

UBCM Submission on the Environmental Assessment Revitalization Discussion Paper

Union of BC Municipalities

The Union of British Columbia Municipalities (UBCM) is the voice for local government in British Columbia. Founded in 1905, UBCM is incorporated by a provincial statute to represent the common interests of local governments in British Columbia. UBCM's membership currently includes every local government in BC as well as seven post-treaty First Nations.

UBCM is pleased to contribute to the discussion on the revitalization of the environmental assessment process. For several years, local governments have identified a range of concerns with the environmental assessment process, both in terms of process and specific projects. Through endorsed resolutions, they have put forward recommendations to create an inclusive, transparent, and accountable process that seeks to balance environmental protection with economic development – and which meet the needs of BC's communities (*see Appendix*).

Local governments have long supported increased public engagement within the environmental assessment process. To ensure full and fair consideration of all interests, local governments desire a longer consultation period beyond the allocated thirty (30) day public consultation period. They also support making the Environmental Assessment Office's report available for public comment prior to a ministerial announcement. These are critical elements for a successful review.

Local governments have also sought a regulatory requirement to consult local governments in the permitting process, at the same level as Indigenous Peoples, in all aspects of a project's potential impact. There is a range of social, economic, environmental and public safety issues raised by any project undergoing an environmental assessment. As front-line service providers for residents, local governments require the ability to understand these potential impacts and prepare accordingly.

Understanding the full impact and magnitude of any proposed project on BC's communities also requires a cumulative analysis. UBCM supports cumulative analyses that clearly outline the economic, environmental, social, health, and heritage impacts of any potential project.

To facilitate active local government engagement in the process, UBCM has called for provincial compensation to help offset the extensive costs associated with participating in environmental assessments. Many local governments find participation in the process quite costly, if not onerous, given the significant resources and time allocated towards researching, reviewing, and contributing to technical working groups. Local governments have sought provincial funding, and

the inclusion of a local government fee in the process, in the absence of any cost recovery means for recouping these expenses.

In order to enhance accountability and transparency within the process, local governments also support a stronger post-certification phase for projects authorized under the *Environmental Assessment Act*. This entails a clear delineation of the roles and responsibilities of the EAO; independent multi-agency compliance monitoring; open reporting that outlines non-compliance and enforcement actions; and strong community liaison between the proponent, regulatory agencies, and the local community.

UBCM is pleased to provide these comments, and looks forward to the outcomes of the environmental assessment revitalization process discussion.

APPENDIX: UBCM RESOLUTIONS RELATED TO THE ENVIRONMENTAL ASSESSMENT PROCESS

2017 - B113 Environmental Assessment Funding System

Whereas the provincial and federal environmental assessment processes are not the direct jurisdiction of local governments and therefore not subject to associated service cost recovery fees and cost of public engagement;

And whereas these environmental assessment processes can be very time consuming, expensive and onerous for local government staff, community and council:

Therefore be it resolved that the provincial government set up a funding system to allow for local governments to be compensated for the staff time spent including research, review, technical and working group participation, and to augment and support community engagement during the entire process;

And be it further resolved that the provincial government's Environmental Assessment Office fee schedule be revised to include a fee for local governments throughout the certification process.

2017 – B65 Environmental Assessment Cumulative Analysis

Whereas a project subject to provincial environmental assessment (EA) process can be separated into different EA processes or excluded from the process altogether such as hydro, gas supply, navigation, etc.;

And whereas, because of this, there is no cumulative analysis that creates a clear picture of the entire impact of a proposal, including the five pillars of environmental assessment; economic, social, environmental, health and heritage, thereby distorting and potentially minimizes the magnitude of the impact or understanding by the community and local government:

Therefore be it resolved that the Province consider projects in their entirety when evaluating them through the Environmental Assessment Office.

2016 – B33 Consultation with Local Governments for Industrial Projects

Whereas provincial legislation requires consultation with potentially affected First Nations as part of the permitting process for resource extraction and other industrial projects;

And whereas there is no such requirement for adjacent communities and local governments to be consulted:

Therefore be it resolved that UBCM call on the provincial government to implement regulatory requirements for local communities (rural or municipal) and local governments to be consulted in the permitting process, at the same level as First Nations, in all aspects of potential impact, including but not limited to:

- a) Discharges into the environment, including water and air
- b) Noise impacts
- c) Social and economic impacts
- d) Emergency preparedness and response plans
- e) Communication plans
- f) Reclamation and closure plans.

2015 – B96 Geographic Scope of Environmental Assessment

WHEREAS environmental impact assessments are undertaken for major infrastructure projects in accordance with the BC Environmental Assessment Act, 2012 and the *Canadian Environmental Assessment Act*;

AND WHEREAS the impacts of a project may extend well beyond the geographic footprint of the project;

AND WHEREAS this is particularly true for port developments where road, rail and shipping impacts may affect communities that are geographically distant from the marine terminal:

Therefore be it resolved that the BC government be requested to ensure that the scope of environmental impact assessments for major infrastructure projects includes the wider community and environmental impacts associated with increased road, rail and marine traffic so that a range of mitigation options can be assessed, including the development of inland port facilities.

