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MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

Workshop Summary Report

Guideline for Major Projects to go Directly to
Environmental Assessment



January 2023 – 22-5103

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Executive Summary

On December 6, 2022, the Mackenzie Valley Environmental Review Board (Review Board) held a full day workshop to discuss the latest draft of its *Guideline for Major Projects to Go Directly to Environmental Assessment (EA)* (the draft guideline) at the Explorer Hotel in Yellowknife, NT. The workshop was attended by over 50 people and included online and in-person participation (See Appendix A for full participant list). Participants included representatives from the following groups: Project Development (6), Regulator (6), Federal Government (11), Territorial Government (13), Indigenous Governments and Communities (13), and other (3).

The workshop consisted of a presentation, plenary Q&A sessions, live group surveys (administered through “Mentimeter”) and a series of breakout group discussions. The workshop provided a venue for sharing information and facilitating feedback from stakeholders including developers, governments (Indigenous, Federal, and Territorial), consultants, and other interested groups from across the Territory. The objectives of the workshop were to:

- Help people understand the draft guideline; and
- Support people and organizations to submit comments about the draft guideline on the Online Review System (ORS) (deadline January 31, 2023).

The workshop allowed participants to voice comments, opportunities and concerns related to the draft guideline, as well as learn from and communicate with their colleagues. The group discussed overarching challenges with the EA process, both directly and indirectly related to the draft guideline. Key themes that emerged during the workshop:

- Respect treaty rights of Indigenous Governments and Peoples.
- Early, open, and continued engagement is a priority.
- Indigenous Governments and communities need supports, like participant funding, to address capacity issues to participate as described in the draft guideline.
- Collaboration must be meaningful and effective.
- Communication from the Review Board about the pathway in the guideline is very important.
- Participants generally had a moderate understanding of the guideline, but asked for additional clarity in places.

This report presents a summary of all the conversations which took place at this workshop. It is divided into 4 parts:

1. Overview Presentation and plenary Q&A.
2. Breakout group session 1.
3. Breakout group session 2.
4. Breakout group session 3.

1.0

Overview Presentation and Plenary Q&A

The workshop began with an overview presentation, where Review Board staff introduced the draft guideline and explained its history, purpose, and objectives, as well as legal authority and the applicability to various groups. After the presentation, participants were invited to ask questions and share comments. Please see Appendix B for slides from the Review Board's presentation.

1.1

Questions

Pine Point:

- Question/comment: The Pine Point project was mentioned as having followed a previous draft of the guideline, and that it was not a positive experience. What was the outcome of following this guideline for the Pine Point project?
- Response:
 - In general, EAs are moving towards objective-based outcomes rather than a long form of information to fill out to reach adequacy, something this draft guideline addresses.
 - The Review Board can improve the way it conducts scoping in EA, to really focus on the issues that need to be focused on during the EA.

Traditional Knowledge:

- Question/comment: More effort needs to be done when incorporating Traditional Knowledge into project development plans and closure planning.
- Response: Throughout the project proposal/plan there should be mentions on how ideas came about, (for closure) and how Traditional Knowledge has informed this. Currently much of the information requested must be provided by the developer, however they may not be best placed to answer the questions.
- Follow up: when an engagement plan goes forward, there should be a more in-depth meeting with Indigenous Governments (Indigenous Governments). Engagement plans should be clear and meaningful.

Other Preliminary Screeners:

- Question/comment: The Review Board is one of several authorities that can initiate an EA. What happens if the developer goes to another agency instead of using this guideline?
- Response:
 - The Review Board cannot write guidelines for other referral authorities. This guideline is for how the Review Board's optional, direct EA referral pathway will take place.
 - The direct, optional pathway does not take away from the referral authority of other agencies or authorities.

Conformity Checks:

- Question/comment: After submitting the initiation package, will there be a conformity check?
- Response: This will be discussed in the future.
- Follow-up: For some smaller developers (e.g. exploration companies) it is not always clear which topics in the EA need to be engaged with until after the EA has begun. What happens when there are requirements for early planning that can't move forward in the early stages of a development?
- Response: Developers can communicate with Review Board staff to help them understand the requirements of the EA Initiation package. The Review Board does have an option not to order the EA under this pathway.

About the Process:

- Question/comment: Could someone do all the initial work and not be referred directly to EA?
- Response:
 - Submission will be made, and then the Review Board will consider whether to order an EA.
 - Every EA has a different starting point depending on the information that comes in, and the Review Board will consider this.
 - If more information is required, the Review Board has many options to get the information it needs through the course of an EA and wants to work with developers, Indigenous Governments and others to make this process successful.

Process Pathways:

- Question/comment: Could a developer exit the optional direct referral process? How would the Review Board notify other regulators about this?
- Response:
 - There is nothing in the guideline about off-ramps; ultimately, it is a developer's choice to follow this guideline or not, therefore they are free to leave the process if they wish. The Review Board could learn from the coordinated approach in Nunavut.
 - Notifications: There is an ongoing attempt to use Resource Development Advisory Groups to capture the development side. Having the right engagement list for any required notifications is important.

Participant Funding:

- Question/comment: Will this guideline impact when participation funding will be available? There should be discussion of participant funding before the EA is initiated. Will this be outlined when the guidelines are finalized?
- Response: Currently not in the guideline but there is room for discussion on how this is implemented in the guideline.

2.0

Breakout Groups – Session 1

The purpose of this first breakout session was to understand how well the current draft guideline meets its goals and objectives. Six in-person and two virtual breakout groups discussed the following goals and objectives:

- Collaborative Project Planning.
- Early Engagement.
- Information Requirements Requested in the Guidelines.
- Improved Project Design and Mitigation.
- Improved Assessment Methods.
- Timelines.

In-person participants had the opportunity to go to three tables, while each online group discussed three of the above topics. A summary of the discussions from each topic is provided below.

2.1

Collaborative Project Planning

A key component of this guideline is collaborative project planning. This means earlier work between developers and Indigenous, Territorial, and Federal governments, as well as with community organizations to plan for, design, and build development projects. The goals of the conversation were to gauge people's understanding of collaborative project planning, and describe best approaches for collaborative project planning.

Overall, collaborative project planning was seen as important, but currently has some shortcomings and may not yield benefits for all parties. It was mentioned that current collaboration often looks like checking off boxes. Some suggested that more work should emphasise early and continuous collaboration. Capacity issues, lack of clear and open communication between developers and communities, and funding were seen as potential barriers for continued collaboration. Below is a summary of the responses to each of the questions asked at the collaborative project planning table.

Do you have experience with collaborative project planning? What does collaborative project planning mean to you?

- Communities and Indigenous Governments should be brought on from the onset of the project and principals of free, prior, and informed consent (FPIC) should be practiced throughout collaboration.
- Collaboration should address power imbalances between parties, and input on project development should be followed.
- Collaboration does not stop at geopolitical boundaries, there should be cross-jurisdictional and transboundary collaboration as well.
- Collaboration before, during, and after the project is important, but so too is the distribution of the benefits from the projects to those involved.

What went well during any collaborative project planning you have participated in previously? What were the challenges? How can the challenges be overcome?

- Developers should clearly describe the level of contribution expected from affected parties, especially indigenous governments and organizations who have capacity issues. This will help Indigenous Governments prioritize their efforts.
- Approved projects may change and grow over time, so continued collaboration becomes critical.
- There may be disconnect between what different companies are capable of (e.g. smaller and more junior companies have fewer resources). Also, the level of feedback they are willing to act on depends on each company and how far along the project is.
- Communities often lack capacity, and developers find it hard to contact and have meaningful conversations when there is no clear person to contact, or not enough capacity in communities.
- Early consultation can be expensive for developers and Indigenous Governments so funding may need to be increased.
- Governments are colonial, which presents structural challenges when Indigenous Governments are required to operate alongside them. This requires a change in approach from senior government leadership.

Figure 1: Participants Discussing in Breakout Group



What are the best approaches to collaborative project planning?

- Collaboration agreements should be established, in writing, early on and should include clear information about what is needed from Indigenous Governments and what the developer's long-term vision of the project might be.
 - Accurate, usable and available land use or tenure information would help developers identify potential collaboration opportunities early on.
 - Indigenous groups that haven't been fully engaged in the past, or don't know they may be affected may have some barriers in comprehension. Sometimes there is an inability to take part in collaborative planning unless there was prior involvement in earlier stages like exploration.

- Building relationships and a positive legacy are both important components of the collaboration process.
- In this draft guideline, the Review Board should provide a template for an engagement plan to the developer which includes the recommended wording for some processes, so that the parties can be informed, and so they know their responsibilities.
- Developers should be compelled to engage all affected groups fairly and equitably.



2.2 Early Engagement

A key component of this draft guideline is early, frequent, and respectful engagement. This means earlier work between developers and Indigenous Governments, community organizations and the public to build relationships that will last the life of a project. The goal of this conversation was to describe best approaches for early engagement.

While there have been many attempts, positive and negative, at early engagement, some barriers exist. Notably, developers and Indigenous Governments face language barriers, as well as a lack of understanding by developers of the differences in different Indigenous governance structures. When engagement takes place, it should respect the wishes of communities and make clear the expectations that will come out of a given project. Participants agreed that there were many challenges when conducting early engagement. Lack of funding, outreach, and capacity makes it challenging for communities to be heard and represented. Below is a more detailed summary of which questions (in bold) were posed to the breakout group focused on early engagement and the resulting responses.

Think of a time when you were involved with project engagement activities. What went well? What were some of the challenges?

