

# Environmental Assessment Revitalization Stakeholder Implementation Committee - May 29, 2019

**Chair:** Paul Craven

**Members:** Hannah Askew, Meera Bawa, Bob Bocking, Karen Campbell, Karen Elliott, Kevin Hanna, Kai Horsfield, Matt Kennedy, Greg Knox, Carmen Holschuh, Scott Lunny, Geoff Morrison, Denise Mullen, Marla Orenstein, Ward Prystay, Ron Poole, Gavin Smith, Rob Stevens, Sandra Webster (for Ward Prystay), Olivia French (for Hannah Askew)

**EAO Attendees:** Scott Bailey, Nathan Braun, Paul Craven, Sheldon Foote, Kate Haines, Lindsay Luke, Fern Stockman, Audrey Roburn

**Regrets:** Ward Prystay, Hannah Askew

## Update on engagement and linkages to the Indigenous Implementation Committee

- Deadline for applications for Indigenous Implementation Committee (IIC) is today, with committee selection expected to be concluded next week. How the IIC will interact with the Stakeholder Implementation Committee is expected to be clarified at the first meeting of the IIC, in June.

## Update from Regional Environmental Assessment Workshop

- EAO is working on a summary of the workshop that will be distributed to this group once finalized. A workshop scheduled for the fall will develop further detail on next steps.

## Process Planning

- A Powerpoint presentation (filename 4.0 Process Planning Powerpoint) was used to provide an overview of the purpose of process planning; roles for different parties in process planning; and the key components of the Process Order (main body to define project scope, and three appendices: Assessment Plan, Permitting Plan, and Information Requirements)
- Additional documents were provided for review and discussion:
  - process planning draft guidance (filename EAO- draft Guidance – Process Planning)
  - process planning conceptual workflow and objectives graphic (filename 4.2 Process Planning Conceptual Workflow)

## Process Order

- Consensus with participating Indigenous nations is sought on the process order, which includes whether and how participating Indigenous nations will conduct the assessment of impacts on the Indigenous nation and their rights and how this assessment feeds into the overall assessment.
- The Process Order will capture the scope of the project.
- Reasons for determining a project's scope will be provided when the process order is issued.

## Assessment Plan

- Local government decision-making timelines, approaches, and points of engagement will need to be reflected in the Assessment Plan
- EAO will develop and provide a simplified version of the Intentions Paper (p.12) graphic of process phases and timelines
- Assessment Plan level of detail should include key steps and accountabilities, but not workplan-level detail.
- A change process should exist to allow for necessary flexibility, but a very strong supporting rationale would be needed to change the Assessment Plan once the Process Order is issued. Flexibility is important to allow for innovation and the incorporation of new information, but needs to be balanced by certainty for proponents.
- At times EAs have required detailed information that does not ultimately inform the EA in a meaningful way; for example, fish habitat assessments for every pipeline crossing even though the effects of crossings can be mitigated using best management practices, or breeding bird surveys that don't help inform EA conclusions on adverse effects. There is an opportunity to point to technical studies that will be conducted as part of permitting to provide a broad sense of what is required when.
- It will be important to track the reasons for decisions made in the EA including regarding whether an issue is best dealt with in the EA or elsewhere on the regulatory continuum, to provide transparency and consistency and to improve confidence that the issue will be addressed.
- Information on issues important to the public should be provided by a party that the public trusts. Separate experts may be needed, or the Technical Advisory Committee (TAC) expert may be the appropriate advisor. The Assessment Plan should provide transparency on the involvement of experts to improve public confidence as well as certainty for proponents.
- The draft process planning guidance document (p. 10, Appendix 2) could provide more detail on the role of independent experts and who pays.
- To enhance public trust, we need flexibility in how we address key issues of concern that were identified in early engagement. As one of these tools, there needs to be clear guidance on how the community advisory committee (CAC) can make recommendations to the TAC.

### **Information Requirements**

- The Information Requirements will specify standard methods to be applied, e.g. for data collection and for assessment of impacts.
- With respect to larger policy issues, those should be identified in early engagement, and government can use tools inside or outside of the EA Act to provide greater certainty to the project EA (which may proceed based on current policy, or incorporate new policy if it is available early in the process).
- Table of Contents (TOC) could be restructured to put policy issues or policy guidance early in the document to highlight key issues, and separate that from guidance for methods which can be throughout the rest of the document.
- The Information Requirements will link to EA methods guidance, and will include guidance on characterization of effects and conclusion on significance, which may include guidance on the application of thresholds or limits of acceptable change. There will be avenues for flexibility in the guidance to allow for changes in best practices.