2015 - B61 Health Impacts Assessment

WHEREAS the BC Health Officers Council is calling for Health Impact Assessments to be carried out as part of all Environmental Assessments conducted in the province:

Therefore be it resolved that a Health Impact Assessment must be considered for all reviewable projects under the BC Environmental Assessment Act, and that a complete HIA be performed and provincially funded as part of the project review process;

And be it further resolved that the Ministry of Environment and the Environmental Assessment Office work with the Health Officers Council and UBCM to develop the necessary guidance documents to support the implementation of HIA in the assessment of reviewable projects.

2015 – B28 Independent BC Review of Trans Mountain Expansion Project

Whereas the current National Energy Board (NEB) assessment of the Trans Mountain Expansion Project has proven to be deeply flawed and undemocratic;

And whereas the Union of BC Municipalities endorsed the City of Victoria's emergency resolution LR2 in September 2014 calling on the Environmental Assessment Office of the Province of British Columbia to undertake its own environmental assessment process of the Trans Mountain Expansion Project and withdraw from the 2010 Equivalency Agreement with the NEB, but no response has been received to date from the Province;

Therefore be it resolved that in response to 2014 UBCM resolution LR2, the Province of British Columbia withdraw from the 2010 Equivalency Agreement with the National Energy Board and undertake its own environmental assessment process of the Trans Mountain Expansion Project, with meaningful participation by First Nations, local governments and all interested British Columbians.

2014 – LR2 Environmental Assessment of Trans Mountain Expansion Project

WHEREAS the Environmental Assessment Office of the Province of British Columbia ("the EAO") entered into an Agreement in 2010 with the National Energy Board ("NEB") under which the EAO accepts that the NEB assessment of a pipeline constitutes the equivalent of an assessment under the British Columbia Environmental Assessment Act;

AND WHEREAS Trans Mountain's responses to motions filed in early July 2014 by intervenors in the NEB hearing process for the Trans Mountain Expansion Project demonstrate that Trans Mountain is failing to adequately respond to written information requests, which are the only opportunity for intervenors to test and clarify Trans Mountain's evidence;

AND WHEREAS this failure to respond to written information requests means that intervenors are not able to properly prepare their own evidence and participate meaningfully in the assessment process for the Trans Mountain Expansion Project, in contravention of the preamble to the Agreement, which states that any assessment of a project pursuant to the National Energy Board Act would take into account any comments submitted during the assessment process by the public and Aboriginal peoples:

Therefore be it resolved that the UBCM request that the Province direct the EAO to withdraw formally from the Agreement pursuant to Clause 6 thereof and undertake its own Environmental Assessment process for the Trans Mountain Expansion Project, which should include sufficient opportunity for meaningful participation by all interested British Columbians.

2014 – B25 Environmental Assessment Review Process

WHEREAS the guiding principles of the BC Environmental Assessment Office (EAO) include a commitment to undertaking objective environmental assessments, giving full and fair consideration to all interests, and to providing opportunities for all interested parties to participate in the environmental assessment process;

AND WHEREAS the allocated 30-day public consultation period is not adequate for meaningful public consideration and comment on projects under review, nor does it provide opportunities for public comment on the EAO's report before a Ministerial decision is made public:

Therefore be it resolved that UBCM urge the provincial government to revise the Environmental Assessment Process to increase opportunities for public engagement by providing a longer public consultation period and by making the EAO's report available for public comment prior to announcing the Ministerial decision.

2009 – B125 Post Certification Monitoring Under the BC *Environmental Assessment Act*

WHEREAS concerns regarding the post-certification monitoring and enforcement of projects authorized under the BC *Environmental Assessment Act* have been identified;

AND WHEREAS post certification procedures are determined on a case by case basis by the Environmental Assessment Director:

Therefore be it resolved that the Province be requested to initiate a review of the policies and procedures that relate to the post-certification phase of projects authorized under the BC *Environmental Assessment Act* in order to improve transparency and accountability including:

(i) Clearly defining the roles and responsibilities of the BC Environmental Assessment Office and other government agencies and stakeholders, providing clearer lines of accountability and providing a greater level of municipal involvement during the construction and post-construction monitoring phase of projects.

(ii) Creating a mandated system of independent compliance monitoring by multi-agency representatives, comprising federal, provincial, regional and local government representatives that meet at regular intervals throughout the construction and post-construction monitoring phase of the project, and which reports directly to the Environmental Assessment Office for follow-up action with the proponent.

(iii) Creating a more open system of reporting with respect to issues of non-compliance and enforcement action.

(iv) Creating a mandated community liaison committee to facilitate communication between the proponent, regulatory agencies and the local community.