- The Gahcho Kué project did not have effective scoping of social impacts.
- It is hard for parties to understand the process, and language used by developers can be inaccessible for/untranslatable into Indigenous languages.
- Developers found it challenging to understand Indigenous Governments governance structures, and some called for increased settled land claims to make the process easier.
- Engagement must be meaningful, two way, and targeted to who you are working with to be effective. The current practice of “logs and line items” not a good way of doing meaningful engagement. Phone calls, emails and limited sharing of information has been questioned as true engagement by some, it is seen more as correspondence.
- Review Board jurisdiction on how engagement is assessed might be too limited. Guidelines could suggest how engagement could be considered and better assessed by the minister.

- The meaningfulness of engagement does not necessarily depend on the medium but rather the information that is shared. Meaningful engagement can happen over email, it just depends on the content and approach.

What are the best approaches and tools used to conduct early, meaningful, and respectful engagement?

- Increasing community knowledge of when outreach is happening, and about what, through radio and internet ads.
- Developers could consider doing outreach during community events.
- Developers could go to the community after a confirmation through email or a phone call. Developers should go beyond “no response” and aim to better understand the way communities want to be engaged. Developers should follow community engagement protocols wherever they exist.
- Developers should have clear and easy to follow engagement plans which help communities understand when, and to what capacity, they are needed.
- Opportunities for women to get involved in processes and during the early stages of work could help mitigate gender imbalances and reduce the gender disparity in field work.

What other supports are required for successful early engagement?

- Increase flexibility and amount of funding.
- Introduce community contact list that aids developers in connecting with the communities.
- More community members should be given the opportunities to engage as opposed to just one person.
- Developers should be prepared prior to starting a process in an area and follow community protocols.
- Engagement should consider community timelines, including events and traditional activities.

2.3

Information Requirements Requested in the Guidelines

The draft guideline asks developers to provide the information needed to start an environmental assessment, which is different than what may be required for a water licence application. This is information about the project, its setting, impacts, and the developer's engagement. This information informs the Review Board's decision to order an EA (or not) and supports more effective scoping and EA processes overall.

The goal of this conversation was to gauge people's understanding of EA Initiation Package information requirements. Information requirements are often determined as the project gets underway, and by all parties involved. Promoting clarity and transparency between all parties, were some of the comments that came out of this breakout session. Below are the questions (in bold) that were asked in relation to information requirements, and the following discussion.

In your experience, how much information is usually available at the start of an EA? Has the information been adequate?

- Often changes based on the developer, there is a need for guidance on the level of detail, as well as specifics on consistent information requirements.
- Generally, projects with detailed exploration phase have better, more in-depth information.
- Information requirements are identified through early engagement (Indigenous Governments and Peoples, regulators, public) and by developers as well.
- Information to decide what factors should not be included in the EA is also important. What might be a concern, or what might not, should be stated.



What information is most important for the developer to provide at the start of an EA?

- Knowing the timing and source of participant funding is important so parties can understand how and when they can engage and if/when they should hire technical advisors.
- Information to gauge the burden put on communities.
- It should be encouraged that developers fund communities early.
- This guideline may help smaller companies to advance to EA by giving them an understanding of what information is likely needed.

How can we balance the need to be flexible in an EA with the need for clear project information to start an EA?

- During early engagement the project is not set in stone, it is unclear at what point the project should be firmed up and at what stage this project should be brought to local communities. Some questioned whether it should happen before, or during the EA.
- Indigenous Governments should determine what information is required.
- There should be a defined threshold for the quantity of information required.
- Information about impacts on the area outside of the project area would be useful.
- The Developer's Assessment Report can be seen as an update to the EA Initiation package, rather than a completely new set of information the updates. This will help with not overloading reviewers with new or additional information.
- EA should be seen as a planning tool through its use of alternatives assessment.

2.4

Improved Project Design and Mitigation

The draft guideline encourages increased collaboration earlier in the project life cycle, as well as providing more information about the project early on. The goal of this conversation was to discuss how the guideline could contribute to improved project design and impact mitigation.

Participants suggested that better understanding of the timing, and level of detail related to project design is required. Knowing when and how best to share information was significant. Some also suggested that Elders be engaged throughout the process, ensuring that they are compensated fairly. Below are some of the questions (in bold) which were presented to the Project Design and Mitigation breakout group and the discussion which followed.

When does project design and mitigation development typically happen for a project? When should it happen?

- There should be more guidance on the level of design that is required and if geotechnical work or archeological studies are needed.
- It should be an iterative process where feasible, the restraints of different parties considered.
- All of these factors depend on type of project and how developer approaches the project.

Will the approaches (working together, earlier information, better, earlier engagement, etc.) in the guideline lead to better project design and mitigation?

- The advantages of the pathway described in this guideline should be expressed more explicitly to developers.
- A more detailed project description early in the process would be useful.
- The new guideline should build upon the Review Board's other guidelines (e.g. the Socio-economic Impact Assessment Guidelines)
- The guideline should be more prescriptive with minimum requirements.
- More guidance for incorporating Indigenous guidance would be useful.
- More guidance on baseline data and where in the process it is required.
- Some asked for more detail on the level of information that is required.
- More emphasis on relationships, and relationship building: knowing communities and the environment that developers are working in. Communicating advantages for developers would be useful.

What is needed to support better project design and impact mitigation?

- More guidance on baseline data requirements for socio-economic impact assessments.
- Guidance for incorporating Traditional Knowledge in design and considering it early in the process especially with Elders.
- Participant and engagement funding should be provided early in the process.
- Knowing what information exists could help make the proposals and design process more streamlined and less taxing for all parties involved.

- Workshops and training.
- Wise management practices tailored to individual communities.
- Land use plans should be implemented.
- Work with locals that know the regulatory process and include honorariums and accommodations for Elders during engagement.
- More support for participants would be helpful.
- More guidelines for level of detail and info requirements, including constraints on developers.

2.5 Improved Assessment Methods

The draft guideline asks for more information on assessment methods from the developer earlier in the EA process, to allow earlier review of these methods by parties. The goals of this conversation were to gauge people's understanding of the information requirements on assessment methods and to discuss if it helps to have this information pre-EA.

Assessment methods were discussed, however it was often connected back to engagement. Governments suggested that a "Whole of Government" approach would be useful, however some government agencies suggested that they lack information on the assessment methods and there are no legislative "teeth" for this. Below are the questions (in bold) that were posed to this breakout group about improved assessment methods, and the discussion that followed.

How/When do you normally comment on assessment methods?

- The EA ideally begins with engagement and communication with the Elders and land users.
 - Crown Indigenous Relations and Northern Affairs Canada is involved early in the EA phase.
- GNWT is involved throughout the process and should be using a whole of government approach.
 - Some governmental agencies, including the health department, only see information on methods in the *Developers Assessment Report*.
- Health Canada can only advise, there is no legislative power.

When is the right time to review assessment methods?

- Engaging early and often is important, but developers need to be cautious to not overwhelm communities. Adjustments also need to be made throughout the process to adapt to what was learned.
 - Having engagement occur early and throughout the EA so that adaptations can take place throughout and early enough not to create too much disruption and associated costs.
- Conversations should include youth and be made accessible to all.
- It would be easier to change assessment methods after the implementation of this guideline.

Additional Notes

- Traditional Knowledge should be incorporated first, and then Western Science should be used to back this up.
- Communication in different languages is important.
- If there is a disagreement in the process, the Review Board should rule.

2.6

Timelines Summary

The draft guideline has the potential to affect timelines leading up to and during an environmental assessment.

Timelines depend on and can change based on how early engagement occurs, the size of a project, and legislation. A number of differing deadlines and overlapping timelines can make meeting timelines challenging for all parties involved. Below are the questions (in bold) which were posed to the breakout group focused on timelines, and the discussion that followed.

What are some of the timeline challenges you have seen or experienced before and during EA?

- Engagement fatigue and lack of capacity.
- Lack of participant funding/ clear regulatory deadlines pre-EA.
- Not enough alignment with Preliminary Economic Assessment or financing requirements.
- Considering and adapting to different cultures and cultural practices.
- Multiple projects at the same time with competing and conflicting deadlines.

Will this guideline help projects that need to go to EA get there more efficiently?

- The guideline may help with the intervention stage.
- To achieve more efficiency there is a need for a regional approach to issues and better communication.
- Fig 7. Should be assessed to ensure accuracy and flow.
- Participant funding may be a challenge with meeting the timelines.
- It could be clearer that the draft guideline does not change legislated timelines.
- Consider the way that timelines for water licences might be changed in relation to EA timeline changes.

Will the guideline improve overall regulatory & assessment timelines?

- There is a need to think more about how the proposed approach may differ for phased developments and once development certificate provisions come into force.
- The guideline will mean fewer rounds of analysis and information requests, and it may translate into fewer issues that are left on the table.
- There is a need for better co-ordination with regulatory processes which should include better process planning and regular check-ins.

- There is now a possibility to better consider timing requirements for water licensing, resulting from the new EA measures.
- There is a trade-off between early engagement with Indigenous Governments and the length of time of an EA.

The guideline aims to improve overall system efficiency. Does it? If not, how do we improve?

- Ways to align regulatory and EA processes should be examined.
- Ensuring that notification occurs is important.
- The draft guideline should take into account regional differences such as areas with settled or unsettled land claims.
- There should be a clear list of how certain issues are dealt with or resolved including through land use permits, water licences, Wildlife Management Plans, or the requirements of the Mineral Resource Act. Knowing this will help to focus the EA.

3.0

Breakout Groups – Session 2

The purpose of this breakout session was to understand how the current draft guideline will affect different participants in the EA process. In-person participants went to one table to discuss how the guideline may affect:

- Regulatory Efficiency;
- Indigenous Governments;
- Territorial and Federal government; and
- Developers.

