

Tool 2

Characterizing Existing Cumulative Effects on Indigenous Cultural Rights

Step 2 of Undertaking an Assessment
of Impacts to Cultural Rights



FIRST NATIONS
MAJOR PROJECTS
COALITION

THE INDIGENOUS CULTURAL RIGHTS AND INTERESTS TOOLKIT

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The Indigenous Cultural Rights and Interests Toolkit has been co-developed by the First Nations Major Projects Coalition (FNMPC) and its First Nation partners, the Anishinabek Nation, and Stellat'en First Nation, Nadleh Whut'en First Nation, Saik'uz First Nation, and Cheslatta Carrier Nation ("Carrier First Nations").

Cover artwork is created by Indigenous artist, Johnny Ketlo III who is a member Nadleh Whut'en located in north central BC. The Nadleh Whut'en community is a member of the FNMPC.

From FNMPC's perspective, cumulative effects assessment should be a core element of any major project assessment. Cumulative impacts are those which arise from the combined total effects from past, present, and likely future human actions, and the way in which potential project-specific effects may interact with these accumulated effects. Characterizing cumulative effects will assist in illustrating the ways that cultural rights have already been and still are being impacted by multiple cumulative stressors on the environment and people.

Purpose

By better understanding past and ongoing changes on cultural rights, a more detailed and accurate assessment of potential project impacts on cultural rights can be made. This characterization of cumulative effects is especially important when a First Nation has already faced significant cultural change through processes such as displacement and development within ancestral territories. As a result of past and ongoing existing cumulative effects and additional stressors, cultural rights may be more vulnerable to project impacts. For example, cutting down one of the last two trees in an area is more significant than cutting down one of the last two hundred trees. Cumulative effects analysis allows for diminished opportunities due to historical cumulative effects to be assessed. If the cumulative effects context is not understood, the extent of this vulnerability cannot be properly understood.



Terminology

The following terminology is used throughout this Tool. Definitions for each term are provided below.

- » **Cumulative Effects:** Changes to environment, rights, culture, and/or society that are caused by the combined effects of past, present, and future actions.
- » **Cumulative Effects Assessment:** The examination of how all past, present and likely future activities combine to impact an area or specific values (such as moose or salmon).
- » **Induced Effects:** “Knock on” or “spin off” effects caused as a result of the direct and indirect effects of a major Project (i.e., increased exploration and other industrial activities after the building of a new road into a previously secluded area)
- » **Temporal:** The scope of time considered, which may include past, present and future changes
- » **Vulnerability:** The lessened ability to withstand the effects of a harm or disturbance due to adverse effects suffered in the pre-Project circumstance

Cultural Cumulative Effects Assessment Principles

The First Nations Major Projects Coalition (FNMPC) provides guidance for major project assessment of cumulative effects in Principle 8 of its *Major Project Assessment Standard*. Designed to be read by Proponents and Government, these requirements provide a framework for an overall assessment of cumulative effects. Drawn from this work, the following principles reflect a consideration of cumulative effects assessment through a cultural rights lens and represent a series of principles that may be considered.

- » Cultural cumulative effects assessment should consider impacts to cultural rights across a large landscape and across the full extent of a Nation's traditional territory. This area may cross jurisdictional borders and boundaries, and some of this area may no longer be accessible. Cultural cumulative effects should therefore include the consideration of more than just "local" impacts.
- » Cultural cumulative effects assessment should consider a time frame which extends into the recent and distant past, as well as the likely (i.e., predictable) future. This means that known likely future projects – sometimes called "reasonably foreseeable future developments" - and other human caused changes such as climate change should be integrated into cultural cumulative effects assessment. Similarly, cultural cumulative effects assessment should take into consideration how cultural practices have changed over several generations.
- » Cultural cumulative effects assessment should encompass both human and natural drivers of change and evaluate trends of change in order to meaningfully capture how impacts have accumulated over time, to accurately assess current vulnerabilities, and to anticipate the potential future condition of cultural rights and values according to the assessed trajectory of change. Considering how specific effects interact with specific aspects of cultural rights can strengthen a cumulative effects assessment by meaningfully grounding it in concrete details.
- » The significance of cultural cumulative effects should be compared to past or lesser disturbed conditions (e.g., during pre-contact or pre-industrial periods) as opposed to current conditions which may already represent accumulated impacts and therefore serve as a flawed baseline against which to assess project-specific impacts.
- » Additionally, thresholds of acceptable change, identified by First Nations themselves, should be incorporated into cultural cumulative effects assessments in order to better understand discrepancies, where they exist, between the current condition of a given cultural right and the appropriate baseline against which those conditions can be evaluated. This can also point to ways in which the practicability of a cultural right may be ameliorated or diminished.

