



Overview of the intentions outlined in the Discussion Paper, in light of the JBACE opinions and previous recommendations regarding the review of impact assessment (IA) processes and the *Canadian Environmental Assessment Act – 2012 (CEA Act - 2012)*

“✓” = Elements that align with JBACE opinions and previous recommendations “±” = Elements of concern (not necessarily negative or a critique *per se*)

Elements under consideration by the Government of Canada	JBACE Observations, concerns and suggestions
<p>1. Upstream treatment of Cumulative Effects:</p> <ul style="list-style-type: none"> - Via new and stronger national frameworks to inform regional assessments (e.g. Pan-Canadian Framework for Clean Growth and Climate Change, Air Quality Management System); - Via Strategic Environmental Assessment and Regional Assessments; - With the aid of an integrated open science and data platform. 	<ul style="list-style-type: none"> ✓ Desirable overall; ± Challenge to implement (e.g. inconsistent adherence to National frameworks across the country, myriad of methodologies, legal aspects regarding data); ± Discretionary application of this proposal would jeopardize its value / credibility; ± Buy-in by other jurisdictions, and a true volition to use such strategic-level assessments by all levels government, are <u>musts</u> for the success of these proposals; ± Procedures must account for those that already exist in other jurisdictions.
<p>2. Early engagement:</p> <ul style="list-style-type: none"> - Requirement, with government guidance, for proponents to engage with the public in project planning phase (before IAs and regulatory processes); - Direct Crown engagement with Indigenous peoples in planning phase; - Publishing initial list of issues for commentary before IA and regulatory process start; - Develop clear guidance for proponents on IA and regulatory requirements. 	<ul style="list-style-type: none"> ✓ Desirable overall; ✓ Initial list of issues, prior to IA and regulatory assessment, is a positive proposal for honing projects; ✓ In areas such as the Territory, the nature of the Crown’s direct engagement with the Cree should be clarified in the context of the JBNQA; ± In areas such as the Territory, guidance must be coherent with the existent regime and tools (e.g. context of the JBNQA, expectations and prerogatives of JBNQA entities and local administrations).
<p>3. Transparency and public participation:</p> <ul style="list-style-type: none"> - More opportunities for participation during IAs and regulatory reviews, and improved participant funding programs; - Increase ease of online public access to information on projects, including monitoring, compliance enforcement, and meeting conditions; - Improved two-way dialogue / consultation via social media, online platforms, and informal meetings; - More transparency on why decisions are made, on how public input is used, and clearer transparency requirements for proponents; - More inclusive monitoring for stakeholders. 	<ul style="list-style-type: none"> ✓ Desirable overall; ± Need more information. Very difficult to provide more detailed commentary (e.g. what constitutes ‘more opportunities’ for participation, what does ‘improve’ participant funding amount to?); ± In areas such as the Territory, participatory activities, means of accessing project information, and public inclusion in monitoring activities should be coherent with the existent regime and tools (e.g. special status of the Cree, expectations and conditions fixed by JBNQA entities and local administrations).