Virtual participants were invited to speak to how the guideline would affect any of the above. Summaries of the discussions from each group are provided below.

3.1

Regulatory Efficiency

Collaboration, advocacy and increased participant funding were identified as keys to increasing regulatory efficiency with the implementation of the draft guideline. Other key points related to this theme were:

- Notification is important for regulators and screeners.
- More information on how the guideline interacts with the requirements of the Mineral Resources Act is needed.
- Regional differences – settled vs unsettled land claims should be taken into account.
- Develop process maps and integrate Review Board/LWB websites, so communities can hit the ground running.
- Governments need to streamline the approach.
- Advocate to governments and developers for funding.
- Bring similar experts together to collaborate on the same issues.
- Parties need the same information, same and equitable opportunities, same and equitable education, information on best practices and recommendations would be useful.
- Land and water boards have a more regional view and they should be engaged to capitalize on that.

3.2 Indigenous Governments

The extent of the development, whether further components are planned, what the long-term goals are, and the potential cumulative impacts should all be considered by developers early in the development process. The new guideline might improve young people's comprehension of processes. Traditional Knowledge should be included and a "watch dog" should be established to make sure developers are doing what they are saying they will. The importance of how cumulative effects of climate change must be addressed in the document. Below are the questions (in bold) which were posed to the breakout group focused on Indigenous Governments, and the discussion that followed.

This guideline is intended to benefit Indigenous Governments and communities, does it achieve that?

- There are already challenges with capacity and the guidelines should help with being able to better manage this.
- Developers need to follow the steps to be effective.
- Possibility of increased youth involvement and understanding.
- Early, and clearer applications will allow for a better understanding of how to allocate resources.
- Land use plans should be considered in EA.
- It could help initiate a better understanding of Traditional Knowledge criteria for decision making.
- Relationship building is important, so should ensure that feedback is incorporated into guideline. A check for Indigenous groups regarding whether a developer involved them early would be useful.
- The guideline will mean that developers must move beyond the record of engagement to better, and more deeply engage Indigenous Governments and communities.
- The definition for baseline data needs to be clear so that everyone has the same understanding and are starting from same foot.
- There needs to be full inclusion of Traditional Knowledge into Terms of Reference and Developer's Assessment Report.
- How remediation is going to be addressed should be in the guideline as well.
- Developers' engagement with Indigenous Governments should be part of the record. It should be transparent, summarized, transcribed, and part of the official record.
- There is a need for development certificates.
- Government/ITI should be transparent about where all the resources are located.



What part of the guideline would be most useful?

- Ensuring all communities and regions have land use plans.
- Scoping sessions which include Elder involvement.

How can we make the guideline better and improve the chances we will see these benefits?

- Ensure that feedback is incorporated.
- There should be an explanation of changes to the document, and what their impacts might be.
- It would be useful to have an evaluation/conformity check for Indigenous groups.

Additional Comments

- There should be an emphasis on being more transparent and providing information early since developers have a fiduciary duty to inform communities. This should include the size of the development, if components may be added on, cumulative effects, and what the long-term plans are.
 - The legacy of projects is an important consideration missing in this guideline.
- Development certificates should be part of the initiation package and mentioned accordingly.
- The word “Respect” should be included in the guideline, a section should be devoted to respect.
- It should be clearer in the guideline what baseline data means and how baselines are established.
- Climate change and cumulative impacts need more of a focus in the guideline.
- The guideline should have more clear background regarding how it was created as well as any changes that may come later.
- A “watch dog” should be created to ensure developers are doing and saying what they are supposed to do and say.
- Guideline should address amendments to licenses or phased developments.
- There needs to be consistency and clarity with how the guideline is written. Words like “Shall, Must, etc.” should be consistent throughout. Sometimes one word can change the entire document.
- Indigenous Governments need to know and understand how these laws and regulations impact them and should be communicated with by governments in the process.

3.3 Territorial and Federal Government

Some of the key conversations revolved around the potential of increased workloads if Government agencies are not involved early enough. Government should support Indigenous communities, organizations and governments to take a leading role in the process. Taking a whole of government approach was also mentioned. Below are the questions (in bold) which were posed to the breakout group focused on impacts to the Territorial and Federal Governments, and the discussion that followed.

What aspect of the guideline would be most useful for Federal and Territorial government departments?

- Government should participate in early engagement and give expert advice.
- A collaboration component would be useful, even though collaboration can be challenging.
- Early engagement with a clear initiation package is helpful.
- Initiation package would help the federal government cover their mandate.

This guideline is intended to benefit Federal and Territorial government departments in a variety of ways. Does it achieve that?

- Yes ultimately, but if there is no referral it is not on the government's radar, so there is a risk of doing double the work.
- There is some remaining uncertainty about the outcomes that the guideline will present.

What challenges do you foresee? How can we avoid these?

- There is variety in the diversity and level of details in all submissions.
- EAs have to start for government to provide feedback, so government has to jump into the unknown with this guideline.
- If developers limit themselves to the checklist, the guideline could be restricting.
- Need to be clear that information can be gathered through all stages of an EA.
- The guideline may put too much trust in developers.
- Government transparency: governmental departments need to disclose their process, mandates, legislation and rights.

What can you or your organization do to achieve these objectives & benefits?

- Ensure that Indigenous communities, organizations, and governments can take a leading role in the process, not just accepting or rejecting processes:
 - Support needs to be provided for these communities.
 - Communities should make their own engagement guidelines.
 - Developer should be obliged to follow these guidelines.

3.4 Developers

Developers mentioned that consistency and clarity are some of the more important considerations for them. Though early and often engagement may be useful, some developers mentioned that there ought to be clarity about how early is early enough. Too early could pose its own challenges and complicate the EA process. The emphasis put on developers to do the impact assessment also makes it more challenging for small developers to deliver what is requested of them due to funding restraints. Below are the questions (in bold) which were posed to the breakout group focused on impacts to developers, and the discussion that followed.

How Would Developers Use This Guideline?

- The guideline is a good reminder for early engagement.
- The guideline allows for consistency so that everyone uses the same process.
- Not all developers have the same capacity.

What Aspect of the Guideline would be the Most Useful?

- Appendices (Charts, templates, checklists).
- Consistency.
- Comparing standard EA process to the new “Direct to EA” process.
- The guideline is designed to benefit developers and is aspirational, but it may be too early to know the benefits or the pitfalls.
- Clearly defining the record of engagement would be useful.

The guideline is designed to benefit developers. Does it achieve this?

- It may be too early to know the outcome as the guideline needs to be tried first.

What challenges do you foresee? How can they be avoided?

- Not all developers are equal (private, government agency or department).
- Starting the process early without clarity could mean that work is done that does not align with the EA Initiation Package and the developer must backtrack.
- The onus is on the developer to fund early engagement, so there is more of a financial burden.
- There is a lack of capacity for stakeholders to participate.
- There could be a power dynamic between given parties.

3.5 Online group

Below is a summary of some of the discussion points shared by the online group:

- What is administrative engagement versus meaningful conversation? Real collaboration takes time, and flexibility.
- It will be easier to work with, provide expert advice about a project that government understands better.
- Some junior companies may need extra support to account for the complexity of an EA process.
- Guidelines need to walk a fine line between being overly prescriptive and not prescriptive enough.
- FPIC, discussions about what is reasonable from this perspective.
- Thinking needs to happen at the beginning of the project.

4.0

Breakout Groups – Session 3

The purpose of this breakout session was to understand what opportunities and barriers might result from the guideline. Six groups in the room and one virtual group discussed these opportunities and barriers in detail. Their responses are summarized below.

4.1

Opportunities

- Better understanding of roles.
- There would be a better baseline because of the guidelines.
- There will be an increased earlier knowledge of projects and could resolve issues before an EA.
- Business opportunities and opportunities for education and training.
- (E.g. could help Indigenous Governments and some organizations to build capacity and understand the process better.)
- Could force better, earlier and more inclusive collaboration and flag big concerns earlier on.
- Better communication of further potential resource development.
- There is a focus on relationship building.
- Opportunity to have FPIC earlier on in the progress. Getting implicit free prior and informed consent from Indigenous Governments creates an opportunity for them in the future.
- Reduced regulatory burden.
- Good project planning, prior to EA, could lead to an EA with no measures.

4.2

Barriers

- The guidelines are not framed as a requirement.
- Buy in from parties including developers and senior government leadership.
- Communication, and communicating what the changes mean including pros and cons.
- Translation into the territory's official languages.
- Government bureaucracy and red tape and coordination with regulatory processes.
- Lack of secure, predictable resources and funding to participants.
- Lack of clarity on how changes in scope are dealt with.
- There is a need and an importance for submitting information requests.
- The guideline and the documentation required may demand too much from parties with low capacity, particularly smaller projects. This could also contribute to engagement fatigue of communities and Indigenous Governments.
- Legacy of past developments could impact how this is received.
- Some of the language used and what is baseline and a cumulative effect.
- There should be some way for flexibility on the info that is required.
- The guideline should indicate how developer measures and commitments identified during early engagement will be considered.

4.3

What supports do we need to reach the objectives of the guideline?

- More clarity from the developer on what is needed at each stage.
- Clear summary, or executive summary, of the guideline.
- Clarity on what to do if the developer can't consider all phases of a project.
- Funding opportunities that are earmarked and less complex.
- In the process there should be a check in regarding what is expected from the board, and there should be clear guides of what is expected, despite the lack of prescriptive approaches.
- Better process mapping.
- Finalization of land use plans to identify no-go zones.

4.4

What can the Review Board do to achieve these goals?

