



FIRST NATIONS  
MAJOR PROJECTS  
COALITION

REPORT

# THE CASE FOR PHASE 0:

## Improving Impact Assessment Efficiency and Effectiveness

*August 2025*

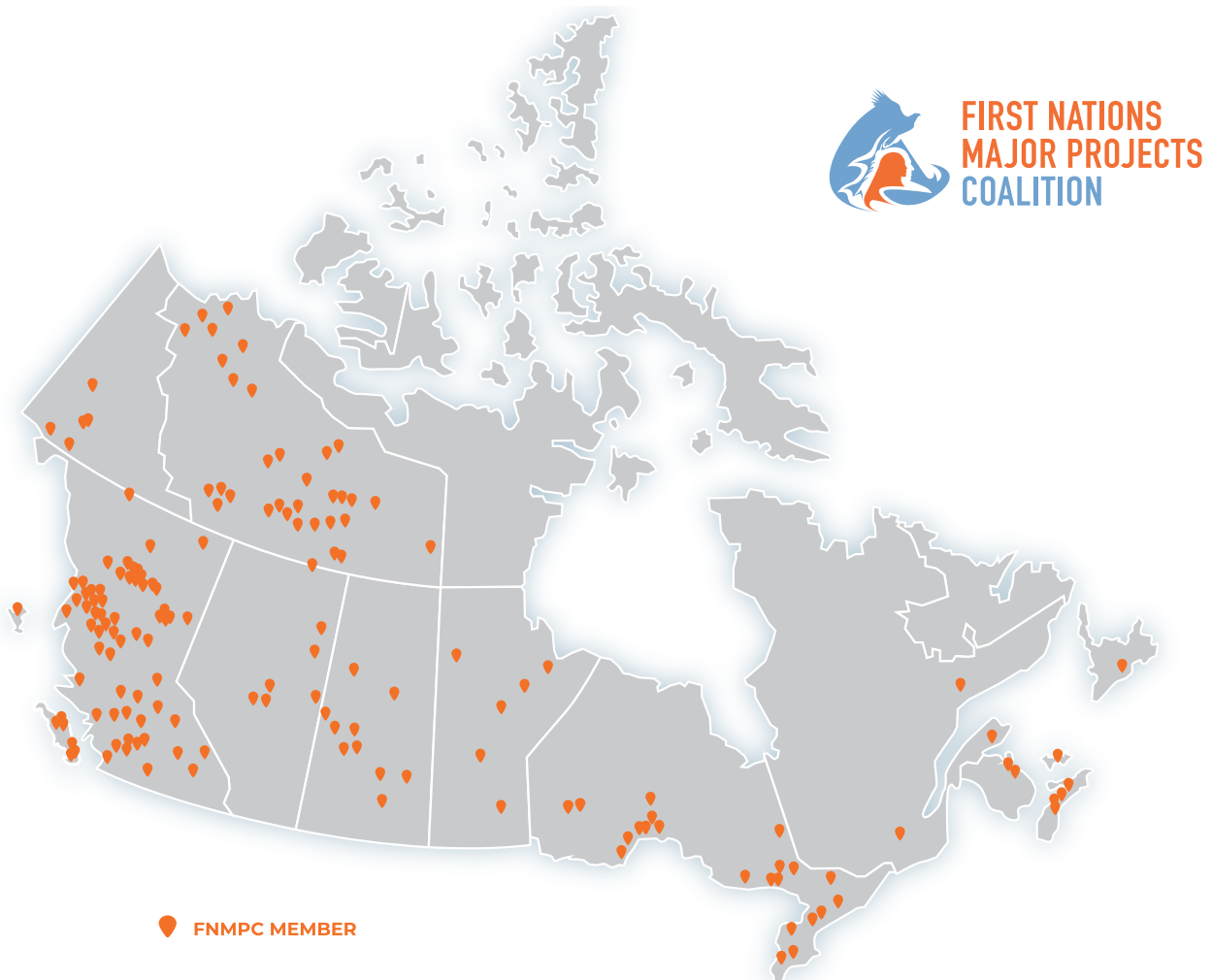


*Prepared by:* First Nations Major Projects Coalition

# ABOUT THE FIRST NATIONS MAJOR PROJECTS COALITION (FNMPC)

The First Nations Major Projects Coalition (FNMPC) is a non-profit organization of 175+ First Nation members in ten provinces and two territories. With respect to major projects in Canada, FNMPC has a mandate to advance the economic and environmental interests of its membership, including through advocacy, thought leadership, capacity development, and project support. Currently, FNMPC staff are supporting members on more than a dozen projects across the country (e.g., designing governance frameworks, negotiating term sheets for equity partnership, advancing impact assessment activities). FNMPC also develops resources for the benefit of members, such as backgrounders explaining new policy developments and toolkits that members can use themselves in the field. These efforts are intended to support members in making informed decisions related to commercial and regulatory components of major projects impacting their lands and waters.

FNMPC is project and industry agnostic. Its Operating Principles include being member-driven, neutral, unbiased, value-maximizing, and collaborative. To ensure that FNMPC remains impartial, it does not take a financial stake in projects. All activities are undertaken with the sole intent of benefitting FNMPC's First Nation membership.



# EXECUTIVE SUMMARY

The unprecedented trade actions taken by the United States is catalyzing significant concerns about the health and resilience of the Canadian economy. The 2025 federal election focused heavily on how to “get the Canadian economy moving” and “return to prosperity” by “building back better and faster.” The prevailing narrative was that government policies and actions had unnecessarily and disproportionately fettered the ability of proponents to build major projects. This report goes below the surface of this debate to identify options for improving the efficiency and effectiveness of impact assessment (IA) and related regulatory processes carried out for major projects that impact First Nation rights, interests, lands, and waters.

For the purposes of this paper, **efficiency** refers to the pace and ease with which projects move from planning to construction. For many First Nations, the speed of project development must be balanced with the effectiveness of the process. **Effectiveness** refers to the extent to which IA and regulatory processes lead to outcomes that are inclusive, transparent, and aligned with the rights, interests, and long-term interests of First Nations, as well as the overall durability of those processes. If IA and regulatory processes are not fair and defensible, they may not be satisfactory to potentially impacted First Nations, which can cause conflict and delays.

The following three criteria were used to identify the solutions for improving efficiency and effectiveness:

- » **Rigour:** the extent to which an IA or regulatory process incorporates high-quality First Nation and scientific methods to plan the assessment, collect and analyze information, and present findings;
- » **Engagement:** how First Nations are engaged and consulted by the Crown and project proponents and the extent to which First Nation concerns are identified and addressed throughout the process; and
- » **Pace:** the speed that IA and regulatory processes are completed.

Rigour and engagement are essential to effectiveness. Pace is less important for effectiveness, and more important for greater process efficiency. Pace is not always a priority for First Nations and increasing efficiency cannot come at the expense of quality or effectiveness. **In other words, from a First Nation perspective, there can be no efficiency without effectiveness.** Without high quality rigour and engagement, moving quickly is unlikely to result in defensible outcomes.

As a rule, addressing problems of effectiveness early helps to reduce friction and create latitude for course correction, increasing both effectiveness and efficiency. Secondly, First Nations almost always do not have capacity to self-fund activities that increase their role in IA and regulatory processes, or project planning more broadly. The onus is on the Crown and proponents to offer capacity support commensurate with the needs of First Nations to properly contribute to the rigour and engagement required for a defensible IA/regulatory process. The amount of such support must be tied to a variety of project and capacity specific factors.

Improved efficiency and effectiveness require:

- » Doing extensive preparatory work well in advance of project-specific IAs or regulatory processes;
- » Substantially improving First Nation capacity to participate, both before and during Project-specific assessment IA and regulatory processes;
- » Taking steps to create trust, build relationships, and promote collaboration;
- » Clarifying processes, especially related to First Nation engagement;
- » Incentivizing First Nation-proponent partnerships; and
- » Increasing collaboration between the Crown and First Nation rights-holders.

# TABLE OF CONTENTS

About the FNMPC .....	2
Executive Summary .....	3
Introduction .....	5
Defining Efficiency and Effectiveness in IA .....	7
Build and Improve Systems for Phase 0 .....	10
1.1 Increase Phase 0 Preparation and Engagement .....	10
1.2 Increase First Nation Capacity for Phase 0 .....	12
1.3 Set up Systems for Collaboration during Project Assessment .....	15
Phase – 1: Before Pre-Engagement .....	17
2.1 Increased Guidance on Priority First Nation Issues and Concerns .....	17
2.2 Increase First Nations Trust and Relationships in the Federal IA System .....	18
2.3 Streamline Assessment Systems .....	20
Conclusion .....	22
Appendix A: List of Interviewees .....	23
References .....	23





## INTRODUCTION

How can Canada achieve reconciliation with First Nations while increasing the pace of impact assessment (IA) and regulatory processes that require deep capacity, trust, and relationship building?

First Nations are not obstacles to developing a national economy that promises prosperity for all Canadians. Understandably, First Nations resist proposals that ignore or dismiss their legitimate concerns as constitutionally protected rights-holders in the name of expediency and contribute to a false sense of division and tension. First Nations want meaningful partnerships and expect true nation-to-nation collaboration with the Crown.

**At the crux of the issue of “going faster” is the fact that for many First Nations, efficiency can be a problematic concept.** This is because IA and regulatory processes and their timelines are outside the control of First Nations, and do not often allow First Nations to engage on their own terms or achieve outcomes that are positive for their members and territories. Reconciliation means that First Nations must have a voice and must be partners in the development and assessment of major projects. Yet, because of how these processes are set up, First Nations continue to battle for meaningful participation and partnership, ultimately affecting their ability to mitigate adverse impacts and benefit from the project itself.

