Upcoming changes to B.C.’s Environmental Assessment Act will provide new opportunities for participants in an Environmental Assessment. Inside, you’ll find highlights of what changes mean for the public, Indigenous nations and industry.
What Changes Mean for the Public

**Featured Changes:**

- Earlier public engagement, additional legislated public comment periods, Community Advisory Committees and public participant funding.
- Environmental Assessment (EA) process clearly outlined in the new Act, including matters the Ministers must consider when making a decision to issue a certificate.
- Enhanced independence of the process through expert and peer reviews.
- Ministers’ reasons for decisions are posted publicly and must address required considerations.
- Easier to understand materials, so the public can more meaningfully participate in the process.

- Earlier involvement of the Environmental Assessment Office (EAO) in communities to support awareness of a project proposal and understanding of the EA process.
- Earlier opportunity to identify issues of concern - before the project design is finalized - through a new public engagement period.
- Easy to understand reasons why decision makers allowed a project to proceed to the EA process, which include a description of issues of concern that need to be addressed.
- Earlier involvement of the Environmental Assessment Office (EAO) in communities to support awareness of a project proposal and understanding of the EA process.
- Earlier opportunity to identify issues of concern - before the project design is finalized - through a new public engagement period.
- Easy to understand reasons why decision makers allowed a project to proceed to the EA process, which include a description of issues of concern that need to be addressed.
- The EAO must engage the public and seek consensus with Indigenous nations before referring a project for exemption from the EA process to the minister for a decision.
- Ability to track progress of the development of the draft Application.
- New public engagement period on the draft assessment report and conditions prior to referral to decision makers.
- Public concerns will be responded to reflected in the final referral materials Ministers use to make their decision.
- Increased clarity on what issues of a project are addressed in the EA process vs the permitting process.
- Fair, transparent, timely, resilient decisions that must reflect legislated factors including sustainability.
- Ability for the EAO to evaluate the effectiveness of mitigation measures and amend certificates based on the results of those effectiveness evaluations.
What Changes Mean for Indigenous Nations

**Featured Changes:**

- The purpose of the Environmental Assessment Office (EAO) includes supporting reconciliation and the implementation of the UN Declaration on the Rights of Indigenous Peoples.
- Recognizing the decisions and information requirements of participating Indigenous nations during an environmental assessment (EA) through new legislative requirements, government-to-government agreements and the Process Order for individual projects.
- Seeking consensus with all participating Indigenous nations throughout the EA process, including two main decision points where participating Indigenous nations can notify of consent or lack of consent on major decisions.
- Including Indigenous knowledge in the impacts assessment and ensuring that Indigenous knowledge will remain confidential unless consented to by the Indigenous nation.
- Creating access to adequate, timely and predictable funding for participating Indigenous nations beginning early in the process.
- Empowering Indigenous led assessments and authorizing government-to-government agreements on the conduct of EAs with the EAO.
- Enabling Indigenous nations to request a project to be designated as reviewable with clear decision criteria.
- Creating a new time-bound, non-binding dispute resolution process to help the EAO and participating Indigenous nations reach consensus, if requested.

- Indigenous nations now self-identify their intent to participate in an EA during Early Engagement.
- Participating Indigenous nations provide feedback on an Initial Project Description; identify key issues, concerns, and project compatibility with policies, plans, and the regional cumulative effects context.
- The EAO will seek consensus with participating Indigenous nations on whether or not a project is ready to proceed through the EA process or on the recommendation to the Minister to exempt or terminate a project.
- Participating Indigenous nations may identify members for the Technical Advisory Committee.
- Participating Indigenous nations may lead components of the EA, including the assessment of impacts on their rights and interests.
- The EAO will seek consensus with participating Indigenous nations on whether or not an Application is ready to be accepted for review.
- Participating Indigenous nations identify their consent or lack of consent for a project receiving an EA certificate, in advance of the Ministers’ decision.
- The Ministers must consider the decisions of participating Indigenous nations in deciding whether to issue an EA certificate and provide reasons where their decision is not in alignment with participating Indigenous nations.
- Ministers must offer a meeting to a participating Indigenous nation before a decision is made where the recommendation to Ministers is not in alignment with a notice of consent provided by a participating Indigenous nation.
What Changes Mean for Industry

**Featured Changes:**

- **Greater certainty and predictability of process:**
  - Continuation of the principle of ‘one project, one assessment’.
  - Process requirements are clearly articulated in legislation, regulations and supporting policy and guidance.
  - Regulatory costs are known at outset including capacity funding for Indigenous nations.
  - Early notice of key issues to address in EA or inconsistencies with government policies or plans.
  - Process Order sets out project specific timelines, information requirements and issues resolution process.
  - Agreements between the Environmental Assessment Office (EAO) and participating Indigenous nations provide greater certainty for proponents on how to meet the needs and interests of participating Indigenous nations.
  - Early feedback on data collection and analysis to help identify and resolve key issues, reducing delays in final review stages.

