

From: [Vanduyvenvoorde, Emma IRR:EX](#)
To: [Grieve, Richard IRR:EX](#)
Cc: [Howie, Matthew IRR:EX](#)
Subject: FW: 355360 DRIP
Date: Tuesday, February 25, 2020 1:09:29 PM
Attachments: [FNLC Ltr to Min Heyman \(follow-up to Dec 19th mtg\) Jan 17 2020.pdf](#)
[355360.pdf](#)
[Attachment 1 - SCA - TP20IFE029 - FNEMC - EAO- \\$300K.pdf](#)
[Attachment 3 - IIC draft terms of reference V6.pdf](#)
Importance: High

Hi Richard,

Please see the attached documents for the call this afternoon.

Thanks,

Emma Vanduyvenvoorde

Executive Assistant to Jennifer Melles, Assistant Deputy Minister
Ministry of Indigenous Relations and Reconciliation

From: Howie, Matthew IRR:EX <Matthew.Howie@gov.bc.ca>
Sent: February 24, 2020 2:02 PM
To: Melles, Jennifer IRR:EX <Jennifer.Melles@gov.bc.ca>; Vanduyvenvoorde, Emma IRR:EX <Emma.Vanduyvenvoorde@gov.bc.ca>
Subject: FW: 355360 DRIP
Importance: High

I'm guessing this pertains to today's meeting with MGH.

Matthew Howie
Senior Executive Assistant to
Doug Caul, Deputy Minister
Ministry of Indigenous Relations & Reconciliation
Phone: 778-974-2080

From: Jardine, Kevin EAO:EX <Kevin.Jardine@gov.bc.ca>
Sent: February 24, 2020 1:46 PM
To: Caul, Doug D IRR:EX <Doug.Caul@gov.bc.ca>
Subject: Fwd: 355360 DRIP

Here's the incoming and response, Doug, as discussed.

Rgds,
K.
250-361-6753

Begin forwarded message:

From: "McLaughlin, Christine EAO:EX" <Christine.McLaughlin@gov.bc.ca>
Date: February 24, 2020 at 1:44:21 PM PST
To: "Jardine, Kevin EAO:EX" <Kevin.Jardine@gov.bc.ca>
Subject: 355360 DRIP

Please see attached files relating to correspondence and support documents relating to DRIP.

Regards,

Christine

Executive Administrative Assistant | Associate Deputy Minister's Office
Environmental Assessment Office
Government of British Columbia
OFFICE: 236-478-0556
MOBILE: 778-584-4757

FIRST NATIONS LEADERSHIP COUNCIL



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ASSEMBLY OF
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1004 Landooz Rd.
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UNION OF
BRITISH COLUMBIA
INDIAN CHIEFS
401 – 312 Main Street
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January 17, 2020

Hon. George Heyman
Minister of Environment and Climate Change
PO Box 9047 Stn Prov Govt
Rm 112, Parliament Buildings
Victoria, BC, V8W 9E2

Email: ENV.Minister@gov.bc.ca

RE: Alignment of EA Act Regulations and Policy Guidance with Declaration on the Rights of Indigenous Peoples Act

Dear Minister Heyman:

Thank you for meeting with us by phone on December 13 and in person on December 19, 2019 to discuss the important matter of aligning the Environmental Assessment Act (EA Act) regulatory development process with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), the Commitment Document, and the new Declaration on the Rights of Indigenous Peoples Act (Declaration Act).

In our discussions, we clarified for you that we were not provided with clear information regarding regulatory and policy development for environmental assessment (EA), and were not provided the opportunity to collaboratively develop or review several regulations that had been approved by the Province.

In addition, we identified the inappropriateness of taking political issues to the technical Indigenous Implementation Committee (IIC), and the need for political oversight of the EA regulatory and policy development process, consistent with the Commitment Document. We note that we have heard from some members of the IIC that they do not view their role as addressing political issues. EAO staff have also acknowledged that the IIC is a technical committee that does not provide political representation of First Nations.