The adoption of the *Impact Assessment Act* (IAA 2019) addressed the need for greater efficiency, particularly with increasingly strict timelines, and greater attention to how Indigenous rights and impacts to Indigenous Peoples are considered in the federal IA process. IAA 2019 introduced a variety of new requirements that increase the role of impacted Indigenous rights-holders and Indigenous knowledge in the federal IA process, including greater consideration of impacts to Indigenous rights and Indigenous health, social, and economic conditions.

The Impact Assessment Agency of Canada (IAAC or the “Agency”) is continually developing new regulations, guidance, funding programs, and other tools to develop more efficient IA processes and more effective Indigenous participation and engagement.<sup>1</sup> Worthwhile examples include the IAAC’s Indigenous Advisory Committee, requirements for elevating and protecting Indigenous knowledge<sup>2</sup>, options for IA co-administration with Indigenous governing bodies, a new “Planning Phase,” and the potential for recognizing Indigenous governing bodies as legitimate jurisdictions with binding decision-making power. These are powerful and welcome tools embraced by many First Nations.

<sup>1</sup> See for example [IAAC’s Practitioner’s Guide](#). Further information on improvements to the federal IA process as embodied under the IAA can be found in FNMPC (2020a).

<sup>2</sup> The IAA uses terminology of Indigenous knowledge, which is echoed in this discussion paper. The FNMPC recognizes that Indigenous knowledge is part of Indigenous Knowledge Systems, ways of knowing and decision-making that Indigenous knowledge should not be separated from.

At the same time, regulatory practitioners, including the subject matter experts interviewed for this discussion paper, point to significant gaps in the federal system that hamper efficiency and stifle First Nation engagement, consultation, participation, partnership, and leadership.

The significant challenges facing Canada's economy, partially resulting from the unprecedented trade war being waged by the United States, have led to calls for policies that fast track project development. During the 2025 federal election, the Conservative Party of Canada proposed to repeal the *Impact Assessment Act*, while the Liberal Party proposed an approach that would expedite project assessment and permitting activities. The federal *Building Canada Act* received Royal Assent in July 2025. It gives the federal government new power to designate projects "in the national interest" and issue one condition document that lays out the terms and conditions for project approvals. In relation to the *Impact Assessment Act*:

If a national interest project is also a designated project, as defined in section 2 of the Impact Assessment Act, sections 9 to 17 and subsections 18(3) to (6) of that Act do not apply in respect of the project and, for the purposes of section 18 of that Act,

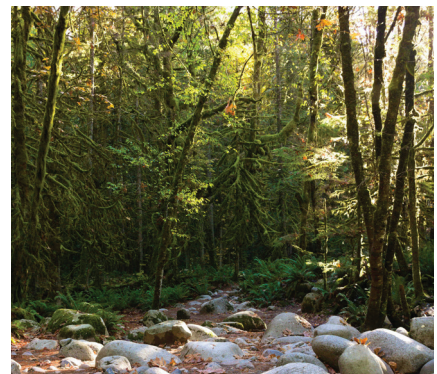
- (a) the Impact Assessment Agency of Canada is deemed to have decided that an impact assessment, as defined in section 2 of that Act, of the project is required; and
- (b) the time limit set out in subsection 18(1) of that Act does not apply in respect of the project.

The exemptions listed above apply to the sections of the *Impact Assessment Act* related to: Designation of Physical Activity, Planning Phase, Obligations, Decisions Regarding Impact Assessments, Agency's Decision, Minister's Notice, and Time Limits (extending and suspending).

While the goal of the *Building Canada Act* is to streamline and speed up the permitting of projects in the national interest, the focus on **efficiency** and **effectiveness** cannot begin when a project is first proposed. Success is dependent on what actions are taken *before* an assessment begins ("Phase 0") and how trust can be developed prior to the Phase 1 Planning process.

To identify problems and potential solutions related to the effectiveness and efficiency of IA processes, the FNMPC carried out interviews with 13 First Nations and non-First Nations IA practitioners, conducted a literature review focusing on secondary sources of information on IA, and analyzed case studies and subject matter expert's personal experience with existing IA systems and guidance tools.

While this paper focuses mostly on federal IA processes, it occasionally draw on examples from provincial and territorial processes and note that the solutions proposed below can also be applied for provincial and territorial processes. Many of the approaches recommended in this discussion paper may be incorporated into other systems where they may not currently be present, such as provincial IA systems or assessments conducted by life cycle regulators, such as the Canada Energy Regulator (CER) or the Canadian Nuclear Safety Commission (CNSC).





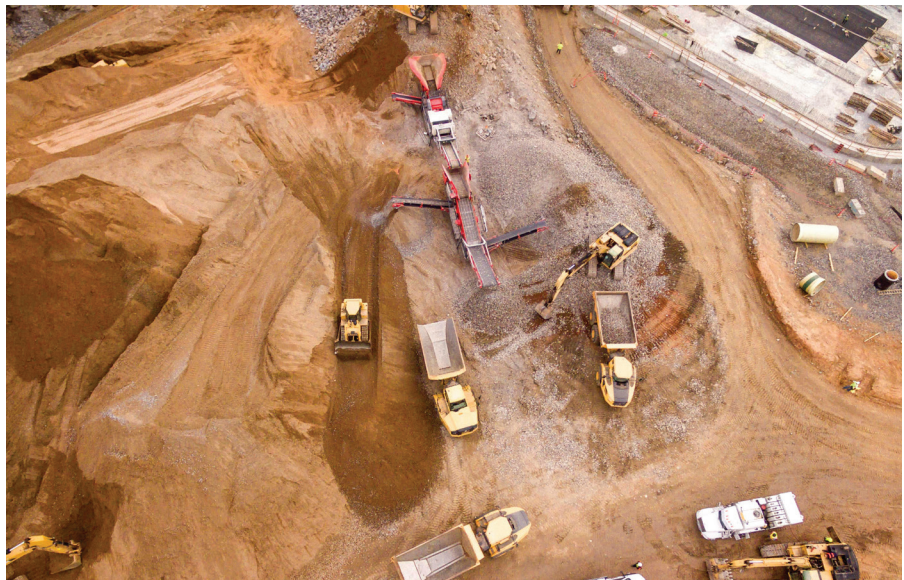
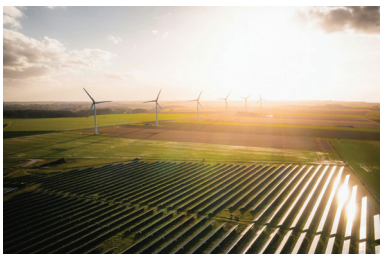
# DEFINING EFFICIENCY AND EFFECTIVENESS

It is a matter of fact that IAs can take years longer than originally planned or scheduled. This is in part because they are often fraught with disagreement and conflict, including with respect to **who** are potentially impacted First Nations.

The *Impact Assessment Act* of 2019 (IAA) attempts to expedite the IA process by putting clearly defined and relatively tight time limits on the portion of IAs that are within the Crown's control.<sup>3</sup> However, moving fast runs the risk of hampering the rigour, the quality of engagement, and the ultimate defensibility of the IA. Moving fast can reduce the efficiency of the IA process by setting the stage for disagreements or delays (e.g., due to legal challenges). The tensions between the desire to “accelerate” IA and regulatory processes, and the reality that faster processes do not necessarily equate to actual “efficiency,” are very real. There are trade-offs between speed and legitimacy that must be recognized if IA processes are to be streamlined in a manner that does not hamper their defensibility.

In 2017, Canada's Expert Panel for the Review of Environmental Assessment Processes issued *Building Common Ground* (Expert Panel for the Review of Environmental Assessment Processes 2017). The Expert Panel found that processes that are primarily proponent-led, and that do not have other participants engaged early, lead to issues emerging late and the scope of the IA broadening rather than narrowing as the IA moves toward the decision-making phase. The report found that this leads to higher process uncertainty and increases the chance of time-consuming judicial reviews of Crown decisions.<sup>4</sup> In contrast, certainty increases when there is a larger and more inclusive planning phase prior even to the project being fully defined and entering the formal IA process.

The federal government's *Cabinet Directive on Regulatory and Permitting Efficiency for Clean Growth Projects* (“the Directive”) discusses the need to “accelerate regulatory efficiency” and sets targets such as completing IAs and federal permitting for designated projects within five years (Government of Canada 2024). The Directive also talks about the importance of early engagement by proponents, engaging in good faith with affected communities, reducing burdens on Indigenous peoples, and giving confidence to Canadians in the integrity of Canada's regulatory approval process. However, the Directive's overall focus on acceleration is clear. The first of its four objectives is to “Accelerate the Government of Canada's decision-making around clean growth projects and set out clear federal roles and responsibilities within and across departments with the objective of getting clean growth projects built.”



<sup>3</sup> This contrasts with the phase in which the proponent develops its Impact Statement, which allows for a generous timeframe of three years (for a non-Panel review project) and can be extended if requested by the proponent.

<sup>4</sup> See Figure 4 at pg. 75 of Expert Panel for the Review of Environmental Assessment Processes (2017).

In technical terms, **efficiency** is basically doing more with less. In the interviews conducted for this discussion paper, the focus on the concept of “efficiency” raised substantial concerns. The term was perceived by many interviewees as code for speeding up IA and regulatory processes. And with this focus on going faster came concerns that **faster may not actually be better**.

