

Jurisdictional Scan of Environmental Impact Assessment Processes in **Alberta**



July 2026



**FIRST NATIONS
MAJOR PROJECTS
COALITION**

About the First Nations Major Project Coalition

The First Nation Major Projects Coalition (FNMPC) was established in October 2015 by First Nations that chose to establish a collective approach to proposed major resource projects in their territories.

The FNMPC's vision is for member First Nations to work collaboratively, cooperatively, and cohesively towards the enhancement of economic well-being for member Nations, understanding that a strong economy relies on a healthy environment, supported by vibrant cultures, languages, and the expression of traditional laws. A key purpose of the FNMPC is to safeguard the air, land, water, and medicine sources from the impacts of resource development by asserting its members' influence and traditional laws on environmental, regulatory, and negotiation processes.

The FNMPC provides on-request support to its member-Nations that are involved in IAs and project development on an individual basis. FNMPC members also work together to create shared approaches and strategies for best practices. The FNMPC is one of the largest grassroots Indigenous service organizations in Canada, providing environmental and economic support.

Impact Assessments in Canada

An Impact Assessment (IA) is a process that examines the potential harms and benefits a proposed project may have on s. 35 rights, the environment, and people (health, socio-economic conditions, culture, and traditional harvesting) before a decision to approve the project is made. This process looks at management steps that can lower potential harms and increase project benefits. An IA informs the decision about whether a project should be approved and the conditions that must be in place to minimize the potential impacts.

In Canada, IA for major projects is conducted by the federal, provincial, and territorial governments. In some cases, governments work collaboratively on the assessment of a project.

For this document, statutory IA processes follow a federal, provincial, or territorial statute, such as the federal IA process under the *Impact Assessment Act* (2019).

First Nations have historically been left to the periphery of Canadian federal, provincial, and territorial IA processes, as IAs and related environmental policy development have largely occurred without the direct participation of First Nations in whose territories major projects have been proposed. Where it has occurred, Indigenous groups' involvement in IA processes has generally been limited to providing basic inputs, such as baseline Indigenous Knowledge. Moreover, Indigenous Nations have been excluded from meaningful control over the IA process, outcomes, and decision-making. In short, Indigenous perspectives have been underrepresented in IA in Canada.

In recent years, First Nations have become increasingly involved in IA as part of a broader movement to assert their inherent jurisdiction and rights in respect of major project development decisions within their traditional territories. Additionally, there is increasing pressure on government and industry to understand collaboration with First Nations as an imperative rather than an impediment to major project development. This movement has been prompted by First Nations' demand for the recognition of the right of Free, Prior and Informed Consent (FPIC) with respect to any major project proposed within their territories. Critical court cases have paved the way for a new set of relationships between First Nations, the government, and project proponents.

Disclaimer

This Jurisdictional Scan of Impact Assessment Processes in Alberta was developed by the First Nations Major Projects Coalition (FNMPC) to provide First Nations with an overview of Alberta's Environmental Impact Assessment (EIA) processes and opportunities for First Nation participation. This document is intended to support understanding and engagement. It does not constitute legal advice or reflect all possible EIA processes and requirements in every context.

The Jurisdictional Scan is based on public information and legislation available when it was drafted in April 2026. Given the constantly evolving nature of EIA processes, requirements, and best practices, First Nations are encouraged to confirm information directly with the relevant Crown agency and to seek additional details about any recent regulatory changes to EIA processes.

Crown EIA and consultation processes can also vary depending on the context of a proposed project and other factors. In some cases, there is a lack of clear guidance from the Crown on EIA and consultation processes. An absence of existing guidance does not preclude First Nation engagement on a given aspect of the EIA process. Where guidance exists, there may be flexibility in how it is applied. First Nations may request engagement on specific aspects of an EIA and may agree on processes with proponents and the Crown that are specific to the First Nation or the project being assessed. First Nations are encouraged to engage early with proponents and Crown agencies to clarify expectations, negotiate appropriate consultation agreements, and assert their rights and title in relation to project-specific EIAs.

The information in this Jurisdictional Scan is not intended to be prescriptive. It focuses on Crown statutory EIA processes and opportunities for First Nation participation, but does not replace First Nations' knowledge and expertise, nor does it attempt to define the scope of First Nation rights, title, and community objectives. Each First Nation's laws, governance structures, and relationships to their territories are unique and should guide how they choose to participate in EIA processes.

Glossary of Impact Assessment Terms

Cumulative Impacts	Changes to the environment, rights, culture, and/or society and their consequences that are caused by the combined impacts of past, present, and future actions.
Impact Characterization	Describing and evaluating the characteristics of potential positive and negative impacts on a valued component resulting from a project, often using parameters like magnitude, duration, frequency, reversibility, likelihood, and geographic extent.
Impact Statement	Detailed technical document, usually in the form of compiled technical reports often between 5,000 and 20,000 pages in length, prepared by the proponent in a manner that is intended to meet the requirements set out in the Tailored Impact Statement Guidelines.
Impacts	Positive or negative outcomes of an action or activity that result directly or indirectly resulting from a project.
Indigenous-led Impact Assessment	A process where one or more Indigenous nations define the scope and process of assessing impacts and identify potential benefits of a proposed project to be responsive to their unique contexts.
Project Impacts	Changes to the environment, rights, culture, and/or society and their consequences that are caused by a proposed project that is undergoing an impact assessment.
Statutory Impact Assessment Process	An impact assessment process that follows a federal, provincial, or territorial statute, such as the federal IA process. (This includes processes by which a First Nation and a federal or provincial government have both agreed to a process through a land claim that is subsequently recognized in a statute.)
Valued Component (or "Value")	Cultural, environmental, economic, health, social, and other elements of the natural and human environment that are identified as having scientific, social, cultural, economic, historical, archaeological, or aesthetic importance.
Mitigation	Mitigation is any action that is designed to avoid, reduce the severity of, or offset/compensate for a potential project impact. This can be done in many ways, from modifying the project design or moving the location of project components, to improving environmental management systems, among other options. Monitoring is not considered mitigation.
Residual Impacts	The adverse impacts of a project on a Valued Component or right likely to remain after committed mitigation measures are applied; effectively the impacts of a project that are unlikely to be fully mitigated with committed-to measures in place.

