

Free, Prior and Informed Consent

WITHIN THE CONTEXT OF UNDRIP AND ENVIRONMENTAL ASSESSMENTS

Free, Prior and Informed Consent (FPIC) is an integral aspect of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), so it's important that FPIC as it applies to EAs is clearly understood.

The chart below illustrates how the new environmental assessment process will implement UNDRIP, which is supported by a report recently released by the United Nations Human Rights Council: [Free, prior, and informed consent: a human rights-based approach study of the expert mechanism on the rights of Indigenous Peoples](#).

◆ See the reverse page to see how points in the environmental assessment process support Free, Prior and Informed Consent

| | FREE | PRIOR | INFORMED | CONSENT |
|---|--|---|--|--|
| Description | The absence of both direct and indirect factors that may hinder Indigenous peoples' free will | Consent is sought before any other decisions allowing a proposal to proceed, and should begin as early as possible | Information provided should be sufficient, objective and accurate, and supported by adequate resources and capacity | Indigenous nations are entitled to give or withhold consent to proposals that affect them. Consent can only be received when the criteria of having been free, prior, and informed, has been fulfilled |
| Examples of alignment through EA revitalization with the criteria for Free, Prior and Informed Consent | <ol style="list-style-type: none"> ◆ 1 Empowers Indigenous nations to freely determine how they engage in EAs, through government-to-government agreements or as part of a Process Order, ranging from collaborative to Indigenous-led EAs ◆ 2 Provides a non-binding, optional dispute resolution mechanism to assist in reaching consensus | <ol style="list-style-type: none"> ◆ 3 Introduces an Early Engagement phase to foster relationship building and ensure Indigenous nations are well informed before a decision is made on whether to conduct an EA on a proposed project ◆ 4 Legislates requirements for the EAO to seek consensus with Indigenous nations throughout the EA process | <ol style="list-style-type: none"> ◆ 5 Provides an opportunity for Indigenous nations to identify their information needs to support their decision-making and assessment of potential project impacts on Indigenous nations and their rights and title <ul style="list-style-type: none"> • Introduces a new capacity funding model for Indigenous nations (subject to future engagement) ◆ 6 Incorporates Indigenous knowledge in the Effects Assessment | <ol style="list-style-type: none"> ◆ 7 Provides formal opportunities for Indigenous nations to provide their consent at key points throughout the EA process, including any exemptions from the EA, terminations from the process, and the final decision by Ministers as to whether or not to issue an EA certificate ◆ 8 Requires the Ministers to consider consent or lack of consent of any participating Indigenous nations prior to deciding whether or not to issue an EA certificate, and the Ministers must provide reasons for their decision in light of the decision of Indigenous nations |

Proposed Environmental Assessment Process

Free, Prior and Informed Consent:

Obtaining Free, Prior and Informed Consent is an integral aspect of the United Nations Declaration on the Rights of Indigenous Peoples. The new EA process is designed to ensure that any decision taken on the question of consent by an Indigenous nation is free, prior and informed. Respectful of their own Indigenous laws, traditions and right of self-determination, a key objective of the new EA process is to create the opportunity for Indigenous nations to make a decision on consent. It is an objective that proponents, the Province and Indigenous nations should be working to achieve. The new EA process facilitates that objective throughout the process.

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