

January 28, 2022

Jane Stringham
Impact Assessment Agency of Canada
160 Elgin Street
22nd Floor
Ottawa, Ontario K1A 0H3

Dear Jane Stringham,

I write in technical support of the S'ólh Téméxw Stewardship Alliance to provide feedback on the document "Draft Joint Indigenous Engagement and Partnership Plan". This letter is a technical response, as communicated via the People of the River Referrals Office (PRRO).

1. **Upholding Indigenous rights & the responsibilities of the Crown:** The Draft Joint Indigenous Engagement and Partnership Plan includes an opening statement that the assessment process is "not a rights-determination process" (p1). While this is true, the paragraph reads as though IAAC and the Crown are attempting to absolve themselves of responsibility to uphold Indigenous rights. Please revise to indicate how IAAC will uphold Indigenous rights (even if not determine those rights). For example, the statement at the bottom of p2 (clarifying the Crown's commitments to UNDRIP and s35 of the Constitution) should be the starting point. While not a "rights-determination process", the assessment process should also not be a rights infringement process. So IAAC should take every step to ensure that the assessment process does not infringe on Indigenous Nations rights as afforded in section 35 of the Constitution, and that it is conducted to a standard that meets Federal and Provincial commitments to the UN declaration on the rights of Indigenous peoples (Bill C-15 and Bill 41, respectively). In addition to revising the opening framing of engagement, consultation, and Indigenous rights, the following components should also be revised:
 - a. P3: "The Crown will *consider...*". This is vague. Clear and firm commitments to ensure adherence to these policies is required, so that the assessment process meets the requirements of UNDRIP Acts.
 - b. Section 5, p7: Please add "aligning assessment process timelines with the various governance needs and timelines of participating Nations", or something similar. There is no one size fits all approach, but each Nation has its governance processes and needs through which these assessments must be evaluated and approved. If not, the assessment process will not uphold the UNDRIP. Similarly, for the final bullet point on p7, "where possible" should be removed and replaced with a clear statement of how Federal and Provincial agencies will work on a government-to-government basis, meaning that

timelines should be negotiated not pre-determined by Canada. This is also required by Canada and BC's legal commitments to uphold UNRIP.

- c. Section 7: Add to Crown roles and responsibilities throughout: “Oversee consultation and engagement processes to ensure that there are no infringements upon the Indigenous rights of any Nations, participating or otherwise, affected by the proposal”. For example, this might entail maintaining oversight of how the proponent engages with First Nations during the assessment process.
 - d. Section 7.1.5.1: Add to Crown responsibilities: “Implement legislative measures to enable affected First Nations to apply Indigenous laws in monitoring and enforcement”. Add to Indigenous nations roles “May apply Indigenous laws in monitoring and enforcement to ensure compliance in line with First Nations jurisdiction”. On p3 of the Draft Joint Indigenous Engagement and Partnership Plan, Indigenous Nations are identified as “governments, with their own jurisdiction and authority”. Therefore, these provisions for the application of Indigenous laws within Indigenous jurisdictions are required. Please also see Article 27 of UNDRIP, “giving due recognition to Indigenous peoples’ laws”.
2. **Defining “meaningful engagement”:** please define what it means to “meaningfully engage”, along with “meaningful consultation”, “meaningful opportunities for collaboration”, and “meaningful participation” (see p3). What is deemed “meaningful” may vary according to multiple axes (social, cultural, economic, etc.). Therefore, the term requires definition to ensure that all participants can agree on a baseline of meaningful engagement. Engagement is more than one-way communication (e.g., from IAAC to Indigenous Nations). Therefore, the mechanisms of “meaningful” engagement require clarification and methodological elaboration.
3. **Safeguarding Indigenous knowledge:**
- a. On p3 there is a reference to “the Indigenous Knowledge Framework”. This reference is unclear. If it refers to the Indigenous Knowledge Policy Framework for Project Reviews and Regulatory Decisions, this is still in draft form. This reference is therefore unclear, as the final content of any Indigenous Knowledge Policy Framework is yet to be determined, including through further engagement with Indigenous Nations.
 - b. More to the point, please clarify precisely what the Crown will do to uphold the principles contained in the Indigenous Knowledge Policy Framework for Project Reviews and Regulatory Decisions. Also link these statements to the First Nations Data Governance Strategy, and ensure that any submitted Indigenous knowledge is managed in line with individual Nation protocols and the principles of OCAP (Ownership, Control, Access, Possession). Indicate that knowledge sharing agreements will be established to ensure

that Indigenous knowledge is handled ethically and any will not be distributed without consent unless placed voluntarily (with consent) into the public realm.

- c. Along those lines, on p4 add to Indigenous Nations expectations: “to protect Indigenous knowledge that is provided for assessments, preventing further disclosure without consent”; “manage Indigenous knowledge and data in line with OCAP and the First Nations Data Governance Strategy”; “consideration of Indigenous laws”.

4. Stó:lō First Nations context:

- a. Section 4.1: Seabird Island First Nation will need to be added to the STSA membership list; they will officially join the alliance soon, as per board approval at a recent STSA strategy meeting in January 2022.
- b. It is misleading to include a map of the First Nations without a corresponding map indicating their traditional territories. This would be complicated map, but it is important. In the Stó:lō context, the Nations may be located in the Fraser Valley, but the traditional territory of S’ólh téméxw extends to Roberts Bank. Please include a map or multiple maps that outline the overlapping traditional territories of all participating Nations. It is important to recognize the complexity of overlapping jurisdictions.

Should you have any questions or concerns about this response, please do not hesitate to get in touch.

Yours sincerely,

<Original signed by>

Julian Yates, PhD

Research and Special Projects Manager

Stó:lō Research and Resource Management Centre

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CC:

Dave Schaepe, Director, Stó:lō Research and Resource Management Centre

Matt McGinity, Manager, People of the River Referrals Office