- Work with the government.
- Bring experts together on western science and Traditional Knowledge.
- Educate communities, youth and Indigenous Governments about the guideline and EA and regulatory processes.
- More engagement sessions and workshops.
- Interactive map with information relevant to developers at early stages of project planning. When a new developer comes in, there should be information on where and how the options are communicated.
- Traditional Knowledge holders and government reps need to work together to prevent the “silo effect”.

Indigenous Governments should take a leading role in the process and could develop assets like their own engagement guidelines, but they may need support to develop these.

Appendix A

Sign-In Sheet

Signed in	First	Last	Organization
Yes	Alexie	Baillargeon	Canadian Northern Economic Development Agency
Yes	Arsene	Betsidea	Dél'Ine Got'Ine Government
Virtually	Ash	Varghese	GNWT - Lands
Yes	Benjamin	Bey	GNWT - Infrastructure - Environmental Analyst
Yes	Chris	Rose	Crown-Indigenous Relations and Northern Affairs Canada - Northern Affairs Organization (Ottawa)
Virtually	Dan	Coombs	Fisheries and Oceans Canada
Yes	Daniel	McNeely	MYB Construction
yes	Daniel	Drimes	GNWT - Infrastructure
Virtually	Darwin	Hanna	NWTMN
Virtually	Dinah	Elliott	GNWT - ITI
Yes	Eva	Walker	Environment and Climate Change Canada
Virtually	Jackie	Baker	Transport Canada
Yes	Jeffrey	Cederwall	GNWT - ENR
Yes	Jennifer	Sabourin	ECCC
Yes	Jessica	Pacunayen	Tlicho Government
Yes	John	McDougall	Dalcor Innoventures Ltd.
Virtual?	Jon	Posynick	GNWT - DOT
Yes	Jonathan	McDonald	Fort Smith Métis Council
Yes	Joyce	Gourlay	GNWT - DOT
Yes	Kanda	Gnama	GTC
Virtually	Katy	Dimmer	Fort Resolution Metis Council
Yes	Kelly	Bourassa	GNWT - DOT
Yes	Laurie	McGregor	GNWT - ENR
Yes	Lee	D'Souza	Canadian Northern Economic Development Agency
Yes	Liza	Pieper	YK Dene
Yes	Lorena	Gracia Zayas	Crown-Indigenous Relations and Northern Affairs Canada
Yes	Lorraine	Seale	GNWT - Lands
Yes	Lynette	Esak	Health Canada
Virtually	Marc	d'Entremont	DKFN
Yes	Marie-Christine	Belair	GNWT - Lands
Yes	Meaghan	MacIntyre-Newell	Golder Associates
Yes	Megan	Larose	CIRNAC - Resource and Land Management
Yes	Melissa	Pink	GNWT - Lands
Yes	Morgan	Moffit	GNWT- Health
Yes	Nathalie	Oldfield	GNWT Department of Infrastructure
Yes	Patricia	Coyne	GNWT - DOT
Yes	Patrick	Simon	DKFN
Yes	Peter	Unger	Natural Resources Canada
Yes	Philippe	Di Pizzo	SLWB
Yes	Ronald	Beaulieu	Fort Resolution Metis Council
Yes	Rosy	Bjornson	Ni Hadi Xa

Signed in	First	Last	Organization
Yes	Rowan	Novinger	DFO
Virtually	Ryan	Miller	YK Dene
Yes	Shawn	Mackay	Fort Resolution Metis Council
Yes	Teagan	Larocque	Fort Resolution Metis Council
Yes	Ted	Tsetta	YK Dene
Yes	Todd	Slack	Délı́nē Got'ı́nē Government
Yes	Tom	Hoefer	NWT & Chamber of Mines
Virtually	Valerie	Gordon	The Sahtu Secretariat, Inc
Yes	Violet	Camsell-Blondin	Tlicho Government
Virtually	William	Liu	De Beers
Virtually	Sheyenne	Jumbo	GNWT-INF
Virtually	Christine	Gilroy	ECCC
Virtually	Shenaia	Shields	GNWT-INF
Virtually	Aiden	Healy	GNWT-INF
Virtually	April	Hayward	Mountain Province Diamonds
Virtually	Anita	Ogaa	GNWT-DOT

Appendix B

Review Board Presentation

Draft Guideline for Major Projects to go Directly to Environmental Assessment

Engagement Workshop
Yellowknife, NT

December 6, 2022



Workshop Agenda

Time	Agenda Item
8:30am – 9:00am	Coffee/Tea and Welcome
Opening Prayer with the Yellowknife Dene Drummers	
9:00am – 10:15am	Introductions Presentation on the draft guideline
10:15am – 10:30am	Plenary Q&A/Discussion on Presentation
10:30am – 10:45am	Morning Break (refreshments provided)
10:45am – 12:00pm	Break-out session #1 – How well does this guideline meet its goals and objectives?
12:00pm – 1:00pm	Lunch Break (Lunch Provided)
1:00pm – 1:30pm	Reporting back on break-out session #1
1:30pm – 2:15pm	Break-out session #2 – What will this guideline mean for you?
2:15pm – 2:45pm	Reporting back on break-out session #2
2:45pm – 3:00pm	Afternoon Break (Refreshments Provided)
3:00pm – 3:45pm	Break-out session #3 - What opportunities and barriers will we encounter?
3:45pm – 4:15pm	Reporting back on break-out session #3
4:15pm – 5:00pm	Wrap-up and next steps
Closing Prayer	

Workshop Goals

Workshop Goals

1. Help people understand the goals and objectives of the draft guideline.
2. Support Online Review System (ORS) comments (deadline Jan. 13).

Review Board staff role

- Present purpose and content of Draft Guideline
- Facilitate sessions
- Listen

Dillon Consulting role

- Facilitate workshop
- Take notes for summary report

Participant role

- Provide feedback
- Share experiences and knowledge

Mentimeter Questions 1-3

To Begin your Menti Polls:

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Guidelines for Major Projects to go directly to EA

Updated Draft



Presentation Outline

- Strategic overview
- Introduction of draft Guideline
- Walk through of the draft Guideline
 - Goals and objectives
 - History
 - Initiation Package
 - What does this mean
- EA Process planning
- Next steps



The Review Board is committed to continuous improvement and collaboration



"Making wise environmental impact assessment decisions that balance the diverse values, interests, and knowledge of all residents of the Mackenzie Valley, while ensuring the protection of the environment for present and future generations."



Continuous Improvement in EA Practices in the Mackenzie Valley



- The Review Board's commitment for continuous improvement and willingness to innovate & collaborate present a range of opportunities to:
 - continue to lead
 - learn from others
 - collaborate and move forward together

