

Pre-Submission Engagement for Executive Committee Screenings

Participant Input - Summary Report

The **Yukon Environmental & Socio-economic Assessment Board (YESAB)** has developed a new Pre-submission Engagement (PSE) process for Executive Committee (EC) screenings. Between January and April 2019, YESAB discussed practical aspects of implementing this new process. This report provides a brief summary of these discussions.

What is PSE?

The purpose of pre-submission engagement is to bring interested and affected parties together to review project requirements well in advance of a detailed proposal being submitted for assessment. PSE will support early and meaningful engagement and provide proponents with better guidance on project proposals.

PSE Objectives

- Provide an effective, proactive opportunity for early identification of issues and information requirements with the Executive Committee, proponent, government decision bodies and regulators, First Nations, communities and the public.
- Provide project-specific guidance to proponents on information requirements.
- Ensure issues and information gaps are identified prior to project proposal submission.
- Reduce the likelihood of new issues arising during the screening.

Why are we doing it?

The PSE process represents a significant change to the EC screening process. It involves changing existing practices, practices that have not been substantively reviewed since YESAB's inception. The PSE process is in response to feedback from various sectors on the EC screening process, specifically:

- the length of time project proposals spend in the adequacy review phase and the

frequency and complexity of information requests issued to the proponent during this phase;

- the need for earlier involvement of potentially affected First Nations and communities in identifying values and potential impacts on those values of proposed developments; and,
- demands for more project-specific guidance on information requirements for proponents prior to submitting a project proposal for assessment.

What has happened so far?

YESAB met with participants in 2017 to discuss a proposed PSE process and obtain feedback from proponents, consultants, and governments (Canada, Yukon, and First Nations). Feedback was generally supportive of the concept; however, many questions were raised on how the process would work in practice.

A [PSE Framework](#) and [Project Description Requirements](#) were developed based on initial participant feedback, the experience of the Executive Committee and previous screenings, additional policy research and jurisdictional reviews. The Board approved the PSE Framework in December 2018.

As the PSE process moves from 'concept' to implementation, it is important that YESAB share information on the process with participants who are directly affected and seek their input. In January 2019 the PSE process was formally announced and a period of dialogue on implementing PSE was initiated. The purpose of dialogue was to educate key participants on the new process and seek input on how best to implement PSE.

A targeted strategy was developed using a variety of communications methods. Written letters and emails

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were widely distributed to individuals and organizations¹, a PSE page on YESAB's [website](#) was created, information sessions were held, and individuals and organizations were invited to provide written input.

A total of 10 information sessions were held in February and March 2019 reaching over 70 people from a broad cross-section of participants in the assessment process.

Who provided input?

Written submissions were received from the following organizations:

- Industry (proponents, consultants, industry groups);
- Government of Canada (consolidated feedback representing several departments);
- Council of Yukon First Nations (CYFN) (several First Nations asked CYFN to provide input);
- Government of Yukon (consolidated feedback representing several departments).

No submissions were received from non-governmental organizations (NGOs) or members of the public.

YESAB would like to thank the individuals and organizations who took the time to review the new process and provide input. While not all suggestions can be adopted, the roll-out of PSE will be informed and strengthened by the input.

What did participants say?

General

The period of dialogue over the winter and early spring reaffirmed support in-principle for PSE; however, concerns were raised, practical considerations were identified and changes

recommended. Participants requested more information and greater clarity on the details of the PSE process and expressed interest in further discussing how PSE can best be implemented.

Industry submissions indicated a need for further information and details on implementation.

"...there are potential benefits to a PSE process when implemented well, however, we would like to see greater detail and clarification on key components of the implementation to ensure its success."

The Government of Canada communicated general support for the PSE process with specific implementation recommendations.

"The Pre-Submission Engagement process will provide an important path toward strengthening engagement with affected First Nations and other stakeholders on projects and support proponents through enhanced guidance in developing robust proposals".

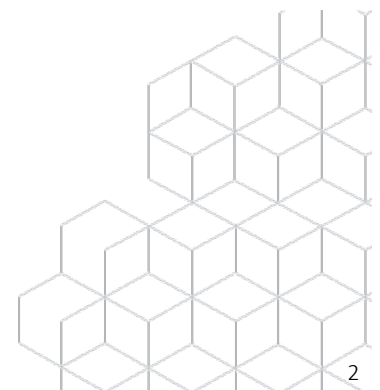
CYFN's submission indicates support for the PSE process with specific implementation recommendations. It should be noted that CYFN's submission may not necessarily reflect the views of each individual Yukon First Nation.

"PSE process will be a positive step for incorporating input of other parties, including Yukon First Nations about the content in project proposals for individual projects".

Yukon government identified serious concerns with the PSE process and recommended specific changes be considered prior to its implementation.

"There is a risk that without specified parameters, the process will become unduly lengthy."

¹ Governments, First Nations, proponents, industry groups and consultants and non-government organizations.



Key Themes

Each submission was thoroughly reviewed and analyzed. A number of significant or recurrent themes were identified. These key themes are summarized below along with representative quotes from participants.

PSE Timelines

Managing the time required for PSE was a consistent theme in most submissions. Industry and Yukon government expressed concerns over the lack of universal rules-based timelines and recommended they be established in order to provide more certainty in the PSE process. CYFN's submission supported the project-specific, flexible approach to establishing time lines. Input from the Government of Canada focused on the management of PSE timelines to ensure they are sufficient to allow for proper review of information and response.

It was not clear for the majority of participants how the Executive Committee will manage timelines and how they will be enforced throughout the PSE process.