For many First Nations, the focus is more on the **effectiveness** of IA processes—that is, how well those processes engage First Nations, address their concerns about impacts, and provide opportunities for First Nations and their members to benefit from projects. Effectiveness in this respect is basically achieving meaningful outcomes that reflect First Nation rights, interests, and concerns. This does not mean that projects cannot be assessed and approved more efficiently. **It means that, for most First Nations, there is no path to efficiency without effectiveness—and effectiveness is what leads to legitimacy.**

Impact assessments should be conducted at a **manageable pace**, be **rigorous** in their consideration of both Western science and Indigenous Knowledge Systems, and include **high-quality engagement and consultation** with First Nations. Meeting these three criteria increases the ultimate requirement that the IA be both **effective** and **defensible**. To evaluate the efficiency and effectiveness of IA processes, this discussion paper focuses primarily on the following three criteria of rigour, engagement, and pace:

- » **Rigour** is the extent to which an IA uses high-quality methods to plan the assessment, collect data, analyze data, and come to findings and conclusions. High rigour in relation to both streams of knowledge that inform impact assessment—Western Science and First Nations Knowledge Systems—should increase the confidence of parties involved in the IA. A rigorous assessment is one that is more likely to meet the expectations of participants and achieve mutually satisfactory results. These can then lead to greater efficiencies (e.g., by reducing disagreement and increasing the decision’s defensibility).
- » **Engagement**<sup>5</sup> refers to how First Nations are engaged or consulted by proponents and agents of the Crown and the extent to which Indigenous concerns are identified and seriously and adequately addressed throughout the process. Adequate, culturally appropriate, and meaningful engagement supports greater efficiency by facilitating smoother processes and reducing conflict that otherwise results in delays. If First Nations are not adequately engaged, or if engagement is inappropriate or superficial, conflicts can arise, cause delays, and undermine the defensibility of the assessment. High quality engagement takes time and effort but ultimately can produce more defensible assessments.
- » **Pace** refers to the rate at which an IA is completed. While “high efficiency” may imply a faster process, a well-paced process is one that balances the demands of timeliness with those of rigour and engagement. Where those elements are sacrificed for speed, there is a greater chance that errors, oversights, and conflicts will slow or halt an assessment or lead to an outcome that is subject to defensibility challenges that slow the project’s ultimate implementation.

As mentioned, First Nations do not necessarily consider the pace or speed at which an IA is conducted (i.e., whether they are advanced quickly) to be a strong priority. **First Nations tend to be more focused on getting the decision right, based on all available Indigenous knowledge and Western science, rather than on speeding up the process.** Furthermore, First Nations tend to have a more long-term, holistic vision when it comes to major projects, with more focus on how their territories and communities have been affected in the past, how a project might affect their nation and territory in the future, and how all elements and impacts related to a project—and indeed total cumulative impacts which a project will also contribute to—are interconnected. The short timelines of the portion of the federal IA process that is under Crown control once the process is entered into and narrow scope of federal IAs may not

---

<sup>5</sup> This discussion paper uses the term engagement to cover both proponent engagement and Crown consultation with Indigenous peoples.

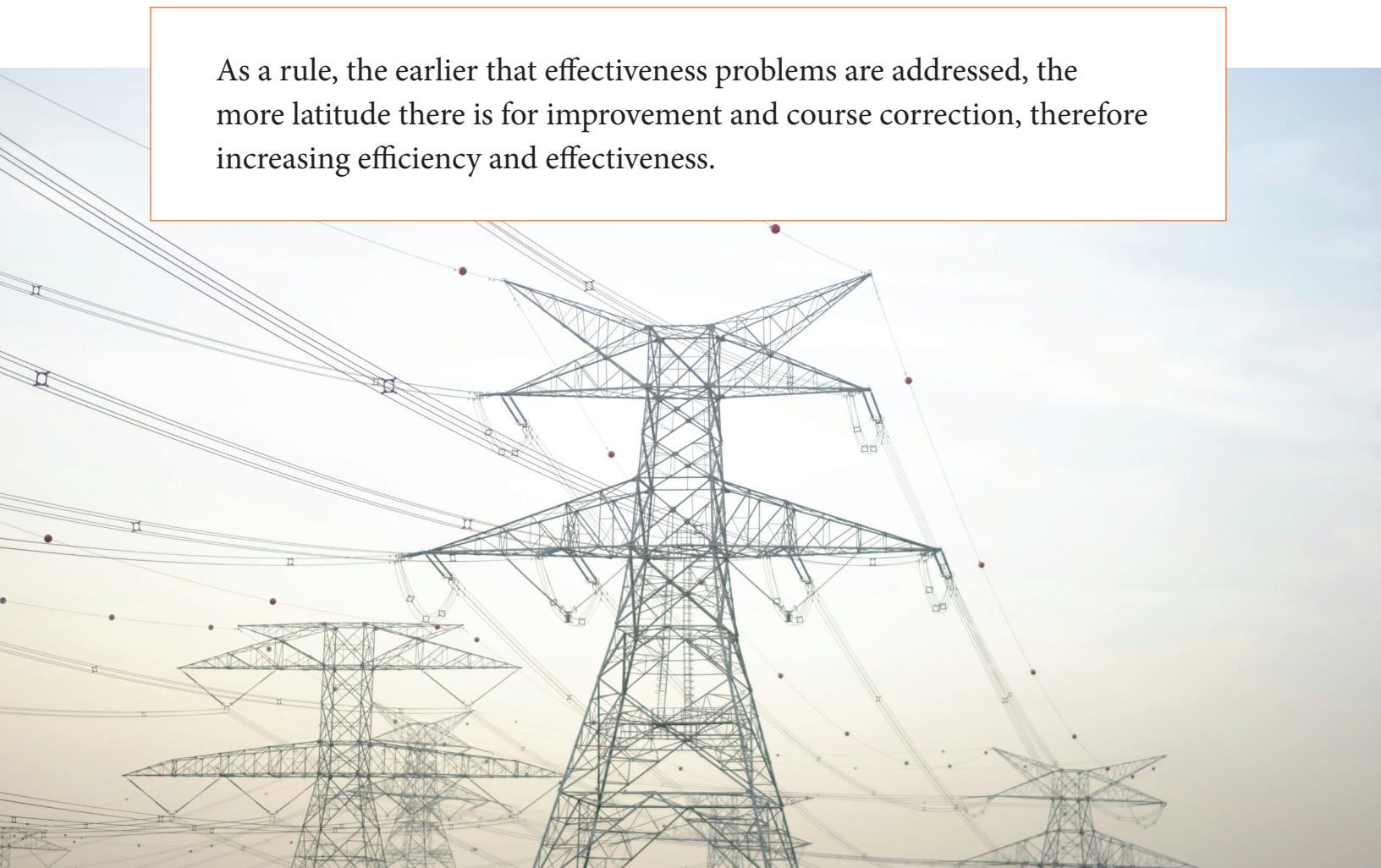


support these ways of seeing and making decisions. First Nations often require more information than they are first provided in an IA process about how projects will affect their lives and more assurance about how negative impacts will be avoided and positive impacts maximized.

Both IA processes need to do a better job of meeting and allowing for First Nations objectives to be met. For far too long, First Nations have been subject to far too many expedited decisions without adequate engagement. So, although this discussion paper does consider ways to increase the pace of IA processes, it also recognizes that, for many reasons, increasing the pace cannot come at the expense of rigour and legitimacy. Improving the pace and rigour, and ultimately the **defensibility** of IAs, is all important and must occur in lockstep for the system to become more effective and efficient overall.

**Defensibility** refers to how well an IA stands up to scrutiny in legal and public opinion settings. The rigour of an assessment is an important factor that determines defensibility—pace less so. For example, First Nations have specific constitutionally protected rights. When a proposed project has the potential to infringe on First Nation rights, legal issues can cause serious delays or can result in canceled projects. Ensuring respect for Aboriginal and treaty rights through the rigorous assessment of effects on those rights, and through appropriate consultation and accommodation, are inherent parts of the assessment process that inform regulator, ministerial, and judicial decisions. Increasing defensibility supports overall IA and regulatory efficiency by minimizing the potential for legal conflict and reducing associated delays.

As a rule, the earlier that effectiveness problems are addressed, the more latitude there is for improvement and course correction, therefore increasing efficiency and effectiveness.



# BUILD AND IMPROVE SYSTEMS FOR PHASE 0

Before a specific project formally enters the federal IA system, significant opportunities exist to increase the efficiency and effectiveness of that IA. While not a formal part of the five-phase federal IA process, this so-called **Phase 0** can be critical to increase Indigenous engagement and capacity, which are essential elements of IA efficiency and effectiveness.

As noted in the FNMPC's *Guide to Effective Indigenous Involvement in Federal Impact Assessment*, Phase 0 starts as soon as a developer starts seriously contemplating whether to pursue a project and lasts until IAAC's Phase 1 begins when the Agency posts the proponent's **Initial Project Description (IPD)** on the **IAAC registry** (FNMPC 2020a, 44).

Phase 0 is important for efficiency because it offers parties the chance to prepare, engage, and develop approaches that can greatly increase the effectiveness and pace of an IA and, more importantly, all this work is done “off the federal clock.” However, history demonstrates that proponents have not always taken full advantage of Phase 0 to engage First Nations, establish funding agreements, develop information requirements and data collection programs, and build trust and relationships with potentially impacted First Nations. Additionally, both the *Building Canada Act* and IAAC currently offers little in the way of guidance, let alone requirements, for this important preparatory period.