As discussed, the issues of free, prior and informed consent, and the EAO's proposal for any form of "strength of claim" in the assessment process, are issues requiring political attention, dialogue and resolution. We do not support the EAO's development of "consent guidelines" as the process and criteria by which First Nations provide or withhold consent is a matter of self-determination. We are also aware that the EAO's proposal implies that consent is contingent on an agreement with the Crown. We are also aware that the EAO is proposing a process for "understanding the connection of the Indigenous Nation to the lands and resources" which closely resembles the former "strength of claim" component of assessments, which has been long objected to by First Nations in BC. We were disappointed to learn after our meeting that extensive EA policy guidance, such as the Early Engagement Policy, had already been posted online and that this was not disclosed to us during our meeting when we had asked about EA policy development. We do not feel that such withholding of information was in good faith or reflective of a true, genuine partnership.

Nevertheless, we were very pleased to hear that you agree that certain aspects of EA, such as these, are clearly political and are more appropriately addressed through a political process. We were also pleased with your commitment to redesign the regulatory and policy development process to create space for these political discussions in the proper forum.

As you are aware, our Commitment Document Concrete Action 1/Goal 1 is about aligning provincial law and policy with the UN Declaration and Indigenous rights, with EA listed as a priority area for legislative, policy and practice reform. Through the Joint Core Working Group, the FNLC has been working with the Province to jointly design, construct and implement a principled, pragmatic and organized approach to implement the UN Declaration in British Columbia. Of course, this now includes implementing the obligations under the new Declaration Act.

For this reason, and the critical importance of improved EA in British Columbia, our view is that the Joint Core Working Group is best placed to confirm a political process to address these political and legal issues – once identified – related to implementation of the UN Declaration in the EA Act. We request that no further policy or regulations relating to political issues (once identified) be developed independent of or in advance of these joint political discussions.

While we identified the issues above as requiring political discussion, we requested a complete comprehensive list of EA topics being addressed either in regulations, policy, or guidelines so that we could consider which additional issues require political attention. We will confirm our understanding of the list of issues with your staff and will work to complete our issues identification over the coming days.


During our meeting, we also requested that the IIC not proceed with meetings until we have had the opportunity to determine which issues need to be redirected to a more appropriate political forum. While you agreed that we would need to have this conversation before the IIC meets, we understand that the IIC is scheduled to meet a few days from now (although we have not been provided with a schedule of IIC meetings and an invitation has not been extended to our technical staff). We reiterate our request that the IIC not meet until we have identified the political priorities that need to be removed from the IIC agenda and diverted to a more appropriate forum.

Implementation of the UN Declaration, including self-determination and the right to free, prior, and informed consent, in the context of EA has and continues to be a major source of litigation and conflict between First Nations and the Province. The Committee on the Elimination of Racial Discrimination recently called on the Crown to incorporate free, prior and informed consent in domestic legislation, in consultation with Indigenous peoples and in compliance with its international human rights obligations. As the EA Act is one of the first pieces of legislation to be passed post-Declaration on the Rights of Indigenous Peoples Act, Indigenous nations will be watching this process very closely and looking for indications that the Province will take the necessary actions to align its regulations, policies and practices with the UN Declaration and its international human rights obligations.

We will be in contact with in the near future to arrange a call with you before the end of January to confirm political aspects of EA regulation and policy requiring the attention of the Joint Core Working Group and to chart out a more appropriate and effective process to align the EA regulations, policies and guidance with the UN Declaration.

