

# Evolution of Indigenous Engagement in Environmental Assessment

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***“It is the relationships we forge, and the trust we create, that matters most to our success at the end of the day.”***

**- David K. Williams (entrepreneur)**

By working in partnership with Indigenous nations in environmental assessments (EAs) in trust relationships, we generate more fully informed durable decisions and advance reconciliation.

# Evolution of Indigenous Engagement in EA

*1996 - 2016*

Legal Duty to Consult

- Review and comment on the proponent's and EAO's materials

*2016 - 2019*

Collaboration

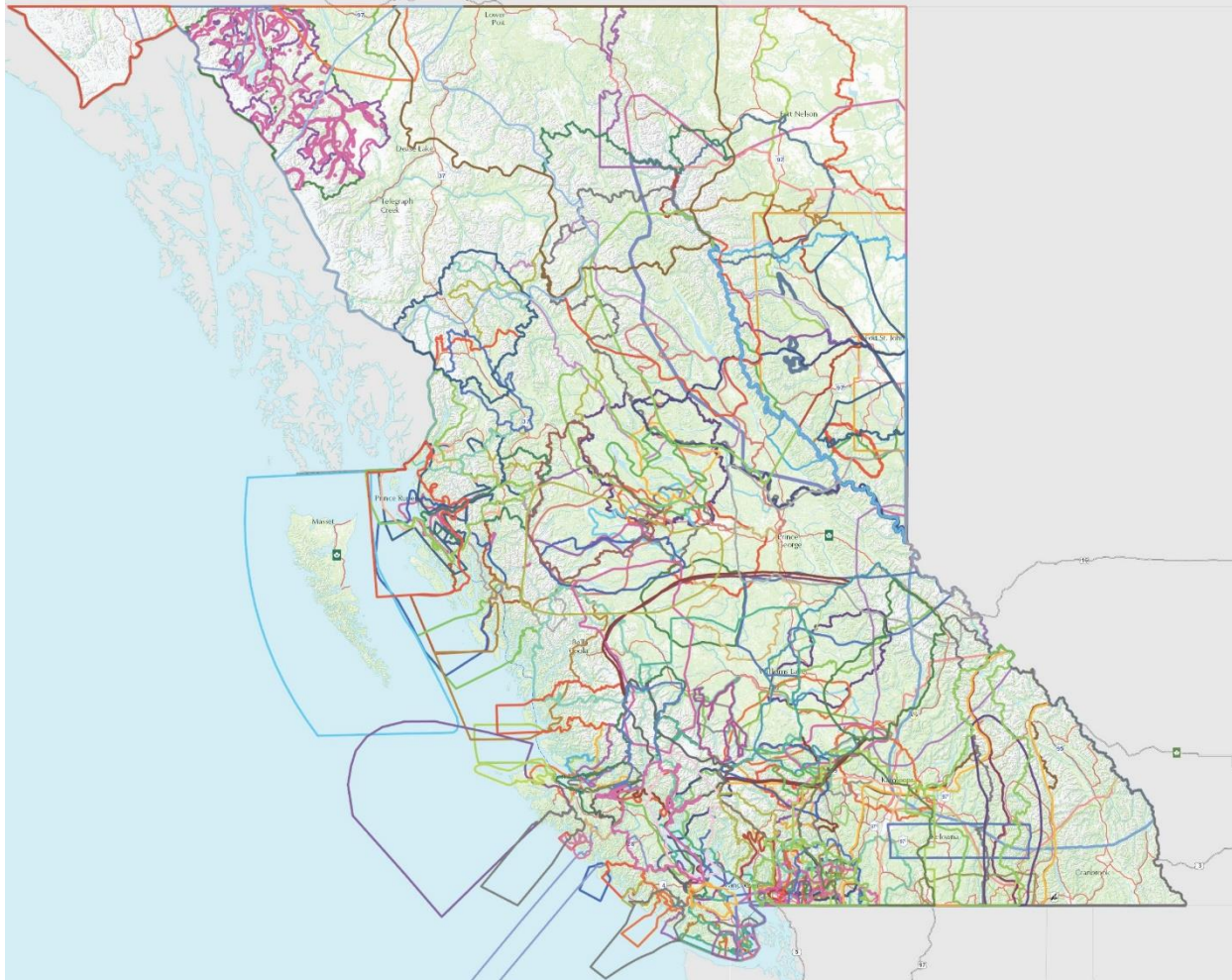
- Seek consensus with EAO
- Co- draft assessment of impacts on Aboriginal Interests

