet'en Hereditary Chiefs
- 39 Scw'exmx Tribal Council
- 40 Tahltan Central Government

First Nations Organizations

- 41 Alliance of BC Modern Treaty Nations
- 42 BC Assembly of First Nations (FNLC Rep)
- 43 First Nations Leadership Council

Indigenous Organizations

- 44 Ministers Advisory Council on Indigenous Women



APPENDIX 2: INDUSTRY STAKEHOLDER ENGAGEMENT - METHODOLOGY

Engagement Methods

In July 2024, the EAO invited 13 associations representing industry sectors regulated under the 2018 Act, including oil and gas, mining, clean energy, alternative energy, and all-season resorts, to participate in Review Act Preparation engagement. Of these, eleven responded stating that they were interested in participating.²¹

Two EA certificate holders and/or proponents - Garibaldi at Squamish and BC Hydro - were also asked to participate. Garibaldi at Squamish is one of the few all-season resorts in the province to have completed an EA. It is not represented by an industry association, and was invited to provide the perspective of a resort project that has completed an EA. BC Hydro's "2024 Call for Power Request for Proposals" was structured to enable B.C. to create sufficient clean or renewable energy to meet its future needs. The Crown Corporation was invited, based on both its experience as a proponent and an EA certificate holder under the Act, and its key role in government's strategy for transitioning to clean energy.

The EAO held four virtual information sessions between August 1 and August 20, 2024, to provide information on the upcoming Act Review and what it hoped to learn during Review Preparation engagement. Thirteen industry associations and two EA certificate holders were invited to participate in an online survey, which was open from August 9 to September 16, 2024. Survey questions were open ended, requesting feedback on the organization's, or its membership's, experience with the Act and its regulations, to help the EAO identify priority topics and areas of focus for the Act Review. Respondents were instructed to provide high level responses to the questions, rather than detailed analysis or proposed solutions to identified issues and were informed that there would be opportunities for more in-depth discussions during the Act Review.

Notices were sent to all EA certificate holders and industry proponents, informing them of Review Preparation engagement and advising that, if they had feedback that they wished to contribute during this phase, to contact their respective industry association. Notifications were also sent to members of other EA participant groups: EA Practitioners, Professional Associations and local governments. They were informed of Review Preparation, and advised that they, and all other interested groups, would have an opportunity to participate in a round of engagement once the Act Review was underway.

The following table is a summary of industry stakeholder participants, and how they participated in the engagement.

²¹ No responses to invitations to engage were received from the Coal Association of Canada and the First Nations Major Projects Coalition.

Table – Industry Participation in Review Preparation Engagement – July to September 2024

Industry Association / Organization	Participation		
	Attended Info Session	Responded to Survey	Written Submission*
1. Mining Association of BC (MABC)	✓		✓
2. Association for Mineral Exploration of BC	✓		
3. BC Stone Sand and Gravel Association	✓	✓	
4. Canadian Association of Petroleum Producers (CAPP)	✓		✓
5. First Nations LNG Alliance	✓	✓	
6. Energy Connections Canada	✓	✓	
7. Clean Energy BC	✓	✓	
8. Canadian Geothermal Energy Association	✓	✓	
9. Canadian Hydrogen Association		✓	
10. Business Council of BC (BCBC)	✓		✓
11. Canada West Ski Areas Association	✓	✓	
12. BC Hydro	✓	✓	
13. Garibaldi at Squamish		✓	

*[Joint submission provided by MABC, CAPP, BCBC](#)

Analysis

As with First Nations’ feedback, discussed in Appendix 1, analysis of the industry feedback was both qualitative and quantitative. Qualitative analysis involved reviewing information session notes, survey responses and the written submission to identify themes that emerged from the comments. Once themes and sub-themes were established, each comment was sorted into the category that it best represented. Comments that addressed more than one topic were applied to more than one theme or sub-theme. Quantitative analysis consisted of counting theme and sub-themes.

The headings and sub-headings that appear in [Section 6.0](#) of this report reflect the themes and sub-themes that emerged during the qualitative analysis. The order of the headings generally reflects the number of comments received for each theme. Unless a comment is in quotation marks, the discussions under each heading and sub-heading paraphrase the feedback that was received during engagement.

Limitations

Engagement during the Act Review Preparation phase was designed to be preliminary. The decision was made to target industry associations and a limited number of other industry stakeholders to engage on their and their members’ experiences with the Act and its regulations, and use the feedback to inform the EAO’s recommendations to the Minister on the nature and process of the Act Review.

While this approach is efficient and, for the purposes of identifying priority topics for the Act Review, effective, it has recognized limitations. The number of industry associations and other industry organizations that participated in Review Preparation engagement is small, meaning that the feedback received is limited. Furthermore, it is acknowledged that not every type of project that the EAO regulates is represented by an industry association, meaning that the perspectives of all industry types were not necessarily captured using this approach. Once the Act Review is underway, the EAO intends to engage more broadly to provide other interested parties with the opportunity to engage.



UNION OF BC MUNICIPALITIES (UBCM) ENGAGEMENT - METHODOLOGY

Engagement Methodology and Analysis

Local governments are key actors in the EA process. To capture their perspective during Review Preparation, the EAO reached out UBCM, which provides a common voice for B.C. local governments. Unlike industry associations, which are empowered to take policy positions on behalf their members, UBCM develops policy with its membership by convention. Resolutions are debated and voted on at UBCM’s annual convention, and policy positions are developed based on the resolutions that are passed.

To support the EAO’s preliminary engagement, the UBCM undertook a review of all resolutions that had been endorsed by its membership and were related to the 2018 Act or EA process. This research was used as a basis for a UBCM submission to the EAO. The relevant resolutions identified by UBCM highlight key challenges and issues of concern for local governments, including how cumulative effects and health impacts are considered, financial support for local government participation, and the geographic scope of assessment.

In a [weekly bulletin](#) to its members, UBCM described the engagement that the EAO was undertaking for Review Preparation, and its intention to prepare a submission based on existing resolutions. Included in the notice was an invitation for members to provide any further input that might help the EAO to identify priority topics for the Act Review and inform the EAO’s recommendations to the Minister. The article explained that the engagement taking place during the preparatory phase was narrow and targeted, and that it was anticipated that local governments would have the opportunity to engage directly with the EAO after the Act Review was initiated. Three local governments responded to the request. The content of two of these was incorporated by UBCM into its final submission, and a third response, sent to UBCM after the final submission, was shared directly with the EAO.

UBCM’s submission, dated September 13, 2024, presents the key areas of concern that were raised through the UBCM resolutions, and feedback received from two members in response to the article. The priority topics that were identified in the submission are discussed [Section 7.0](#) of this report.

Limitations

A majority of UBCM members must agree upon a resolution for one to be passed. Reviewing resolutions that relate to the Act and the EA process is an effective method to gain a high-level understanding of some areas of concern for local governments, and identify the potential priority topics for this stakeholder group. However, it is not a substitute for direct engagement with local governments. The upcoming Act Review will provide the opportunity for local governments to engage directly with the EAO.