Sincerely,
FIRST NATIONS LEADERSHIP COUNCIL

On behalf of the FIRST NATIONS SUMMIT



Cheryl Casimer



Robert Phillips



Lydia Hwitsum

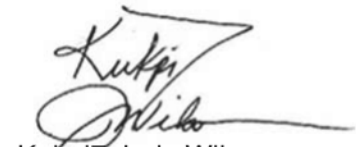
On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip



Chief Don Tom



Kukpi7 Judy Wilson

On behalf of the BC ASSEMBLY OF FIRST NATIONS:



Regional Chief Terry Teegee

Cc. Premier John Horgan, Office of the Premier
Hon. Scott Fraser, Minister of Indigenous Relations and Reconciliation
Doug Caul, Deputy Minister, Ministry of Indigenous Relations and Reconciliation
Jessica Wood, Assistant Deputy Minister, Ministry of Indigenous Relations and Reconciliation
Don Bain, Special Advisor, Office of the Premier
BC First Nations Energy and Mining Council



Reference: 355360

February 12, 2020

Cheryl Casimer,
Lydia Hwitsum
and Robert Phillips
First Nations Summit
1200 – 100 Park Royal South
West Vancouver BC V7T 1A2

Grand Chief Stewart Phillip,
Chief Don Tom
and Kukpi7 Judy Wilson
Union of BC Indian Chiefs
401 – 312 Main Street
Vancouver BC V6A 2T2

Regional Chief Terry Teegee
BC Assembly of First Nations
1004 Landooz Road
Prince George BC V2K 5S3

c/o Colin Braker, Communications Director, First Nations Summit
Sent via email: CBraker@fns.bc.ca

Dear First Nations Leadership Council:

Thank you for your letter of January 17, 2020, following our meetings by phone on December 13, 2019 and in person on December 19, 2019, regarding the ongoing regulatory development process for the *Environmental Assessment Act* (the Act).

Following our success in the development of the Act itself, I am committed to continuing our collaboration to ensure that the regulations and policies supporting the Act reflect my government's commitment to the principles of the United Nations Declaration on the Rights of Indigenous Peoples, as well as my own. There are several issues you have raised in your letter that will require dialogue in order to resolve and I remain committed to having these discussions.

During our discussions last spring around the establishment of the Indigenous Implementation Committee (IIC), it was recognized that there needed to be a close link between the work of the IIC and the First Nations Leadership Council (FNLC). It was for this purpose that the Environmental Assessment Office (EAO) facilitated a funding contract between the Ministry of Indigenous Relations and Reconciliation (MIRR) and the First Nations Energy and Mining Council (FNEMC), which the FNLC identified as the correct recipient. I have attached a copy of the contract agreement for your reference (Attachment 1).

...2

Through this arrangement, I understand that the FNEMC was to act as a conduit between the Political Oversight Committee, the FNLC and the IIC, in addition to the three members the FNLC chose for the IIC. This structure was intended to ensure that the FNLC's interests were represented at the IIC, to keep the FNLC informed of progress and to provide access to materials being reviewed and discussed by the IIC. Given your views that you have not been provided with clear information regarding environmental assessment (EA) regulatory and policy development or the opportunity to develop and review regulations collaboratively, it would be beneficial to explore options at our next meeting for how to improve the structure in place.

As you note in your letter, the IIC is a technical committee. The mandate of the IIC is to provide technical advice to the EAO on matters related to the development of regulations and key supporting policies, including informing drafts of key documents prior to their public release. We established the IIC together with the intention of the IIC functioning in parallel to the Political Oversight Committee, which is the venue for us to jointly review the IIC's progress and address unresolved technical matters. I am encouraged that we both acknowledge the importance of our work at the Political Oversight Committee and are seeking to meet regularly.

As you know, the IIC developed a shared set of priorities which formed the basis for identifying meeting topics and materials. EAO staff have worked with the IIC to ensure that, as priority regulations and policies are developed, they are done so to a level of detail and in a manner that best meets the needs of members and provided opportunities to refine priorities as necessary. Other regulations and policies outside of the IIC priority areas were shared in a transparent manner with the IIC through discussions at IIC meetings, as well as on a SharePoint site or via email as requested. In addition to the IIC priority list, which I understand the FNLC has received, I have attached a complete list of policies and regulations related to the new Act (Attachment 2).