*2019 -*

UNDRIP

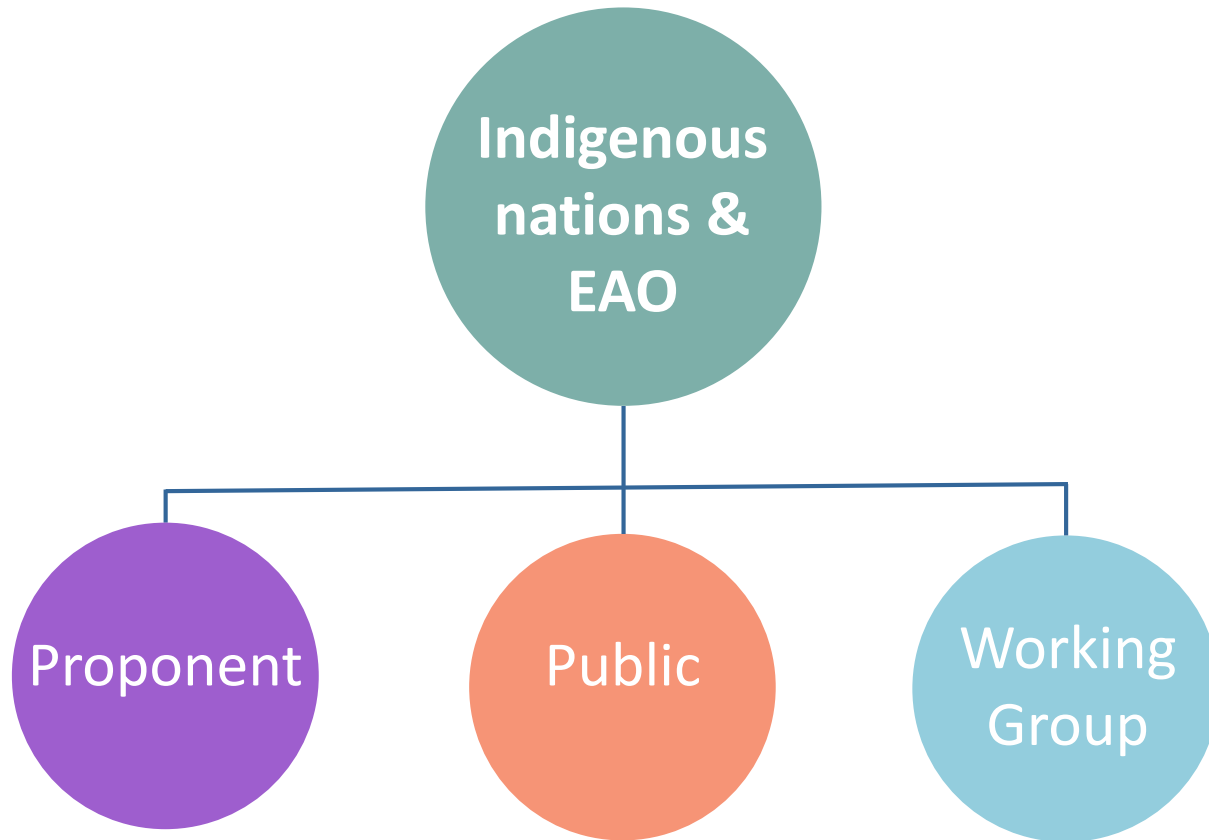
- Freely determine participation
- Conduct own assessment
- Seek consensus and expression of consent

# Legal Context for Indigenous Consultation in BC



# Journey to the new Act: Collaboration

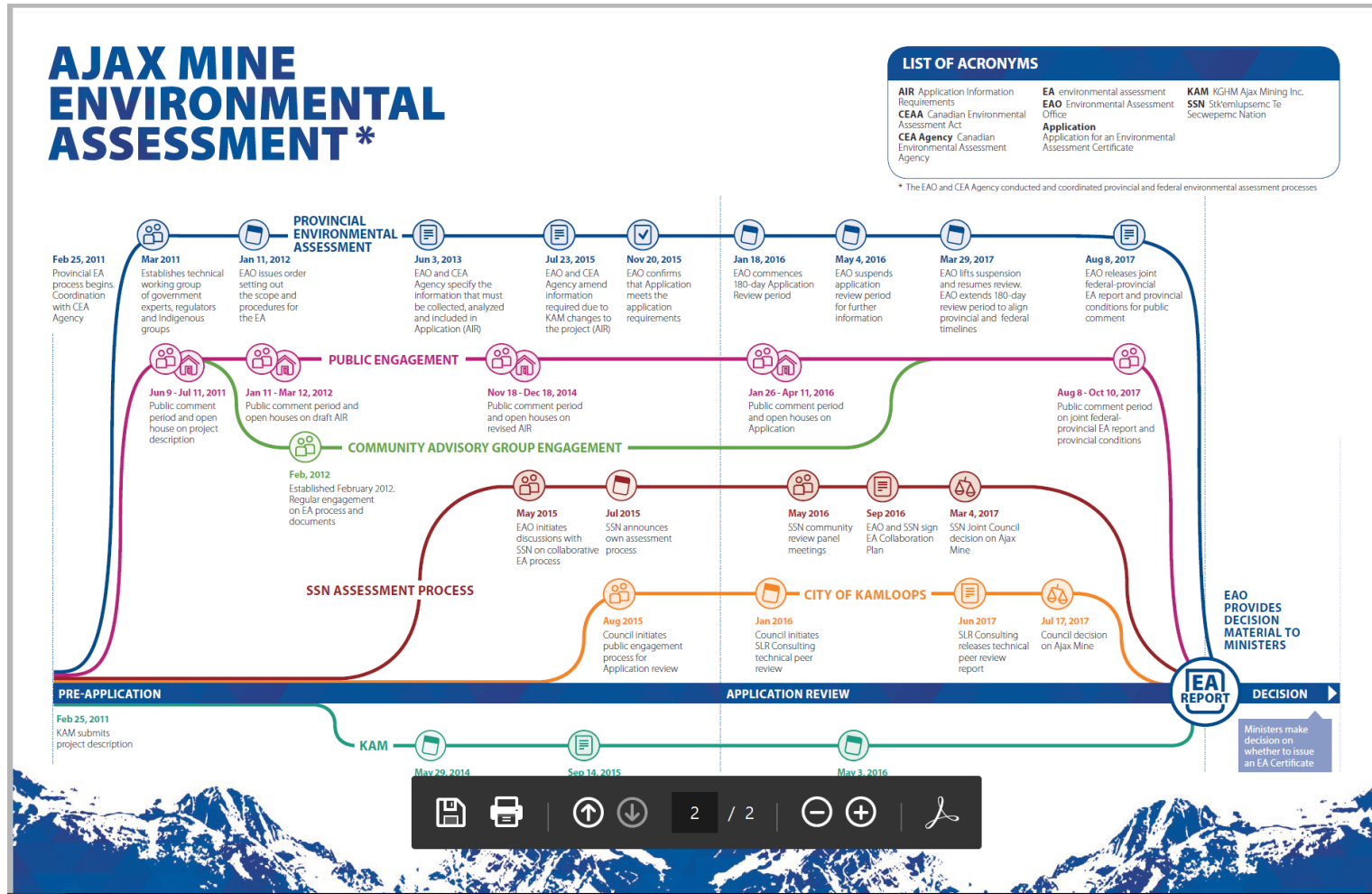
Indigenous nations become *partners* in the EA process, rather than just *participants*



