

Jurisdictional Scan of Environmental Impact Assessment Processes in **New Brunswick**



July 2026



**FIRST NATIONS
MAJOR PROJECTS
COALITION**

About the First Nations Major Project Coalition

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

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

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

Impact Assessments in Canada

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

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

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

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

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

Disclaimer

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

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

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

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

Glossary of Impact Assessment Terms

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

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

Certificate of Determination	Issued by the DELG Minister to allow a proposed project to be built following a Determination Review, subject to any conditions or additional licenses and permits.
Comprehensive EIA	An optional continuation of a Determination Review that is more complex, required when impacts are expected to be significant or when more information is needed on impacts.
Department of Environment and Local Government (DELG)	Department of the EIA Branch.
<u>Department of Indigenous Affairs (DIA) – Consultation and Accommodations Branch</u>	The government entity that directs First Nations consultation in New Brunswick.
Determination Review	All projects undergo a Determination Review, which requires the proponent to submit a registration document and can be concluded with the Minister issuing (or denying) a Certificate of Determination or determining that a Comprehensive EIA is required.
EIA Guidelines	Drafted by the TRC for a Comprehensive EIA, outlines the requirements for the proponent to complete an EIA Report.
EIA Report	Based on the EIA Guidelines, the proponent (or consultant) provides the study results, analysis, comparison of alternatives, proposed mitigations, and summary of proponent engagement with First Nations and the public.
Environmental Impact Assessment Branch (EIA Branch)	Responsible for organizing the Determination Review and Comprehensive EIA as needed. Provide guidance to the proponent on EIA practice and the necessary information.
Minister of the Department of Environment and Local Government	Minister of DELG, decision maker for Determination Reviews, provides recommendations for Comprehensive EIA when the Lieutenant Governor in Council is the decision maker.
Registration document	Initial information package on the proposed project. Its submission begins the Determination Review process.
Schedule “A” of the Regulation	The list of project types that are required to go through an EIA before being built.
Technical Review Committee (TRC)	A committee that is specifically assembled for each Determination Review from federal, provincial, and local governments and agencies. Review the registration document, request additional information when needed, and provide feedback.

Schedule “A” of the
Regulation

The list of project types that are required to go through an EIA
before being built.

Glossary of New Brunswick Legislation

[The Clean Environment
Act](#)

The legislation detailing environmental laws in New Brunswick.

[The Environmental
Impact Assessment
Regulation - Clean
Environment Act.](#)

The Regulation document under the *Clean Environment Act* that
details the EIA process.

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

Act that affirms the rights of Indigenous peoples and advances the
implementation of United Nations’ Declaration on the Rights of
Indigenous Peoples as an international human rights instrument
that can help interpret and apply Canadian law. It also provides a
framework to advance implementation of the Declaration at the
federal level.

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

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

Duty to Consult

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

Table of Contents

About the First Nations Major Project Coalition	2
Impact Assessments in Canada	2
Disclaimer	3
Glossary of Impact Assessment Terms.....	4
Glossary of Terms Specific to New Brunswick.....	5
Glossary of New Brunswick Legislation.....	6
Table of Contents.....	7
1. Introduction	8
1.1 Purpose of the Jurisdictional Scan.....	8
1.2 Aboriginal and Treaty Rights in New Brunswick.....	8
2. The New Brunswick Environmental Impact Assessment Process.....	8
2.1 Key Environmental Impact Assessment Legislation in New Brunswick.....	8
2.2 Overview of New Brunswick EIA Roles and Responsibilities.....	9
3. Overview of the New Brunswick 5-Phase Process	10
4. Indigenous Consultation in New Brunswick.....	17
5. Emerging EIA Trends in New Brunswick.....	18
6. Further Support and Guidance	19
References.....	20
Appendix 1: Summary Table of Impact Assessment Process in Canadian Jurisdictions	21

1. Introduction

1.1 Purpose of the Jurisdictional Scan

This Jurisdictional Scan is intended to provide First Nations in New Brunswick with an introductory roadmap to the provincial Environmental Impact Assessment (EIA) process. It summarizes information most relevant to relevant information in the EA legislation for First Nations and outlines how to maximize First Nation participation in the EIA process. Through effective involvement, First Nations can advocate for their rights and interests to be considered in decisions on major projects. In this manner, First Nations can better protect and advance their rights and interests.