Regarding the Early Engagement Policy, the content of this policy (including how we undertake assessments collaboratively with First Nations) has been the subject of iterative dialogue with the IIC for many months, including sharing drafts of this policy with the IIC. The EAO has been transparent with the IIC about its intention to post this policy in December, as it was essential for the policy to be publicly available when the Act took effect. The Early Engagement Policy, along with all policies that support the implementation of the Act, has been posted online as a draft, so that our collective learnings can inform subsequent drafts. I would be happy to discuss any specific concerns about the Early Engagement Policy at our next Political Oversight Committee meeting.

The IIC draft Terms of Reference, which I have also attached here (Attachment 3), was developed by its members, including the FNLC-appointed members and the FNEMC observers, and describes the matters that are within scope of the IIC. Some of these matters include building and seeking consensus with Indigenous nations; opportunities to tailor the EA process to be compatible with individual Indigenous nations' approaches to governance; providing adequate funding to ensure meaningful Indigenous nation participation and dispute resolution consistent with Indigenous approaches to governance.

...3

I recognize that some policies and regulations have aspects that must be considered at both the political and technical levels. I remain open to discussing the topics that FNLC believes warrant a political discussion, specifically dispute resolution. I would however note that the IIC has provided technical expertise and input into guiding principles and concepts for dispute resolution that can be furthered through political discussions.

Regarding your concerns around the guidance for consensus-seeking, the model of consensus-seeking in the Act was developed through collaborative engagement with the FNLC during the development of the legislation. Under the Act, consensus-seeking takes place at many stages of an EA. This should be distinguished from a notice of consent or lack of consent under the Act, which is the informed decision made freely by a participating Indigenous nation at key decision points. The Province, and I personally, acknowledge and respect that the process and criteria by which Indigenous nations provide or withhold consent are matters of self-determination.

A participating Indigenous nation's decision on consent or lack of consent and the notification of this decision is not contingent upon an agreement with the Province. The EAO does not anticipate a role for itself in the consent decision-making of Indigenous nations. The Act describes the requirements of ministers in relation to provincial decision-making, when a notification of consent or lack of consent is received by a participating Indigenous nation.

The EAO has worked collaboratively with the IIC on technical concepts to inform drafting of a "Guide to Consensus Seeking in Environmental Assessments" that is specific to the EA process. The expertise and direction of the IIC regarding the practical aspects of consensus-seeking at the technical level has been very productive.

The new EA process provides a framework for the EAO to work with participating Indigenous nations to understand their governance and their interests as they relate to a specific project (including rights and title), in a way that is relationship-based and consistent with the reconciliation objectives of the Act. Through its direct engagement with Indigenous communities across the province and its work at the IIC, the EAO has heard a range of views on how First Nations and the EAO should work together to assess the effects of a project on Indigenous Peoples and their Section 35 rights as required by Section 25 of the Act.

This engagement has informed a proposed approach that starts from a fundamental premise that Indigenous nations are best positioned to determine when and how a project may affect their rights. This begins with nations having the ability to self identify as a participating Indigenous nation. Through our work with the IIC and direct engagement with communities, we have received constructive feedback on this approach, and I would be happy to discuss this approach further with you.

...4

Should a disagreement arise between nations regarding who should be a participating Indigenous nation or conflicting views of interests in the area, dispute resolution under the Act could be triggered and if unsuccessful, current legal prudence serves as a backstop to resolve the dispute.

I appreciate your comments about the importance of the Act in demonstrating alignment with the UN Declaration. The collaborative work of the IIC is foundational to this goal, particularly as it relates to developing technical approaches to implementing the consensus-seeking requirements of the Act and to undertaking assessments in a manner that recognizes and respects Indigenous governance and decision-making.

In order to ensure that the work on the IIC's priorities list is successfully completed, I have asked the EAO to meet with the IIC as per the current schedule while we continue to work together through the Political Oversight Committee discussions on those matters mutually agreed to. The development of some policies and regulations will continue through 2020, including dispute resolution, and I agree that dispute resolution is a topic that can benefit from discussion at the Joint Core Working Group.