"...encourage YESAB to set guidelines for establishing timelines to ensure they are reasonable and enforced to the extent possible." [Industry]

"Identification of timeline needs for each project at several steps of the process in itself may be complicated and time consuming for participants, particularly without criteria, guidelines or targets." [Government]

"YESAB's approach of setting timelines on a project-specific basis, and in a phased approach as the process proceeds also seems sensible and will allow establishment of timelines that are practical for each project and circumstances". [CYFN]

"...ensure adequate time for review of Project Description and Project Proposal Guideline Response and ensure adequate timing is given for the level of participation required." [Government]

Duration of Assessment Process

Several participants raised concerns that the new process will lengthen the overall screening process and requested further clarity on PSE process efficiencies.

"YESAB's proposed additional timelines also do not come with a corresponding reduction in timelines later in the process." [Industry]

"...there is a risk that the additional steps of the PSE process may result in additional time in the overall project assessment process." [Industry]

Resourcing and Participation

All submissions received from industry highlighted the need for meaningful government and First Nations participation in the PSE process. Questions were raised on how the Executive Committee will secure commitments to participate in the PSE process from government (Canada and Yukon) and ensure adequate resources for First Nation participation.

"PSE process will only be effective when all parties participate fully. For that to happen all parties need to understand their role and timeline for implementation and have resources to participate". [Industry]

Both Yukon government and CYFN identified resource and capacity concerns with participating in the PSE process.

"YG encourages the front-end approach to identifying project proposal requirements. However YG is often limited in terms of capacity, particularly the availability of technical expertise." [Government]

"It would be beneficial if the PSE Process explicitly identified the need to consider relevant time constraints faced by Yukon First Nations reviewers." [CYFN]

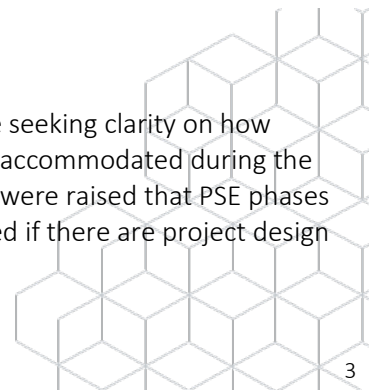
Project Design Changes

Many participants were seeking clarity on how project changes will be accommodated during the PSE process. Concerns were raised that PSE phases may have to be repeated if there are project design

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changes. Recommendations from industry include ensuring that the PSE process recognizes the design and planning lifecycles of the natural resource sector, specifically, mining.

“...a key concern is that the new process may not effectively accommodate project changes that naturally and inevitably occur during mine design and planning”. [Industry]

“...it is expected that project design will continue to evolve during the PSE process. If the proponent is required to engage with YESAB and stakeholders in the PSE the process, the process should allow for and take into account project changes as the proposal evolves during project planning.” [Government]

Information Requirements

All participants had questions regarding the level of detail that may be required as a project moves through the PSE process. Industry concerns center on too much information or detail being requested too early in the project proposal development process. For example, requesting information at the beginning of the assessment process that is more typically required at the permitting or licensing stage; or information or data that may not be available yet at the preliminary design stage.

“...clarity is required on the depth of project review anticipated and what level of information will be required from proponents for each stage of the PSE process”. [Government]

“Provide clear guidance to participants in the PSE process to ensure that the scope and detail of participant feedback are appropriate to the PSE stage.” [Industry]

Other Themes:

First Nations Consultation

Governments and CYFN requested clarity on proponent and Crown First Nations consultation

obligations, roles and responsibilities in the PSE process. Further clarity on the role of the Executive Committee, if any, is also required.

Changes to the Adequacy Review process

It was not clear to several participants how the current ‘adequacy review’ period will change under the new PSE process. Participants were questioning how the screening process can be initiated without some form of ‘adequacy review’ after the project proposal has been submitted (after the PSE process has concluded). Greater clarity on what will occur after the PSE process concludes and the screening process is initiated is required.

Changes to Executive Committee Screening Rules

Several participants raised questions on how the Executive Committee Screening Rules (the ‘Rules’) will establish the PSE process and what project transition provisions will be put in place. Most participants were requesting the ability to review draft Rules before the gazetting² process.

Guidance Documents and Project Description Requirements

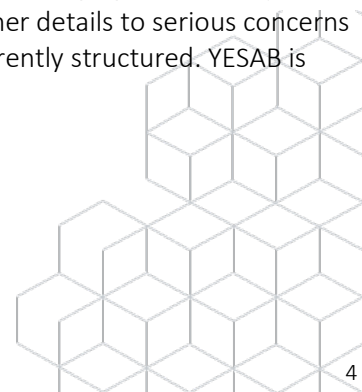
All participants recommended that YESAB develop clear guidance and detailed supporting documentation on the PSE process for a variety of users and audiences.

All participants provided useful suggestions on the draft Project Descriptions Requirements document.

What happens next?

The amount and depth of input received from participants indicated considerable interest in PSE and the changes envisioned by YESAB to the Executive Committee screening process. The input showed a mixed response ranging from conceptual support subject to further details to serious concerns with the process as currently structured. YESAB is

² YESAA requires that proposed Rules be published in the Canada Gazette and other periodicals (S. 34(1)).



eager to work with interested parties to build a common understanding and shared vision of PSE.

Over the next few months (summer/fall 2019), YESAB will engage directly with key participants both individually and in group settings (e.g. a facilitated workshop). This will allow for more in-depth discussions to gain a better understanding of issues and answer questions, and to work through implementation challenges.

Timelines for implementing the PSE process are being adjusted accordingly to support ongoing dialogue with participants.

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See the Pre-Submission Engagement page on YESAB's website. www.yesab.ca

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