1.2 Aboriginal and Treaty Rights in New Brunswick

New Brunswick lies within the unceded territory of the Mi'gmaq, Wolastoqiyik, and Passamaquoddy peoples, who are part of the Wabanaki Confederacy. In 1725, 1749, and 1752, the *Peace and Friendship Treaties* were signed between the British and the First Nations peoples of the Maritimes. The Treaties aimed to prevent hostilities against British settlers and British settler interference with Wabanaki hunting, fishing, and harvesting. These Treaties did not involve the surrender of land, and all of New Brunswick is subject to *Peace and Friendship Treaties*. First Nations in New Brunswick assert Aboriginal title and exercise treaty and Aboriginal rights under Section 35 of the *Constitution Act*, 1982.

2. The New Brunswick Environmental Impact Assessment Process

2.1 Key Environmental Impact Assessment Legislation in New Brunswick

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

1. The Canadian [Impact Assessment Act](#) (IAA) (refer to the Federal Jurisdictional Scan).
2. [The Clean Environment Act](#) and the following related regulations and guidelines:
 - a. [The Environmental Impact Assessment Regulation - Clean Environment Act](#);
 - b. [Projects that must be registered under the EIA regulation](#); and
 - c. [EIA, Sector Guidelines](#).

“One Project, One Review”

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

- Refer to this [webpage](#) for updates on the progress of the federal government and New Brunswick in negotiating Cooperation Agreements under the IAA.

Under the IAA, there are provisions for [Indigenous Co-administration Agreements](#). These agreements allow the Crown and [Indigenous Governing Bodies](#) to formally share decision-making at key points throughout the federal IA process.

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

There are two streams for EIA in New Brunswick.

1. A **Determination Review**, which requires the proponent to submit a registration document, and concludes with the Minister issuing (or denying) a **Certificate of Determination**; or
2. A **Comprehensive EIA Review**, which occurs in cases where the Minister suspects that project impacts may be significant or decides that more information is needed to further assess them.

While comprehensive EIAs offer additional opportunities for members of the public to provide input, First Nations, as rights holders, must be consulted by the Crown as per its Duty to Consult when there is potential for adverse impacts on their Indigenous Rights and interests. This Duty to Consult may be fulfilled as part of the EIA process or carried out through separate consultation discussions with the Crown.

2.2 Overview of New Brunswick EIA Roles and Responsibilities

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

Government Regulators	Environmental Impact Assessment Branch (EIA Branch)	Responsible for organizing the Determination Review, and Comprehensive EIA as needed. Provide guidance to the proponent on EIA practice and necessary information.
	Department of Environment and Local Government (DELG)	Department of the EIA Branch.
Other Government Bodies Involved	Department of Indigenous Affairs	Provide guidance and support to First Nations engaged in an EIA. Advise government regulators.
	Technical Review Committee (TRC)	A group of experts from various levels of government that review the registration documents for completeness. Requests additional information and studies from the proponent as needed.
	Independent Review Panel	Conduct public meetings for a Comprehensive Review.
Decision-Makers	The DELG Minister	Decision maker for Determination Reviews.
	The Lieutenant Governor in Council (Provincial Cabinet)	Decision Maker for Comprehensive EIAs and responsible for approving the denial of a project under a Determination Review.

Other Parties	Proponents	Complete the registration document, provide additional information to the TRC, consult with First Nations and the public.
	First Nations	Consult with the proponent, provide feedback, concerns, and information.

Learning Resources and Tools for New Brunswick

1. [A Guide to Environmental Impact Assessment in New Brunswick](#); and
2. [Additional guidance for registration documents within specific sectors](#).

3. Overview of the New Brunswick 5-Phase Process

Figure 1 presents an overview of the EIA process in New Brunswick, including both the steps for the Determination Review and for the Comprehensive EIA Review processes.

