

The Role of Public Consultation in Environmental Assessments: Phase One Report

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Note: EAO is also responsible for consulting and appropriately accommodating First Nations when a decision could affect asserted or established Aboriginal rights and title or treaty rights. The important [legal consultation duty to First Nations](#) is not the subject of this public consultation discussion paper.



THE EAO'S REVIEW OF PUBLIC CONSULTATION IN BC ENVIRONMENTAL ASSESSMENTS

Public consultation is an important and mandatory aspect of environmental assessments in British Columbia, based on the principle that those affected by proposed projects should have an opportunity to provide input to the assessment. The public's legitimate expectations that they be consulted on decisions that could affect them have heightened in recent years along with public awareness about major proposed projects.

EAO is reviewing its public consultation procedures, with the aim of improving public consultation in the environmental assessment process and determining how the quality of information provided in an environmental assessment may be enhanced in order to enrich engagement for all parties.

In this first phase of EAO's review of public consultation procedures, we have engaged stakeholders and the public to identify what is currently working well and to clarify opportunities for change. EAO aims to improve the understanding and results of public participation in environmental assessments for all parties: decision makers, proponents, stakeholders who could be affected by a project, and members of the public who have an interest in proposed developments.

In the second phase of the review, we will incorporate feedback gathered to improve our public consultation practices. EAO will consider what we have heard and develop new guidance on public consultation tools, procedures and methods for EAO staff and proponents, as well as to improve upon information about EAO consultation policy and practice for the public.

BACKGROUND ON PUBLIC CONSULTATION REQUIREMENTS

Public consultation is set out in the BC *Environmental Assessment Act* and Public Consultation Policy Regulation as a responsibility both of the Environmental Assessment Office (EAO) and of project proponents. The public includes those who could be directly or indirectly affected by a project, key stakeholders in the project area, and others who may be interested in a proposed project.

The Act's legal requirements related to public consultation include a proponent public consultation program acceptable to EAO, at least one public comment period to solicit input, the posting of specific documents for public review, and timelines for public comment periods.

Public consultation for provincial environmental assessments necessarily varies from one project to another, and typically exceeds the minimum requirements set out in the regulation. For example, EAO usually holds at least two public comment periods, proponents and/or EAO may hold community information sessions on a project and the environmental assessment, and substantial additional project information is made publicly available.



STEPS OF ENGAGEMENT: PHASE ONE OF THE REVIEW

Through this first phase of public consultation review, EAO sought input from stakeholders and the public on ways to improve how the public is engaged in the environmental assessment process. The following is a summary of the activities that have been undertaken in this stage of the review.

PRELIMINARY DIALOGUE WITH STAKEHOLDER GROUPS

In the summer and fall of 2014, EAO conducted exploratory conversations with EAO staff and stakeholder groups on how to improve the clarity, purpose and approach to public participation in the environmental assessment process.

We engaged with a cross-section of stakeholder groups that have previously expressed an interest in environmental assessment, including academic institutions, non-governmental organizations, public consultation experts, past proponents and industry groups, in order to hear diverse views on the experience and practice of public engagement in environmental assessment in British Columbia. Semi-structured interviews were conducted in person or by telephone, with some written responses received.

ONLINE FORUM SEEKING PUBLIC INPUT

In spring 2015, EAO hosted a six-week online discussion to ask for citizens' ideas about ways to improve the participation of the public in environmental assessment, based on the same types of questions posed to stakeholders:

1. What is working with public consultation for environmental assessments?
2. What practical measures could improve the public consultation approach for environmental assessments?
3. What are some ways that EAO can ensure that the public is informed about environmental assessments, knows about their opportunities to provide input, and can find out how public issues are considered in environmental assessment decisions?

The discussion was publicized directly to several dozen organizations including many that are currently or recently directly involved in an environmental assessment for a particular project, encouraging people to contribute their ideas and share the consultation opportunity broadly with their networks. In addition, we posted notifications about the discussion to EAO's website, the govTogether BC website, and advertised on social media.

In total, over 200 people responded to EAO's interviews, workshops and online discussion. Many of those had direct and relevant experience with public consultation in environmental assessments. The online discussion website garnered over 2,200 visits.



WHAT WE HEARD

Throughout Phase One of EAO's public consultation review, we heard a wide range of views about what is working and ways that we might improve the practice and outcomes of public consultation in environmental assessments. Within the diversity of perspectives, the following common themes emerged, which provide us with valuable opportunities to improve public consultation in the environmental assessment process.

What's working: Early feedback from the public and stakeholders indicated that there is high value in the public participating directly throughout an environmental assessment. Participants spoke about the value of public access to documents online, maintaining a record of written public comments and reporting on how issues are addressed, the EAO-hosted in-person public information sessions about the environmental assessment process, as well as having defined, predictable time periods for public comment on specific environmental assessment documents that can provide structure to the input.

The EAO website is a valuable interface for use by the public (although with room for technical enhancements), and interactions with EAO staff have been largely positive. Although improvements to the format were suggested, open houses were also recognized as an important forum for public engagement.

What could be improved: While there is great value placed in the current practice of public consultation in environmental assessment, we heard that the public perceives challenges in the approach to public consultation. For example, recognizing the highly technical and complex nature of environmental assessment documents, the information for the public's review needs to be more readily accessible to a broader, non-technical audience.


Presently, public consultation takes considerable time and resources for all parties, and there are challenging trade-offs needed to balance those costs with the benefits of participating and sharing their perspectives. Further, the use of a range of tools and strategies to engage and communicate with the public by EAO and proponents is not as effective as it could be. A common example of this is that members of the public who had contributed could not easily find out and understand how their input was heard and considered in decision-making.

