



What We Heard (and what we're doing about it)
Environmental Assessment Revitalization

Key Elements of What We Heard on EA Revitalization by Topic and Regulatory Category/Activity

Key Issues	Legislation	Regulation/General Orders	Policy and Operations	Rationale for not Pursuing
REVIEWABLE PROJECTS				
Interest in the forthcoming changes that determine which projects receive an environmental assessment	<p>Under the new Act, projects will still become reviewable in three ways:</p> <ul style="list-style-type: none"> • Reviewable Projects Regulation (RPR) • Ministerial designation • Proponent “opt-in” <p>Authority will be provided to require certain projects that do not meet the RPR thresholds to submit a project notification to the Environmental Assessment Office (EAO), allowing the EAO to consider whether the project should be referred to the Minister for designation as a reviewable project.</p>	The EAO will be engaging the public, Indigenous nations, industry and stakeholders on potential changes to the RPR following the passage of the new EA legislation.	N/A	N/A
PURPOSE STATEMENT				
Request for a purpose statement in the Act. Concern regarding inclusion of terms such as ‘sustainability’ in legislation because of the potential uncertainty created.	<p>A defined purpose for the EAO including:</p> <ul style="list-style-type: none"> • Promoting sustainability by protecting the environment and fostering a sound economy and the well-being of British Columbians and their communities • Supporting reconciliation with Indigenous peoples in British Columbia and the implementation of the United Nations Declaration on the Rights of Indigenous People. 	N/A	The development of policy and guidance to support the delivery of the EAO’s purposes of promoting sustainability and supporting reconciliation will be subject to future engagement.	N/A

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REGIONAL ENVIRONMENTAL ASSESSMENT				
Broad support for use of regional environmental assessments (EAs). Concern that project EAs may be delayed pending resolution of regional or strategic EAs.	Regional EAs will be enabled in the Act for the first time. When directed by the Minister, targeted regional assessments can be used to fill information gaps and provide recommendations for future project-specific EAs in that region.	The EAO will be engaging on the development of a regulation that will set up the scope, conduct and function of regional assessments.	Working with other government agencies, EAO will identify opportunities to conduct regional EAs with the support of Indigenous nations and industry.	N/A
CAPACITY FUNDING AND FEES				
Broad support for increased and restructured capacity funding to ensure Indigenous nations can participate in the process. Request for clarity on the cost implications for proponents.	The new Act enables the EAO to establish a tariff of costs to be paid by proponents to participating Indigenous nations for project assessments, including to support compliance and enforcement activities.	The EAO will be engaging on the proposed new fee structure, which will be established in regulation.	N/A	N/A
TIMELINES				
Broad support for moving timelines from regulation to legislation. Requests for: <ul style="list-style-type: none"> Flexible timelines for each phase of the process to allow for satisfaction of the Crown's duty to consult Clarity to address concerns of an overall longer process Alignment with the federal process and other jurisdictions to support one-project, one-assessment. 	Statutory timelines have been added where none existed before and some have changed to more accurately reflect the actual time required. The EAO may extend or impose timelines if necessary and a proponent or a participating Indigenous nation can request an extension by application.	Timelines will no longer be set out in regulation.	For stages without statutory timelines the timelines will be determined in the Assessment Plan. Timelines set in the Act could be subject to applicable government-to-government agreements.	N/A

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RECONCILIATION AND INDIGENOUS DECISION-MAKING				
Indigenous nations are supportive of enabling government-to-government agreements in the Act, with the express option of departing from the default legislated process.	<p>The Act will enable the Minister to enter into agreements with one or more Indigenous nations for the purposes of conducting any aspect of an environmental assessment (EA). These broad agreements are overarching to any proposed project within an Indigenous nation's territory, and may be established prior to any new EAs being proposed in their territories.</p> <p>Agreements may also be specific to individual project EAs and include Indigenous led EAs. The EAO would provide capacity funding for the negotiation of agreements.</p> <p>Indigenous nations may enter into an agreement to substitute its process for the Province's EA provided certain conditions are met.</p>	N/A	The EAO will ensure interested Indigenous nations will have an opportunity to enter discussions on a new agreement or modifying existing agreements.	N/A
Broad support for enabling consensus-seeking decision-making with Indigenous nations at a technical level throughout the EA process, as well as recognition of decisions made by Indigenous governing bodies at key stages.	<p>In addition to seeking consensus with Indigenous nations at a technical level throughout the EA process, the Act recognizes Indigenous decision-making by providing an opportunity for participating Indigenous nations to communicate their consent or lack of consent at two decision points in the EA:</p> <ul style="list-style-type: none"> • At the EA Readiness phase on the decision to exempt the project from an EA and go straight to permitting, or terminate the process; and, • Whether to issue an EA certificate for the proposed project. 	N/A	N/A	N/A