Significance Determination / Severity Determination	Based on the impact characterization, concluding if a proposed project's environmental, rights, culture, social, or economic impacts are acceptable or not. This will often inform a final decision about the project.
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Glossary of Terms Specific to Alberta

Environmental Impact Assessment (EIA) Report	An EIA Report is a document prepared by proponent(s) to identify, predict, and evaluate the potential environmental, social, economic, and cultural effects of a proposed project.
Terms of Reference (TOR)	The TOR is a formal document that outlines scope and the requirements of an EIA Report by identifying the information that must be gathered and analyzed to assess a project's potential effects.
First Nations Consultation Plan	A First Nations Consultation Plan is a project-specific document, prepared by proponent(s) and outlining the proposed consultation activities with potentially impacted First Nations.
Record of Consultation (ROC)	A ROC is a document maintained by proponent(s) that outlines all consultation efforts undertaken as part of an EIA process.
Alberta Energy Regulator (AER)	The AER is the regulator responsible for energy resource developments and projects as per specific legislation (Public Lands Act, Environmental Protection and Enhancement Act, Water Act and Part 8 of the Mines and Minerals Act).
Screening Report	A Screening Report is a document that assesses the need for an EIA Report by determining if a project is likely to have significant adverse environmental effects.
Statement of Concern (SOC)	A SOC is a written submission by a person who believes they may be directly affected by a proposed development application under review by the AER or AEP.
Consultation Concern & Response Table (CCRT)	The CCRT is a document that systematically records and tracks specific concerns raised by Indigenous communities and the proponent's corresponding responses.

Glossary of Legislation Specific to Alberta

<u>Environmental Protection and Enhancement Act</u> (EPEA)	The EPEA is the primary act that supports and promotes the protection, enhancement and wise use of the environment by designating proposed activities for which approval or registration is required. However, the EPEA does not mention climate change or greenhouse gases.
<u>Activities Designation Regulation</u>	The Activities Designation Regulation, a regulation under the EPEA, identifies activities that require approval, registration, or notifications.
<u>Water Act</u>	The Water Act supports and promotes the conservation and management of water, through the use and allocation of water in Alberta.
<u>Responsible Energy Development Act</u> (REDA)	The REDA establishes the AER as the single regulator with broad authority over energy resource development in Alberta and consolidates

[United Nations Declaration on the Rights of Indigenous Peoples Act](#) (2021)

regulator functions into a 'single window' system. The REDA precludes the AER from assessing the adequacy of Crown consultation. Act that affirms the rights of Indigenous peoples and advances the implementation of United Nations' Declaration on the Rights of Indigenous Peoples as an international human rights instrument that can help interpret and apply Canadian law. It also provides a framework to advance implementation of the Declaration at the federal level.

Section 35 of the [Constitution Act](#) (1982)

Recognizes and affirms the existing Aboriginal and Treaty Rights of First Nations, Inuit, and Métis peoples in Canada. These inherent rights are not defined in the Act, but include rights to Aboriginal title, rights to use lands and resources (hunting, fishing, and trapping), self-government rights, and rights to cultural practices.

Duty to Consult

The Duty to Consult is a constitutional obligation stemming from the honour of the Crown and Section 35 of the Constitution Act, 1982. It requires the Crown to consult and accommodate Indigenous groups when contemplating conduct or decisions that might adversely impact potential or established Aboriginal or Treaty rights.

Table of Contents

About the First Nations Major Project Coalition	2
Impact Assessments in Canada	2
Disclaimer	3
Glossary of Impact Assessment Terms.....	4
Glossary of Terms Specific to Alberta	5
Glossary of Legislation Specific to Alberta	5
Table of Contents.....	7
1. Introduction	8
1.1 Purpose of the Jurisdictional Scan.....	8
1.2 Aboriginal and Treaty Rights in Alberta	8
2. The Alberta Impact Assessment Process.....	8
2.1 Key Impact Assessment Legislation in Alberta.....	8
2.2 Overview of Alberta EIA Roles and Responsibilities	10
3. Overview of the Alberta 4-Phase Process for the AER and the AEPA.....	10
4. First Nation Consultation in Alberta	15
5. Emerging IA Trends in Alberta.....	17
6. Further Support and Guidance	17
References.....	19
Appendix 1: Summary Table of Impact Assessment Process in Canadian Jurisdictions	21

1. Introduction

1.1 Purpose of the Jurisdictional Scan

The FNMPC's Jurisdictional Scan of Alberta intends to provide First Nations with an introductory roadmap to the Impact Assessment (IA) processes, which in Alberta is called Environmental Impact Assessment (EIA). It summarizes relevant information in the EIA legislation for First Nations and outlines how to maximize First Nation participation in the EIA process. Through effective involvement, First Nations can advocate for their rights and interests to be considered in decisions on major projects. In this manner, First Nations can better protect and advance their rights and interests.

1.2 Aboriginal and Treaty Rights in Alberta

The entirety of Alberta is subject to historic treaties, encompassing 45 First Nations and 140 reserves (approximately 812,771 hectares of land). Most of Alberta is covered by three treaties:

- Treaty 6, which covers central Alberta and Saskatchewan and includes 16 First Nations;
- Treaty 7, which covers southern Alberta and includes 5 First Nations; and
- Treaty 8, which covers portions of Northern Alberta, British Columbia, Saskatchewan and part of the Northwest Territories and includes 24 First Nations.

The treaty landscape influences EIA processes as these treaties establish constitutionally protected First Nations rights that must be considered when understanding a proposed project's potential impacts. Additionally, any potential impact on these rights triggers the Government of Alberta's **Duty to Consult** with affected First Nations.

2. The Alberta Impact Assessment Process

2.1 Key Environmental Impact Assessment Legislation in Alberta

In Alberta, an EIA may be required for a project under either federal or provincial legislation, or both, depending on the type of project, its location, and potential impacts:

1. The Canadian *Impact Assessment Act* (refer to the Federal Jurisdictional Scan); or
2. The Alberta [*Environmental Protection and Enhancement Act*](#) (EPEA).
3. The [*Responsible Energy Development Act*](#) (REDA);
4. The Alberta [*Water Act*](#);
5. The Alberta [*Public Lands Act*](#);
6. The Alberta [*Oil Sands Conservation Act*](#); and
7. The Alberta [*Coal Conservation Act*](#).