# Collaboration Approaches

1. Collaboration agreements between the EAO and Indigenous nations
2. Collaboration between proponents and Indigenous nations
3. Separate but linked provincial and Indigenous assessments
4. Independent Indigenous assessment

# Separate but Linked Provincial and Indigenous Assessments



# Collaboration Agreements: EAO and Indigenous Nations

## Agreement Principles:

- Government to Government relationship
- Mutual accountability
- Respectful, constructive and effective communication
- Seeking solutions to issues raised by Indigenous nations in EA
- Seeking consensus in relation to process and substantive decisions in the EA
- Transparency
- Administrative fairness



# Collaboration Starting with Proponent



Amazay Lake Photo by Patricia Halley

# Collaborative Achievements: Community Meetings



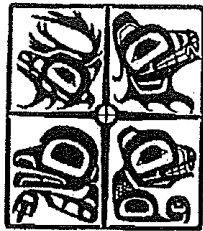
# Collaboration Achievements



- Community meetings
- Co-drafted report on impacts to Aboriginal Interests
- Collaboratively developed conditions for the EA certificate
- Agreement that at the EA stage:
  - Adequate mitigation and accommodation of potential project effects on Aboriginal Interests
  - Meaningful consultation

# Indigenous Nations' (TKN) Letter of Support

At the end of the EA, the Indigenous nations submitted a letter of support for the project, including EA approval:



TAKLA LAKE  
FIRST NATION



*Kwadacha Nation*



Tsay Keh Dene Nation

*“TKN’s view is that, within the constraints of the EA process, **by and large TKN’s concerns and interests were adequately addressed** through that process **when combined with other forms of accommodation with the province** including proposed collaboration with permitting agencies, ongoing Government-to-Government discussions and the negotiation of Economic and Community Development Agreements with TKN First Nations.”*

# New EA Legislation

- Received royal assent November 27, 2018
- Will be brought into force in fall 2019
- Implements the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- Legislated opportunities for co-designing and administering the process with Indigenous nations





# Early Engagement Phase

A new phase prior to determining whether a project is ready to commence an EA

- Opportunity for Indigenous nations to identify interests, issues and concerns with the project proceeding through an EA or issues that need to be resolved in the EA
- Ensure Indigenous nations are well informed before a decision is made on whether to conduct an EA on a proposed project



# Options for Indigenous Participation in EA

Indigenous nations can freely determine how they wish to participate in the EA:

- Seeking consensus with the EAO throughout the process
- Conduct a portion of the assessment
- Conduct the entire assessment on behalf of the Province provided certain conditions are met (Indigenous-led assessments)

# Consent – Based Process

- Explicitly allows for and integrates any consent decision taken by an Indigenous nation on a proposed project
- Designed to ensure that these decision are free, prior and informed
- Two decision points where Indigenous nations may express their consent decision
- It is hoped that in the majority of cases - by working together - it will be possible to reach consensus on major issues so that the decisions of Indigenous nations and the provincial decision makers align





# Conclusion

By changing how the Province works with Indigenous nations to work in partnership with Indigenous nations in trust relationships, EA decisions are more fully informed and durable, and the Province's goal for reconciliation with Indigenous nations is supported.