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RECONCILIATION AND INDIGENOUS DECISION-MAKING (CONT'D)				
Request for clarity on government's interpretation of consent and the implications on decision making in the EA process.	<p>Indigenous nations have the opportunity to make a decision based on their own laws, traditions and right to self-determination.</p> <p>Minister(s) must legally consider the notice provided by Indigenous nations regarding their consent (where provided).</p> <p>Ministers are required to offer a meeting where there is not alignment between the recommendation to Ministers and the views of a participating Indigenous nation.</p> <p>Ministers are required to address consent in their legally required reasons for decision document.</p>	N/A	N/A	N/A
DISPUTE RESOLUTION				
Broad support in principle for a dispute resolution mechanism in the Act, with requests for information regarding the process, procedures and implications of the results.	<p>The Act identifies a number of specific decision points, including where the EAO will aim to secure the consent of participating Indigenous nations, that is supported by a time-bound, non-binding dispute resolution process consistent with Indigenous nations' approaches to governance.</p> <p>Dispute resolution can assist in reaching consensus at the following EA steps:</p> <ul style="list-style-type: none"> • Which Indigenous nations will participate in the EA • EA Readiness: Decision to commence <p>(Cont'd on next page)</p>	The details of dispute resolution will be set out in regulation that will be the subject of further engagement.		

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DISPUTE RESOLUTION (CONT'D)				
	<ul style="list-style-type: none"> EA Readiness: Decision to commence an EA, exempt the project from an EA and go straight permitting, require a revised Detailed Project Description, or terminate the process Type of assessment and the Process Order Recommendation for whether to issue an EA certificate 			
PUBLIC ENGAGEMENT				
<p>Broad support for:</p> <ul style="list-style-type: none"> Increased opportunities for engagement throughout the EA. Providing a variety of types and means of engagement beyond traditional comment periods, including more opportunities for dialogue, supported by plain language materials. Public engagement led by the body conducting the assessment, rather than the proponent. 	<p>Public comment periods set in legislation, with two additional comment periods compared to the current process. Opportunities to comment include:</p> <ul style="list-style-type: none"> Early Engagement phase (new): interests, issues, and concerns with a project to inform project siting, design, and alternatives Assessment plan and information requirements: study requirements and approach to public engagement Draft application: adequacy of the proponent's assessment of effects and proposed mitigation measures Draft Assessment Report and certificate conditions (new): results of the EAO's effects assessment and adequacy of proposed certificate conditions <p>Requirement for the EAO to establish a Community Advisory Committee when there is sufficient community interest.</p>	Classes of documents that must be posted publicly will be set out by general order of the Chief Executive Assessment Officer.	<p>Any EA may also include additional comment periods or other methods of public engagement to ensure meaningful public participation (outlined in the Process Order and the Assessment Plan for the specific project).</p> <p>Communication materials will be more accessible to the public (easier to find, in plain language), informed by results of the recent Revitalization Engagement Survey and ongoing research.</p>	N/A

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PUBLIC ENGAGEMENT (CONT'D)				
Broad support for public participation funding.	N/A	N/A	A program for public participant funding is planned, with details subject to further engagement. Legislative authority is not required for the EAO to provide public participation funding.	N/A
Request for a process that demonstrates how public comments were considered in the decision-making process.	Statutory requirement for mandatory reasons for decision at key decisions points. The proponent's Detailed Project Description must reflect feedback received during the Early Engagement phase. The proponent's final Application must take into account public input on the draft application.	N/A	New outreach to communities at the start of an EA process to communicate the process and identify any special engagement opportunities/needs for the EA process.	N/A
EARLY ENGAGEMENT				
Broad support for a mandatory early engagement phase.	An early engagement phase will be introduced requiring every proponent to submit an Initial Project Description and Engagement Plan. Feedback from Indigenous nations and the provincial government, as well as local communities and the public informs the proponent's development of a Detailed Project Description.	Requirements for the Initial Project Description and the Detailed Project Description will be set out in a general order of the Chief Executive Assessment Officer.	N/A	N/A