The need for an EIA in Alberta is defined in the [*Activities Designation Regulation*](#) under the [*Environmental Protection and Enhancement Act*](#) (EPEA). All EIAs are conducted in accordance with the Duty to Consult, as articulated by Alberta Consultation Office.

“One Project, One Review”

Canada is currently establishing a ‘one project, one review’ process for IA through **Cooperation Agreements**. These agreements will set out how the federal government and provincial/territorial governments will work together on assessments of major projects.

- At the time of drafting, Alberta and the federal government have developed a [Memorandum of Understanding for the Cooperation Agreement](#).

Under the IAA, there are also provisions for **Indigenous Co-administration Agreements**. These agreements would allow the Crown and Indigenous governing bodies to formally share decision-making at key points throughout the federal IA process.

- For more information, refer to the [Discussion Paper on Indigenous Impact Assessment Co-Administration Agreements](#).

The EPEA outlines the requirements for conducting EIAs in Alberta. The EPEA outlines when an EIA is required based on the type of activity a project is:

- **Mandatory activities:** Projects that automatically require an EIA, mainly large industrial developments (i.e., pulp mills, oil refineries, and major dams).
- **Exempt activities:** Projects that do not require an EIA, mainly smaller-scale activities (i.e., drilling water, oil, or gas wells).
- **Discretionary activities:** All other projects not listed as mandatory or exempt.

For Discretionary activities, it may be decided that:

- An EIA is not required, and proponents can apply for other approvals that may be required; or
- More information is needed to determine if an EIA is needed with a **Screening Report**.

When a project is identified as a mandatory activity, it is subject to review through one of the following regulatory assessment streams:

- The Alberta Energy Regulator (AER) stream, which regulates and approves energy and mineral resource developments (primarily oil, gas, and coal facilities);
- The Alberta Environment and Protect Areas (AEPA) stream, which regulates and approves all other projects that are not related to energy and mineral resource development (which fall under the AER); and
- The Alberta Utility Commission stream, which regulates and approves the construction of all energy power plant facilities and related infrastructure, such as substations and transmission lines (learn more [here](#)).

The AER maintains the [Alberta EIA Current Project Registry](#), which provides information on current and past EIAs conducted by the AEPA and the AER.

Alberta's *Water Act*

Alberta's *Water Act* is another key piece of environmental legislation that focuses specifically on water rights and regulating activities that affect water. The *Water Act* sets out processes to allow others to use and disturb water by issuing approvals and licenses. The *Water Act* and the EPEA approvals are oftentimes completed together.

2.2 Overview of Alberta EIA Roles and Responsibilities

Several parties with distinct roles and responsibilities are involved in the EIA process:

Government Regulators	The Alberta Energy Regulator (AER)	Primary regulator for energy and mineral resource development projects, specifically upstream oil and gas, oilsands, and coal projects.
	The Alberta Environment and Protected Areas (AEPA)	Primary regulator for all other types of industrial activity that are not regulated by AER (activities that relates to oil refineries, standalone power plants (with some exceptions) and other EPEA activities not within AER's jurisdiction.
Other Government Bodies Involved	The Alberta Consultation Office (ACO)	Coordinates consultation activities throughout the IA process between proponents, regulators, and First Nations. Implements Alberta's First Nations Consultation Policy .
	The Environmental Assessment Director (EA Director)	A governmental employee responsible for determining the need for an EIA and deciding when the EIA report is complete.
	The Minister of Environment and Protected Areas (Minister)	Can require that an EIA Report be prepared, even if the activity appears on the exempted list.
Decision-Makers	The AER	Primary decision-maker for energy projects.
	The Minister of Environment and Protected Areas	Primary decision-makers for all other projects not covered under the AER's mandate.
Other Parties	Proponents	Are responsible for starting the EIA process, preparing required documentation, and engaging with regulators and First Nations, as directed by the Crown.
	First Nations	First Nations participate throughout the EIA process in key moments and are consulted by proponents and the ACO.

Learning Resources and Tools for Alberta

1. [Alberta's Environmental Assessment Process Overview](#); and
2. [Environmental Assessment Program: Frequently Asked Questions](#).

3. Overview of the Alberta 4-Phase Process for the AER and the AEPA

Figure 1 provides an overview of Alberta's 4-phase EIA process.

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

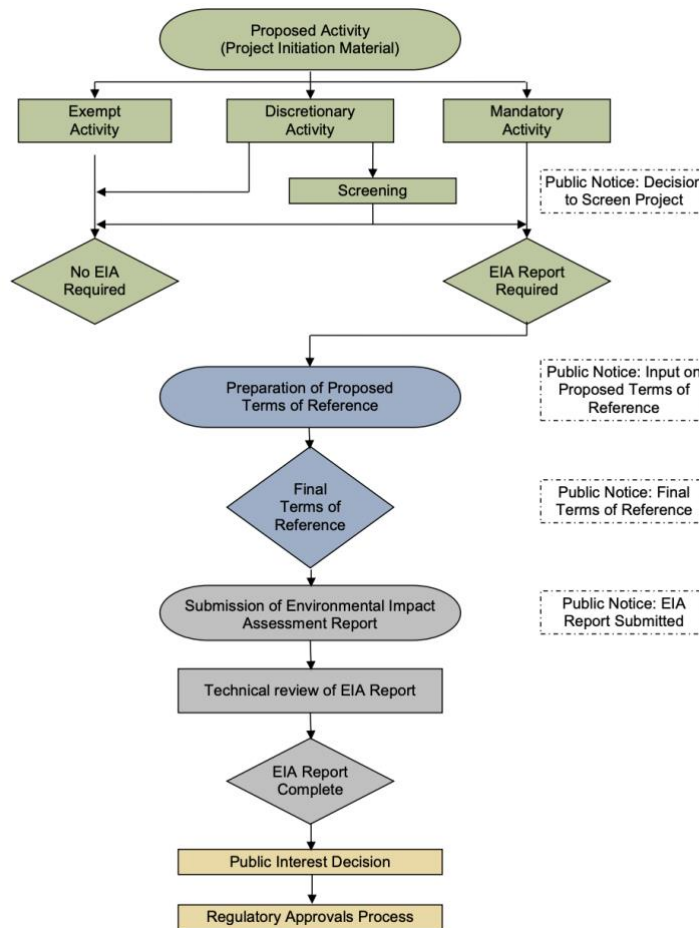


Figure 1: Alberta's Environmental Assessment Process (Government of Alberta)

Phase 0: Early Engagement

Alberta does not have a formal “Early Engagement” Phase. However, the province encourages proponents to notify and consult with First Nations as early as possible before submitting an application. Phase 0 begins when the proponent(s) start considering a project or activity within First Nations’ territory. Phase 0 continues until the EIA officially begins in Phase 1, allowing everyone to prepare for the EIA process through early relationship-building.