Likewise, people have very different expectations about the purpose of public consultation and how public input should influence the process and the Ministers' final decisions on whether projects should proceed and under what conditions. Part of this divergence of expectations is based on a sense that EAO does not clearly communicate the role of public input in environmental assessment.

Overall, we heard that the flexibility available in the legislation for deciding how to consult with the public has both strengths (in being tailored to project circumstances) and weaknesses (because it can lead to inconsistent practices).



What could we change: We also received input on specific changes that could be made to improve public consultation. Suggestions include:

- Seek public feedback about their interests and values relative to proposed projects earlier in the process, in order to guide what must be studied as part of a proponent's environmental assessment application, and to help refine the approach to consultation;
 - Communicate clearly and in a timely way with the public about how their input was considered in the environmental assessment process;
 - Improve accessibility of project information on the EAO website as a communications and data analysis tool;
 - Create consistent guidelines for proponents on public consultation, and principles for EAO to determine if proponents have prepared adequate consultation plans and consulted sufficiently;
 - Ensure public consultation programs are effectively designed to fit the communities that could be affected, including consideration of the following:
 - Initiate public consultation earlier in the environmental assessment process and use a wider range of notification tools;
 - Extend the duration of the public comment periods;
 - Provide funding for public participation;
 - Consider the use of public meetings with a question-and-answer segment, or public hearings in place of, or in addition to, open houses;
 - Hold public forums in more locations than just the community in closest proximity to the project;
 - Require proponents to develop communications plans to support the implementation of public consultation; and
 - Notify participants well in advance of public comment periods, and with updates on project status.
 - EAO and proponents should produce more focused, plain-language and accessible materials for a general audience;
 - Consider additional ways that the public can remain informed about the project after environmental assessments have been completed (compliance stage);
 - Improve education and communications regarding the environmental assessment process,
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including making it easier for the public to find, understand, and access information of interest about projects on EAO's website; and

- Ensure sufficient, trained and well-prepared EAO staff is available at public forums, and that they are distinguishable from proponents.

In addition to feedback about EAO's public consultation, participants contributed to the online discussion to provide comments on specific projects and on the environmental assessment process in general.

WHAT IS NEXT: PHASE TWO OF THE REVIEW

In the second phase of the Public Consultation Review, expected to be implemented incrementally over the next 12 months, EAO will consider the feedback received and develop updated guidelines on public consultation in the environmental assessment process for proponents and EAO staff.

Additionally, EAO will use the issues raised through this consultation to update how we inform and communicate with the public about participating in environmental assessment. EAO recognizes that the public has a broad range of perspectives about the practice of public consultation in environmental assessments, some of which can be applied to adapt EAO's public consultation policy and procedures, and some of which lie outside the scope of the BC environmental assessment legislation. EAO's updated public consultation guidance documents will be available in 2016.

In the meantime, work is underway to address one of the issues about accessibility and transparency raised by the public during the online discussion. EAO is developing a new website that will provide citizens with better, more intuitive access to project information, and enhance the tools for public comment on projects.

For questions, please contact eaoinfo@gov.bc.ca.



APPENDIX: PRINCIPLES AND OBJECTIVES – WORKING VERSION

The information below was provided as background in the online discussion in Spring 2015.

PURPOSE OF PUBLIC CONSULTATION

As part of all environmental assessments, EAO seeks input from the public to inform our work of assessing proposed major projects for potentially significant adverse environmental, social, economic, health and heritage effects.

As part of the engagement with stakeholders and the public in phase one, EAO shared its view that a successful public participation process is one where the diverse needs, interests and concerns of parties who could be affected by a project are identified as part of the project's environmental assessment, where public engagement contributes local knowledge that helps avoid, reduce or mitigate for negative impacts of the project on the communities, where potential impacts and uncertainties are plainly described and addressed, and where the environmental assessment process helps prepare communities to manage impacts should the project receive Ministerial approval to proceed.

EAO envisions a successful public participation process as one where the diverse needs, interests and concerns of parties who could be affected by a project are identified as part of the project's environmental assessment, where public engagement contributes local knowledge that helps avoid, reduce or mitigate for negative impacts of the project on the communities, where potential impacts and uncertainties are plainly described and addressed, and where the environmental assessment process helps prepare communities to manage impacts should the project receive Ministerial approval to proceed.

OBJECTIVES

EAO's objectives for public consultation are:

1. To ensure that people who may be affected by a project understand what environmental assessment is and have clear information about the proposed project to help them participate in the process;
2. To gather relevant information, experience and knowledge from the public about a project's potential adverse effects on communities, and practical measures to address them;
3. To provide the government ministers who will make the final decision on whether to approve the project with information about the issues raised by the public, the potential effects on local populations, and how those have been responded to during the environmental assessment; and



4. To clearly demonstrate how public input was used during the environmental assessment.

PRINCIPLES

EAO's approach is based on the principles that public consultation must:

- Be proactive: engage early and often with those who could be affected;
- Be specific: maintain a clear focus on the legal requirement to assess the potential significant adverse effects of projects;
- Be effective: design appropriate, meaningful and effective participation opportunities to reach those who are interested and those could be affected, suited to the local and regional context;
- Be open: demonstrate clear roles and responsibilities
- Be clear: provide comprehensive, accessible, information for the public audiences;
- Be accountable: respond to relevant issues in a timely way, and provide reasons for decisions and recommendations made to the Ministers; and
- Be responsible and efficient with public resources: ensure consultation activities are an effective, productive use of public money.