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EA READINESS DECISION				
Broad support for an early decision point.	<p>The new Act will contain an early decision on whether to proceed to the next step of the EA process; conduct further early engagement, proceed directly to permitting or terminate the process.</p> <p>Decisions to proceed directly to permitting or terminate the EA are referred to the Minister. Participating Indigenous nations have an opportunity to indicate consent or lack of consent.</p>	N/A	N/A	N/A
Some concern was expressed about maintaining the option to exempt reviewable projects.	<p>While exemptions remain under the Act, The Process has been changed to address concerns.</p> <p>The new Act introduces several measures aimed at ensuring that a decision to proceed directly to permitting at this stage is based on sound reasoning and has considered the views of Indigenous nations and the public.</p> <p>The early engagement phase will be mandatory for all reviewable projects, and will include a review of the Initial Project Description and public engagement period prior to the EA readiness decision.</p> <p>The decision to exempt is now made by the Minister, who will be required to consider the consent or lack of consent of an Indigenous nation and the results of public engagement prior to making a decision on a referral recommending a project proceed directly to permitting. The Minister must provide reasons.</p>	N/A	N/A	Given that the Reviewable Projects Regulation is not a perfect mechanism for determining which projects must undergo the rigor of an EA prior to permitting decisions, the Act needs to contain some flexibility to allow for both designation and exemption of projects.

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PROCESS PLANNING				
<p>Broad support for a Process Order</p> <p>Broad support for a legislated role for the technical advisory committee and a community advisory committee.</p>	<p>A Process Order replaces the current combination of the Section 11 Order (scope and methods of assessment) and the Application Information Requirements (what must be studied in the assessment). 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.</p> <p>The EAO must seek consensus with participating Indigenous nations during the development of the Process Order.</p> <p>A Technical Advisory Committee will be established for each project with invitations to participating Indigenous nations and experts inside and outside of government.</p> <p>A Community Advisory Committee will be established and funded by the EAO where there is sufficient community interest to advise the EAO on the effects of the project on the community.</p>	N/A	<p>The EAO will work with industry, agencies and Indigenous nations to prepare standard and sector specific Application Information Requirements.</p> <p>A permitting plan may also be developed during this period and may be reflected in the Process Order.</p>	N/A

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APPLICATION DEVELOPMENT & REVIEW				
Broad support for iterative, consensus seeking approach to application development.	<p>This phase begins when the Process Order is issued and ends when the EAO determines that issues have been adequately responded to by the proponent and directs the proponent to prepare a final application. The Proponent may prepare a final application in stages, addressing any changes or errors to the draft application identified through the information requests and responses generated during the Application Review portion of this stage.</p> <p>The EAO will seek consensus with participating Indigenous nations on the decision to accept an application as final.</p> <p>There will no longer be a legislative 30 day screening period. The proponent must develop the draft Application within three years of the issuance of the Process Order, or they may be terminated from the process.</p>	N/A	The proponent may prepare a draft application in stages, such as a study plan, modeling plan, and draft effects assessment with mitigations. The EAO, participating Indigenous nations and the Technical Advisory Committee provide feedback during the preparation of the draft application.	N/A

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EFFECTS ASSESSMENT				
<p>Broad support for a statutory list of required considerations for the effects assessment, including:</p> <ul style="list-style-type: none"> • Cumulative effects, guided by higher level plans and assessments, including regional and strategic assessments as they become available • B.C.'s ability to meet its climate change targets with respect to greenhouse gas emissions <p>Broad support for continued use of the 5 pillars: environmental, economic, social, cultural (previously heritage), and health effects.</p>	<p>All project EAs will be required to assess the following:</p> <ul style="list-style-type: none"> • Effects of the project on Indigenous nations and rights recognized and affirmed by section 35 of the Constitution Act, 1982 • Positive and negative direct and indirect effects of the project, including environmental, economic, social, cultural or health effects • Risks and uncertainties associated with those effects, including the results of any interaction between those effects • Risks of malfunctions or accidents • Disproportionate effects on distinct human populations, including populations identified by gender • Effects on current and future generations • Effects on biophysical factors that support ecosystem function • Consistency with any land use plan relevant to the assessment and any regional or strategic assessment conducted under the Act • Greenhouse gas emissions, including the potential effects on the province being able to meet its targets under the <i>Greenhouse Gas Reduction Targets Act</i> <p>(Cont'd on next page)</p>	<p>Other matters may be prescribed in regulation.</p>	<p>Proponents will no longer conclude on the significance of the impacts, as that will be the role of the EAO and the Technical Advisory Committee.</p> <p>The development of policy and guidance on these assessment requirements will be the subject of future engagement.</p>	N/A