- For more information about the importance of early engagement, or “Phase 0”, refer to FNMPC’s [‘The Case for Phase 0: Improving Impact Assessment Efficiency and Effectiveness.’](#)

Roles and Responsibilities in Phase 0	
Proponents	Begin engagement early with First Nations and share clear information about the project and commit to working in good faith.
First Nations	Share interests, concerns, and expectations; identify capacity needs; begin developing community-driven priorities.
Government of Alberta	Not directly involved, but early discussions with the ACO can help First Nations clarify their consultation requirements.

Expected Outcomes of Phase 0 → Stronger early relationships and shared expectations that support meaningful First Nations participation in Phases 1 to 4.

Phase 1: Determining whether an Environmental Impact Assessment Report is Required

Phase 1 begins when the EA Director becomes aware of a project. The EA Director decides whether an **Environmental Impact Assessment Report (EIA Report)** is required under Alberta's *Activities Designation Regulation*. Key activities include:

- Proponents submit a Project Summary Table and a map.
- The EA Director reviews the submission to decide if an EIA Report is required for the Project.
 - If needed, the EA Director can request the proponents prepare a **Screening Report** to provide more information.
- The EA Director sends a letter to the proponents outlining their decision.

During Phase 1, the AER and the AEPA provide a public notice on the Project Registry. This allows the public to review the Project Summary Table and any other documents provided by proponent(s) and submit a **Statement of Concern (SOC)**. SOC's can be submitted for non-mandated activities (e.g. *Water Act* authorizations, oil exploration activities). First Nations are encouraged to file an SOC when relevant, as it:

- Gives First Nations the opportunity to document on the public record any direct and adverse effects that the project may have, and any preliminary concerns, interests, or recommendations related to the project;
- Influences when the EA Director will determine if a project needs an EIA Report, as the EA Director must consider all SOC's submitted; and
- Provides First Nations with leverage throughout Phases 2 to 4 to engage with the EIA process and negotiate with proponents.

Webpages for SOC Submissions

For different types of activities, there are different avenues by which First Nations can submit their SOC's:

- For projects and non-mandated activities regulated by the AER, visit this [webpage](#).
- For *Water Act* applications and authorizations, visit this [webpage](#).
- For interprovincial/international pipelines and other federal energy activities, visit this [webpage](#).

Deadlines to submit SOC's are provided in the public notice for the project or activity.

- For more information about SOC's, please refer to this [resource](#).

Roles and Responsibilities in Phase 1

EA Director	Determines if an EIA Report is required for a project.
Proponents	Provides information about the Project, including any additional information requested by the EA Director.
Minister	In special cases, the Minister may require an EIA Report to be made for a project, even if it is considered an exempt activity.

First Nations	If no EIA Report is required for a project, First Nations who are <i>directly affected</i> can send in a SOC outlining their issues with the project for the EA Director to consider.
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Expected Outcomes of Phase 1 → A letter confirming if an EIA Report is required or not.

Phase 2: Terms of Reference and Environmental Impact Assessment

If an EIA Report is required, proponents must prepare a draft **Terms of Reference (TOR)** describing what the EIA Report includes, along with a **First Nations Consultation Plan**. Key activities include:

- Proponents create the draft TOR and a First Nations Consultation Plan.
- The ACO approves the First Nations Consultation Plan.
- The draft TOR is posted publicly, and the public and First Nations may provide comments for 30 days (unless stated otherwise).
- EA Director reviews and considers the public comments before finalizing the TOR.
- First Nations may submit their own consultation protocols or expectations to the ACO during this Phase.

Roles and Responsibilities in Phase 2	
Proponents	Prepares the draft TOR and First Nations Consultation Plan. Once approved, proponents prepare the EIA Report.
EA Director	Reviews the public comments on the draft TOR and finalizes the TOR.
Alberta Consultation Office	Reviews and approves the First Nations Consultation Plan (no involvement of First Nations in this process). The ACO also ensures that consultation requirements are met during Phase 2.
First Nations	Provide feedback on draft TOR and participate in consultation activities.

Expected Outcomes of Phase 2 → A finalized TOR and First Nations Consultation Plan for the project, followed by the drafting of an EIA Report.

Phase 3: Technical Review

The completed EIA Report is reviewed to ensure it meets the TOR and adequately addresses project risks and uncertainties. Key activities include:

- Proponents submit the EIA Report to the EA Director.
 - The EIA Report must include information on the proponent's consultation process and summarize what proponents heard from First Nations during Phase 2.
- The relevant regulator (AER or AEPA) undertakes a technical review of the EIA Report:
 - If information is unclear or does not meet TOR requirements, the EA Director can request additional information from proponents.
- When requirements are met, the EA Director confirms the EIA Report is complete. Who then formally refers the EIA Report to the applicable decision-maker to be included in the public interest decision.

Roles and Responsibilities in Phase 3
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Regulator (AER or AEPA)	Conducts the technical review of the EIA Report.
EA Director	Determines when the EIA Report is complete and refers it to the appropriate decision-maker.
Proponents	Provides additional information, when required.
First Nations	Participating in parallel consultation processes with the ACO about the project.

Expected Outcomes of Phase 3 → Determination of whether the EIA Report is complete and ready to support the public-interest decision.