This section describes common challenges that arise in Phase 0 and offers potential solutions to promote early engagement and relationship building between First Nations, proponents, and the Crown.

## 1.1 INCREASE PHASE 0 PREPARATION AND ENGAGEMENT

Phase 1 of the federal IA system under the IAA (the “Planning Phase”) is designed in part to allow for more “early engagement” between IAAC, proponents, and First Nations. As one interviewee noted, “180 days [the Phase 1 IAA time limit] simply isn't enough for scoping and setting up relationships to ensure meaningful engagement on very large projects or where there are communities facing multiple projects at once.” Other interviewees added that important conversations between First Nations, proponents, and the Crown are often not happening, or not happening effectively, during early engagement, resulting in a laundry list of questions and concerns that remain unanswered and unaddressed. This serves as an early conflict generator, thereby reducing efficiency by potentially lengthening IA processes.

Sometimes, First Nations are notified about a project only after the IPD is posted. This is a problem because, if engagement has not occurred well in advance of this, make-up activities may need to be packed into the truncated Phase 1 period, including identifying and contacting potentially impacted First Nations; initial consultation; preparing a “summary of issues”; and developing plans and assessment guidelines (e.g., the Indigenous Engagement and Partnership Plan, the Impact Assessment Cooperation Plan, the Permitting Plan, and the Tailored Impact Statement Guidelines).

Although the Planning Phase can be extended by 90 days at the request of a relevant jurisdiction (Impact Assessment Agency of Canada 2022b), this only occurs at IAAC's discretion.

Where proponents do not take sufficient time and care to build relationships with First Nations sufficiently in advance of filing an IPD, serious issues can arise later in the process when those groups feel that they have been left out of planning processes or treated as an after-thought. Engagement and relationship building with potentially impacted First Nations must begin far in advance of Phase 1, before the formal IA “clock” begins ticking.

## 1.1.1 EARLY PLANNING AND ENGAGEMENT BETWEEN FIRST NATIONS AND PROPONENTS

There is no established standard regarding how early a proponent should engage with a First Nation or how long “Phase 0” should last. The length of time required will depend on the proponent’s goals, resources, and willingness to engage with First Nations in good faith, as well as the capacity and interest of the First Nation. However, Phase 0 should be initiated far enough in advance of the proponent’s desired IDP submission date that there is sufficient opportunity for First Nations to meaningfully contribute to the planning of the IA process and to the design of the project.

If proponents reach out to potentially impacted First Nations early on, the parties can establish agreements regarding roles, funding, values, approaches, and other requirements that can reduce deliberation and confusion once the project is in the IA system.

Early engagement can support IA process efficiency and effectiveness by:

- » Identifying all potentially impacted First Nations through early engagement activities, thus preventing future opposition from groups who believe they have been unjustly excluded;
- » Identifying First Nations’ IA priorities, objectives, and topics;
- » Identifying potential priority impacts, issues, objections, and other challenges early on;
- » Identifying available and missing information and what studies may be necessary to fill these gaps, and getting started on primary data collection programs;
- » Identifying potential mitigation, monitoring, and follow-up measures;
- » Involving First Nations in designing the IA process;
- » Giving advance opportunities for First Nations to influence project design; and
- » Facilitating First Nations’ understanding of the project.

If potential issues are addressed in Phase 0, it is less likely that delays will be necessary once the formal IA process begins. One interviewee noted that early engagement also allows for more focused studies that concentrate resources according to what is more relevant to potentially impacted First Nations, which in turn fosters greater process efficiency and effectiveness.

A First Nation can only engage in these tasks if it is made aware of the project. The responsibility for initiating Phase 0 engagement lies entirely with the proponent. Also, this work can only be accomplished if the proponent provides adequate Phase 0 capacity funding.

Early engagement does not guarantee an IA process free of challenges, disagreement, or delays. It may not be possible to accurately and fully identify—let alone reconcile—all issues during Phase 0. However, early engagement is a powerful way to “front-end load” identification of priority issues and information needs and to build proponent-Indigenous relationships, which sets the stage for more fluid and well-thought-out processes, and less friction, down the road.



### 1.1.2 EARLY PREPARATION AND ENGAGEMENT BETWEEN FIRST NATIONS AND IAAC

First Nations and IAAC can also come together during Phase 0 to establish agreements regarding roles, funding, values, approaches, and other requirements.

When proponents provide adequate lead time before filing an IPD, this is an opportunity for informal discussions between the federal Crown and First Nations about issues such as:

- » Community readiness to meaningfully engage in the IA process;
- » Values, issues, and impacts to focus on in the TISG;
- » What types of community studies or data collection are required;
- » Consultation requirements; and
- » Potential nation-to-nation collaboration and co-administration opportunities.

When the needs and values of First Nations are identified early on and communities play an important role in the development of the assessment process itself, there is a lower chance of disagreement and opposition throughout the entire IA process.

### 1.1.3 GUIDANCE ON PHASE 0

While it is not a formal phase defined under the Act, it has become increasingly apparent that Phase 0 is a critical phase. IAAC should develop formal guidance on how proactive and positive interactions during this crucial period, especially between proponents and First Nations, can reduce “drag” and time pressures during the subsequent, and often very rushed, Phase 1 of the IAA process. IAAC should consult with First Nations to draft guidance on how proponents and the Crown should engage with First Nations during Phase 0. This may include guidance for funding and when and how to engage.

Similarly, prior to designating a project under the *Building Canada Act*, the Government of Canada should make its position clear on how it views the nature and extent of the consultation required, as the Act simply states that consultation is a requirement.





## 1.2 INCREASE FIRST NATION CAPACITY FOR PHASE 0

**The three main ingredients in IA are time, people and funding. If there is a lack of funding or experienced practitioners, an IA will take more time. Increasing the pace of IA and regulatory processes without sacrificing their quality and defensibility requires more resources—namely, funding and human resources—to bridge this gap. These are fundamental realities that any effort to make IA and regulatory processes more effective and efficient needs to recognize and reconcile.**

Experts engaged for this paper identified a common assumption amongst proponents and governments that First Nations have both the experience and capacity to participate in IA, when in fact First Nations have widely varying abilities to do so. First Nations often have an interest in participation but lack the resources.

For IAs, most First Nations rely largely on ad hoc funding for participation and do not have sufficient ongoing, in-house capacity. Typically, most of the funding is from proponents and is negotiated on a project-specific basis. This negotiation in and of itself takes up valuable time and resources that could otherwise be spent identifying, assessing and addressing impacts. First Nations also frequently rely on external consultants who may not always have the full knowledge and context of their communities.

One interviewee noted that, while capacity supports such as funding are provided in IA processes, many critical conversations between proponents and First Nations occur *before* funding is released, or before First Nations can ensure the necessary capacity supports, such as staff and technical experts, are available to support their involvement.

Increasing the *general* capacity of First Nations to effectively participate in IA processes—that is, before a particular project is proposed increases their ability to meet deadlines and contribute in a meaningful way to the IA.

If First Nations are better equipped to participate on an ongoing basis, it increases the overall effectiveness of the assessment, which in turn increases its defensibility. For example, one interviewee concluded that while strengthening the capacity of Indigenous participants in IA may improve timelines, it more importantly enhances effective participation, resulting in a more holistic and legitimate IA.

### 1.2.1 CORE FUNDING AND TRAINING FOR STAFF

The lack of experienced First Nations IA practitioners reduces a First Nation's ability to make informed decisions about proposed projects and the efficiency of the time spent, pointed out one interviewee. Other interviewees noted that the technical nature and sheer volume of IA material are significant barriers to effective and efficient participation. Yet another interviewee said that this is further compounded by the fact that IA processes and requirements are constantly shifting as auxiliary legislation and guidance is released and revised. As a result, First Nations often seek the support of outside consultants and technical experts to assist in IA engagement. This forced reliance on external consultants is rarely conducive to building internal First Nation capacity to engage.

Accessible training opportunities in IA for First Nation staff (e.g., in Lands Departments) will also help First Nations overcome previous lack of in-house expertise. One interviewee suggests that in-house roles must transition from “jobs” to “careers,” stating that “it is critical for experienced Indigenous practitioners to be involved in environmental assessments, and experience only comes with time.” The accumulation of this experience, they argue, depends on adequate financial compensation for this work.

Increased funding and training for core staff will also help First Nations “front-end load” and develop advanced materials and procedures that can support meaningful proponent engagement prior to beginning individual Project assessments. For example, when First Nations have sufficient and consistent local resources, they can proactively conduct land use planning (see also section 1.2.5 below), traditional knowledge and land use studies, cultural rights inventories, and other work that can support their participation in future IA processes. This contrasts with the reactive character of most current rights and use studies, which are conducted in the context of project-specific IAs and depend on project-specific funding from proponents or the Crown. The Crown should create new funding opportunities and increase funding and access to existing programs, such as the IAAC Indigenous Capacity Support Program (ICSP). For example, the \$40 million that was announced recently by the Government of Canada to support Indigenous capacity does not represent a meaningful investment in ensuring that Indigenous rights-holders have the resources to make informed decisions in alignment with the principles of Free, Prior, and Informed Consent.

## 1.2.2 CLEARER EXPECTATIONS FOR PROPONENTS TO PROVIDE CAPACITY SUPPORTS TO FIRST NATIONS

First Nations typically rely on proponent funding to cover the bulk of their capacity requirements for every stage of the IA process, with the remainder covered by the Crown. The proponent is the party that wants to make a change to the environment; they initiate the process and should be responsible for covering the costs. Despite this, many proponents still treat capacity funding as a negotiation and seek to minimize their costs of supporting First Nations capacity. The amount of time and effort it takes for First Nations to access capacity funding from proponents can be a serious issue in IA. Contribution agreements are expected over and above government funding but negotiating them can take extensive time and effort and may actually “poison the well”, negatively impacting proponent-First Nation relations if the negotiations are protracted or adversarial in nature.