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EFFECTS ASSESSMENT (CONT'D)				
	<ul style="list-style-type: none"> • Alternate means of carrying out the project that are technically and economically feasible, including through the use of best available technology, and the potential effects, risk and uncertainties of those alternatives • Potential changes to the project that may be caused by the environment 			N/A
Request for improved socio-economic and health assessments	<p>Project assessment considerations have been expanded in legislation to require, in addition to positive and negative environmental, economic, social, cultural or health effects, consideration of the:</p> <ul style="list-style-type: none"> • Disproportionate effects on distinct human populations, including populations identified by gender • Effects on current and future generations 	N/A	The EAO will develop guidance to support socio-economic and health impact assessment. The development of guidance on these topics will be the subject of future engagement.	N/A
<p>Request for independent and unbiased collection and analysis of data.</p> <p>Request for independent and peer-reviewed studies.</p>	<p>The Process Order and assessment planning process will help ensure independent and unbiased collection of evidence and analysis of data.</p> <p>The Technical Advisory Committee is the forum for the detailed, independent, technical review of all the proponent's application and technical studies.</p> <p>The EAO will also have statutory authority to request peer reviews of any information provided in the course of an assessment. The EAO may select and retain consultants for this purpose.</p>	N/A	By policy, the proponent will no longer conclude on significance of effects in their application. The EAO will make all necessary conclusions in the Assessment Report, including any conclusions regarding the significance of effects, based on the information provided by the proponent and advice provided by the Technical Advisory Committee.	N/A

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EFFECTS ASSESSMENT (CONT'D)				
Broad support for incorporating Indigenous Knowledge into assessments.	<p>The express purpose of the EAO in carrying out its responsibilities under the Act will require applying the best available science, Indigenous and local knowledge.</p> <p>The confidentiality of Indigenous knowledge considered during the EA will be protected.</p>	N/A	N/A	N/A
DECISION				
Request for greater clarity on the role of Indigenous nations in decision making and who the ultimate decision maker is.	<p>The EAO will seek consensus with participating Indigenous nations on the effects assessment in the assessment report, draft certificate with conditions and project description, and recommendation to decision makers.</p> <p>Ministers are required to publish reasons for their decision. In cases where their decision does not align with the expressed consent or lack of consent by participating Indigenous nation(s) they must also provide reasons for issuing the certificate.</p> <p>Further assessment is no longer an option for ministers. Ministers must either grant or not grant a certificate.</p>	N/A	N/A	N/A

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DECISION (CONT'D)				
Broad support for legislated criteria for decision.	In making their decision on whether to issue a certificate, the ministers must consider all matters required for assessment (See page 12-13).	N/A	N/A	N/A
Some Indigenous nations have requested that projects that fail to receive Indigenous consent must not be approved	<p>Consent is required from Indigenous nations if an applicable final agreement or government-to-government agreement requires consent on treaty lands or in areas subject to the agreement.</p> <p>In addition to seeking consensus with Indigenous nations at a technical level throughout the EA process, the Act recognizes Indigenous decision-making by providing an opportunity for participating Indigenous nations to communicate their consent or lack of consent at two decision points in the EA:</p> <ul style="list-style-type: none"> • At the EA Readiness phase on the decision to exempt the project from an EA and go straight to permitting, or terminate the process; and, • Whether to issue an EA certificate for the proposed project. <p>Consent is required on treaty lands and the Act provides authority to address analogous situations that may arise through agreements with Indigenous nations.</p>		N/A	<p>Dispute resolution will be available if consent is not secured, before the matter is referred to the Ministers.</p> <p>Where Ministers make a decision that does not align with the expressed lack of consent by a participating Indigenous nation, the Ministers must give reasons explaining why the decision was made despite the lack of consent.</p>

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DECISION (CONT'D)				
Request for a formal appeal mechanism in legislation.	<p>The new EA process is more robust. It places more emphasis on reaching consensus with Indigenous nations and on public engagement from the time when the EAO becomes aware of a proposed reviewable project.</p> <p>Required criteria for assessment and mandatory reasons for decision will assist the public with understanding the process and the rationale for decisions.</p> <p>Dispute resolution is available for Indigenous nations at key stages in the process.</p>	N/A	Taking into account changes to legislation, judicial review continues to be the best mechanism to ensure the review of decisions under the Act in a timely way.	The judicial system is the ultimate appeal mechanism available to the public by application for judicial review of a decision made under the Act.