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

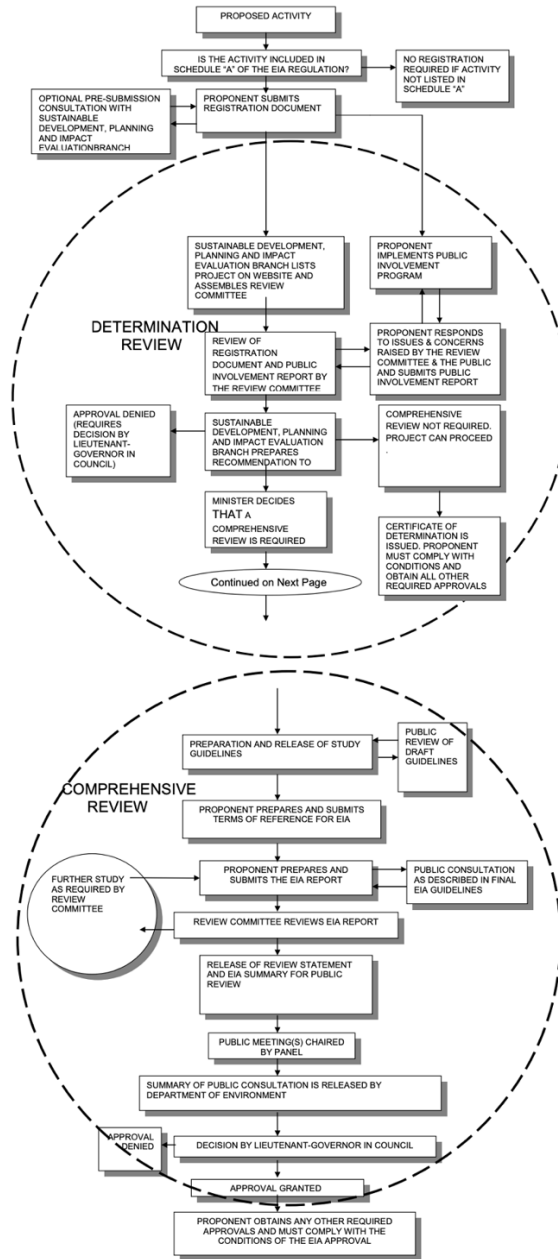


Figure 1: Environmental Impact Assessment Process (Department of Environment and Local Government 2012)

Phase 0: Early Engagement

New Brunswick does not have a formal “Early Engagement” Phase. However, proponents are encouraged to notify affected First Nations as early as possible. Phase 0 begins when the proponent(s) start considering a project or activity within First Nations’ territory. Phase 0 continues until the EIA officially begins in Phase 1, allowing everyone to prepare for the EIA process through early relationship-building.

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

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

Expected Outcomes of Phase 0 → Stronger early relationships and shared expectations that support meaningful First Nations participation in Phases 1 to 5.

Phase 1: Screening

The government body that oversees EIAs is the **Environmental Impact Assessment Branch (EIA Branch)** in the **Department of Environment and Local Government (DELG)**. During Phase 1, the proponent is encouraged to contact the EIA Branch if a proposed project is suspected to require an EIA. This would initiate technical advising and process guidance and give the EIA Branch advance notice on when to expect the **registration document**.

Phase 1 is not required. If the proponent does not initiate communication, the **Determination Review** would begin when the registration document is submitted. However, completing this step first allows the EIA Branch to screen the registration document before submission and determine whether the proposed project needs a Determination Review, a Comprehensive EIA Review, or can proceed without either and obtain any licensing or permitting, as needed.

The proponent is encouraged to reach out to any potentially impacted First Nations before beginning the EIA process. Similarly, First Nations are encouraged to proactively contact the (provincial and/or federal) Crown to report potential infringements of their rights.

Roles and Responsibilities	
Proponent(s)	Contact the EIA Branch for early screening and technical guidance on the registration document.
First Nations	If contact has been established with the proponent and/or the EIA Branch, First Nations can begin engagement and provide feedback. First Nations are encouraged to initiate contact with the Crown to ensure as early involvement as possible.
EIA Branch	If contacted by the proponent, provide technical and procedural guidance on the EIA process.

Expected Outcomes of Phase 1 → Beginning of communication and guidance between the proponent and the EIA Branch. Potential start of First Nations engagement. At this point, First Nations can directly shape how they want their participation in EIA to occur.

Phase 2: Registration

If the proposed project is on the [Schedule “A” of the Regulation](#), the proponent must submit a **registration document** to the **EIA Branch** that describes the location, activity, existing

environment, potential impact, and suggested avoidance or mitigation measures for the proposed work. The registration document contains:

- Proponent information;
- Description of the existing environment;
- Public and First Nations involvement.
- Project description;
- Identification of environmental impacts;
- Registration fee;
- Summary of proposed mitigations; and

The registration document is prepared at the proponent's expense and may require specialized consultants.