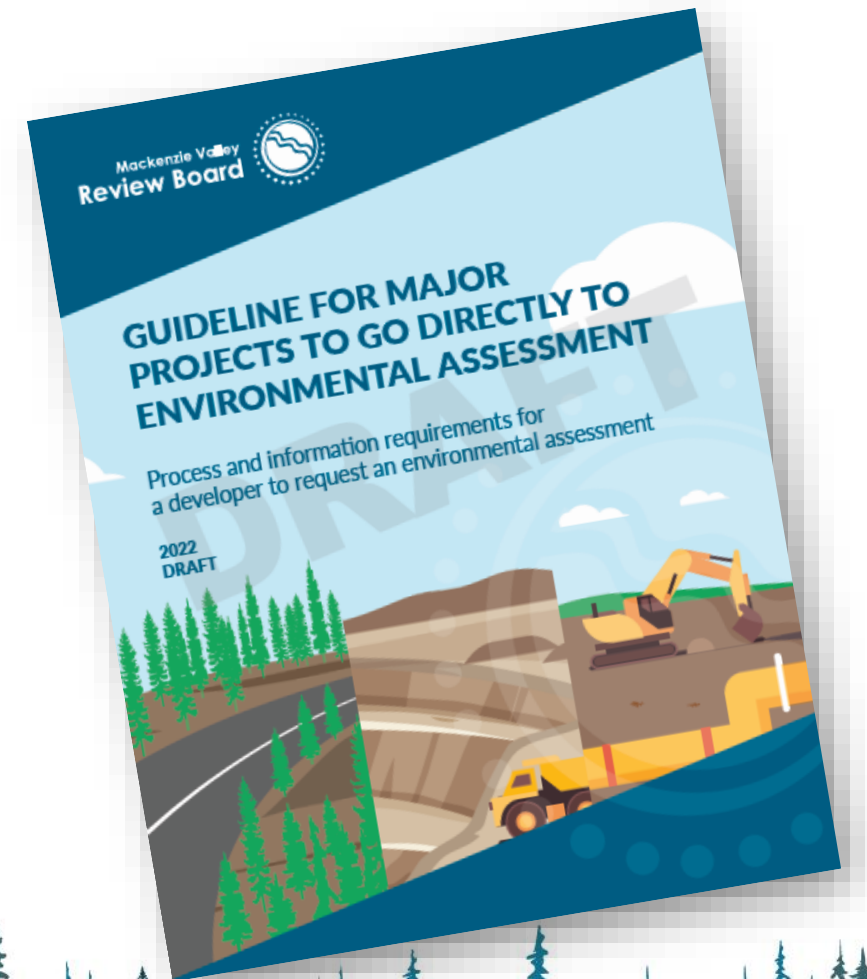




Guideline for Major Projects to go directly to EA

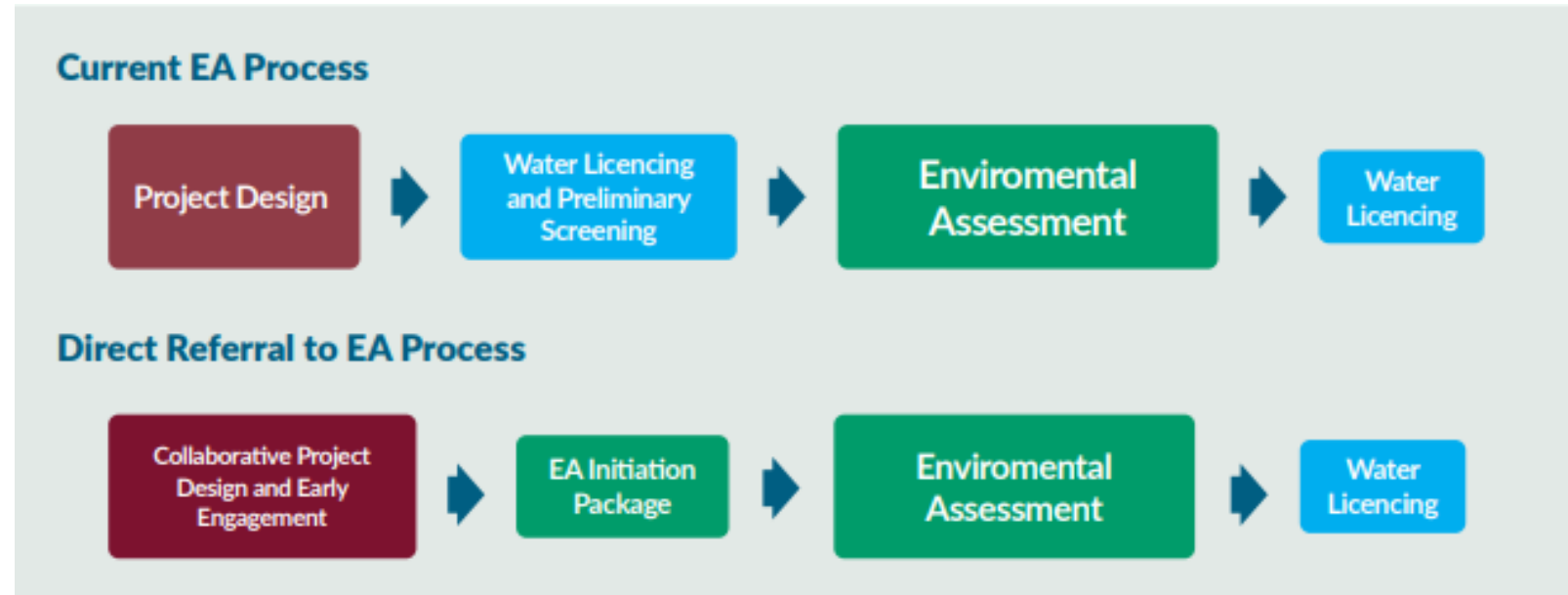
Goals of the Guideline are to:

1. describe an optional direct pathway to EA
2. outline the information required to request this pathway (the EA Initiation Package)
3. promote early collaborative engagement
4. conduct more efficient and focused EAs

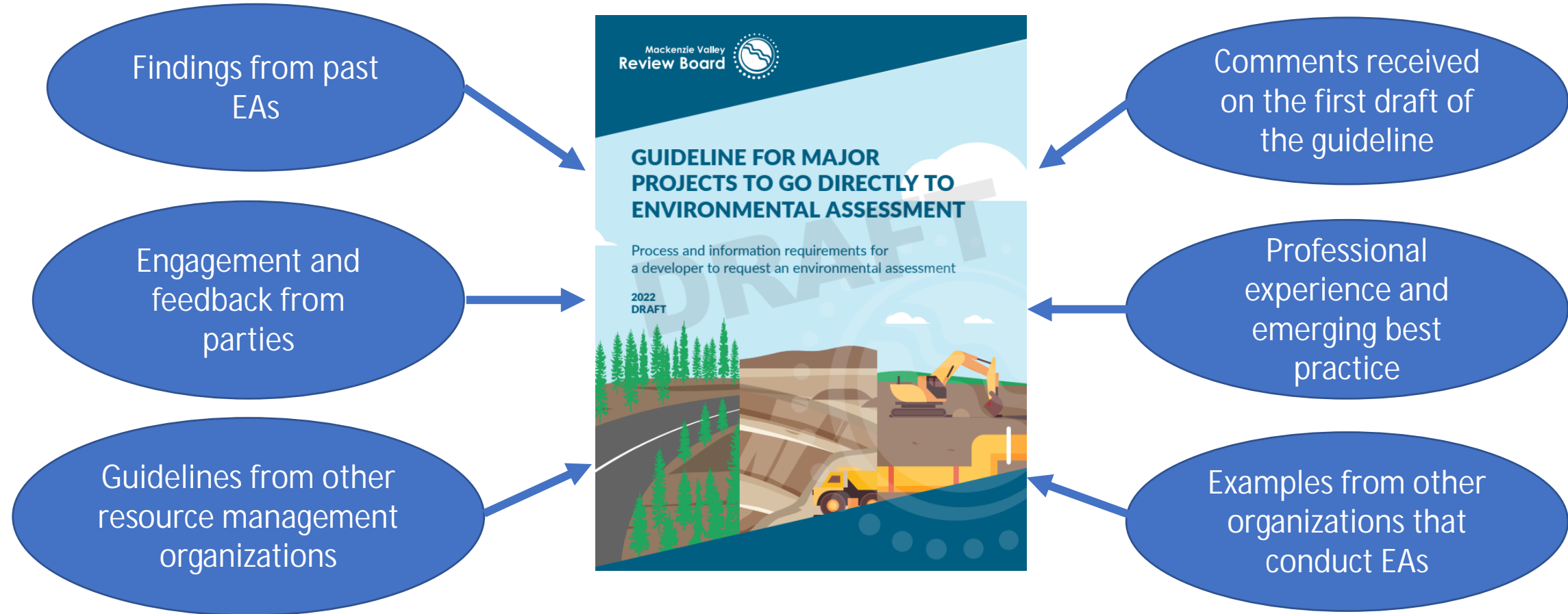


Legal Framework

- the Review Board has authority to establish guidelines under s.120 of the MVRMA
- ss. 126(3) and 126(4) allow the Review Board to order an EA regardless of the status of a preliminary screening
- the Guideline describes what information the Review Board needs to use its ss.126(3) authority upon request of a developer



Process of development





GUIDELINE FOR MAJOR PROJECTS TO GO DIRECTLY TO ENVIRONMENTAL ASSESSMENT

Process and information requirements for
a developer to request an environmental assessment

2022
DRAFT



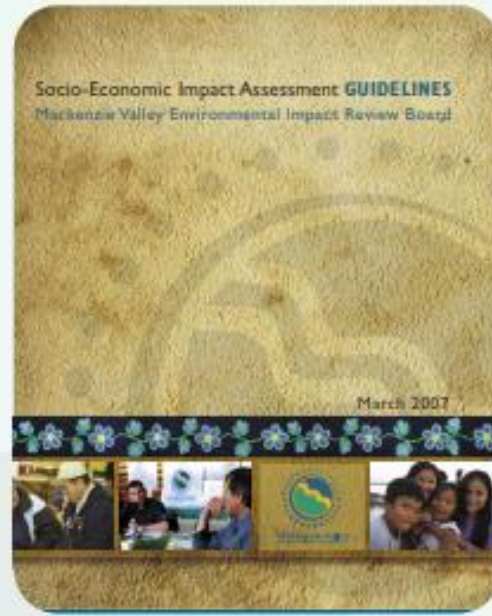
• Current Important Dates

- Aug 23, 2022 – Available for comments
- Nov 16, 2022 – Open House (Review Board office)
- ~~Nov 30, 2022 – Comments due~~
- Dec 06, 2022 – Engagement Workshop (Explorer Hotel)
- Dec __ 2022 – Workshop summary available
- Jan 13, 2023 – Comments due (Extended deadline)



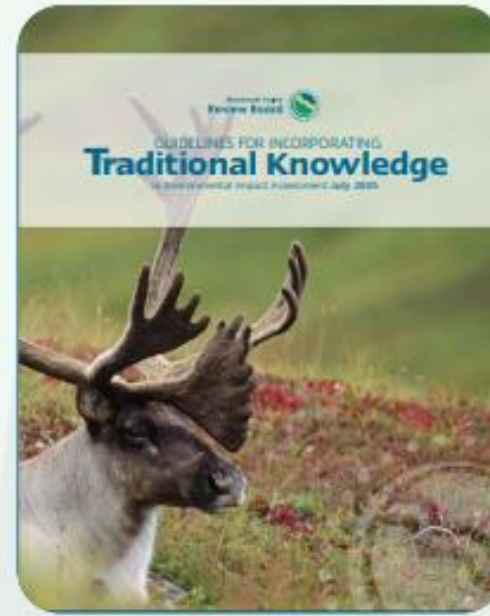
Environmental Impact Assessment Guidelines

The Environmental Impact Assessment Guidelines set out an overall framework that explains how the environmental impact assessment (EIA) process works and what to expect when participating in the EIA of a proposed development.