Currently, Canada’s guidance is unclear and inconsistent on when and how proponents should provide a First Nation with capacity supports. Canada can reduce funding shortages and prolonged negotiations by developing clear guidance and firmer requirements for proponents to fund Indigenous participation. While guidance is crucial, section 76 of IAA (2019) also allows for the development of regulations for *requiring* proponents to enter into a user pay/cost recovery system. No such regulation for “fees, charges or levies that are payable for the purpose of recovering all or a portion of any costs” associated with an IA has been enacted to date.

## 1.2.3 READINESS ASSESSMENTS FOR FIRST NATIONS

Given there is typically some lead time before IAs are likely to begin in an area with a burgeoning resource development sector (e.g., the Ring of Fire region in northern Ontario), it may be possible for the Crown and First Nations to work together to identify First Nations that:

1. Are most likely to see increased project-specific assessments in coming years; and
2. Have the highest need for increased capacity to meaningfully engage in the IA process.

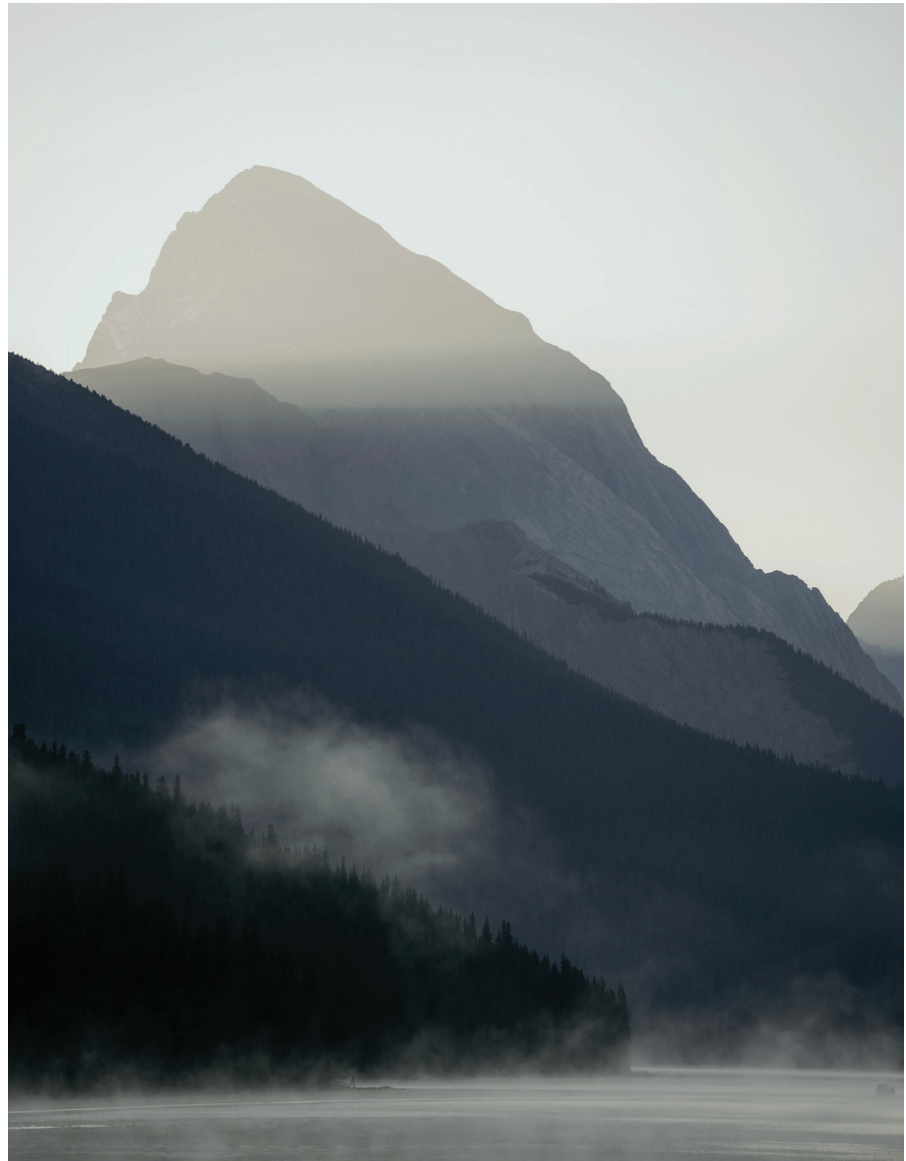
Another benefit of this approach is that a First Nation’s capacity gaps may be either comprehensive (e.g., a First Nation may have limited capacity in several areas) or focused (e.g., a First Nation may have one knowledge gap or staff position it needs to fill). A detailed readiness assessment can diagnose the nature and scope of the gap(s) and could lead to either comprehensive or targeted support through an existing funding program.

IAAC does publish general guidance on early engagement with Indigenous Peoples in IA processes under the Impact Assessment Act, which is available [here](#).

## 1.2.4 FIRST NATIONS DEFINE THEIR OWN USER PAYS SYSTEMS FOR PROJECT ASSESSMENTS

First Nations can increase their capacity by requiring, independently of Crown requirements, that project proponents provide funding for their participation in project-specific IA processes. These requirements can be made available to would-be proponents when they initially engage with the First Nation in question and can include a fee schedule tied to certain types and sizes of projects. Fees could also be associated with the priorities and objectives set out in a First Nation's land use plan. Several First Nations have already adopted such systems.

One issue with this approach is that proponents may not feel compelled to provide adequate funding to First Nations even in the face of a First Nation-defined user pay system. There may need to be backing mechanisms in the form of Crown support or direction for these systems.



## 1.3 SET UP SYSTEMS FOR COLLABORATION DURING PROJECT ASSESSMENTS

Proponents, agents of the Crown, and First Nations can use the opportunity during the “off the clock” Phase 0 to build partnerships and collaborative processes for conducting IAs. Lack of effort to build relationships during Phase 0 risks creating Indigenous distrust of the proponent and the Crown and may reduce Nations willingness and ability to participate in the project IA, which in turn affects efficiency in subsequent phases by creating the conditions for discord and opposition.

In the absence of agreements and systems that promote close collaboration and “equal footing”, First Nations invariably feel like the IA is out of their hands. Two interviewees noted that without agreements built on mutual trust, First Nations cannot assume that the IA system will look out for their best interests. They added that this distrust may result in First Nations being cautious or guarded during initial project discussions and unwilling to share their knowledge and meaningfully engage in the IA, complicating the engagement process. If a First Nation is not supported to engage in the process and share information to accurately identify impacts, disputes will inevitably arise when those issues surface. In contrast, early relationship building leads to early identification of priority concerns, which can lead to early impact avoidance and an overall smoother process. As one interviewee put it, “you can’t do a short [i.e., faster] impact assessment if those relationships are not already built.”

Phase 0 is an opportune time for building trust in the form of relationship agreements and development partnerships. Proponents and First Nations should engage early to develop project-specific or long-term collaboration agreements or partnerships, setting out mutually agreed-upon terms regarding governance, communications, benefits, and other key aspects of the relationship. This helps ensure First Nations can engage on their own terms to identify and address priority concerns. Proponents need to recognize that building relationships with First Nations early on can mitigate future legal battles that can delay or derail projects from proceeding (Sankey 2021).

### 1.3.1 RELATIONSHIP AGREEMENTS WITH THE PROPONENT

A project-specific relationship agreement between a First Nation and the proponent is an effective way of increasing the efficiency and effectiveness of an IA. First Nations and proponents can enter into relationship agreements that set out how the IA and other regulatory processes will be carried out, which can increase trust and participation and reduce confusion, multiple rounds of negotiation at each process step, and delays.

These agreements may take the form of collaboration agreements, engagement protocols, process funding agreements and memorandums of understanding (MOUs). The contents of relationship agreements vary. They may lay out communications mechanisms, decision-making processes, shared understandings and respective expectations, standards for future consultation and engagement, and benefits strategies. Specific to the IA process, they should include process funding, responsibilities, funds and timelines for conducting studies, and even **Valued Components** that must be included in the IA.

One interviewee stated that such agreements can “can foster a positive atmosphere for reaching consensus on specific issues or determining how processes should unfold.” Another interviewee added that more comprehensive relationship or partnership agreements<sup>6</sup> can support more efficient project reviews by ensuring that project vetting starts well prior to the beginning of the formal IA. One interviewee noted that relationship agreements create “greater alignment with the Indigenous approaches, the Indigenous views, [and] the Indigenous and interests” and can result in an IA that is “less likely to see points of disagreement or disengagement, or challenges in terms of bringing that project into alignment with the First Nation’s views and interests.”

<sup>6</sup> In this paper, a relationship agreement is one that defines and fuels how the proponent and a First Nation interacts during project assessment. A partnership agreement is where the proponent and the First Nation come to terms on some form of present or future joint ownership of some portion of the project. See section 2.3.2.



### 1.3.2 JOINT VENTURES ON PROJECTS

If a First Nation becomes a partner in a project, it can greatly increase its trust and participation in the project by ensuring a greater decision-making role both in the IA and the project, all of which can greatly increase regulatory efficiency and effectiveness. As with Impact Benefit Agreements, joint ventures can also increase the legitimacy of the project and secure the consent of the First Nation early on. Joint ventures can include direct ownership, equity stakes, royalties, or other types of revenue sharing mechanisms.