Once again, I thank you for your letter. I look forward to your confirmation of the topics that the FNLC wishes to discuss at the political level, and to discussing the most appropriate and effective venue to pursue these discussions. While these topics are complex and challenging to work through, I remain committed to continued dialogue in hopes of finding mutually agreeable resolutions to the issues you have raised.

Sincerely,

A handwritten signature in dark ink, appearing to read 'G. Heyman', with a stylized, cursive script.

George Heyman
Minister

Attachments (3)

cc: Honourable Scott Fraser, Minister of Indigenous Relations and Reconciliation
Doug Caul, Deputy Minister, Ministry of Indigenous Relations and Reconciliation
Jessica Wood, ADM, Reconciliation Transformation and Strategies Division, Ministry of
Indigenous Relations and Reconciliation
Kevin Jardine, Associate Deputy Minister, Environmental Assessment Office



May 29, 2019

Agreement #:TP20IFE030

First Nation Energy and Mining Council
#1764-1959 Marine Drive
North Vancouver, BC V7P 3G1

Attention: Paul Blom

Re: Environmental Assessment Revitalization Implementation

This letter of agreement (the "Agreement") will serve to confirm that Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Indigenous Relations and Reconciliation (the "Province"), through the Ministry of Indigenous Relations and Reconciliation (the "Ministry"), has agreed to provide financial assistance to the First Nation Energy and Mining Council (the "Organization") for the purposes of the Environmental Assessment Revitalization Implementation (the "Project"), upon and subject to the following terms and conditions:

PURPOSE

The Province's contribution is to be used solely for the purpose of defraying the costs incurred by the Organization in carrying out and completing the Project as outlined in Schedule A and B to this Agreement.

PAYMENT

The Province will provide financial assistance to the Organization up to a maximum amount of:

\$300,000

The Organization acknowledges that the above payment amount is the maximum contribution payable under this Agreement inclusive of any applicable taxes.

The financial assistance payable by the Province to the Organization will be in accordance with the conditions outlined in Schedule A and B of this Agreement.

RETURN OF FUNDS

If for any reason the Project is not completed, or any portion of the funds payable under this Agreement is not used in accordance with this Agreement, the Organization upon receipt of written request of the Province may be required to repay the funds to the Province.

TERM

The Term of this Agreement starts April 1, 2019 and ends March 31, 2020.

MINISTRY REPRESENTATIVE

The Ministry Representative for all matters arising from and in relation to this Agreement is Jessica Wood, Assistant Deputy Minister, Jessica.D.Wood@gov.bc.ca, 778 974-2081.

The Organization will be notified promptly in writing of any change to the Ministry Representative.

ADDITIONAL TERMS AND CONDITIONS

Where applicable, this Agreement is subject to additional terms and conditions as outlined in **Schedule C** to this Agreement.

ACCEPTANCE

The Province recognizes that this Project funding is a positive and valuable contribution to the promotion of a sound relationship with the Organization and economic development in British Columbia.

Confirmation of the Agreement with the foregoing terms and conditions will be achieved by dating and signing all copies of this Agreement in the space and manner indicated below.

I look forward to receipt of your confirmation.

Yours truly,

Jessica Wood, Assistant Deputy Minister
Ministry of Indigenous Relations and Reconciliation

Executed this _____ day of _____, 20____.

Paul Blom,
First Nation Energy and Mining Council

Executed this _____ day of _____, 20____.

SCHEDULE A - THE PROJECT

1.0 PROJECT BACKGROUND

The Recipient will work jointly with the Province to advance the implementation of the Environmental Assessment Act, 2018 (Act). This includes participation in a joint Political Oversight Committee that receives joint monthly briefings on the progress of the Indigenous Implementation Committee (IIC). This work is intended to align with the government's commitment to work with the First Nations Energy and Mining Council (FNEMC) on implementation of the new Act.