The EIA Branch has developed guidance for preparing the registration document in their [*Guide to Environmental Impact Assessment in New Brunswick*](#).

Registering an Existing Project for Modification, Extension, or Abandonment

If proponents are registering an existing project for modification, extension, or abandonment, a registration document may still be required, at the direction of the EIA Branch. These would include situations where there is:

- An increase of over 25% of the project footprint;
- Permanent increases in emissions; and
- A change in the purpose of a facility.

See the [*Policy on Modification, Extension or Rehabilitation of an Undertaking under New Brunswick's Environmental Impact Assessment Regulation*](#) for more information.

Proponent engagement with First Nations is required in Phase 2, and it is the proponent's responsibility to communicate, provide information, receive feedback, and report on engagement activities with First Nations, with the EIA Branch acting as advisor.

Roles and Responsibilities	
Proponent(s)	Prepare the registration document, including all relevant studies and reports, initiate engagement with First Nations (if not already done so).
First Nations	Engage with the proponent on project design and activities, provide feedback and concerns.
EIA Branch	Provide guidance to the proponent, First Nations, and any stakeholders as needed.

Expected Outcomes of Phase 2 → A completed registration document with all studies, impact predictions, mitigations, and a summary of proponent engagement with First Nations and the public.

Phase 3: Review

All registered projects go through a Determination Review, coordinated by a **Project Manager** in the EIA Branch and reviewed by a **Technical Review Committee (TRC)**. The TRC will be

specifically established for each Determination Review and consists of a panel of experts from federal, provincial, and local governments and agencies.

- The TRC may request additional information from the proponent, and the proponent must provide this information in a timely manner (as determined by the EA Branch).

The TRC and EIA Branch do not necessarily engage directly with First Nations. Proponents typically communicates with First Nations, as needed, following discussions with the TRC and EIA Branch.

Although the TRC may review project documentation for potential impacts on Indigenous rights, it does not replace the Crown's Duty to Consult with First Nations. The **Department of Indigenous Affairs**, often with support from the **Department of Environment and Local Government**, is responsible for carrying out consultation to ensure that Indigenous rights are appropriately considered in the Minister's decision. The EIA Branch takes the outcomes of consultation and includes it in the recommendation provided to the Minister.

- As in all jurisdictions, a proponent's engagement with First Nations can help support the Crown in fulfilling its Duty, but it does not relieve the Crown of its Duty to Consult with First Nations.

Roles and Responsibilities	
Proponent(s)	Comply with requests for information from the TRC, communicate with First Nations and the EIA Branch.
First Nations	Engage with the proponent on additional information requests.
TRC	Review the registration document and request additional information and studies from the proponent as needed.
EIA Branch	Based on the TRC's review, summarize the Determination Review and provide a recommendation to the Minister for a final decision.

Expected Outcomes of Phase 3 → A completed review of the registration document, as determined by the TRC and EIA Branch. The EIA Branch makes a recommendation to the Minister.

Phase 4: Outcome

The Minister of the Department of Environment and Local Government (DELG Minister) make the final decision on registration documents for Determination Reviews. When making its decision, the Department must be satisfied with the information provided by the proponent, including the registration document, responses to information requests, and a summary of engagement.

There are three possible outcomes of this stage:

1. Issuance of a **Certificate of Determination** by the DELG Minister :
 - a. The project may proceed, subject to terms and conditions posted on the public registry;
 - b. The proponent is notified of the Minister's decision within 30 days and may proceed with obtaining any required permits, licenses, and approvals; and

2. The Minister may suspend the Certificate if the proponent fails to comply with its conditions.
 - a. Requirement for a Comprehensive EIA (fewer than 1% of completed Determination Reviews):
 - b. Written notice is provided to the proponent, and a public notice is issued; and
3. The proponent must prepare a more detailed EIA submission, with enhanced engagement of the public, stakeholders, and First Nations (refer to Phase 5).
 - a. Denial of the proposal is (fewer than 0.5% of completed Determination Reviews):
 - b. With the assent of Cabinet, the Minister rejects the proposal, and the project is not permitted to proceed.

Roles and Responsibilities	
First Nations	No formal legal role in this phase, but First Nations can send letters to the DELG Minister if there are concerns.
DELG Minister	Makes the final decision on approval, denial, or the necessity of a Comprehensive EIA.