- Early identification of key project issues to inform approaches to developing the project, serious issues with the project proceeding through an EA, or issues that need resolution in an EA.

- Government agencies can seek to advance any policy gaps with a proposed project early, while it proceeds through an EA.

- Earlier indication of the likelihood of success, allowing proponents to make informed decisions about proceeding with the EA process.

- Ability to start collecting data earlier with established templates of sector application information requirements.

- Option of a more collaborative, staged approach to the development of an Application improves quality of the Application and reduces the need for information requests and delays.

- Increased certainty during Effects Assessment stage provided through earlier stages of consensus building and issues resolution.

- Fair, transparent, timely and resilient decisions at the end of the EA process.

- Consensus seeking approaches to EA, process agreements, and dispute resolution opportunities provide a foundation that aims to build consistency of information and processes among EA participants to support provincial and Indigenous decision makers.

- Increased initial EA certificate duration of a maximum of 10 years.

- More efficient permitting review process, with less time spent on unresolved EA issues.

- Improvements to the EA certificate amendment process including ability of the EAO to make amendments on the recommendation of the statutory decision-maker of a subsequent authorization process.

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**What Changes Mean for Industry**
**Application**: The formal request for an environmental assessment certificate made by the proponent of a project that was deemed reviewable under the Act. The application must contain the information that is outlined in the Process Order, and typically includes: a description of the proposed project; a summary of the process, methods and data used to develop the application; a description of existing conditions, predicted effects including cumulative effects, mitigation measures, characterization of residual effects, an assessment of adverse effects on Indigenous interests and mitigation measures, a description of consultation approaches and issues raised by Indigenous nations, the public and government agencies and technical reports that informed the application.

**Assessment Plan**: Sets out the procedures and methods for the assessment, including consensus seeking with Indigenous nations, timing and duration of activities, permitting plan, engagement plans, and the process for resolving disputes not referable to dispute resolution.

**Assessment Report**: The end-product of an environmental assessment, which describes the project in detail, its potential effects, mitigation strategies and the methodology used to arrive at conclusions.

**Consensus**: An outcome that is actively supported by all participating Indigenous nations and the EAO; or, is not objected to by a participating Indigenous nation, while reserving their right to ultimately indicate their consent or lack of consent for a project after assessment.

**Consensus Seeking**: Cooperation between the EAO and representatives of participating Indigenous nations to achieve consensus on process decisions or recommendations. Processes that seek consensus inform, but are distinct from, a decision by an Indigenous nation to indicate their consent or lack of consent. Inform, but are distinct from a decision from a statutory decision-maker under the Environmental Assessment Act, and may be informed by, but are in addition to, Indigenous participation in any Technical Advisory Committee.

**Initial project description**: A high level description of the project proposed by a proponent before the project design has been finalized.

**One project, one assessment**: The concept of conducting one assessment between provincial, federal and Indigenous jurisdictions, based on a single process to support separate provincial, federal and Indigenous decisions, which supports transparency, predictability and efficiency for everyone.
**Participating Indigenous nation:** An Indigenous nation who has indicated they would like to participate in the environmental assessment and seek consensus with the EAO throughout the process. The role of Participating Indigenous nations could vary (e.g. participating Indigenous nations may only wish to be involved in some aspects of the project assessment, such as a transmission line, access roads, mine site, etc.) but will always include opportunities to seek consensus with the EAO throughout the assessment. Indigenous nations can still engage in the EA without opting to be a participating Indigenous nation.

**Process Order:** The Process Order will specify the scope of the project, the assessment plan and the information required from the proponent. The Order may refine the timeline requirements for the project’s assessment.

**Referral materials:** A set of documents provided to the ministers to inform their decision on whether or not to issue an EA certificate.

**Regional cumulative effects context:** Consideration of the current and future state of the environment within the broader region of where a project is proposed to be located, taking into account the anticipated effects the project could have in that region, and the effects of existing projects within that region.

**Sector application information requirements:** When a proponent develops their environmental assessment Application for their project, they must provide certain pieces of information, as defined in the Application Information Requirements (AIR). Certain sectors of industry are fairly consistent, and so there is a template AIR for projects within that sector.

**Technical Advisory Committee:** The Technical Advisory Committee (TAC) is the forum for the detailed, independent, technical review of all the proponent’s application and technical studies. The TAC is made up of representatives with the mandates and technical expertise relevant to the review of a proposed project, including appropriately qualified provincial experts and regulators, Indigenous nations and experts from federal and local governments. Additional independent experts may be appointed, as needed.