1.1 DELIVERABLES

Project deliverables include but are not limited to:

- 1) **Participation in Political Oversight Committee (POC):** A Political Oversight Committee is comprised of the Minister of Environment and Climate Change and the Political Executives of the First Nations Leadership Council. The POC will provide direction to the BCEAO and FNEMC regarding the following:

- a. Joint invitation letter to First Nations regarding expressions of interest for the creation of an Indigenous Implementation Committee (IIC).
- b. Joint agreement of IIC representatives.
- c. Discussion of IIC regulations and policies and resolution of any unresolved matters.

The parties will jointly review the ongoing work and progress of the IIC. Political oversight will include participating in monthly briefings and providing advice and expertise as required. This committee will address unresolved technical matters on a consensus basis and will invite and select members for the IIC (FNLC will also independently select three IIC members of their choosing).

Note: FNLC appointees of IIC will receive additional honoraria for IIC participation if requested.

- 2) **Technical and Policy Analysis:** Conduct independent technical or policy analysis to support any policy recommendations FNEMC may make and to ensure that their views are fully represented at the IIC. This technical or policy analysis will be delivered in alignment with the IIC schedule to ensure it can effectively inform the work of the IIC. This work will include:
 - a. Supporting the development of the terms of reference for the IIC.
 - b. Support for the FNLC at and between meetings including requests from individual communities or Tribal Councils and liaising with the Federal environmental assessment if necessary.
- 3) **Regional Engagement Workshops:** Participate in regional engagement workshops in the case that this an engagement strategy is supported by the IIC.
- 4) **Final Financial Report – Due no later than Feb 1, 2020**

SCHEDULE B - PAYMENT

1.0 PAYMENT SCHEDULE

Upon the Province's satisfaction of the following **PAYMENT REQUIREMENTS** the corresponding payment amounts will be paid to the Organization:

PAYMENT SCHEDULE	Amount
PAYMENT REQUIREMENT 1 – Delivery to the Province of this Agreement signed by the Organization's authorized representative due June 15, 2019. Payment will not be made before the start date of this Agreement.	\$250,000
PAYMENT REQUIREMENT 2 – Delivery to the Province of Final Financial Project report, as included on the Schedule A on or before February 1, 2020.	\$50,000
TOTAL	\$300,000

SCHEDULE C - ADDITIONAL TERMS AND CONDITIONS

1.1 INDEPENDENT RELATIONSHIP

The Organization will not be the servant, employee, or agent of the Province. The Organization will not in any manner whatsoever commit or purport to commit the Province to the payment of any money to any person, firm, or corporation.

1.2 CONFIDENTIALITY

The Organization will treat as confidential all information and material supplied to or obtained by the Organization, or any third party, as a result of this Agreement and will not, without the prior written consent of the Province, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to enable the Recipient to fulfill its obligations under this Agreement.

1.3 INDEMNITY

The Organization must indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, cost and expenses that the Province may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Organization, or of any agent, employee, officer, director or sub-contractor of the Organization pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

1.4 APPROPRIATION

Notwithstanding any other provision of this Agreement, the payment of money by the Province to the Organization pursuant to this Agreement is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the Financial Administration Act (the Financial Administration Act and every amendment made thereto being collectively called the "Act"), to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Organization falls due pursuant to this Agreement, to make that payment; and
- (b) Treasury Board, as defined in the Act, not having controlled or limited, pursuant to the Act, expenditure under any appropriation referred to in the preceding subparagraph.

**Environmental Assessment (EA) Revitalization
Indigenous Implementation Committee
Terms of Reference
DRAFT**

Background

The Premier has directed the Minister of Environment and Climate Change Strategy (Minister) to revitalize the environmental assessment (EA) process “to ensure the legal right of First Nations are respected, and the public’s expectation of a strong transparent process is met.”