Expected Outcomes of Phase 4 → A decision whether to approve the project, reject the project, or submit the project to a Comprehensive EIA.

Phase 5: Comprehensive EIA (if required in Phase 4)

When the Minister determines that further assessment of the nature and significance of potential project impacts is needed under a Comprehensive EIA, the same TRC and EIA Project Manager from the Determination Review are retained by the EIA Branch.

The key steps of the Comprehensive EIA process are outlined below, with the [5 key opportunities](#) for First Nations involvement being bolded below:

1. Development of Guidelines for the Comprehensive EIA;
 - a. The TRC prepares draft guidelines that identify the environmental issues that must be included in the proponent's EIA Report.
 - b. DELG Minister releases draft guidelines for a 30-day public review period.
 - i. **Opportunity 1:** First Nations can participate in the public comment period to provide input for the EIA guidelines.
 - c. Final guidelines are issued by the DELG Minister within 60 days of the close of the public comment period on the draft guidelines.
2. Terms of Reference (TOR) Development:
 - a. The proponent develops TOR outlining the proposed approach to drafting the EIA Report.
 - i. **Opportunity 2:** First Nations can review and comment on the TOR and may also indicate an interest to the proponent to participate in certain studies required for the EIA Report.
3. EIA Report Preparation:

- a. The proponent conducts studies to gather additional information on the project's impacts on socio-economic, biological, and physical values, often with the help of expert consultants, to be able to evaluate the potential interactions between the environment and the project's activities.
- b. The proponent drafts the EIA Report, which includes a description of proposed mitigation measures and a summary of the proponent's engagement with First Nations and the public.
4. TRC's Technical Review of EIA Report:
 - a. The TRC reviews the draft EIA Report to determine whether the proponent provides sufficient information to support the identification of impacts and the identification of adequate mitigation measures.
 - i. **Opportunity 3:** First Nations are provided the opportunity to review the TRC's review and participate in public meetings led by an Independent Panel of Experts regarding the proposed project.
 - b. Following review, the TRC provides a recommendation to the DELG Minister about the proposed project.
 - i. If the TRC determines that the draft EIA Report is satisfactory, the Comprehensive EIA Process proceeds to Step 5.
 - ii. If the TRC determines that the draft EIA Report is not satisfactory, the DELG Minister advises the proponent to undertake required revisions.
5. Ministerial Review and Public Consultation:
 - a. The DELG Minister publishes the EIA Report, along with a **Summary of the Report** and a **General Review Statement**, for a 30-day public review period.
 - b. At least one public meeting is held (often the Independent Panel of Experts) to discuss the proposed project.
 - i. **Opportunity 4:** First Nations can participate in the public review period for the EIA Report or participate in public meetings.
 - c. After this public meeting, there is a 15-day review period.
 - i. **Opportunity 5:** First Nations can submit additional written comments about the proposed project during the final 15-day review period.
6. Decision-Making
 - a. After reviewing all information, the DELG Minister submits a recommendation to the Lieutenant Governor in Council, who makes the final decision.
 - b. If approved, the project may proceed with conditions, additional permitting requirements

Roles and Responsibilities	
Proponent	Draft the TOR, conduct and fund the EIA studies and reports, draft the EIA Report.
First Nations	Review and provide feedback on the EIA Guidelines, ToR, participate in additional studies, review the draft EIA Report, participate in public meetings, and provide written submissions to the EIA Branch.

EIA Branch	Provide guidance to the proponent, conduct public meeting(s) on the draft EIA Report, summarize public engagement, provide final report to the Minister.
TRC	Draft the Guidelines for the EIA, review the draft EIA Report for completeness.
Independent Review Panel	If necessary, chair public review meetings of the draft EIA Report.
DELG Minister	Approves the draft EIA Report to go to public review, provides recommendation to the Lieutenant Governor in Council on final decision.
Lieutenant Governor in Council	Final decision maker for the project, administers terms and conditions for project approval as needed.

Expected Outcomes of Phase 6 → The Lieutenant Governor in Council makes a final project decision, based on the recommendation from DELG Minister .

Available Funding for First Nations' Consultation and Participation

New Brunswick does not offer participant funding to support First Nations' participation in EIA processes. First Nations may need to engage with proponents for funding.