Approaches to Characterize Cumulative Effects on Indigenous Cultural Rights



Often, cumulative effects are determined through three steps:

1. Characterization of current conditions (*see Tool #1: Identifying and inventorying cultural rights*).
2. “Backcasting” or the establishment of historical context and change over time from a point in the past to the current conditions. It is important to keep in mind that backcasting is a challenging process requiring the collection of large amounts of information that is not always readily available or easily accessed; an extensive backcasting effort may require substantial time and resources.
3. Determination of potential project-specific impacts to cultural rights, including consideration of likely future impacts and changes (*see Tool #3 Identifying Impact Pathways, Conducting Effects Characterization, and Evaluating the Severity of Potential Impacts*).

The following list represents a selection of common approaches and methods available to First Nations to aid in the characterization of cumulative effects on cultural rights. These approaches can be used on their own or, preferably, in combination with one another (*see the description of triangulation in Tool #1*). The selection of an approach should be grounded in a First Nation’s worldview, community processes, needs, and available capacity and time. Contextual factors such as the Nation’s degree of alienation from the land and the type and location of the project should inform the selection of an appropriate approach. For example, while on-territory data collection may be an effective means of collecting information on past cumulative effects to cultural rights, if a community is alienated from their territory, such on-territory data collection may not be possible. Instead, a desktop-based exercise, such as a review of compiled community data and records may be more useful.

Direct Community Engagement Sessions and Surveys

Historical context and changes over time can be determined by engaging directly with Knowledge Holders, Elders, and community members. Through the inclusion of oral histories and stories, past practices, resources, values, and way of life, etc., can be determined. This can be done purely qualitatively through the collection of narratives/oral history. In addition, in some cases First Nations may choose to canvas members about how the quality and quantity of resources and experiences related to cultural rights have changed over time, overall and/or in specific culturally important locations. This can be accomplished, for example, using structured surveys where community members compare the quality and quantity of resources over time (e.g., “out of 10, where 10 is excellent, how was access to good moose habitat in the 1960s”, with the same question posed to participants for subsequent decades).

On-Territory Data Collection

On-territory data collection, conducted in collaboration with Indigenous community members, offers a unique opportunity to draw out firsthand observations, values, and changes over time. By traversing the territory together, community members can share their intimate knowledge of the land, revealing valuable insights into its significance, usage, and evolving dynamics. This approach fosters a deeper understanding of the community’s connection to their territory and ensures that their perspectives and experiences are accurately represented in research and decision-making processes.

On-territory data collection can take the form of a map. Unlike digital mapping methods, this approach uses paper maps, GPS devices, or smartphones/tables for mapping, rather than relying solely on digital tools such as Google Earth or ArcGIS. During the interviews, participants survey the area and discuss important cultural or environmental features, past and present community uses, oral histories associated with particular sites, and potential future uses of the area. Additionally, these interviews are typically recorded, and participants may collect additional media such as photos or videos to add to the database.

Compiled Community Data and Records

Community data and records may be useful in the establishment of historical context and changes over time. Reviewing records of things such as traditional territories, camping sites, trapping lines and hunting grounds supports the determination of whether and how these cultural practices have changed over time and as a result of past developments.

Ethnographic Data and Oral History

Ethnographic data refers to qualitative information collected through ethnographic research methods (e.g., field notes, interviews, observations, photographs, videos, artifacts, etc.). Oral histories are traditional narratives and stories that preserve cultural knowledge, traditions, and histories that are passed down through generations within communities. They provide rich narratives and cultural insights that highlight the historical and contemporary significance of the lands and waters that Indigenous peoples occupy. By documenting traditional practices, land uses, and knowledge transmission over time, this information enables researchers to identify things such as cumulative effects on the territory, for example changes in biodiversity, cultural landscapes, or resource availability.

Past Project Data and Records

As major project impact assessment requires the determination of baseline conditions, past project assessments may provide insight to how baseline conditions have changed over time as a result of project construction, operation, and decommissioning. It is important to note that many of these reports rely heavily on biophysical indicators (such as fish populations, toxicology, water flows, etc.) and have rarely included intangible cultural values (such as sense of place, identity, knowledge transmission, etc.).