EA revitalization is intended to result in changes to EA legislation, regulations, policies and practices that meet three objectives:

1. **Enhances public confidence and meaningful participation** in all stages of EA, through a process that is robust, transparent, timely and predictable;
2. **Advances reconciliation** by implementing the standards set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Truth and Reconciliation Commission Calls to Actions, and the *Tsilhqot’in* decision in the context of EA; and,
3. **Protects the environment while offering clear pathways to sustainable project approvals**, including by providing predictability of process, clarity of regulatory considerations and an opportunity for early indications of the likelihood of success.

On November 27, 2018, EA legislation (the new Act) received royal assent. Legislation will be brought into force through regulation in late 2019, providing time for the development of necessary supporting regulations and policies.

The Environmental Assessment Office (EAO) is pursuing reconciliation with Indigenous peoples in British Columbia (BC) through its mandate to revitalize the EA which includes implementation of the new Act. The new Act supports the implementation of the UNDRIP and FPIC. The new Act recognizes the inherent jurisdiction of Indigenous nations and their right to participate in decision making in matters that would affect their rights, through representatives chosen by them. The new Act sets specific procedures requiring collaboration with Indigenous nations in relation to reviewable projects and acknowledges Indigenous peoples’ rights recognized and affirmed by Section 35 of the Constitution Act, 1982 in the course of assessments and decision making. The EAO has been working with Indigenous nations at every step of the EA revitalization process to ensure that this work contributes to achieving government’s commitment to fully implement UNDRIP and FPIC, consistent with the Draft 10 Principles and Action 4, Goal 2, as a priority item from the Concrete Actions under the BC-FNLC Commitment Document and its supporting principles.

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.

Mandate

The mandate of the Indigenous Implementation Committee (Committee) is to provide technical advice to the EAO on matters related to the development of regulations and key supporting policies including informing the EAO's understanding of best practices and commenting on options and drafts of key documents prior to their release publicly.

The Committee will provide technical advice to the EAO to ensure that the explicit requirements that concretely contribute to reconciliation and align with the Draft 10 Principles are incorporated into the regulations and policies being developed by the EAO including:

- Opportunities to develop a government-to-government (G2G) agreement with the Province to tailor the EA process to be compatible with an individual Indigenous nations' approach to governance;
- Providing adequate funding to ensure meaningful Indigenous nation participation;
- Inviting Indigenous nations to self-identify to participate in the EA process Opportunities to identify how interests of Indigenous nations can be best addressed in a consensus seeking process with the EAO;
- Ensuring that Indigenous Knowledge is applied to decision-making;
- Building consensus with Indigenous nations throughout the EA process;
- Seeking consensus at key points throughout the process in support of the principle of free, prior, and informed consent; and
- Incorporating dispute resolution to support resolution of disputes consistent with Indigenous approaches to governance.

A Political Oversight Committee comprised of the Minister of Environment and Climate Change and the First Nations Leadership Council will jointly review the ongoing work and progress of the IIC.

Membership

The Committee is co-chaired by the EAO and a member of the Committee selected by the Committee. The co-chairs will:

- Lead the establishment of priority topics for the Committee to consider
- Manage agendas and materials to support the discussion of priority topics
 - Create and maintain forward looking agendas
 - Provide direction on development of content to support agenda items
 - Ensure meeting materials are provided to committee members one week in advance

- Facilitate meetings
 - Ensure timely coverage of planned agenda items (or adjust as required)
 - Ensure all members have opportunity to participate
 - Ensure respectful participation by all members
 - Summarize discussion to ensure key points are highlighted by note-takers
 - Provide direction to note takers on action items
- Record Keeping
 - Review and approve meeting records

The co-chair selected by the Committee will be remunerated consistent with a level 2 board, under Treasure Board Directive 2/17 which provides for chair remuneration of up to \$350 per day/meeting. (Note: It is acknowledged that discussions are ongoing regarding remuneration and that the outcome of these discussions will supersede and result in updating this TOR).

The co-chairs must be able to commit to these responsibilities for the duration of the Committee as described in schedule of meetings in the Roles and Responsibilities section below. The co-chairs will also meet and work together in advance of the face to face meetings and calls to ensure adequate preparation. The co-chair selected by the Committee will be remunerated for this.