Having “skin in the game” means that the First Nation has something to gain from the project proceeding, and something to lose if it does not. It also means that a First Nation (presumably) has made the calculation that the project is likely to have enough benefits to offset adverse environmental effects.

**It is important to remember that the existence of a joint venture involving one First Nation does not mean that there will be no other First Nations that are impacted by the project that need to be properly engaged.**

The onus is on proponents and First Nations to investigate joint venture opportunities. The earlier in the project planning process the better from the perspective of improving IA efficiency and effectiveness.

These types of economic arrangements and partnerships should be considered when determining whether projects advance Indigenous interests under the new Building Canada Act.

### 1.3.3 PROJECT-SPECIFIC COLLABORATION AGREEMENTS BETWEEN FIRST NATIONS AND IAAC

First Nations can enter into collaboration agreements with IAAC before any project is announced, during Phase 0, and once a project is in the system.

IAAC should work to finalize more collaboration agreements with First Nations during Phase 0, when there is no formal “federal clock” putting time pressures on the parties. Where there is no formal pre-existing co-administration agreement between the Crown and a First Nation, it would be prudent for IAAC to work aggressively as early as possible in the process to develop collaboration agreements with First Nations. IAAC should provide financial capacity for these customized agreements to be negotiated, over and above project-specific participant funding.



<sup>6</sup> In this paper, a relationship agreement is one that defines and fuels how the proponent and a First Nation interacts during project assessment. A partnership agreement is where the proponent and the First Nation come to terms on some form of present or future joint ownership of some portion of the project. See section 2.3.2.

# PHASE -1: BEFORE PRE-ENGAGEMENT

FNMPD distinguishes between “Phase 0”, which is after a proponent has identified an interest in developing a project but has yet to file an IPD, from the even earlier “Phase -1”, where no specific projects are being considered and there is ample time to build systems up for greater First Nations involvement in subsequent IA and regulatory processes. The primary onus for fueling improvement should come from proponents and government. However, First Nations themselves may need to invest up front, using resources provided by industry and government or own-source resources, to develop their own stewardship and governance tools rather than having those tools imposed on them.

## 2.1 INCREASED GUIDANCE ON PRIORITY FIRST NATION ISSUES AND CONCERNS

The federal government has a large number of guidance documents available on its Practitioner’s Guide to the Impact Assessment Act website page that help all parties understand federal IA process expectations.<sup>7</sup> The lack of specific guidance on topics such as First Nations culture, First Nations socio-economic conditions, First Nations health and First Nations traditional land and resource use reduces the effectiveness of IA processes by creating unclear expectations and inconsistent practices by proponents during IAs, which in turn creates the conditions for disagreement and drawn-out and sometimes heavily adversarial processes.

### 2.1.1 GUIDANCE ON FIRST NATION IA TOPICS

To clarify expectations and streamline IA processes, IAAC and First Nations should further develop guidance on the following topics typically of heightened concern to First Nations.

- » General consultation/engagement requirements between proponents and First Nations, including principles and expectations for proponents and developments proposed within a First Nation’s territory, including capacity support for First Nation involvement (this type of guidance is generally for First Nations to create);
- » Guidance related to assessing impacts to Indigenous culture, socio-economic conditions, health, and traditional land and resource use;<sup>8</sup>
- » Federal or First Nation guidance on the role of First Nations-led studies in IA process (i.e., when to “hive off” studies that fit best within the local expertise of First Nations peoples) and guidance on specific studies that the First Nations expect to be afforded at least a “right of first refusal” to self-conduct, (e.g. Indigenous knowledge and land use studies).

By setting clear expectations for proponents for data collection and analysis during IAs **in advance**, this additional guidance would increase information and process requirement clarity. Further guidance on these issues will also help set clearer expectations and a measurable standard for First Nations engagement and First Nations-enriched<sup>9</sup> research, which will reduce the chance of disputes and delays throughout the process.

<sup>7</sup> See footnote #1 at page 5 above.

<sup>8</sup> Both IAAC and First Nations can develop such guidance, or endorse existing guidance such as the FNMPD’s Major Project Assessment Standard and its Guidance Appendices on each of the four topics. The FNMPD’s [Major Project Assessment Standard](#); its [Guidance Appendices](#).

<sup>9</sup> We use the term “Indigenous-enriched” instead of solely “Indigenous-led” because there may be capacity and workload factors for First Nations that reduce their willingness or ability to conduct their own studies in an IA, but they may still have scoping, engagement and verification requirements that would allow for proponent-led studies to be more “Indigenous-enriched.”

## 2.1.2 INDIGENOUS-DEFINED PROJECT IA RULES AND PROCESSES

First Nations can also develop their own protocols, rules, and requirements for how they will participate and engage in IAs in advance,<sup>10</sup> which can include requirements for:

- » Funding;
- » How First Nations Knowledge should be respectfully gathered and integrated into the assessment;
- » What other project and environmental information is required and how and when it should be provided—this may include formal information requirements that the First Nation requires all proponents to provide to the First Nation, which may be over and above federal Crown requirements;
- » When and how to consult with the First Nation, and on what issues; and
- » What aspects of the human and physical environment should be protected, and how; among other factors.

Developing these internal protocols and systems requires external capacity support; most First Nations cannot self-fund the development of these tools. The Crown should increase support for individual First Nations (as well as umbrella organizations such as tribal councils and regional or national assemblies) to develop their own requirements for IAs, which Nations can: (a) share with all prospective proponents as part of advance engagement and (b) have integrated into Tailored Impact Statement Guidelines (TISGs) for projects.

## 2.2 INCREASE FIRST NATIONS TRUST AND RELATIONSHIPS IN THE FEDERAL IA SYSTEM

Multiple interviewees flagged First Nations trust (in the IA process, the Crown, and proponents) as the foundational challenge to IA and regulatory efficiency and effectiveness. Many First Nations lack trust in the IA process. This is often due to a perception by First Nations peoples that their concerns will not be meaningfully assessed and addressed in an IA, which in turn affects whether and how First Nations participate. This can in turn impact the pace of the IA by creating or exacerbating conditions for disagreement and delay. Taking the time to build trust results in more efficient and effective IAs.

### 2.2.1 INCREASED EFFORTS TOWARD IAAC/INDIGENOUS GOVERNING BODY (IBC) CO-ADMINISTRATION AGREEMENTS

Both general and project-specific collaboration agreements between IAAC and individual First Nations can increase efficiency by setting out clear expectations and processes for funding, engagement, research, process management sharing and decision-making roles. The interviewees explained that this is an important way to increase efficiency that strengthens collaboration. To maximize the impacts of these collaboration and co-administration agreements,<sup>11</sup> the Crown should take greater advantage of existing legislation to enter into such agreements more frequently and with more First Nations.

<sup>11</sup> In this paper, collaboration agreements are any engagement/consultation agreement between the Crown and a First Nation for how the parties will interact with one another during an IA. IAAC provides opportunities to for any Indigenous groups to develop a collaboration agreement for any IA they are a party to. Co-Administration Agreements would be more formal jurisdictional sharing agreements as laid out in Section 114(1) of the IAA.

Governments (federal, territorial, and provincial) and IAAC may enter various forms of partnership, cooperation, and collaboration agreements with First Nations for the purposes of implementing IA processes. Agreements may concern a single proposed project or cover all prospective assessment processes for the First Nation, current and future. Although each agreement differs according to the needs, interests, and priorities of the First Nation concerned, they typically lay out consultation mechanisms and expectations as well as decision-making processes and authority.

The IAA does include provisions for the Minister to delegate an IA process, or aspects of it, to a First Nation. Under such an agreement, a First Nation would be able to make binding decisions through the course of the assessment process, either independently or jointly with the Agency (Impact Assessment Act 2019, 114(1)(e)). This would differ in certain key aspects from independent, Indigenous-led IAs by authorizing First Nations to administer specific parts of the federal assessment process and by recognizing this authority under Canadian law. All parties, including proponents, would be bound to the First Nations process decisions.

It should be noted that the Agency has yet to enter a formal co-administration agreement to date and is in the process of developing regulations to cover the sections of the Act that cover co-administration. As such, it is largely untested. The Agency is encouraged to expedite completion of its *Co-Administration Agreement Regulations*.

When the rules are set in stone between a First Nation and the Crown in advance, less time and effort will be taken in negotiating these terms within individual assessments, and efficiencies will grow each time the system is applied in practice.

## 2.2.2 ADDITIONAL CROWN CLARITY ON ROLE OF UNDRIPA IN IA/REGULATORY PROCESSES

Both the *United Nations Declaration on Indigenous People Act (UNDRIPA)* and the *Canadian Net-Zero Emissions Accountability Act* require First Nations be engaged during project assessments and decisions. However, according to interviewees, there is a lack of clarity on exactly how that should happen. This lack of clarity may cause significant uncertainty in an IA process.

Clarity on how First Nations are to be consulted and how their consent should be sought prior to any project's approval would increase efficiency by providing clearer requirements for proponents and agents of the Crown to resolve Indigenous concerns about impacts to their lands and cultures.

