



## AN OKT GUIDE AND OVERVIEW FOR THE CEAA EXPERT PANEL REVIEW PROCESS

Olthuis Kleer Townshend LLP (OKT) has [blogged](#) about the emerging concerns regarding Canada's current review of federal environmental assessment processes. A key concern OKT identifies in its blog is the confusion in the current Expert Panel process. This guide is OKT's summary of how Indigenous groups can participate in the CEAA [Expert Panel](#) hearings, to clarify the process given the current lack of accessible information from CEAA.

### KEY TAKEAWAYS

#### The Panel is looking at the whole system of environmental reviews

- The Expert Panel intends to look at ways to improve *all* federal environmental processes (see "objectives") in the [Indigenous Engagement Plan](#)
- This is a huge benefit, as it means the Panel is not just looking at how to reform *CEAA, 2012*, but also at how to take a "fresh start" approach to how Canada will deal with environmental issues
- Indigenous groups should therefore think broadly about the concerns and solutions they want to put forward

#### The Panel is specifically asking for input about UNDRIP and supporting the nation-to-nation relationship

- The Panel is asking how environmental assessment processes should reflect the UN Declaration on the Rights of Indigenous Peoples and the principle of Free, Prior, and Informed Consent given Canada's commitment to UNDRIP
- The Panel is also asking about how those process can support the nation-to-nation relationship
- This is an opportunity for Indigenous groups to make specific and practical recommendations about how UNDRIP and nation-to-nation principles should be reflected in all environmental processes

#### The Panel is not the Government

- The Panel is independent and will only make recommendations to the Minister.
- Participation in the Panel process (if process issues are resolved) may represent a great opportunity to provide specific criticism and recommendations about how Canada should engage with Indigenous peoples on environmental issues
- Pressure will still need to be applied to the Minister and Canada to actually implement positive recommendations coming from the Panel
- The Minister will use those recommendations as the basis for proposed reforms to federal environmental legislation. Presumably this means that there should be opportunities for future participation in reviewing any new draft legislation

## WAYS TO PARTICIPATE

There are four ways that the Panel is taking input:

### **1. Panel Sessions**

- in-person presentations to the Panel
- registration in-advance required
- short time available (likely 10-15 minutes)
- targeted at Indigenous governments and groups primarily
- no documents required and no specific format for how groups should present

One approach to these panel sessions may be to focus on providing specific examples to the Panel of how the existing federal environmental process harm a specific group's Indigenous rights and interests given the short time frame

### **2. Open Dialogue Sessions**

- in-person workshops held on same days as Panel sessions
- targeted at individual community members
- participants will be seated in small groups and asked general questions, probably along the lines of "What doesn't work about the existing environmental assessment process?"

### **3. Written Submissions**

- detailed written submissions
- these are not due until December 18, 2016
- guidelines about format and content restrictions have not yet been released

The written submissions are where the heavy lifting of presentations to the Panel will happen. This will be an opportunity for Indigenous groups to put before the Panel details about their concerns about the existing federal assessment processes and specific recommendations for how these processes should be changed.

The [Indigenous Engagement Plan](#) provides a series of themes/question that is likely a useful guide about the issues and questions the Panel is seeking Indigenous groups' comments on.

### **Other: Webinars and Choicebook**

- Choicebook is simply a short, online survey anyone can fill out
- Webinars are short sessions for those who cannot attend in person, and targeted primarily and individuals

See the [Expert Panel's website](#) here for more info about participation options.

## FUNDING CONCERNS

As explained in our [blogpost](#), there have been many problems with funding for participation. The Expert Panel does not have control over the amount or timing of the funding as that is handled by the Canadian Environmental Assessment Agency (CEAA). Concerns about the barriers created by the funding problems should be directed to CEAA and to Minister McKenna.

## INDIGENOUS ENGAGEMENT PLAN: QUESTIONS

Below are the list of questions taken from the Panel's [Indigenous Engagement Plan](#) that gives a sense of what the Panel is looking for in submissions from Indigenous groups.

1. How can Indigenous Peoples' inherent jurisdiction best be reflected and respected in the federal environmental assessment process?
2. What is the role of Indigenous Peoples in planning, reviewing, participating in, and decision-making in federal environmental assessments, including whether or not to approve proposed projects?
3. How can federal environmental assessment processes better reflect and incorporate the multiple capacities in which Indigenous Peoples may interact with federal environmental assessment, including but not limited to, as potentially affected rights holders, proponents of development, self-governing regulators, and partners?
4. How can the practices and procedures associated with federal environmental assessments, as well as the process itself, support the Government of Canada's goal of renewing the nation-to-nation relationship with Indigenous Peoples and moving towards reconciliation?
5. How is the need to address potential impacts to potential and established Aboriginal and treaty rights best incorporated into the federal environmental assessment process?;
6. How can the principles of the **United Nations Declaration on the Rights of Indigenous Peoples**, including the principles of Free, Prior and Informed Consent and the right to participate in decision-making in matters that would affect Indigenous rights, best be integrated into the federal environmental assessment process? and
7. What role should **Traditional Ecological Knowledge** play in federal environmental assessments?

## **SUMMARY OF KNOWN PANEL SESSION DATES**

Below is a summary of the dates and locations for the Panel session and community engagement sessions. The full list of dates and times can be found on the “Upcoming Events” section of the [Expert Panel’s main webpage](#).

Oct 3-4 – Halifax, NS  
Oct 5 – St. John’s, NL  
Oct 6-7 – Happy Valley-Goose Bay, NL  
Oct 11-12 – Fredericton, NB  
Oct 24-25 – Quebec, QC  
Oct 26-27 – Montreal, QC  
Nov 1 – Ottawa, ON  
Nov 3-4 – Sudbury, ON  
Nov 8 – Ottawa, ON  
Nov 9-10 – Toronto, ON  
Nov 14-15 – Thunder Bay, ON  
Nov 16-17 – Winnipeg, MB  
Nov 21-22 – Calgary, AB  
Nov 23-24 – Fort McMurray, AB  
Nov 28-29 – Kamloops, BC  
Dec 6-7 – Fort St. John, BC  
Dec 9-10 – Prince Rupert, BC  
Dec 12-13 – Vancouver, BC  
Dec 14-15 – Nanaimo, BC