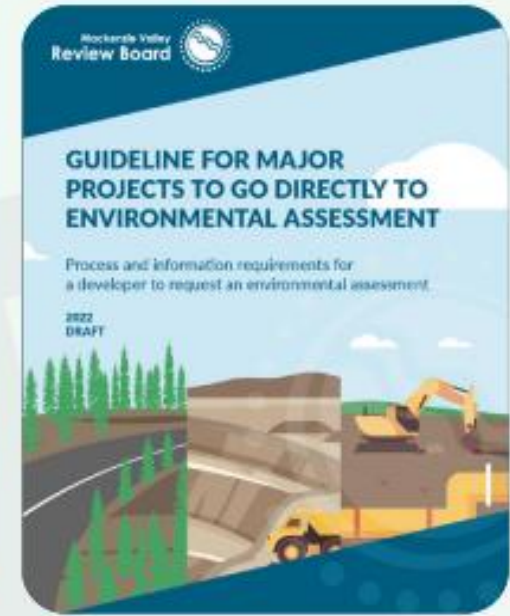
Socio-Economic Impact Assessment Guidelines

The Socio-Economic Impact Assessment Guidelines outline the Review Board's expectations for the socio-economic impact assessment of proposed developments that may have socio-economic and cultural impacts.



Guidelines for Incorporating Traditional Knowledge in EIA

The Guidelines for Incorporating Traditional Knowledge in Environmental Impact Assessment explain what the Review Board expects from developers when working with Traditional Knowledge holders and how Traditional Knowledge holders can share their knowledge directly with the Review Board during the EIA of a proposed development.



Guideline for Major Projects to go directly to Environmental Assessment

The EA Guidelines for Major Projects outline an optional direct pathway to EA for developers, and the information developers must provide to request such a referral.



Mentimeter Question 4

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What is actually IN
the draft
guideline?

Mackenzie Valley
Review Board



Chapter 1: Introduction



Describe the optional pathway for developers to request an EA directly from the Review Board



Outline what type and level of information developers must submit when using this approach



Make sure the Review Board has the information it needs to make a decision about ordering an EA



Get major projects into EA earlier to reduce regulatory and administrative burdens



Promote early, ongoing, respectful collaboration between the developer and parties

Goal 1: Optional Direct Pathway

Current EA Process



Direct Referral to EA Process



Goal 2: Outline information requirements

Better information at the start of an EA:

- supports more meaningful participation by parties, helping them to make informed and timely decisions about how they will participate in the EA process.

Better participation from parties:

- leads to better evidence, creating better conditions for decisions by the Review Board.



Shifts in timing and nature of information

Current process

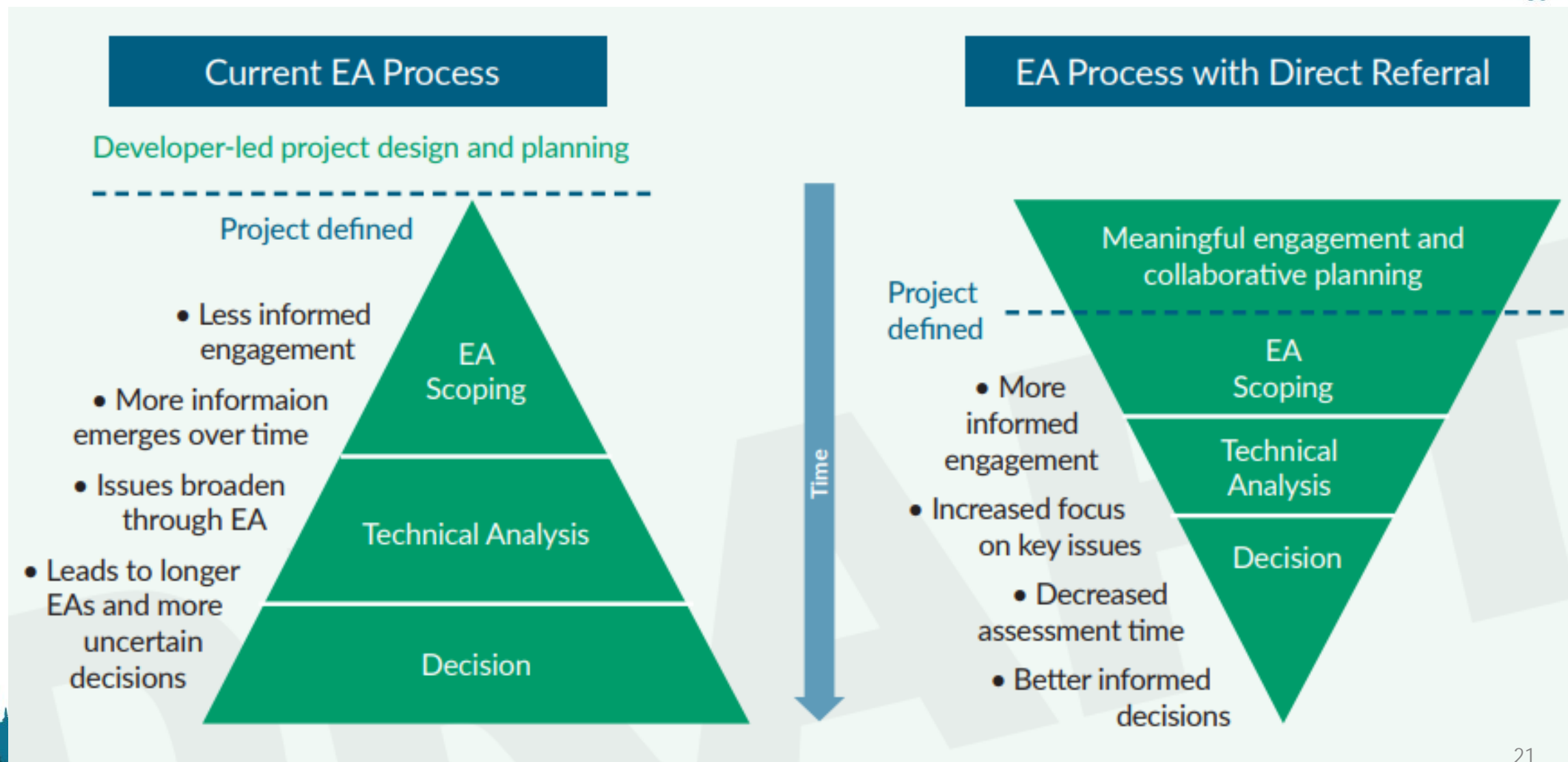
- Some information in the initial application
- Thorough information in the DAR

Direct referral pathway process

- More early engagement to facilitate earlier information
- Thorough information earlier in the process
- More analysis of impact pathways and assessment methods earlier in the process
- More focus on collaborative:
 - project planning between developer and parties
 - Identification of impacts and mitigation



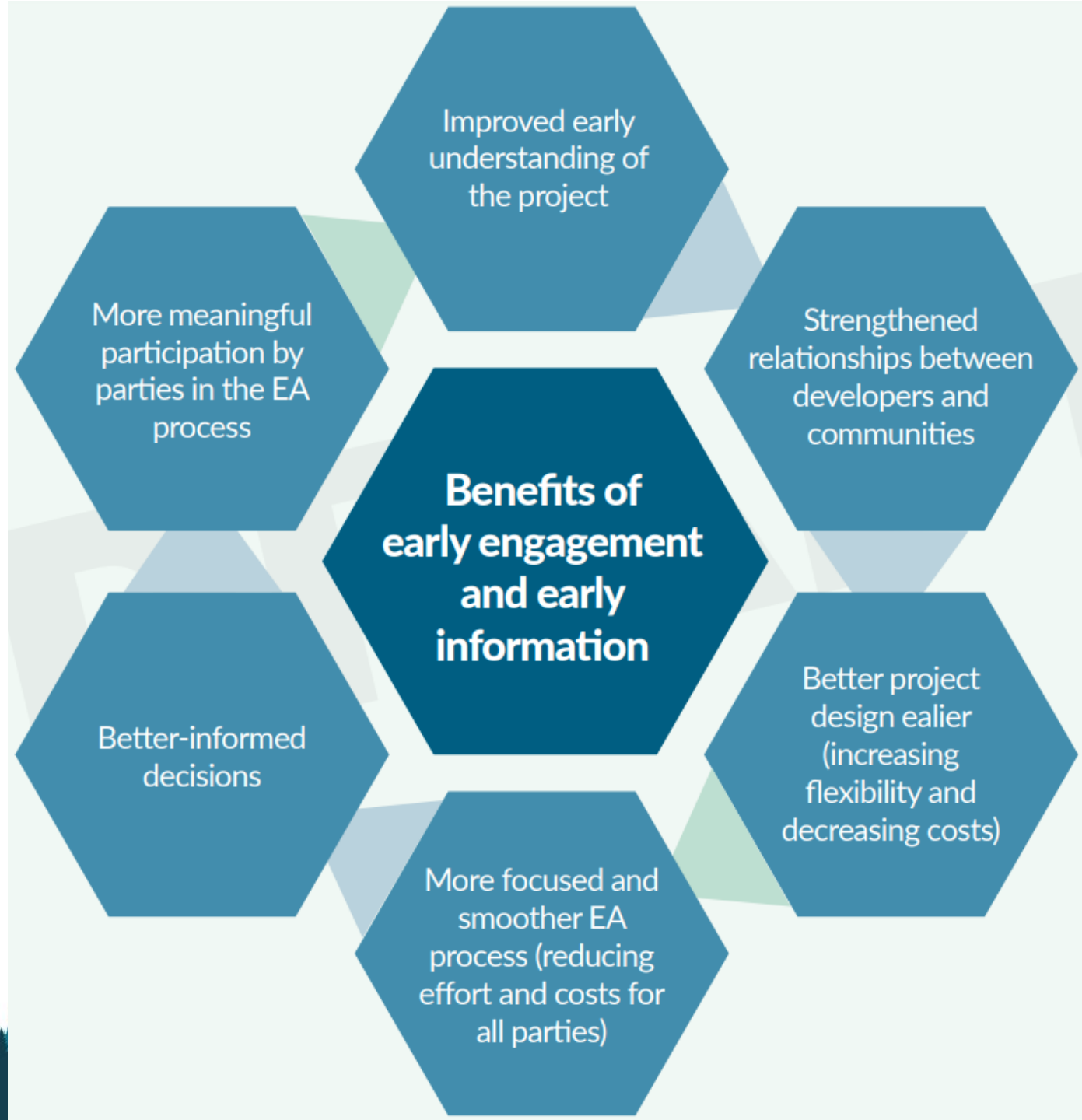
How can the Guideline Improve EA?