During joint federal and provincial assessments, First Nations can access participant funding through the federal [Participant Funding Program](#) (PFP) to support engagement and consultation (does not apply to New Brunswick-only reviews). To apply for this funding, First Nations must:

1. Access the application form for the assessment you are interested in on the [Federal IA Registry](#). Once downloaded, fill out the application with the correct information.
2. Submit the completed application form and supporting documents by email to fp-paf@iaac-aeic.gc.ca before the application deadline.

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

4. Indigenous Consultation in New Brunswick

The Consultation and Accommodations Branch of the [Department of Indigenous Affairs \(DIA\)](#) leads New Brunswick's [5-step Duty to Consult process](#), which runs parallel to the EIA process. While early engagement is not an official step, proponents are encouraged engage with First Nations during project planning.

The 5-step Duty to Consult process is as follows:

1. Step 1: Assessment
 - a. The DIA assess potential adverse impacts on established or asserted Aboriginal and Treaty Rights based on the proponent's project information.
 - b. First Nations are encouraged to submit information at this stage to identify or clarify potential impacts on rights and concerns related to a project.
2. Step 2: Notification and/or Initiation of Consultation

- a. First Nations are notified of the action being considered by the Province through a **Summary Description of the Action**, relevant information, and the outcome of the initial assessment completed in Step 1.
3. Step 3: First Nations Input
 - a. First Nations share information on their rights, potential impacts, and concerns with the DIA. Meetings may be held to as well, if needed, with the DIA.
4. Step 4: Further Consultation and Accommodation
 - a. The DIA and First Nations continue discussions around project impacts to identify potential mitigation or accommodation measures, including project changes, financial compensation, or First Nation involvement in project implementation and decision-making
5. Step 5: Evaluation and Determination
 - a. The DIA reviews the consultation process and reports to the DELG Minister or the Lieutenant Governor in Council the outcomes of First Nations consultation.
 - b. The DELG Minister or the Lieutenant Governor in Council must consider input provided during consultation to determine whether to:
 - i. Reject the proposed project;
 - ii. Approve the proposed project, with accommodations for impacts on Aboriginal and Treaty Rights; or
 - iii. A combination of these.

5. Emerging EIA Trends in New Brunswick

Approaches to Rights Impact Assessment

Various First Nation organizations in New Brunswick have begun developing their own Indigenous-led assessment (ILA) resources to support the evaluation of Aboriginal and Treaty rights in a manner that aligns with their own laws, values, and governance systems.

1. The [Mi'gmaq Rights Impact Assessment Framework \(MRIA Framework\)](#), created in 2020 by the [Mi'gmawe'l Tplu'taqnn](#) Inc. (MTI), provides a 8-step Mi'gmaq-led process to assess impacts to Mi'gmaq Rights and Title. It also outlines how proponents can seek consent and cooperation with the MTI First Nations.
 - a. In practice, New Brunswick has largely ignored the application of the MRIA Framework during EIA processes (NB Media Co-op 2025).
2. The [Wolastoqey/Wəlastəkwey Rights Manual](#), created in 2024 by Wolastoqey Nation, promotes understanding and respect for the Wolastoqey/Wəlastəkwey culture, history, and Treaty Rights.

Streamlining of the EIA Process and Implications for First Nations Consultation

With the passing of Bill C-5, titled the [One Canadian Economy: An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act](#), New Brunswick has been working with the federal government to support the streamlining of EIA and Indigenous consultations for major projects.

One major concern flagged with this streamlining is that, if a project is “primarily a federal undertaking,” the federal government will integrate the provincial EIA requirements into the federal EA process. This has been a concern for First Nations in New Brunswick, including MTI, given that the province has much weaker Indigenous consultation and engagement requirements when compared to the federal EA regime. There are long-standing concerns of the limited role of First Nations in the New Brunswick EIA process, which is largely limited to public engagement and consultation activities. First Nations are not provided a formal avenue to participate directly in the technical review component of the EIA process. As a result, the current provincial framework would not support a streamlined EIA process.

6. Further Support and Guidance

Support and Guidance Material for Further Learning

1. [Duty to Consult and Indigenous consultation policy](#); and
2. [Opportunities for Public and First Nations Involvement during a Comprehensive Environmental Impact Assessment \(EIA\)](#).

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

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

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

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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

Jurisdictional Scan of Environmental Impact Assessment Processes in New Brunswick

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