

CONSULTATION RENEWAL THEMES

**Please read before completing your pre-meeting survey. The survey will help focus the day’s discussion.
The ideas and tools for each discussion point will be discussed further at the engagement meeting.**

DISCUSSION POINTS	IDEAS/TOOLS	For Your Consideration on Some Ideas/Tools
<p>1. We have heard requests for greater First Nation (FN) and Metis Settlements (MS) participation in pre-consultation assessments.</p>	<p>A. Proponents could be required to submit all applications associated with the full scope of a project in one package.</p> <p>B. GoA could develop a public-facing online platform to communicate on all incoming applications, including associated activities.</p> <p>C. Consultation could occur earlier in the regulatory process, (e.g. scheme approvals, forest management, strategic municipal planning).</p> <p>D. Proponents could involve FNs and MSs with whom consultation has been triggered in the development of consultation plans, when a plan is required (Level 3).</p> <p>E. Government of Alberta (GoA) could update existing consultation area maps to include culturally sensitive areas.</p> <p>F. GoA could require formal cultural training programs for the Crown consultation officers and proponents.</p> <p>G. GoA could work with FNs and MS to establish clear and reasonable pre-consultation criteria for determining who to consult and the level of consultation.</p>	<ul style="list-style-type: none"> • 1A: the intention of this idea is to limit “project splitting”, i.e., numerous applications for one project. The goal is to assist FNs and MSs to review the overall project, and provide a fulsome perspective on potential impacts of the project, which would also inform an appropriate level of consultation. • 1B: this idea could be similar to how the NEB posts all applications on their external website (https://www.neb-one.gc.ca/pplctnflng/mjrpp/index-eng.html), thus providing FNs and MSs with early knowledge of proposed land and natural resource management activities in their consultation areas. • 1D: standards, timelines, and an approval process would need to be put in place for consultation plans. The intent is that collaborative development of Level 3 plans will foster relationship building and clear outcomes in the consultation process, creating certainty for all parties. • 1E: Clarity will be sought as to what constitutes a culturally sensitive area. Intent is to better inform which FNs and MSs should be consulted, and at what

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		<p>level.</p> <ul style="list-style-type: none"> • 1F: the intent is to foster relationship building between Indigenous communities, proponents, and the Alberta Government. • 1G: pre-consultation criteria used by the ACO and your notification package requirements would still be consistent, but could include new information that FNs and MSs state is required to improve their ability to participate in consultation.
<p>2. There have been some requests for the expansion of matters subject to consultation. While there is not full agreement on this, we would like to gather your thoughts and inputs on any such expansion.</p>	<p>A. Expand matters (of a certain size/scope) subject to consultation to include one or more of the following:</p> <ul style="list-style-type: none"> • Temporary field authorizations (TFAs) • Low-impact seismic activities • Water usage • Grazing leases • Pesticides/Herbicides • Private land activities • Disposal wells • Reclamation plans <p>B. No change to exemption list but could make all activities associated with an application publically available.</p>	<ul style="list-style-type: none"> • 2A: this idea is not proposing <i>all</i> TFAs be included for consultation, <u>but in some circumstances</u>, certain TFA activities leave permanent disturbances and could thus be considered for consultation. • 2B: is the same idea as 1B. In this context, it would enable FNs and MSs to review ‘no consultation’ activities in their consultation area and indicate if they want to be consulted, and why.
<p>3. We would like to get reactions to suggestions regarding increasing</p>	<p>A. Increase Level 1, 2, and 3 timelines (e.g. Level 1 & 2 - 5 days, Level 3 – 10 days)</p>	<ul style="list-style-type: none"> • 3A: timelines would still be clearly defined, but increased as suggested.

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the flexibility of the consultation process and timelines.	<p>B. GoA could develop criteria for adjusting consultation timelines for various reasons (e.g. death in community, local emergency, etc.).</p> <p>C. Do both options.</p>	<ul style="list-style-type: none"> • 3B: criteria would be clear and defined.
4. Thoughts regarding the inclusion of a policy statement pertaining to site assessments and site visits.	<p>A. Statement could recognize that Indigenous communities have their own consultation protocols, and a decision to support site visits is a business decision between the community and the proponent.</p> <p>B. GoA could develop a system for Indigenous communities to catalogue Traditional Land Use and Traditional Ecological Knowledge info.</p> <p>C. Do both a and b.</p> <p>D. Remain silent in regards to site visits/site assessments.</p>	<ul style="list-style-type: none"> • 4A: the intention is to acknowledge the value of the information obtained from site visits under certain circumstances, but not to make them mandatory. A best practice could be drafted in the policy to support a consistent approach to site visits. • 4B: the thought is that a centralized repository will enable greater data sharing among all parties, and could help inform pre-consultation assessments. Baseline information would grow over time.
5. Development of a standardized approach to accommodation and associated measures.	<p>A. Could expand current definition of accommodation to include some or all of the following (not exhaustive):</p> <ul style="list-style-type: none"> • Habitat replacement 	<ul style="list-style-type: none"> • 5A: the intent is to reduce inconsistencies in operational approaches to accommodation, and provide guidance for the implementation of agreed upon accommodation measures.¹