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<p>4. Evidence (science and Indigenous knowledge):</p> <ul style="list-style-type: none"> - Via an open science and data platform to integrate available evidence that supports IA and regulatory processes; - Better incorporate Indigenous Knowledge alongside other evidence by developing tools, guidance and capacities to more consistently consider such evidence; - Protect the confidentiality of Indigenous Knowledge; - Reinforce peer-reviews of science evidence during IAs and regulatory reviews; - Provide plain language summaries to facilitate comprehension. 	<ul style="list-style-type: none"> ✓ Desirable overall; ± Beyond the open science and data platform, much is already considered / done during JBNQA IAs; ± In areas such as the Territory, activities and tools / guidance used to seek out Indigenous Knowledge should be coherent with existent regime and tools (e.g. special status of the Cree, expectations and conditions fixed by JBNQA entities and local administrations).
<p>5. An improved IA procedure:</p> <ul style="list-style-type: none"> - One agency will be responsible for IAs and for coordinating consultations for Indigenous Peoples for designated projects; - Joint assessment, by the said agency and regulators, for major energy, nuclear, and offshore oil and gas projects; - IAs to include environmental, economic, social, and health aspects; - IAs to consistently use Gender-based Analysis Plus methodology; - Enacting of legislation to require that IAs look at impacts on Indigenous Peoples; - Decision making retained by applicable Minister or Cabinet; - Review of the <i>Designated Projects Regulations</i> and establish criteria and a transparent process for its periodic review; - Flexibility so that projects can be subjected to or excluded from IA under certain conditions; - Ensure that the authority to set enforceable conditions remains; - Maintain legislated times for projects subject to IA. 	<ul style="list-style-type: none"> ✓ Desirable overall (JBACE has espoused this for years); ✓ The single agency responsible for IAs is per our brief; ✓ The broadening of the scope of IAs to include social impacts, as well as those that may affect Indigenous rights, is per our brief and is already the case during JBNQA IAs; ± Very little information is provided to go beyond these generalities (e.g. what sort of legislated timelines are being entertained, what sort of changes will occur to the Designated Projects Regulations, etc.); ± No information is given on what legislated timelines will apply for projects that are only subject to regulatory reviews and not to IAs (e.g. will they be maintained? will flexibility allow for exceptions when subject to Section 22 IAs and/or the provincial authorization regime?).

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<p>6. Opportunities for partnering with Indigenous Peoples:</p> <ul style="list-style-type: none"> - Being responsive to Indigenous rights, jurisdiction and decision-making by increasing their involvement; - Mandate a single agency to be responsible for coordinating Indigenous consultations for designated projects; - Sharing of administrative and management responsibility with Indigenous Peoples (e.g. environmental monitors); - Ensure early and regular engagement with Indigenous Peoples; - Formalize co-development frameworks for collaboration with Indigenous Peoples on IAs and regulatory processes; - Convene special working tables during IAs and regulatory reviews; - Clarify the roles for consultation and accommodation; - Build capacity for the inclusion of Indigenous Peoples in IAs and regulatory reviews; - Increase economic participation of Indigenous communities and businesses; - Consideration and protection of Indigenous Knowledge; - Create opportunities for Indigenous partnerships in monitoring activities by building on systems in Canada’s North and previous work initiated for certain projects. 	<ul style="list-style-type: none"> ✓ Desirable overall; ✓ The single agency responsible for IAs is per our brief. However, the single agency must adequately sensitized to the context of the Territory when active therein; ✓ Greater involvement of the Cree in the federal IA and regulatory processes, and monitoring have been espoused by the JBACE for many years; ✓ Consideration of Indigenous rights and Knowledge is implicit. Here the Government should re-familiarize itself with its treaty engagements (these elements are already accounted for in the Section 22 regime); ± Very little information is provided to go beyond these generalities; ± Buy-in / partnership between Cree communities and the federal government, and a true volition to entertain the prerogatives of Cree communities are musts for the success of these proposals; ± Reluctance to enter into partnerships with the federal government may be a factor, particularly in areas such as the Territory where a negotiated procedure already exists.
<p>7. Facilitating cooperation with other jurisdictions:</p> <ul style="list-style-type: none"> - Ensure more comprehensive cooperation with interested jurisdictions to advance the ‘one project, one IA’ approach; - Allow for substitution of IAs with provinces and territories; - Develop new provisions / criteria to enable substitution; - Ensure that IA processes better recognize Indigenous jurisdiction, laws, and governance systems; - Provide flexibility to allow exceptions to legislated timelines; - Work with provinces, territories and Indigenous peoples to plan and manage cumulative effects. 	<ul style="list-style-type: none"> ✓ Desirable overall; ✓ The need to coordinate a ‘one project, one IA’ approach, and to provide new mechanisms to enable this, is per our brief; ✓ Recognition that flexible timelines are required is per our brief; ✓ Collaboration on the issue of cumulative effects management has been espoused by the JBACE for many years; ± Very little information is provided to go beyond these generalities. Difficult to envisage or to provide more elaborate commentary thereon.