Phase 4: Public Interest Decision and Regulatory Approvals

Completing the EIA process does not mean a project is approved. It means the information requirements needed for decision-making are met. Key activities include:

- The EIA Report is submitted to the decision-maker (either the Minister of Environment and Protected Areas (Minister) or the AER).
- The decision-maker evaluates whether environmental approvals should be granted.
- A public-interest determination is made, with a description of what conditions are required for the project:
 - The AER makes a public-interest determination and issues approval decisions for energy-related projects.
 - The Minister decides whether to allow environmental authorization applications to proceed and what requirements may apply for all other projects not regulated by the AER.

Public Hearings

In Alberta, a project undergoing an EIA is not required to have a public hearing during Phase 4. Whether there will be a public hearing is up to the discretion of the AER or the AEPA. This decision is often based on whether there is significant public concern about the project.

This is where submitting an SOC during Phase 1 is important.

- If a First Nation submits a SOC that explains how the project could negatively affect them, then AER or AEPA can consider those concerns throughout the EIA process.
- If the proponent(s) does not address these concerns throughout the process, then there is a higher chance that the AER or AEPA will hold a public hearing.

In practice, it is uncommon for an authorization to be refused based on the information in the EIA.

Roles and Responsibilities in Phase 4

AER	Decision-maker for energy and mineral resource related projects. Reviews the EIA Report as part of the full application and determines whether it is in the public interest and what approval conditions apply.
Minister	Decision-maker for projects regulated by the AEPA. Reviews the EIA Report as part of the full application and determines whether it is in the public interest and what approval conditions apply.

Expected Outcomes of Phase 4 → A determination of whether regulatory approvals for the project will be issued, and what conditions will be required.

Available Funding for First Nations' Consultation and Participation

The [Indigenous Consultation Capacity Program](#) (ICCP) provides First Nations participating in Alberta's consultation process with annual funding to support consultation-related activities.

First Nations can also access participant funding for joint federal and provincial IAs (does not apply to Alberta-only reviews) through the federal [Participant Funding Program](#) (PFP). To apply for this funding, First Nations must:

1. Access the application form for the project on the [Federal IA Registry](#); and
2. Submit the completed application form and supporting documents by email to fp-paf@iaac-aeic.gc.ca before the deadline.

Although this funding is available, it is expected that the amount will not cover all the costs for a First Nation to be engaged in an IA. As such, it is recommended that the First Nation negotiate additional IA-related funding from proponent(s) when possible.

4. First Nation Consultation in Alberta

The Government of Alberta issued the [First Nation Consultation Policy on Land Management and Resource Development](#) on May 16, 2005, and it was last amended in April 2020. To address how consultation with First Nations should occur for certain land management and resource development activities, Alberta issued the [Guidelines on Consultation with First Nations on Land Management and Resource Development](#), last updated in September 2024. The consultation required by the guidelines is separate from the AER consultation requirements. Under the policy, the government's ACO was created to direct proponents to consult with First Nations that may be impacted by the project and to also work with the AER during the IA process. The AER has jurisdiction under REDA for the entire life cycle of upstream energy.

As defined in the policy, consultation is a process intended to understand and consider the potential adverse impacts of anticipated Crown decisions on First Nations' Treaty rights and traditional uses, with a view to substantially address them.

The ACO coordinates consultation across the three main stages of the consultation process, outlined in Figure 2.

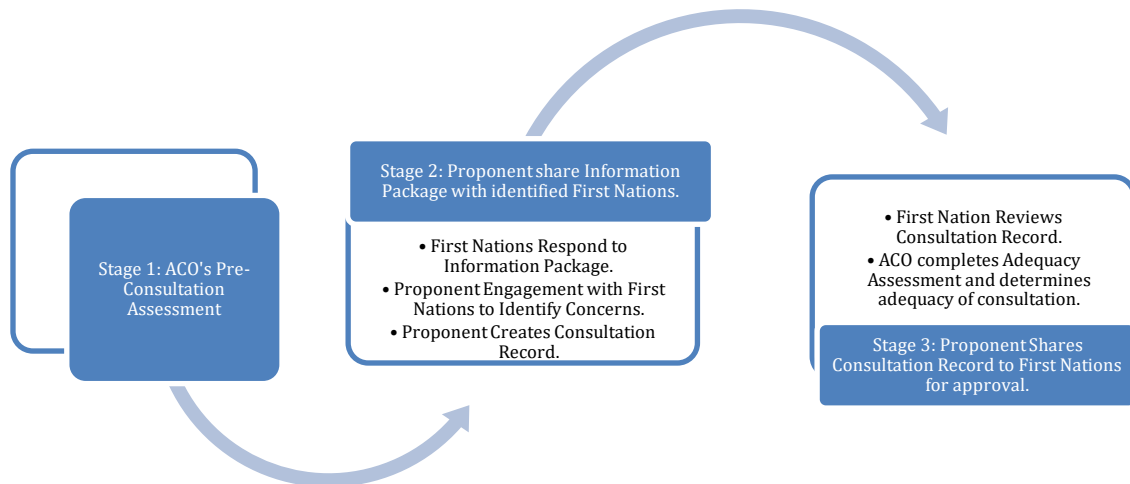


Figure 2: Process Diagram of Alberta's Consultation Process (adapted from flowchart [here](#))

Stage 1: Pre-Consultation Assessment

- The regulator submits a Project Plan Request to the ACO.
- The ACO reviews the information provided and other relevant agreements/protocols between First Nations and the Government of Alberta.
- Based on this, the ACO determines whether consultation is required, which First Nations should be consulted, and the level of consultation required.
- This Pre-Consultation Assessment is valid for six months.

Stage 2: Information Sharing and Exploring Concerns

- Proponents provide an information package to identified First Nations as early as possible.
- First Nations respond to the notification package shared, including the ACO on all communications, to outline any Treaty rights or traditional uses that may be impacted and identify if a higher level of consultation is required based on those impacts.
- Proponents should consider options to avoid, minimize, or mitigate impacts flagged by First Nations during consultation.
- The ACO expects that proponent(s) follow up on all First Nation concerns and document them in a **Record of Consultation (ROC)** and/or **Consultation Concern & Response Table (CCRT)**.
- The ACO will monitor activity on the consultation file and provide support with any issues that come up during the consultation process, such as:
 - Reviewing First Nations' project-specific concerns to see if more information is required and to identify what mitigation measures are appropriate; and
 - Redirecting proponents to repeat steps in the consultation process that have not been completed adequately

Stage 3: Verifying the Consultation Record and Adequacy Assessment:

- Proponents send the ROC and/or CCRT to First Nations for review and comment.
 - If the First Nation identified gaps or inaccuracies, the ACO will work with proponent(s) to address them.

