



TSLEIL-WAUTUTH NATION

People of the Inlet



Review of Environmental Assessment Processes
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor, Ottawa, ON, K1A 0H3
CEAA.EAREview-ExamenEE.ACEE@ceaa-acee.gc.ca

Sent via email

July 20 2016

Dear Sir or Madam,

Re: Tsleil-Waututh Nation comments on environmental assessment processes: Draft Terms of Reference for Expert Panel

On June 20th 2016, we received notice from the Canadian Environmental Assessment Agency (CEAA) Pacific and Yukon regional office that the Government of Canada has launched a review of environmental assessment (EA) processes associated with the *Canadian Environmental Assessment Act, 2012* (the "Review"). Tsleil-Watuth Nation applauds the government for ensuring, through the mandate letter of the Minister of Environment and Climate Change (the Minister), that the Review take place. We look forward to being involved in the process.

This letter recommends ways that the Expert Panel Terms of Reference (TOR) can facilitate improvement to Canada's EA process. This letter is not necessarily a complete or comprehensive list or description of our recommendations; ongoing and detailed consultation throughout the Process will be necessary. Our initial recommendations include:

- 1. Minimize assumptions and definitions in the TOR so as to allow for a full and fair review process.**

The TOR currently premises the review on current EA authorities, and defines an Environmental Assessment as it functions now. To encourage a full and fair review, we propose that the TOR be amended to allow for an enquiry on the role and effectiveness of current authorities, and to remain open to revising the purpose (i.e. definition) of EA's as part of the review process. .

2. Strengthen the Scope of the Review to permit full-scale improvement, including legislative change.

The only reference to potential legislative change is in respect of First Nation consultation; this is a welcome inclusion, but we would also like to see consideration for changes to EA methods, requirements, and assessment obligations as authorized by CEAA 2012. Reviewing the processes mandated by the Act, can only yield incremental improvements if the act itself inhibits more productive change.

3. Include a provision for commissioning thorough background research, exploring various assessment approaches, best practices, and perspectives (including that of First Nations).

Comments received from the public, stakeholders, and First Nations are a necessary part of the review process; however, we would like to see inclusion of thorough analyses, from a variety of perspectives. Tseil-Waututh is in a position to provide a discussion paper from our Environmental Assessment Referral Program based on our extensive involvement in both Provincial and Federal EA's within our Territory over the last decade. Indeed, such a document was invited by Jesse McCormick at our meeting with him held May 26 2016; this review process is a perfect avenue for consideration of our invited submission, and others like it.

4. First Nations must be considered partners, not just participants, in the review process.

Opportunities for First Nations to be involved in the Review should be structured in three ways: (1) direct representation on the Expert Panel, (2) direct representation on the Multi-Interest Advisory Committee, and (3) open engagement and consultation available to all those interested.

Moreover, Question #2 under the 'Scope of Review' should be amended to allow for incorporation of First Nation traditional knowledge.

5. Describe how the Multi-Interest Advisory Committee and the Review Panel will be formed and, how they will relate to each other.

The Expert Panel will be established by the Minister; however, the TOR does not provide detail as to how the Minister will identify, recruit, and manage the Panel. Similarly, no detail is provided as to how the Multi-Interest Advisory Committee will be established, other than the types of representatives that will be recruited.

We understand the value of the Multi-Interest Advisory Committee, but further detail as to how the Committee will be obliged to relate to the Panel, and vice-versa, is required for the following reasons: a) avoid redundancy of efforts, b) make the most use of available expertise, and c) establish transparent parameters of duties, reporting, and respective responsibilities.

6. Expressly invite separate submissions from First Nations to the Minister alongside the Expert Panel's Report.

It is not sufficient for the Panel alone to have authority in submitting the Report to the Ministers; submissions directly from First Nations, in addition to the Report, should be accepted so that the Ministers are well-advised when considering next steps. Moreover, we would like to see a draft of the Report to Ministers prior to its submission.

7. To describe how the Panel will receive and consider input from First Nations in a timely and meaningful manner.

It is important to provide a framework for consultation in regards to soliciting, receiving, considering and incorporating First Nations input. Such a framework should be established in consultation with interested First Nations, and/or their representatives.

Thank you for considering our views. Tsleil-Waututh Nation is committed to engaging in this process and working with the Review Panel. We offer representation from our Nation to sit on the Review Panel and Multi-Interest Advisory Committee (as proposed in our July 4 2016 letter to Jesse McCormick and Marc D'lorio), ensuring that the process has an embedded First Nations Perspective.

Please contact me to arrange an in-person meeting to discuss our participatory roles in this process.

Sincerely,



Tanya Smith

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