Chapter 2: Collaborative Project Planning and the Importance of Early Engagement

Intent is for the developer to:

- engage early
- meaningfully consider issues raised
- adjust their project based on what they hear



Chapter 3: EA Initiation Package

Developers who want the Review Board to order an EA must provide sufficient information about:

1. Detailed project description
2. Environmental baseline data collection
3. Potential impacts and mitigations
4. Developer's Assessment Proposal
5. Engagement and collaborative project planning



Initiation Package

1. Detailed Project Description

Detailed Project Description

- Basic project information
- Project component information
- Supported by figures, maps and photos

Plain Language Summary

Initiation Package

2. Environmental Baseline Data Collection

Summary of
existing baseline
information

Baseline
information plan



Initiation Package

3. Potential Impacts and Mitigations

How

What

Where

Interactions with the biophysical and human environment



Initiation Package

4. Developers Assessment Proposal

Proposed
valued
components

Proposed
methods

Plain
language
summary

Initiation Package

5. Engagement and Collaborative Project Planning



Record of past engagement



Future engagement plan



What does this mean?

Developers

Indigenous Government and Communities

Federal and Territorial Government

Review Board



Benefits for: Developers

- clear expectations of information needed to start an EA can lead to more timely, efficient and effective EA processes
- strengthened relationships with parties
- minimize impacts and design a good project with appropriate mitigations through collaborative project planning (reducing the costs of project design changes late in the process)
- work with parties to identify priority issues and acceptable assessment methods earlier
- avoid duplication of regulatory processes before and after EAs



Benefits for: Indigenous Governments and Communities

- improved early understanding of the project and potential impacts
- voice concerns earlier
- meaningful participation in collaborative project design, setting priorities for the EA and identifying mitigation
- strategic planning on level of involvement in the EA and use of resources



Benefits for: Federal and Territorial Governments

- better understanding of project and potential impacts
- prioritize major EA issues and separate issues that can be dealt with during permitting
- earlier work with developer on acceptable assessment methods
- more efficient process in which to review information, ask questions, and identify remaining concerns



Benefits for: Review Board



- some issues may be resolved before an EA starts
- better information coming into EA
- more collaboration between all parties



Mentimeter Question 5

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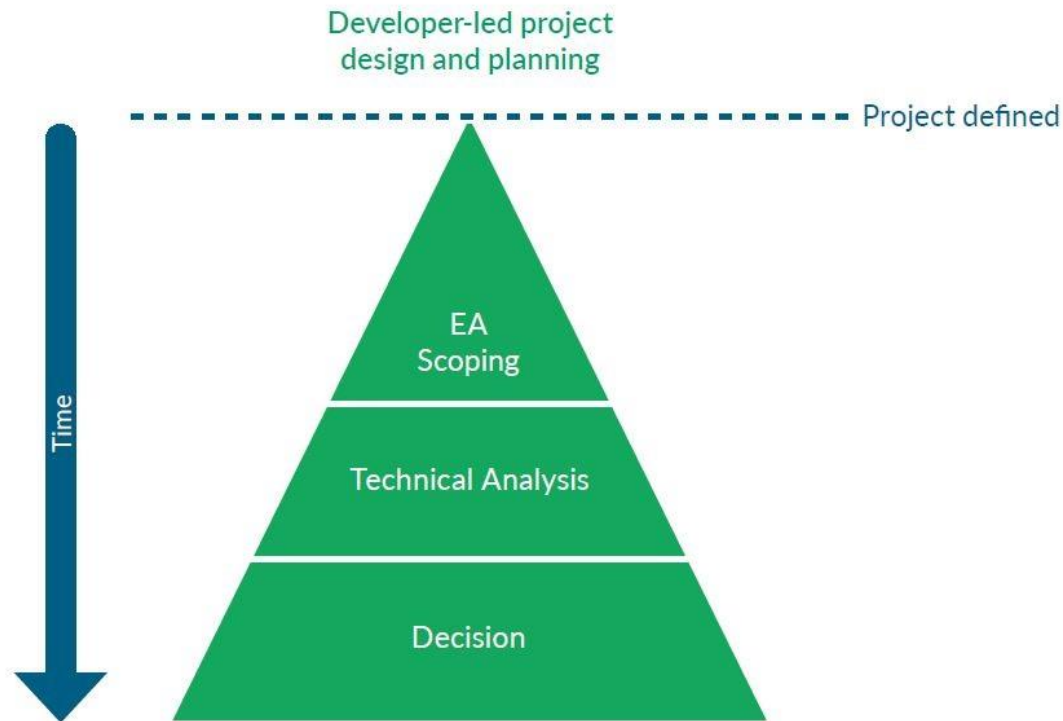


EA Process Planning

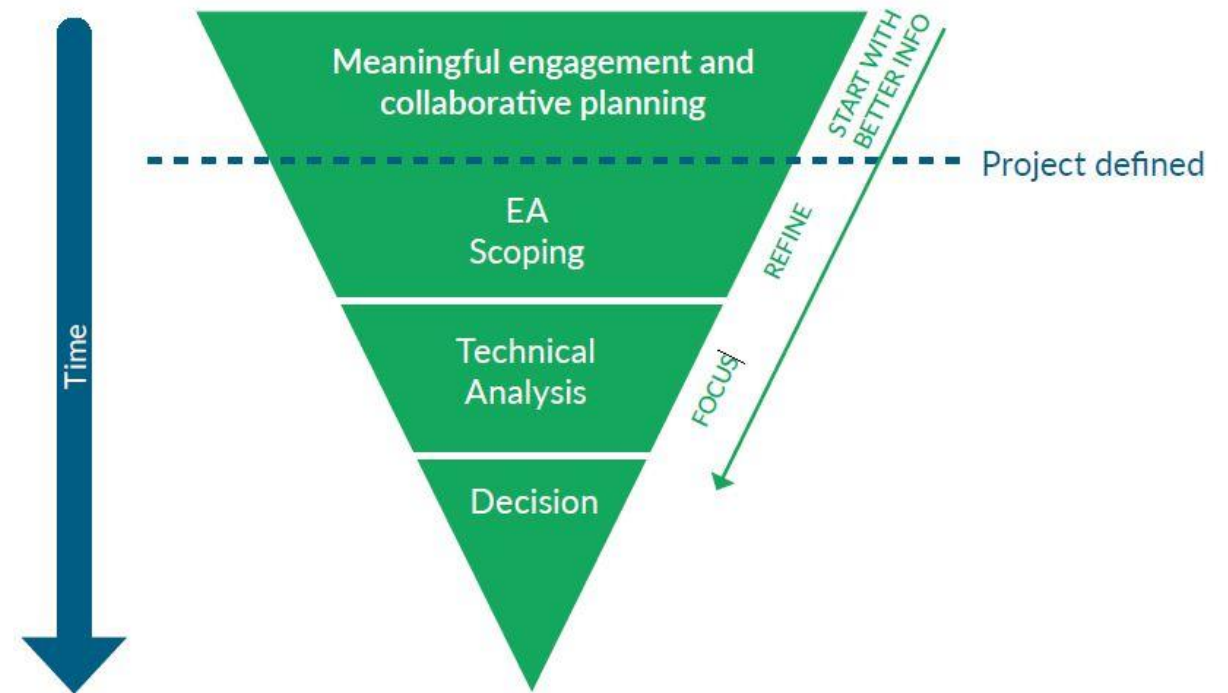
Opportunities?



How can the Guideline improve EA processes?