The Committee is comprised of members with relevant professional and personal expertise and experience representing a broad range of interests related to the EA process and regions of the province.

- First Nations Leadership Council nominated three representatives and up to three observers.
- Other representatives were selected by the Minister of Environment and Climate Change Strategy and the First Nations Leadership Council following a broad expression of interest process.

Secretariat

A secretariat to support the Committee will be provided by the EAO. The secretariat will be responsible for logistical arrangements for the Committee, assisting the Committee members as required and recording notes of the proceedings.

Roles and Responsibilities

The Indigenous Implementation Committee will work collaboratively to:

- Identify the priority regulations and policies to be the focus of the Committee, and
- Provide technical advice to the EAO to ensure that the priority regulations and policies, as developed by EAO, concretely contribute to reconciliation and align with the Draft 10 Principles. Engagement between members of the

Committee and the EAO is not considered consultation between the Province and the Indigenous Nations represented by those members.

Subject to the committee membership's confirmation of key areas of priority, the EAO will be seeking the Committees support by reviewing and providing technical advice on policy development activities, which may include the topics outlined in Appendix A -EA Revitalization Key Task and Deliverables .

The Indigenous Implementation Committee will seek to establish these priority regulations and policies by the end of July 2019.

If you are not able to attend a meeting you may send a delegate. Please inform the secretariat in advance and ensure your delegate is prepared for the meeting. Delegates will be reimbursed for travel expenses, however we cannot provide remuneration to the delegate.

As subject matter experts, Committee members will be expected to be available and prepared to participate in committee meetings.

The Committee will had introductory calls on June 19th and during the week of June 24th, and the first face to face meeting on July 10, 2019. The Committee will conduct its substantial work between June and July 2019 and then between September and January. Biweekly, full-day, in-person meetings are anticipated to be held in Vancouver and are currently scheduled for:

- July 10, 2019
- A call on July 24, 2019
- Other biweekly dates starting in September, anticipating the work of the Committee will continue into January.

Documents will be distributed one week prior to meetings for review to facilitate discussion. It is expected that Committee members will spend up to 8 hours per month reviewing and providing feedback on documents and preparing for Committee meetings.

Committee Principles

The following principles guide the Committee members' approach to their work.

- **Communication and information sharing** – information is shared freely with and amongst EAO and the advisory committee members.
- **Confidentiality** – the distribution of draft documents, such as draft regulations and policies, is limited to individuals appointed to the advisory committee.
- **Transparency** – advice and comments made by the advisory committee members may be made available to the public in accordance with the *Freedom of Information and Protection of Privacy Act*.
- **Relevance** – advisory committee members will provide advice and information that is within their areas of expertise.

- **Solutions Based** – in the interest of efficiency and productivity, advisory committee members will engage in open, honest, constructive, respectful and solutions-based dialogue.

Deliverables

The following deliverables are the responsibility of the Committee and/or the Secretariat:

- The Committee will provide technical input to the EAO in support of the EAO producing conceptual models, draft materials and other proposals for discussion with the Committee. The Committee will provide verbal and/or written input to facilitate the completion of the materials. EAO will finalize materials.
- The Secretariat will produce meeting summary notes within one week of meetings, and distribute the notes as draft to the Committee for review and comments. Comments are required from Committee members back to the Secretariat within one week of receiving the draft notes. The summary notes from the Committee meetings will then be made public.
- The Committee will identify priority regulations and policies by July 31, 2019, to guide its work; and
- The Committee may generate additional proposals, advice and ideas for regulations and policies, where members deem appropriate.

Amendments

From time to time, as agreed to by the Committee, this Terms of Reference may be amended.

Resolution of Issues

If issues arise that cannot be resolved through consensus by the Committee, the Co-Chairs will meet to discuss the issue, generate solutions and bring those back to the Committee for consideration.