



**DECEMBER 12, 2017**

CANADIAN ENVIRONMENTAL ASSESSMENT ACT &  
REVIEW PROCESS

PRESENTED TO:

EXPERT PANEL

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## ENVIRONMENTAL ASSESSMENT PROJECTS

- Since 2012, 58 BC projects have needed federal EA review
- BC projects represent 37% of all CEAA projects across Canada
- 58% of projects require both federal and provincial assessment
- \$344 billion worth of projects are being considered in BC (BC Major Projects Inventory)
- Negative perceptions of CEAA have trickle-down effects on ALL other regulatory processes
- Majority of EAs in BC are targeted at energy and mining projects
  - In 2015, 17% of Canada's GDP came from three natural resource- based sectors — energy, mining, and forestry
  - Energy (oil, gas, electricity, uranium, and coal) also accounted for upwards of one-third of total business non-residential investment in Canada over most of the 2006-2015 period
- According to the World Bank, Canada ranks 58<sup>th</sup> of 189 countries in ease of doing business (obtaining construction permits) and 20<sup>th</sup> overall — well behind the United States at 7<sup>th</sup> overall (World Bank, Doing Business in 2016)

## WHAT IS ENVIRONMENTAL ASSESSMENT?

- A science and evidence based information-gathering process and planning tool that facilitates discussion about the environmental risks of a proposed development
- Project-by-project approach
- With possible outcomes that are both “yes” and “no” -- neither of which are, or should be, pre-determined

## WHAT ENVIRONMENTAL ASSESSMENT IS NOT

- A forum for resolving how Canada can and should achieve trade-offs among environment, social, and economic values
- The place for the public to argue values and question whether Canada should develop economic projects or be an energy or other natural resources producer. These values and national interest questions must be debated and decided by Legislatures and Parliament, not left to proponents to repeatedly defend in technical independent reviews with every new application
- A permitting process – permitting takes place post-EA

## POSITIVE ELEMENTS OF CURRENT CEAA SYSTEM

- Finite timelines
- Regulated project list rather than triggers
- Reduction in the number of responsible agencies, avoiding duplication and reducing uncertainty and confusion
- Substitution — BC has the most relevant experience — one process, two decisions
- Use of science and evidence
- Administration of the process by an arm's-length-to-government regulator

## AREAS FOR IMPROVEMENT WITH THE CURRENT CEAA SYSTEM

- CEAA office staffing, expertise, and succession — skilled project managers with substantive experience that provide continuity to project reviews
- Timeline stop-clock criteria that lengthen actual process times and risk Canada's investment reputation, while driving up proponent and government costs (usually with little environmental benefit)
- Rationale development for the project list
- Delivery on the Crown's duty to consult — industry cannot be a proxy for government
- Guidance on TEK methodology
- Accessible and usable data for cumulative impact assessment
- Certificate amendment enabled
- Clear boundaries and expectations for public involvement and industry consultation requirements
- Defined role for Aboriginal people consistent with Section 35 of the Constitution
- Accessible and readable (plain language) documents

## MUST AVOIDS

- Substituting more process for decision-making. CEAA must be a definitive decision not a station stop on the pathway of approval
- Offloading government responsibility to industry in terms of cost and duty to address First Nations issues
- Duelling experts
- Undermining and second guessing arm's-length regulatory agencies by those seeking to thwart development
- Transforming environmental assessment into a permitting process — duplicates provincial responsibilities and confuses the purpose of EA and its reputation
- Inclusion of the term 'social licence' — it does not exist as a legal concept or principle and does not in substance confer a stamp of approval. Rather, it has become an ambiguous term used to prolong process, avoid decisions, or oppose a project based on values considerations or simple self-interested opposition (e.g., NIMBY-ism)

## CONCLUSIONS

- CEAA 2012 does NOT need a fundamental overhaul, but there is room for improvement
- Canada will benefit from an EA process that:
  - Encourages and achieves investment certainty and predictability
  - Reduces social friction and increases understanding
  - Enables management and evaluation of environmental issues at a reasonable cost
  - Establishes clear delineation between discrete project reviews and values conversations
  - Is free from undue political or stakeholder influence
  - Enables appropriate public involvement given project scope — one size does not fit all
  - Provides clear, consistent guidelines and expectations for all process participants
  - Supports the public need for transparent, thorough process and confidence in decision-making by independent bodies. Once completed in reasonable time-frames, governments need to support decisions and the rule of law rather than abdicate responsibility

## About the Business Council of British Columbia

Celebrating its 50th year as the preeminent business organization in the province, the Council has a strong history of providing relevant public policy research and advice on issues to enhance BC's competitiveness and prosperity. BCBC represents over 250 of the leading firms and organizations in the province, including many post-secondary institutions, that have assets and operations in every sector of the economy. Combined, our members employ 25 percent of BC's private sector labour force.

Today, the Council is a leading convener that focuses on policy issues and economic development opportunities and is a source for insight on the provincial and Canadian economies. Specifically, the Council investigates and applies solutions on how international trends and domestic policies are impacting our ability to compete in the global economy.

Priority areas of focus include: environmental sustainability policies, economic reconciliation with First Nations, innovation and productivity, climate change and energy, competitive tax and fiscal policy and effective regulatory regimes, advancing trade policy and export markets, and the development and attraction of a deep and diverse talent pool