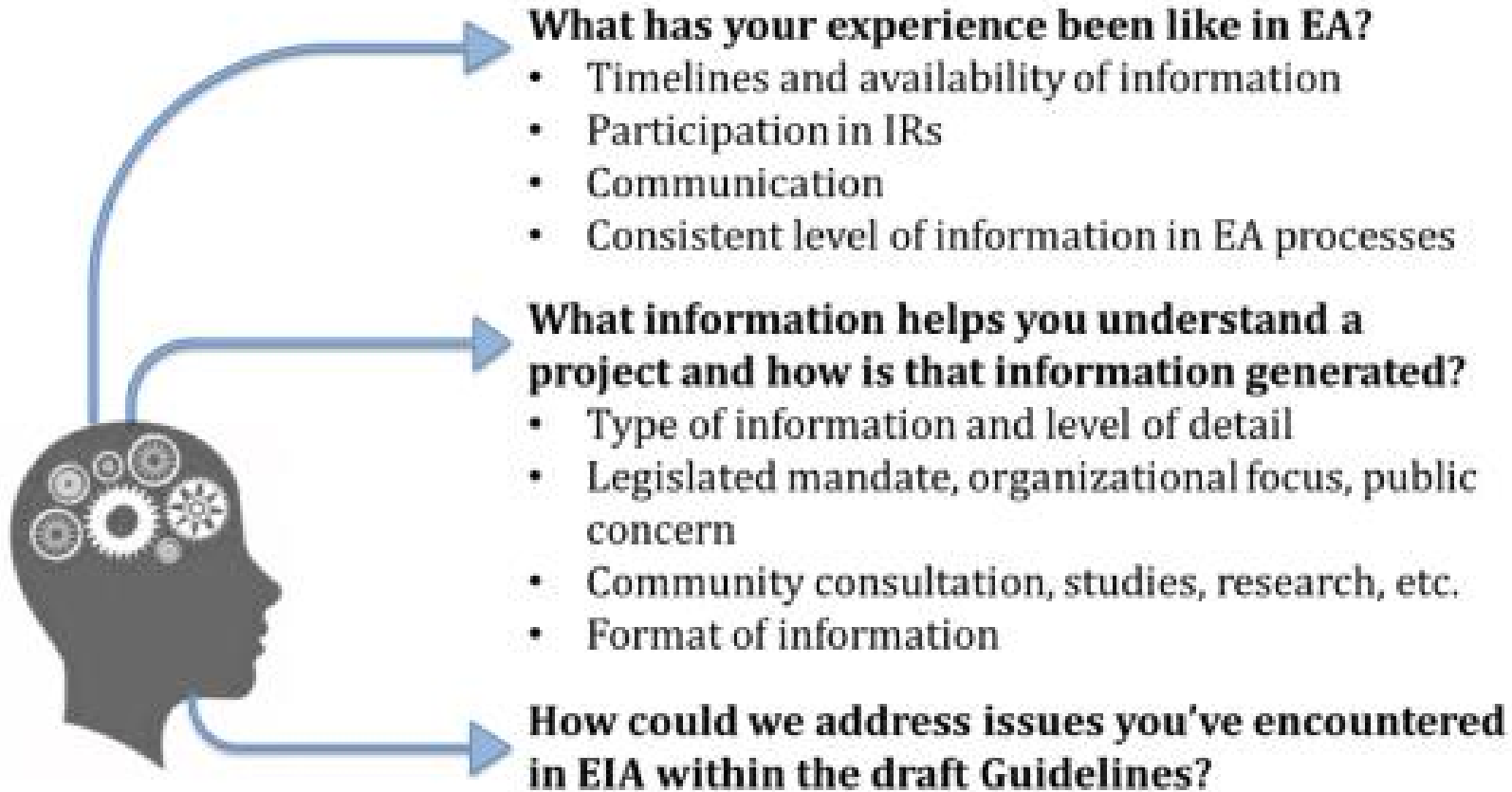
Current EA Process



EA Process with new Guidelines

Breakout session

Things to keep in mind



15 Minute Break



Break-out Session 1



Mentimeter Question 6

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Lunch



Break-out Session 2



Mentimeter Question 7

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15 Minute Break



Mentimeter Questions 8-10

To Begin your Menti Polls:

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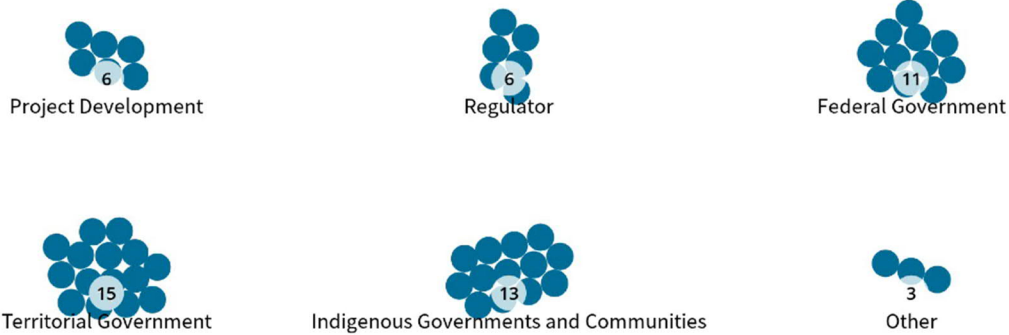


Appendix C

Mentimeter Results

Question 1: What is your role in the EA process?

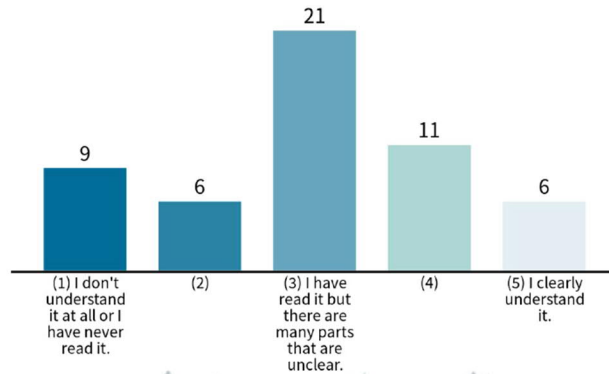
1. What is Your Role in the EA Process



54

Question 2: On a scale of 1 to 5, how well do you understand the purpose of the draft guideline?

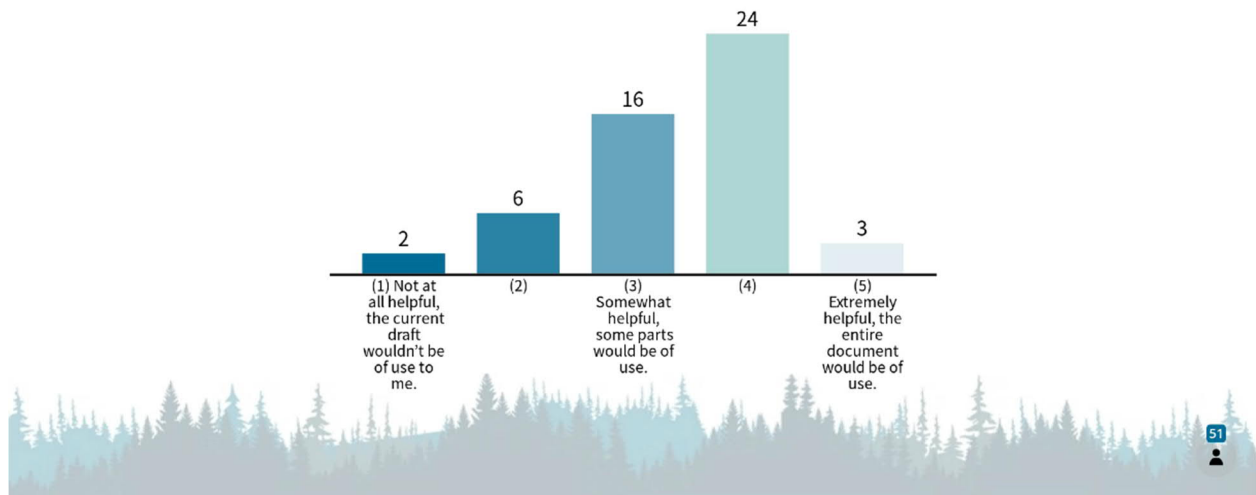
2. On a scale of 1-5, how well do you understand the purpose of the draft guideline?



53

Question 5: Based on your current understanding, will this guideline be helpful for achieving these objectives?

5. Based on your current understanding, will this guideline be helpful for achieving these objectives?



Question 6: What is the most interesting thing that came up in your breakout group?

- Collaboration.
- Capacity and Agreements are key for collaboration.
- Common opinions across developers, Indigenous Governments, and regulators about what is and isn't working.
- Early collaborative engagement.
- Education of top leadership. They need to change approaches.
- Aspirations to improve processes.
- That the MVERB will not give advice on an EA while it's being drafted. Efforts may be doubled because of this.
- Hearing from other participants and the history behind how developers have engaged with communities.
- Hearing different perspectives.
- The talks that came up within the group.
- Need some precision on information requirements for all parties.
- Include traditional knowledge and having working relationships with elders and knowledge holders.
- Traditional Knowledge and western science collaboration needs to have a process.

- Community presence (e.g. local office) as a form of engagement.
- The similarities between attendees concerns were very noticeable. Everyone using different words to describe similar concerns.
- The need to understand capacity (financial and people) restrictions and how they impact the guideline and the need to avoid duplicating info in the DAP and DAR.
- Early engagement can save a lot of time and headaches.
- Consultants with local experience with the regulatory system can help developers get engagement right.
- Consultation with communities at an early stage of any projects.
- Meaningful Engagement - Engagement should form part of the official record for the project in question.
- The English language can't necessarily be translated into the indigenous languages.
- Indigenous Governments/communities have ideas too, not just concerns.
- How will EA initiation package will be used to inform decisions about a project throughout the process?

Question 7: What is the most important thing that came up in this session?

- Seeing different lenses.
- Indigenous Governments/communities have ideas too, not just concerns.
- Guidelines need to apply and support a variety of organizations with different capacities.
- Does the information in the initiation package get considered in the REA?
- Creativity.
- Indigenous Governments and communities are stretched financially, especially not knowing the importance or weight of a project before it begins, if it does at all.
- Developers need to be truthful about size of development.
- Using the information and from these meetings and actually incorporating them into the guidelines.
- Our Treaty rights have to be protected.
- How the pre engagement report will inform the initiation process/package.
- "The shared concern of the aspirational goal.
- Of guidelines to being realistic. Also the extra burden to indigenous communities and FA ahead of registry".
- When can and should federal/territorial governments get involved in a project before it's referred? (In terms of consulting, collaborating, providing advice, etc.)
- Uncertainty surrounding this process.
- Provide clear expectations.

- Having a guideline is fine but if Indigenous Governments don't have financial capacity or the specialized knowledge (like translating Traditional Knowledge and community concerns into language/formats required by the system) to participate then the guideline won't be helpful.
- Capacity building in the community.
- Early engagement can never be too soon.
- Benefit of the Guideline to prevent duplication reg. processes.
- The full inclusion of Traditional Knowledge, define what Baseline information and thresholds the need for developers to provide all information relevant to the project to fully inform Indigenous organizations, communities and governments resulting in an informed decision.
- Respect.

Question 8: Wrap up questions

8. Wrap Up Questions