- The ACO completes an **Adequacy Assessment** based on the pre-consultation review, the ROC and/or CCRT, and other information provided by First Nations.
- The ACO uses the results of the Adequacy Assessment to finalize their decisions on Duty to Consult for EIAs reviewed by AEP and the AER.
 - The ACO is responsible for deciding the adequacy of consultation for AER activities.
 - The ACO provides recommendations to the Minister as to whether consultation is adequate for AEP activities.

5. Emerging IA Trends in Alberta

Ongoing Concern: Industry Efficiency over Environmental Protection

Alberta's energy sector is facing complex financial, economic, and environmental pressures that increasingly shape Alberta's EIA processes, particularly within the AER. There are concerns that, as expectations for faster approvals and industry efficiency grow, the AER's mandate of environmental protection may give way to industry efficiency, limiting regulatory independence and reducing oversight and transparency. These concerns are compounded by the *Red Tape Reduction Act (RTRA)*, introduced in 2019, which commits the Alberta government to reducing regulatory hurdles for development projects. While intended to streamline decision-making and reduce costs for businesses and Albertans, the RTRA has been seen by some First Nations as increasing the risk of sidelining essential steps in the IA process, thereby increasing the risk that projects will have negative impacts that are not properly understood or adequately mitigated.

Emerging Practices: Alberta in Challenging the Federal Impact Assessment Act

In May 2022, the Alberta Court of Appeal ruled that the *Impact Assessment Act* could allow the federal government to overstep into provincial areas, such as energy projects, mining, and land management. In 2023, the [Supreme Court of Canada](#) similarly ruled that the federal IAA is largely unconstitutional. These decisions led to amendments to the IAA in 2024. This [brief](#) provides a detailed summary of the central amendments to the IAA and their implications for the federal IA process.

Even with these amendments to the Act, the courts are still considering whether it still infringes on provincial authority over natural resources. In 2024, the Government of Alberta asked the Alberta Court of Appeal to rule on whether the amended Act continues to violate provincial rights. The outcomes of that litigation are not known as of early 2026, creating some uncertainty for First Nations about how IAs may be conducted in the province in the future.

6. Further Support and Guidance

Support and Guidance Material for Further Learning

The following resources can be used to learn more about the Alberta EIA Process:

1. [Alberta's Environmental Assessment Process Overview](#)
2. [Environmental Assessment Program: Frequently Asked Questions](#)
3. [Cumulative Effects Assessment in Environmental Impact Assessment Reports](#)

4. [Policy on Consultation with First Nations on Land and Natural Resource Management, 2013](#)

The following resources can be used to support First Nation participation and consultation in the Alberta EIA Process:

5. [Guide to Providing Comments on Proposed Terms of Reference](#)
6. [Guide to Reviewing Environmental Impact Assessment Reports](#)

References

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Appendix 1: Summary Table of Impact Assessment Process in Canadian Jurisdictions

The table below presents the relevant laws, regulations, Crown agencies, and First Nation consultation requirements for impact assessment processes in various Crown jurisdictions in Canada. The table also summarizes key challenges and concerns First Nations may have with impact assessment processes in each jurisdiction and provides resources for further reading.

In addition to the challenges and concerns outlined in the table below, there are several that relate to most or all jurisdictions. Neither these nor the jurisdiction-specific concerns in the table below should be considered an exhaustive list. These are not the product of extensive research but are rather the observations of experienced practitioners in the field of IA. First Nations participating in IA processes may have concerns that are specific to their own Nation or even to a specific project. However, many of the concerns below can be expected to be relevant for First Nations participating in Crown IA process in Canada. Concerns that may be relevant in most or all jurisdictions in Canada include, but are not limited to, the following:

- There is a lack of clear guidance on Crown processes for fulfilling the Duty to Consult, especially in several provincial jurisdictions.
- Proponents are often tasked with fulfilling aspects of the Duty to Consult but do not always do so in a way that is meaningful or fulsome.
- First Nations often find Crown consultation to be inadequate in that it focuses disproportionately on providing notification and information rather than collaborative engagement and shared decision-making.
- There is a lack of clear guidance and requirements for early engagement (i.e., before the project officially enters the Crown's official IA system) between First Nations and proponents in the design of the project and the assessment process.
- There is often a lack of decision-making authority for First Nations on projects and assessment processes and outcomes, plus a lack of clear processes and requirements for obtaining First Nations' FPIC.
- The scopes of impact assessments are often defined too narrowly and focus disproportionately on biophysical effects at the expense of fulsome assessment of impacts to Indigenous rights and values.
- First Nations' objectives, indicators, thresholds, and responses are not frequently or meaningfully used in the assessment of biophysical and socio-cultural impacts. Instead, proponents and Crown assessors rely disproportionately on Western metrics, resulting in disagreements about impacts and mitigation measures.
- There is a lack of clear requirements for proponent and Crown funding for First Nations' participation in IAs, especially at the provincial level.