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DECISION (CONT'D)				
Request for use of different sets of decision criteria for different project types.	The Act enables EAO to undertake class assessments. Class assessment is a streamlined assessment option to address specified potential effects of a particular category of reviewable projects.	N/A	For each specified class, standard information requirements and certificate conditions will be applicable to that class of projects and posted publicly, supporting the goal of predictability and transparency.	N/A
Request that Ministers' always justify their reasons for issuing (or not issuing) an EA certificate.	Ministers are required to publish reasons for their decision. In the case where their decision does not align with the expressed consent or lack of consent by participating Indigenous nation(s), they must also provide reasons for issuing the certificate.	N/A	N/A	N/A
EFFECTIVENESS EVALUATION AND CONTINUOUS IMPROVEMENT				
Indigenous nations are supportive of introducing effectiveness monitoring tools.	<p>To contribute confidence in certified projects, the following legislative changes will be introduced:</p> <ul style="list-style-type: none"> • Authority to require mitigation effectiveness reports to identify whether mitigation measures are achieving the outcomes intended during the assessment • Authority to amend certificates based on the results of those effectiveness evaluations • Authority to require that audits are conducted on certified projects, including audits on the effectiveness reports noted above 	N/A	These reports and audits will inform future certificate condition requirements, ensuring that lessons learned can be implemented.	

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COMPLIANCE AND ENFORCEMENT				
Broad support for strengthening compliance and enforcement provisions, including introduction of administrative monetary penalties (AMPs).	<p>Modernized compliance and enforcement tools proposed to enhance the current compliance and enforcement program include:</p> <ul style="list-style-type: none"> • Defining the compliance and enforcement officer role, including powers/authorities to conduct inspections and investigations • Introducing authority to issue tickets and administrative monetary penalties • Increasing the range of fines for court-imposed penalties 	A new regulation for AMPs will be required to support the legislative changes.	N/A	N/A
Broad support for introducing a role for Indigenous nations to participate in monitoring of certificate conditions.	<p>New authority added to enable agreements with Indigenous nations relating to compliance and enforcement.</p> <p>New authority to delegate compliance and enforcement powers under the Act to individuals not employed by EAO.</p>	N/A	N/A	N/A

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TRANSITION PROVISIONS				
Request for details on the transition plan from the current EA process to the new process/Act.	<p>Obtaining an EA Certificate: Projects that obtained a section 11 Order at the time the new Act is brought into force would proceed under the current Act (a transitional project) for the purposes of obtaining an EA certificate. Projects that have not received a section 11 Order under the current Act will need to submit an initial project description under the new Act.</p> <p>Any transitional project would have six months to file a notice to indicate their desire to have an application accepted under the current Act and would be required to complete the EA process within three years. Upon expiry, the CEAO could terminate the assessment process or by order, set procedures to transition the project to the new Act.</p> <p>Projects with Certificates: Any project with an existing EA certificate would be subject to the new Act with respect to amendments, compliance and enforcement, and post certificate administration provisions.</p>	N/A	N/A	N/A

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OTHER MATTERS				
Request for introduction of financial tools to address accidents or malfunctions.	N/A	N/A	N/A	<p>Project related accidents or malfunctions fall within the regulatory framework of the Environmental Management Act and cannot be addressed within the scope of EA revitalization.</p> <p>The new Act will enable the CEAO to carry out any necessary measures in cases of non-compliance with an order to cease or remedy in response to a non-compliance with the Act.</p>
Request for clarity with respect to what is addressed during an EA and what remains to be resolved in permitting.	N/A	N/A	During the effects assessment, the EAO, working with the participating Indigenous nations and the Technical Advisory Committee will produce a list of issues to be further addressed in permitting.	N/A