## 2.2.3 ESTABLISHING CROWN-INDIGENOUS RELATIONSHIPS BEFORE AN IA

Several interviewees identified the importance of Crown authorities “meeting First Nations where they are at” to build relationships well in advance of any individual IAs. One interviewee stated “regional offices should really be getting to know the First Nations and Métis communities within their region, rather than waiting for the project. Do the prep work.” Another noted that having Nation-to-Nation conversations outside the context of specific projects, and before specific projects enter the IA system, allows for early documentation of what a First Nation wants out of an IA process and can serve as a road map moving forward.



## 2.3 STREAMLINE ASSESSMENT SYSTEMS

The *Building Canada Act* presents one way to streamline project assessments. There are other ways to streamline the assessment system in partnership with First Nations.

### 2.3.1 IAA STANDARD REQUIREMENTS AND CONDITIONS FOR CERTAIN PROJECT TYPES

Certain project types may involve recurring concerns from First Nations. This may relate to certain economic sectors (e.g., metals mining, oil and gas, transportation, hydro-electricity, nuclear), certain scales (e.g., tied to project footprint size or production output), or a combination of both.

If IAAC were to collaboratively develop standard minimum project conditions that could be applied to certain project types and scales (an initiative that the FNMPC understands IAAC is working towards), this would create a baseline of required minimum conditions that could be applied to each applicable project once it enters the formal IA system.

A word of caution: this “Class IA” approach has been criticized by Indigenous Peoples in the past, who have expressed concerns about using a cookie-cutter approach that does not recognize the specific local geographical and cultural issues. The Class IA approach also risks creating not a “floor” for conditions, but rather a “ceiling” where no more innovative and precautionary conditions may be considered when such “standard conditions” are in place. Such an approach must not replace close collaboration in the development of customized conditions for specific projects. However, it may increase efficiency by having both a set of typical concerns “scoped in” for certain types and sizes of projects, and providing a baseline of standard applicable conditions as the “floor” for the specific IA.

Similarly, IAAC could work with First Nations to develop sector-specific addendums for the Tailored Impact Statement Guidelines. Developing a project-specific TISG is a labour-intensive process that requires significant engagement with all parties to identify issues and information requirements. Identifying common, recurring issues in advance that are likely to be in play during an assessment for a certain project type could save significant time and energy. To this end, the Agency could develop a series of sector-specific TISG templates to which project-specific and context-specific details can be appended.

It is especially important for First Nations to have co-development opportunities on any sectoral template, especially as it relates to traditional use, culture, Indigenous health, respectful integration of First Nations knowledge, First Nations consultation, and First Nations rights assessment.

### 2.3.2 REGIONAL AND STRATEGIC ASSESSMENTS

Regional and strategic assessments, both of which are allowed under the IAA, can increase the effectiveness and efficiency of IAs subsequent to them, by allowing for the collection of data or the creation of an assessment framework that can be applied to many projects at a later date. Such non-project-specific assessments may identify regional or strategic values, impacts, information sources and gaps, needs, monitoring programs, thresholds of acceptable change and standard conditions that can be used to inform project-specific assessments. They are powerful but underused tools for improving the efficiency and effectiveness of project-level IAs.

Overall, regional assessments can improve project-specific IA effectiveness and efficiency by:

- » Providing a database of information to inform project IAs, including indicators, thresholds, baseline information, change-over-time data, and current conditions;

- » Identifying the types of information required in a region and, in turn, informing the development of project-specific TISGs;
- » Helping to pre-identify potential mitigation measures or standard conditions based on anticipated impacts and cumulative effects;
- » Better positioning future project IAs to address both project-specific and cumulative impacts;
- » Assessing a region's social and environmental resilience and its ability to support future projects;
- » Identifying significant and sensitive communities or ecosystems within the region and ensure their ability to withstand impacts or serve key ecological and social functions; and
- » Establishing sustainability criteria and thresholds by which to gauge the effects of a specific project.

Regional assessments will be particularly effective in facilitating effective First Nations participation in IA processes if the regional assessments themselves are heavily informed by Indigenous values.

Strategic assessments, on the other hand, are meant to address systemic and policy issues rather than project-level or geographically specific concerns and can be used to refine government policy in relation to a certain technology type, policy, or overarching issue (e.g., climate change). These policies can then be used in project-specific IAs to help determine to what extent the project aligns with policy goals (Canadian Council of Ministers of the Environment 2009; Trottier-Chi 2023).

The federal government should increase its use of regional and strategic assessments and should ensure they are developed in close collaboration with First Nations.



## CONCLUSION

Indigenous peoples have too often and for too long been forced into the unfair situation of engaging in IA and regulatory processes that don't adequately address their concerns about impacts to their lands and cultures. However, if a First Nation has adequate capacity and is meaningfully engaged, and systems for collaboration are all in place early on, then there is a greater chance that friction and disagreement in the process will be limited. As a result, the total time between IA initiation and projects physically starting ("shovels in the ground") can be reduced.

If a First Nation is respectfully and meaningfully engaged early on, they may even agree to allow the process to be accelerated. Acceleration of IA/regulatory processes could become a reality if First Nations have an interest in seeing the project move forward. This will be the case if First Nations have confidence that negative impacts will be effectively avoided or reduced; positive impacts will be maximized; and the community's overall role in relation to the project is one of mutual trust, respect, and First Nations should expect skin in the game for all projects they are interested in and affected by moving forward.

Ultimately, First Nations need to be more than just "third parties" in project assessment and approval processes. More effective and efficient IA processes would be a welcome outcome from these more important overarching objectives: that when First Nations are truly able to steward their lands on their own terms and have an equal place at the table with proponents and governments, then reconciliation takes place.

With more effective and efficient Indigenous participation in IA and regulatory processes, Canada has a better chance to achieve its economic development targets, fulfill its fiduciary duties toward Indigenous peoples, and work toward meaningful reconciliation.



## APPENDIX A: LIST OF INTERVIEWEES

- » Barry, Ryan (Red Clay Environmental Solutions). September 12, 2023.
- » Bruce, Aaron (Aaron Bruce Law Corporation). August 23, 2023.
- » Crawford, Virginia (Impact Assessment Agency of Canada). October 10, 2023.
- » Haines, Mark (British Columbia Environmental Assessment Office). September 22, 2023.
- » Joe, Thomas (Impact Assessment Agency of Canada). October 10, 2023.
- » Laurie-Lean, Justyna (Mining Association of Canada). August 9, 2023.
- » MacDonald, Alistair (Firelight Research Inc.). October 27, 2023.
- » McCormick, Jesse (First Nations Major Projects Coalition). October 18, 2023.
- » Olszynski, Martin (University of Calgary, Faculty of Law). September 13, 2023.
- » Peletier, Renee (Olthuis Kleer Townshend LLP). September 14, 2023.
- » Shea, Tara (Mining Association of Canada). August 9, 2023.
- » Usborne, Anna (Usborne Environmental). August 23, 2023.
- » Whittaker, Robyn (Impact Assessment Agency of Canada). October 10, 2023.

The FNMPC is also appreciative of the inputs from Betty Patrick (Lake Babine Nation) and Tina Erickson Nak'azdli Whut'en), members of the Environmental Stewardship Technical Team's Indigenous Environmental Technical Advisors; Jesse McCormick (Chippewas of the Thames First Nation), Senior Vice President of Research, Innovation, and Legal Affairs, FNMPC; Dr. Suzanne von der Porten, Vice President of Clean Energy Strategy, FNMPC; and, Shaun Fantauzzo, Vice President of Policy and Major Projects, FNMPC.

# REFERENCES

This list of references includes direct references and indirect references that informed the research.

- Booth, A. L., & Muir, B. R. (2011). Environmental and Land-Use Planning Approaches of Indigenous Groups in Canada: An Overview. *Journal of Environmental Policy & Planning*, 13(4), 421–442. <https://doi.org/10.1080/1523908X.2011.635881>.
- Bruce, A. and Hume, E. 2015. The Squamish Nation Assessment Process: Getting to Consent. Ratcliffe & Company LLP, November, 2015. URL: <http://www.ratcliff.com/sites/default/files/publications/The%20Squamish%20Nation%20Process.%20Getting%20to%20Consent%20A%20Bruce%20and%20E%20Hume%20November%202015%20%2801150307%29.PDF>.
- Canadian Council of Ministers of the Environment. 2009. “Regional Strategic Environmental Assessment in Canada : Principles and Guidance.”
- Clyde River (Hamlet) v. Petroleum Geo Services Inc. 2017. SCC 40 (CanLII), [2017] 1 SCR 1069. <<https://canlii.ca/t/h51gv>>, retrieved on 2025-01-13.
- Coates, Ken S. 2020. “How Far We’ve Come: Indigenous Engagement with the Canadian Energy Economy.” Macdonald-Laurier Institute. [https://macdonaldlaurier.ca/mli-files/pdf/20201727\\_Energy%20Indigenous\\_Coates\\_PAPER\\_FWeb.pdf](https://macdonaldlaurier.ca/mli-files/pdf/20201727_Energy%20Indigenous_Coates_PAPER_FWeb.pdf).
- Expert Panel for the Review of Environmental Assessment Processes. 2017. Building Common Ground: A New Vision for Impact Assessment in Canada. Produced for the Minister of Environment and Climate Change. <https://www.canada.ca/content/dam/themes/environment/conservation/environmental-reviews/building-common-ground/building-common-ground.pdf>.
- First Nations Health Authority. 2025. <https://www.fnha.ca/>.
- First Nations Major Projects Coalition (FNMPC). 2018. EAO Revitalization Indigenous Engagement Costing Study. October 5, 2018.
- First Nations Major Projects Coalition (FNMPC). 2020a. “Guide to Effective Indigenous Involvement in Federal Impact Assessment.” [https://fnmpc.ca/wp-content/uploads/FNMPC\\_Guide\\_Oct15202\\_FINAL.pdf](https://fnmpc.ca/wp-content/uploads/FNMPC_Guide_Oct15202_FINAL.pdf).
- First Nations Major Projects Coalition (FNMPC). 2020b. “Indigenous Governance Priorities for Fostering Meaningful Collaboration in Federal Impact Assessment.”
- First Nations Major Projects Coalition (FNMPC). 2022. Indigenous Leadership and Opportunities in the Net Zero Transition. April 2022; prepared by Dr. Suzanne von der Porten, Mark Podlasly and Peter Csicsai. [https://fnmpc.ca/wp-content/uploads/FNMPC\\_Primer\\_04132022\\_final.pdf](https://fnmpc.ca/wp-content/uploads/FNMPC_Primer_04132022_final.pdf).
- First Nations Major Projects Coalition (FNMPC). 2024. Submission to the Impact Assessment Agency of Canada: Discussion Paper on Indigenous Impact Assessment Co-Administration Agreements. July, 2024.
- Fort Nelson First Nation. 2019 Watersheds Report Card. Produced for the Liard Basin Monitoring Initiative. [https://fortnelsonfirstnation.org/wp-content/uploads/2024/07/fnfn\\_watersheds\\_report\\_card\\_june\\_20\\_2019\\_web-compressed\\_1.pdf](https://fortnelsonfirstnation.org/wp-content/uploads/2024/07/fnfn_watersheds_report_card_june_20_2019_web-compressed_1.pdf).
- Government of Canada. 2012. Canadian Environmental Assessment Act, 2012. <https://laws-lois.justice.gc.ca/eng/acts/C-15.21/index.html>.
- . 2019. Impact Assessment Act. <https://laws.justice.gc.ca/eng/acts/I-2.75/index.html>.