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

Jurisdiction Name	Key Laws and Regulations	Relevant Crown Authority	Indigenous Consultation Requirements and Guidance	Challenges and Concerns for First Nations	Further Reading (i.e., Guidance material, etc.)
Federal	Impact Assessment Act (IAA, 2019) Canadian Environmental Assessment Act (CEAA, 2012) Physical Activities Regulations Order Designating Certain Excluded Classes of Projects Information and Management of Time Limits Regulations	Impact Assessment Agency of Canada (IAAC)	Guidance: Indigenous Participation in Impact Assessment	Lack of adequate consultation and consensus-seeking with First Nations. Lack of decision-making authority for First Nations. Challenges to the constitutionality of IAA (2019) and fast-tracking legislation may result in rushed timelines and/or disregard for First Nations' Rights.	FNMPC's public 8-part video series about the federal IA process under the IAA (2019) FNMPC's Guide to Effective Indigenous Involvement in Federal Impact Assessment
British Columbia	Environmental Assessment Act 2018 (EAA) Reviewable Projects Regulation (under the EAA)	BC Environmental Assessment Office (EAO)	Guide to Consensus-Seeking under the Environmental Assessment Act, 2018 Guide to Involving Proponents when Consulting First Nations	Lack of committed-to participant funding in place in BC for First Nations to access during the EA process. New timelines under Bill 15 may result in rushed timelines and disregard for Indigenous Rights.	EAO's User Guide: Introduction to EA under the Provincial Environmental Assessment Act (2018) Tsilhqot'in Nation Overview of the BC Environmental Assessment Process Indigenous Nations' Guidance for Participating in EA Process Commenting on Major Projects
Alberta	Environmental Protection and Enhancement Act (EPEA)	Alberta Energy Regulator (AER) (for oil, gas, and coal)	Policy on Consultation with First Nations on Land and Natural Resource Management, 2013.	First Nations are not considered to be full partners with Alberta when assessing the impacts of proposed projects.	Alberta's Environmental Assessment Process Overview

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

	Activities Designation Regulation (under the EPEA) Responsible Energy Development Act (REDA)	development projects) Alberta Environment and Protected Areas (AEPA) (for all other types of projects not covered by the AER)	Guidelines on Consultation with First Nations on Land and Natural Resource Management 2014.	Concerns about the regulatory independence of the AER. Alberta's challenge of the constitutionality of IAA (2019) may result in disregard for First Nations' Rights.	Environmental Assessment Program: Frequently Asked Questions Cumulative Effects Assessment in Environmental Impact Assessment Reports
Saskatchewan	Environmental Assessment Act	Ministry of the Environment - Environmental Assessment and Stewardship Branch (EASB)	Government of Saskatchewan First Nation and Métis Consultation Policy Framework (CPF) Proponents Guide: Consultation with First Nations and Metis in Saskatchewan Environmental Impact Assessment Proponent Handbook: Voluntary Engagement with First Nation and Métis Communities to Inform Government's Duty to Consult Process.	Lack of meaningful consultation with First Nations on proposed projects. Support for Alberta's challenge of the constitutionality of IAA (2019) may result in disregard for First Nations' Rights.	Guidelines for an Environmental Assessment High Level Overview of the Environmental Assessment Process Guidelines specific to developing and assessing specific documents for the EIA process: • Technical Proposal Guidelines; • Guidelines for the Terms of Reference and Environmental Impact Statement; and • Technical Review Guidelines. Guidelines for specific types of projects undergoing an EIA: • Environmental Review Guidelines for Oil and Gas Activities; and • Mineral Exploration Guidelines for Saskatchewan
Manitoba	The Environment Act The Dangerous Goods Handling	Environmental Approvals Branch (EAB)	Interim Provincial Policy for Crown Consultations with First Nations, Métis Communities and Other	In the screening stage, the EAB decides if a project has the potential to impact Indigenous rights and is not required to consult with First Nations on this decision.	Information Bulletin – Environmental Assessment and Licensing under The Environment Act

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

	<i>and Transportation Act</i> Classes on Development Regulation		Aboriginal Communities (2009)	Mandatory consultation with First Nations comes after project plans have been drafted and submitted. Unclear role for First Nations in IA processes. Outdated consultation policy (2009). Criticism of the “One Project, One Review” process.	Environment Act Proposal Report Guidelines
Ontario	Environmental Assessment Act (1990) Ontario Regulations 51/24 (Exemptions from the Act and from Part II of the Act); Ontario Regulation 616/98 – EA Deadlines Ontario Regulation 345/93 – Private Sector Developers.	Minister of the Environment, Conservation and Parks (MCEP)	Code of Practice for Consultation in Ontario's EA Process Environmental Assessments: Consulting Indigenous Communities	Bill 5 – Protect Ontario by Unleashing our Economy Act, 2025 weakens environmental protections, concentrates decision-making power for the province, allows for special exemptions from EA, and reduces opportunities and quality of First Nations' engagement and involvement.	Guide to Preparing Environmental Assessments Willms & Shier Environmental Law's Environmental Assessment Primer
Quebec (Southern QC)	Environment Quality Act (EQA)	Ministère de l'Environnement, de la Lutte contre les changements	Guide on the Information and Consultation Process Carried out with Aboriginal Communities by Proponents	Shortened assessment timelines may reduce opportunities for and quality of Indigenous consultation.	Reference Guide for the Regulation Respecting the Environmental Impact Assessment and Review of Certain Projects (French only)

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

	Regulation respecting the environmental impact assessment and review of certain projects Regulation respecting the regulatory scheme applying to activities on the basis of their environmental impact	climatiques, de la Faune et des Parcs (MELCCFP)	of a Project Subject to the EA procedure (also available in French). Aboriginal Community Consultation Policy Specific to the Mining Sector. Information for Developers and General Information Regarding Relations with Aboriginal Communities in Natural Resource Development Projects. Guide for Project Proponents on Public Participation before the Bureau d'audiences publiques sur l'environnement (French only)		Understanding RAEFIE. Guide à l'intention de l'initiateur de projet à propos du processus de participation publique sous l'égide du Bureau d'audiences publiques sur l'environnement (Guide for project initiators regarding the public participation process under the auspices of the Bureau of Public Hearings on the Environment) (French only) Environmental Assessment in Southern Quebec - Overview (Ministry of Environment, climate change, wildlife and parks) Guide on the Information and Consultation Process Carried out with Aboriginal Communities by Proponents of a Project Subject to the EA procedure. Directive pour la réalisation d'une étude d'impact sur l'environnement (Directive for implementation of an impact study on the environment) (French Only)
Quebec (Northern QC)	The James Bay and Northern Quebec Agreement (JBNQA)	James Bay Advisory Committee on the Environment (JBACE)	Consultations Conducted by the Proponent: Expectations of the Review Committee (specific to Cree Territory)	Assessment outcomes and conditions are not respected by proponents.	Environmental Assessment of Northern Projects Environmental and Social Impact Assessment and Review Procedure