- The Information Requirements will be a template to begin with, which will then be tailored with the help of the TAC.
- Effects pathway diagrams developed for individual projects/valued component (VC)s are helpful to focus the dialogue.
- As noted in section 14.2 of the TOC, on recent EAs the EAO has been asking proponents to produce a summary of all mitigations and where they will be enacted (e.g. permitting process, EA certificate condition, general best management practice).
- Effectiveness of mitigations is key to assessment of significance and an important consideration for EAO in the choice of certificate conditions. Should be included explicitly in the TOC.
- Discussion of management plans is requested at a future Implementation Committee meeting.
- EA process does not need to include a lot of detail in the Application; it should simply outline the type of process (e.g. Indigenous-led) and point to details as described elsewhere.
- A standard list of VCs to choose from is a good idea, although there should be less prescription of indicators and measurable parameters. Flexibility to leave out some VCs or lump/split VCs differently and tailor by sector is also helpful; perhaps a list of “topics” rather than “VCs” that provides a consistent organizing principle for the Information Requirements. Essentially, the EAO is looking to establish nomenclature to ensure consistency.
- Information Requirements TOC should match Application TOC as much as possible, to make the table of concordance simpler.
- Two purposes for data in the EA: real-time assessment, and post-EA knowledge building (provincial storage). It will be important for some parties to access raw data during the EA (e.g. TAC for review/validation, Community Advisory Committee), which will require a clear process. Data-sharing should not contradict the intent of the data collection (e.g. revealing the mapped locations of endangered species or habitats can put them at greater risk).

### **Permitting Plan**

- Agencies responsible for future permitting will be on the TAC. EAO’s approach is for issues to be dealt with by the ‘best placed regulator’ with the appropriate instruments and expertise.
- It is important for community members and local governments to understand how and when they can influence subsequent permitting decisions; this should be made clear in the permitting plan.
- Agency involvement and sign-off at the executive level is key to ensure subsequent statutory authorizations apply the information from the EA.
- All authorizations could be considered in the permitting plan, with more detail included on the more critical ones.

### **Public Engagement**

- A PowerPoint presentation (filename 5.0 Public Engagement Guiding Principles PowerPoint ) outlined the following key principles for future public engagement in EAs: transparency; feedback loop; responsive and tailored engagement; public expertise; informed public; evaluation and improvement; centralized approach; and inclusive engagement.
- Responses to public comments should be in a format accessible to the public such as the ‘what we heard’ report used for the EA Revitalization Discussion Paper, using a thematic approach.

- Regarding public expertise, input from citizen scientists can inform the EA. For example, expertise in fisheries or heritage values, or local research and monitoring. Local governments often have knowledge on who in the community would have this expertise.
- In some topic areas, the only legitimate way to gain information for the effects assessment is by speaking with local people, for example understanding how a road is used.
- Early engagement can bring appropriate expertise into the process and prevent conflict and ‘duelling experts’ later on.
- The public consultation regulation will be replaced with an Order. Much of the content of the public consultation regulation was included directly in the new Act.

## Effects Assessment

- A PowerPoint presentation (filename 6.0 Effects Assessment Powerpoint) provided an overview of effects assessment requirements under the new Act, focusing on section 25(2) factors. Also provided were a graphic describing how climate change could be considered in three streams in EA (filename 6.1 Climate Change Flow Diagrams Draft) and a summary of current EA methods (filename 6.2 EA Methods Summary).
- Broadly speaking, the EA process is a narrowing of the most important issues for the decision maker. All factors. 25 factors won’t need to be addressed in the same breadth for each project. Usually by the end decision makers are turning their minds to a few key issues. All section 25 matters will be represented in some manner in the information requirements stage and the assessment report.
- Consideration of positive effects is expected to lead to more rigour and transparency in the assessment of benefits, and provide incentive for proponents to consider how to offer benefits/positive effects across all five pillars.
- Consideration of positive effects will require more direction, including standardization and examination of long-term trends while being sensitive to how the market works e.g. employment/technology
- Consideration of indirect effects will need to be scoped appropriately using the concept of “reasonableness”.
- The word “enhancement” should be changed as it has a specific connotation for people, for example with fisheries.
- The sample effects pathway visual needs to more clearly show the connection with the project activities. They are an effective project-specific tool for guiding the assessment and communicating about it. Marla can provide examples of effects pathway diagrams from her projects
- Significance will be determined by the EAO, with no significance determination required in the Application. The proponent/consultants will still characterize effects.
- There is currently a mismatch between how an EA is typically organized by VCs and disciplines (“ologists”) and the types of questions communities have. There is a need for integration across disciplines and thinking in terms of the user experience that needs to be further discussed and considered.
- Assessing effects on current and future generations should be an EAO-led exercise that combines input from a variety of people, including technical experts and affected populations. This is more of an orientation and a step-back evaluation than a technical assessment.
- Gavin and Carmen request a copy of the jurisdictional scan/literature review for current and future generations if it is available.

- Greenhouse gas emissions: the EAO packages information in a way that is helpful to decision makers. The proponent can frame their project in the broader context of sustainability however they choose, and how the decision makers consider this is dependent on broader policy decisions.
- The next Implementation Committee meeting should consider the new and challenging components of section 25(2) for more detailed discussion.

### Action items

1. EAO to develop and provide a simplified graphic of timelines for each process phase
2. EAO to include discussion of management plans as a future agenda item
3. Implementation Committee members are invited to send comments on:
  - the Process Planning guidance document and 'placemat' outlining workflow and objectives to Fern at [Fern.Stockman@gov.bc.ca](mailto:Fern.Stockman@gov.bc.ca).
  - the Effects Assessment to Lindsay at [Lindsay.Luke@gov.bc.ca](mailto:Lindsay.Luke@gov.bc.ca).
4. Marla will provide examples of effects pathway diagrams to the EAO
5. EAO to provide a copy of the jurisdictional scan/literature review for current and future generations to Gavin and Carmen.
6. The next meeting agenda developed by EA to include more time for discussion of s.25(2) components.