¹ Other jurisdictions have listed examples of accommodations in their guidelines, and which party is responsible. See Nova Scotia's Mi'kmaq consultation guidelines, page 26:

https://novascotia.ca/abor/docs/April%202015_GNS%20Mi'kmaq%20Consultation%20Policy%20and%20Guidelines%20FINAL.pdf

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	<ul style="list-style-type: none"> • Conservation offsets • Access (Crown Lands) • Biodiversity monitoring / community-based monitoring • Project modification 	
<p>6. Potential improvements to the consultation adequacy process.</p>	<p>A. Could require the Alberta Energy Regulator to provide the Aboriginal Consultation Office (ACO) with draft approvals prior to ACO’s final adequacy decision when potential site specific impacts to Aboriginal and Treaty rights and traditional uses have been identified that require mitigation.</p> <p>B. Could require proponents to cc (on email) FNs and MS when the final ROC is sent to the ACO for a decision of adequacy.</p> <p>C. Consultation Policy could include a policy statement that welcomes Indigenous communities to provide a submission to the decision maker for consideration prior to adequacy assessment.</p>	<ul style="list-style-type: none"> • 6A: the goal would be to maintain predictability in the consultation process while increasing transparency, and ensure that mitigations and commitments discussed during Crown consultation are included in the project application. The goal is greater information and communication between the ACO and the AER toward a more informed process and better relationships for all parties. • 6C: the goal would be to maintain a clear end point to the consultation process with timelines for receipt of such submissions.
<p>7. Exploration of the idea of a mechanism to resolve disputes around consultation adequacy decisions – Alternative Dispute</p>	<p>A. The ACO and other regulatory ministries could create an internal process for mediating disputes regarding consultation adequacy decisions.</p>	<ul style="list-style-type: none"> • 7A: the intent is to proactively address disagreements before escalation to judicial review.

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Resolution (ADR).	<p>B. Could establish an external and independent advisory group to resolve formal disputes.</p> <p>C. Should an ADR mechanism be pursued at all?</p>	
8. Increase alignment and transparency in consultation and regulatory processes.	<p>A. GoA could provide authority for the ACO to make decisions for all project-specific consultation on behalf of the Crown.</p> <p>B. Could work with the federal government to better align the federal and provincial consultation processes through formal mechanisms.</p> <p>C. ACO could work with AER to improve consultation processes by updating the Joint Operating Procedures (JOP).</p> <p>D. AER could support proponents in the consultation role of energy related projects (not including adequacy assessments or adequacy determination).</p>	<ul style="list-style-type: none"> • 8A: the intent would be to create a one-window approach to the implementation of Alberta's consultation policies and guidelines. • 8B: the goal is better communication and coordination between Alberta's consultation process and the Federal consultation process, which are currently independent of one another. • 8D: the suggestion here is that the AER could manage the consultation process on behalf of ACO solely for energy applications. The AER could undertake work with Indigenous Relations to design a revised approach to the consultation process and application review that would integrate the two processes.
9. Cumulative Impacts.	<p>A. Could include a statement in Consultation Policy that describes and recognizes the importance of mitigating cumulative impacts, referencing mechanisms (Land Use Planning).</p>	<ul style="list-style-type: none"> • Over the longer term, the overall intent is to assist the Crown in understanding the full scope of project impacts in an area. The regulatory process will continue to define proponent responsibilities.

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	<p>B. Could broaden the topics that are considered “in-scope” for consultation by directing consultation to include project-specific concerns - those attributable to a project, but not necessarily occurring within the project footprint – in addition to site-specific concerns.</p> <p>C. Could Indicate that GoA may refer cumulative impact concerns that cannot be addressed through a project-specific consultation process to a Crown agent, Crown-led initiative, or Crown-led process for consideration, or for use in informing cumulative effects management efforts.</p> <p>D. Could work with other departments to review role of Indigenous Communities in Environmental Impact Assessments (EIA).</p>	<ul style="list-style-type: none"> • 9B: the intent is to consider changes to harvesting locations over time, such as animal migrations and walking trails to harvesting areas, and to consider impacts on activities like hunting that encompass a large area. In addition, this could enable better consideration of “down-stream impacts” that can be attributed to a specific project. • 9D: the EIA process is already designed to consider cumulative effects – is there potentially a way to better address cumulative impacts to traditional land uses as a component of the EIA?
10. Consultation capacity funding	<p>A. Could require a flat fee for proponents for some or all consultation.</p> <p>B. Could require negotiation of consultation capacity agreements between proponents and Indigenous communities for Level 3 consultations.</p>	<ul style="list-style-type: none"> • 10A: Flat fee for Level 1 and Level 2; possibly Level 3 consultations as a contribution to Indigenous consultation capacity. • 10B: Requirement of consultation capacity agreements for level 3 projects to contribute to Indigenous consultation capacity.
11. Legislation and Consultation	<p>A. GoA could develop a broad based legislative approach on consultation on land and natural</p>	<ul style="list-style-type: none"> • 11A: Principles are based on the existing policy. Any regulations, orders and

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	<p>resource development that is focused on the principles of consultation, in the spirit of reconciliation and provides the ability to create regulations, orders and schedules on specific consultation elements.</p> <p>B. Could amend current legislation to increase Indigenous community participation in Environmental Impact Assessments.</p>	<p>schedules created would be those required through changes to the consultation policy.</p>