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

	Regulation respecting the environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Québec		Reference Guide on Environmental and Social Impact Assessment Procedures Applicable in Nunavik (specific to Inuit and Naskapi Territory)	Concerns about overlapping federal, provincial, and First Nations jurisdictions	James Bay and Northern Quebec Agreement Section 22 Guide for proponents under Section 23 of the James Bay and Northern Quebec Agreement
New Brunswick	The Clean Environment Act The Environmental Impact Assessment Regulation - Clean Environment Act Projects that must be registered under the EIA regulation	Environmental Impact Assessment Branch (EIA Branch) in the Department of Environment and Local Government	Duty to Consult and Indigenous Consultation Key opportunities for First Nations during a Comprehensive EIA	Lack of clear requirements or processes for early engagement. Requirements to consider impacts and protect First Nations rights are vague. It is unclear how the duty to consult will be fulfilled during project assessments. Majority of consultation is done by the proponent, with limited involvement by the EIA Branch. Lack of clarity of role for First Nations in the Technical Review Committee. Concern about the “One Project, One Review” process.	Guide to Environmental Impact Assessment in New Brunswick
Prince Edward Island	Environmental Protection Act Environmental Impact Assessment Guidelines	Department of Land and Environment	Mi'kmaq-Prince Edward Island-Canada Consultation Agreement	Specific consultation guidelines for an EIA are developed on an individual basis. First Nations are not necessarily given specific guidelines or privileges. The province is responsible to carry out	East Coast Environmental Law. “Environmental Impact Assessment: A Legal Toolkit for Prince Edward Island”, 2025

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

				the duty to consult and ensure potential impacts to First Nations' Rights and Title are appropriately identified, mitigated, and/or accommodated, but how this occurs is not clearly laid out.	
Nova Scotia	Environment Act Environmental Assessment Regulation Environmental Assessment Review Panel Regulations	Environmental Assessment Branch (EAB) in the Department of Environment and Climate Change	2010 Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference Government of Nova Scotia Policy and Guidelines: Consultation with the Mi'kmaq of Nova Scotia The Canada-Nova Scotia Memorandum of Understanding on Cooperation regarding Duty to Consult	Lack of clear guidance on how First Nations should be involved in Phase 1, specifically around designating project for EA and determining its "class". Lack of clear guidance on First Nation participation in Phases 3 and 6, specifically on how Mi'kmaq knowledge and inputs are considered in those processes. Current ministerial decision-making timelines for both Class I projects (50 days) and Class II projects (275 days) are too short to allow for adequate Mi'kmaq participation and accommodation.	Environmental Assessment in Nova Scotia (Slide Deck) Environmental Assessment Process The Role of Proponents in Crown Consultation with the Mi'kmaq of Nova Scotia Fact sheet for 2025 amendments to the Environmental Assessment Regulations
Newfoundland and Labrador	Environmental Protection Act (2002) Environmental Assessment Regulations (2003)	Environmental Assessment Division (EA Division) in the Department of Environment, Conservation and Climate Change Canada-Newfoundland and Labrador Offshore Energy Regulator	Government of Newfoundland and Labrador's Aboriginal Consultation Policy on Lands and Resource Development Decisions Pekuakamiulnuatsh, the Essipit, and the Nutashkuan Consultation and Accommodation Protocol	Lack of clear requirements or processes for early engagement. Depth of consultation during the EA is determined by the province based on proposed activity and extent of possible impacts to asserted rights. There is a lack of clear guidance for First Nations involvement and Consultation Guidelines are developed for each EA.	Guide to the Environmental Assessment Process Transparency of Environmental Assessments in Newfoundland and Labrador Purpose of Environmental Assessment Canada Newfoundland and Labrador Offshore Petroleum Board

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

Yukon	Yukon Environmental and Socio-Economic Assessment Act (2003) Assessable Activities, Exceptions and Executive Committee Projects Regulations (2005) Decision Body Time Periods and Consultation Regulations (2005)	Yukon Environmental Socio-Economic Assessment Board (YESAB)	Umbrella Final Agreement (UFA) YESAB's Proponent Consultation Guidance for Executive Committee Screenings	YESAA is a single, territory-wide assessment regime, which can fail to recognize the diversity of First Nation's governance systems across the Yukon. Under YESAA, final decision-making still rests with colonial governments. Settlement Lands often cannot address wider cumulative effects that occur across entire Traditional Territories.	Impact Assessments in Canada's North Overview of the Yukon Environmental and Socio-Economic Assessment Act (YESAA) The YESAB Assessment Process
Northwest Territories	Mackenzie Valley Resource Management Act (MVRMA) (1998) Preliminary Screening Requirements Regulations (1998) Exemptions List Regulations (1998)	Mackenzie Valley Environmental Impact Review Board (Review Board)	Mackenzie Valley Land and Water Board Engagement and Consultation Policy (2013) Reference Bulletin on Consultation and Engagement in EIA	The Review Board has yet to develop EIA-specific consultation and engagement policies for First Nations and Inuit. The Major Projects Office's accelerated approval process for priority projects in the NWT could streamline the EIA process for certain projects that may have the potential affecting First Nations and Inuit rights and interests.	Review Board's Step-by-Step Information webpage Review Board's EIA Guidelines Overview booklet
	Inuvialuit Final Agreement (1984) Yukon Environmental and Socio-Economic	Environmental Impact Screening Committee (EISC) Environmental Impact Review Board (EIRB)	Inuvialuit Final Agreement (1984)	Lack of clear requirements or processes for early engagement with Inuvialuit.	EISC's Environmental Impact Screening Guidelines EIRB's Environmental Impact Review Guidelines

Jurisdictional Scan of Environmental Impact Assessment Processes in Alberta

	Assessment Act (2003)¹				
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¹ Developments proposed in the Yukon North Slope, although located within the Inuvialuit Settlement Region, are first assessed by YESAB under the Yukon Environmental and Socio-economic Assessment Act. If the YESAB identified the potential for the development to impact current and future Inuvialuit harvesting, the proposed development is referred to the EISC to be screened under the Inuvialuit Final Agreement.