Ecological Stock and Trend Data

Stock and trend data may be available both qualitatively from First Nation members through recall, and from scientific studies that have been conducted over time. Understanding if the amount of fish and wildlife in the First Nation's traditional territory has gone up, down or stayed in similar population numbers over time is important, as is understanding factors influencing changes in these stocks over time.

Mapping Data Showing Changes over Time in Land Use

The compilation of cartographic and other data about land cover and use are valuable in establishing changes in habitat availability and suitability over time, and both areal and linear disturbance levels where industrial, municipal, agricultural or infrastructure developments have been introduced to a First Nation's territory. The calculation of the amount of territory that is still available for "quiet enjoyment" of the natural environment can be critical to understanding the degree to which cultural rights are still practicable. And the presentation of these changes is inherently a visual exercise, allowing the First Nation members and other decision makers to see what has been lost and what remains in a way that the written word struggles to convey.

Summary

Cumulative effects assessment includes the consideration of impacts that arise from incremental and/or combined effects from past, present, and future human actions. This Tool can help develop an understanding and contextualization of a proposed project with respect to past changes, developments, challenges, etc. This may result in a more detailed assessment of potential project impacts to culture.

For further information, some examples of successful Indigenous cumulative effects studies include the resources listed below. While these cumulative effects assessment are not specific to cultural rights, the approaches may be applied to a cultural context:

- » **Samson Cree Nation Cumulative Effects Assessment:** Updated Analysis for Selected Valued Components Specific to the Edson Mainline Expansion Project
- » **Ktunaxa Nation Title, Rights and Interests:** Revelstoke Generating Station Unit 6 Project Environmental Assessment Certificate Application (see in Part C)
- » **Cumulative Effects on the Aboriginal Rights and Interests of Samson Cree Nation:** A preliminary desktop analysis of Valued Components in the project affected area of NOVA Gas Transmission Ltd. (NGTL) – 2021 System Expansion Project
- » **Okanagan National Alliance Title, Rights and Interests Submission to the Revelstoke Generating Unit 6 Project Environmental Assessment Certificate Application:** A study that implements a cumulative-effects lens to holistically assess project effects on the rights and interests of the Okanagan Nation

DISCLAIMER

This Toolkit has been developed from the perspective of the First Nations Major Projects Coalition (FNMPC) and does not represent the perspectives of the federal government, provincial governments, and territories, or industry. Although it represents a general First Nations perspective, it does not represent the specific perspective any First Nation as every First Nation will have its own distinct perspective.

The Toolkit is designed to provide support to First Nations that are engaging with project proponents in discussions about offsetting residual cumulative effects affecting cultural rights and values within their territories. The Toolkit is not to be viewed as prescriptive on how to assess impacts on cultural rights and each First Nation should determine its own method and process for assessing impacts on its cultural rights in accordance with its laws, methodologies, protocols, and processes. A First Nation that chooses to engage with a project proponent or the Crown in discussions regarding impacts on cultural rights may want to obtain legal advice prior to using this Toolkit in those discussions.

The Toolkit has not been agreed to or endorsed by the federal government, provincial or territorial governments, or by industry. Therefore, if a First Nation chooses to use any of the methodologies or processes in the Toolkit to assess impacts of a major project on its cultural rights, the results of the assessment are not legally binding on the other levels of government or project proponent. The First Nation will need to seek agreement with other levels of government and/or a project proponent on how to apply the results of the First Nation's assessment.

The Toolkit is designed to be a collaborative and led by Indigenous Groups. While collaborative implementation, coupled with capacity support, is an option to help foster relationships between proponents/government and Indigenous Nations, this Toolkit should not be unilaterally applied by industry or government. First and foremost, this Toolkit must be understood to be an Indigenous-led process, grounded in a community's principles and leadership.

Cultural rights and values must be viewed as sensitive information. The principles of First Nations ownership, control, access, and possession (OCAP) is included in the Toolkit, but we wish to make clear that this concept is not recognized as law or policy by other levels of government. A First Nation may take the position that OCAP protects their sensitive cultural information from public disclosure, but any information shared with the federal government and provincial or territorial governments may not remain confidential due to federal and provincial privacy laws and procedural fairness in regulatory processes. Therefore, a First Nation must continue to exercise caution when sharing information in such processes.

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