- . 2021. Canadian Net-Zero Emissions Accountability Act. <https://laws-lois.justice.gc.ca/eng/acts/c-19.3/fulltext.html>.
- . 2024. Cabinet Directive on Regulatory and Permitting Efficiency for Clean Growth Projects. Privy Council Office. July 5, 2024. <https://www.canada.ca/en/privy-council/services/clean-growth-getting-major-projects-done/cabinet-directive.html>.
- Health Canada. 2021. “Health Canada’s Preliminary Input on Information That May Be of Relevance to The Potential Regional Assessment of the Saint Lawrence River Area under the Impact Assessment Act,” March 31, 2021. <https://registrydocumentsprd.blob.core.windows.net/commentsblob/project-80913/comment-53957/Health%20Canada%20St-Lawrence%20River%20RA%20Preliminary%20Info.pdf>.
- Impact Assessment Agency of Canada. 2022a. “Operational Policy Statement: Development of Tailored Impact Statement Guidelines.” <https://www.canada.ca/content/dam/iaac-acei/documents/policy-guidance/operational-policy-statement.pdf>.
- . 2022b. “Phase 1: Planning.” February 11, 2022. <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase1.html>.
- Indigenous Advisory Committee and Impact Assessment Agency of Canada. 2024. “Indigenous Co-Administration Agreements Discussion Paper.” <https://letstalkimpactassessment.ca/lets-talk-indigenous-co-administration-agreements>.
- Kebaowek First Nation vs. Canadian Nuclear Laboratories. (2025). 2025 FC 319. February 19, 2025. <https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/527544/index.do>.
- Mackenzie Valley Review Board. 2007. Terms of Reference for the Gahcho Kué Environmental Impact Statement. October 5, 2007. accessed at [https://new.reviewboard.ca/sites/default/files/project\\_document/EIR0607-001\\_Gahcho\\_Kue\\_Terms\\_of\\_Reference.pdf](https://new.reviewboard.ca/sites/default/files/project_document/EIR0607-001_Gahcho_Kue_Terms_of_Reference.pdf).
- Mackenzie Valley Review Board. 2011. “Scoping to Prioritize.” International Association for Impact Assessment, 31st Annual International Conference. Â Puebla, Mexico.
- Mohawk Council of Kahnawà:ke and Impact Assessment Agency of Canada. 2022. “St Lawrence River Regional Assessment Planning with Indigenous Partners.” In <https://conferences.iaia.org/2022/uploads/draft-presentations/St%20Lawrence%20River%20Regional%20Assessment%20Planning%20with%20Indigenous%20partners.pdf>.
- Native Women’s Association of Canada. 2025. <https://nwac.ca/policy/industrial-projects-and-impact-assessment>.
- Noble, Bram. 2020. “The Relationship between Indigenous-Industry Agreements and Environmental Assessment: Enhanced Credibility and Collaboration, or Undermining the Project Review Process?” In *Indigenous-Industry Agreements, Natural Resources and the Law*. Routledge.
- O’Faircheallaigh, Ciaran and Alistair Macdonald. 2022. “Indigenous Impact Assessment: A quiet revolution in EIA?” In *Routledge Handbook of Environmental Impact Assessment*, edited by Kevin Hannah, 221-238. Taylor & Francis Group.
- Osisko Gold Royalties Ltd. 2020. “Osisko Signs Agreement with Lhtako Dene Nation for the Cariboo Gold Project.” GlobeNewswire News Room (blog). October 13, 2020. <https://www.globenewswire.com/news-release/2020/10/13/2107507/0/en/Osisko-Signs-Agreement-with-Lhtako-Dene-Nation-for-the-Cariboo-Gold-Project.html>.
- Osisko Development. 2022. “Cariboo Gold Project, Chapter 11: Lhtako Dené Nation.” [https://projects.eao.gov.bc.ca/api/document/637fca48d0516b0022631200/fetch/Cariboo\\_Gold\\_Chapter11\\_Lhtako\\_Dene\\_Nation\\_October2022\\_Rev1.pdf](https://projects.eao.gov.bc.ca/api/document/637fca48d0516b0022631200/fetch/Cariboo_Gold_Chapter11_Lhtako_Dene_Nation_October2022_Rev1.pdf).



- Papillon, Martin, and Thierry Rodon. 2017. "Indigenous Consent and Natural Resource Extraction." Institute for Research on Public Policy. Montreal, QC, CA.
- Plate, Elmar, Malcolm Foy, and Rick Krehbiel. 2009. "Best Practices For First Nation Involvement In Environmental Assessment Reviews Of Development Projects In British Columbia," July.
- Regional Assessment Working Group. 2025. Terms of Reference for the Regional Assessment in the Ring of Fire Area. January 2025. <https://iaac-aeic.gc.ca/050/documents/p80468/160520E.pdf>.
- Rice, Abigail. 2020. Establishing a Framework for the Peaceful Enjoyment of the Traditional Territories of First Nations in Northeast British Columbia. M.A. Thesis, University of Saskatchewan, June 2020. <https://harvest.usask.ca/items/c9f3f76c-b31d-45d4-adfc-8cd191abbab2>.
- Sankey, Jennifer M. 2021. "Using Indigenous Legal Processes to Strengthen Indigenous Jurisdiction: Squamish Nation Land Use Planning and the Squamish Nation Assessment of the Woodfibre Liquefied Natural Gas Projects." PhD Dissertation, University of British Columbia. <https://open.library.ubc.ca/soa/cIRcle/collections/ubctheses/24/items/1.0402462>.
- Stk'emlúps'emc te Secwép'emc Nation. 2017. Honouring Our Sacred Connection to Pípsell. SSN Ajax Decision Summary. [https://stkemlups.ca/files/2013/11/2017-03-ssnajaxdecisionsummary\\_0.pdf](https://stkemlups.ca/files/2013/11/2017-03-ssnajaxdecisionsummary_0.pdf).
- Trottier-Chi, Calvin. 2023. "Streamlining Clean Growth Project Approvals with Strategic Assessments." Canadian Climate Institute (blog). November 30, 2023. <https://climateinstitute.ca/publications/streamlining-clean-growth-project-approvals/>.
- Tsleil Waututh First Nation. (Sacred Trust Initiative, Treaty, Lands and Resources Department). 2015. Assessment of the Trans Mountain Pipeline and Tanker Expansion Proposal. North Vancouver, BC. [https://twnsacredtrust.ca/wp-content/uploads/TWN\\_assessment\\_final\\_med-res\\_v2.pdf](https://twnsacredtrust.ca/wp-content/uploads/TWN_assessment_final_med-res_v2.pdf).
- United Nations. 2007. United Nations Declaration on the Rights of Indigenous Peoples. [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).
- Wright, David V. 2020. "Public Interest Versus Indigenous Confidence: Indigenous Engagement, Consultation, and 'Consideration' in the Impact Assessment Act." SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3692839>.

---

## PHOTO CREDITS

Cover: FNMPC Conference Image, Alexander Mills (Unsplash), Getty Images (Unsplash), Casey Horner (Unsplash)  
 Page 5: Casey Horner (Unsplash), Dan Meyers (Unsplash), Mariana Proenca (Unsplash)  
 Page 6: Red Zeppelin (Unsplash), Valeria Hunter (Unsplash), Divyanash Sagar (Unsplash), Benoit Deschassaux (Unsplash)  
 Page 9: Levi Meir Clancy (Unsplash)  
 Page 12: American Public Power Association (Unsplash), Ben Den Engelsens (Unsplash)  
 Page 15: Karl Paul Baldacchino (Unsplash), Alexander Mills (Unsplash), Mining Watch (Unsplash), Agnieszka Stankiewicz (Unsplash)  
 Page 17: Adobe Stock  
 Page 22: Adobe Stock