



# Land Development Workshop

## Environmental Considerations

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# Introduction

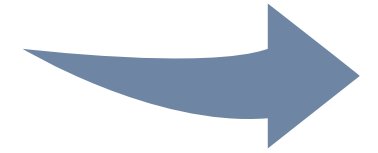
- Environmental Assessments
  - Interim EA Process
  - VS
  - First Nation EA Process
  - Sample EA Process
  - Other Environmental Considerations
  - Q&A



# What is an Environmental Assessment?

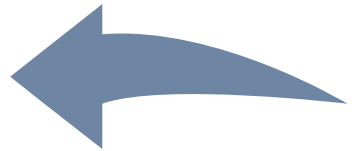
## EA Environmental Assessment

- A tool used for decision making by First Nations
- Predicts the potential environmental, social and cultural impacts of a project, before the project occurs
- Proposes mitigation measures to eliminate or reduce predicted impacts
- Includes community engagement



**EA's look ahead** to predict the environmental effects from a project before it occurs

**\*Not to be confused with:**



**ESA's look back** at past land uses to determine current environmental conditions

- Determines if the existing environmental condition of the land is suitable for the proposed development
- Typically completed in Phases (Phase I, II and beyond)
- A tool used to reduce environmental risk for proponents wishing to acquire an interest in First Nation land

## ESA Environmental Site Assessment

# EA Responsibilities Under The Framework Agreement

## The Interim EA Process

- Outlined in the First Nation's Individual Agreement with Canada
- Must be **generally** consistent with federal environmental assessment legislation (IAA or previous CEAA)
- **Only applicable until the First Nation develops their own EA process**

## First Nation EA Process

- A First Nation's EA process and/or EA Law can be specific to the First Nation
- Developed with consideration of the First Nation's concerns, culture, capacity and administrative structure
- Should be designed to include key elements of a good EA process
- Can start as a Policy that is later adapted into a Law

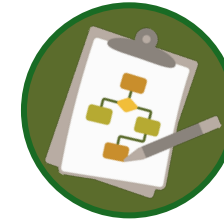
# SAMPLE Environmental Assessment Process

1

## Project Initiation

Proponent submits a project description/plan to First Nation.

- Location, Site Plan, Start Date, Construction Plan, etc.



2

## Determine if an EA is Required

An “EA trigger” occurs if a First Nation is:

- Approving;
- Regulating;
- Funding; or
- **Undertaking a project on First Nation Land.**

### “Exclusion List” Option:

First Nations may decide to develop a list of project types that are unlikely to result in adverse environmental effects, and which therefore **will not require an EA.**

3

## Proponent Notification

First Nation notifies proponent of EA Determination:

- If an EA is **not required**, the project can proceed
- If an EA is **required**, the project cannot proceed until the EA is complete



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## Community Consultation – Notice of an EA

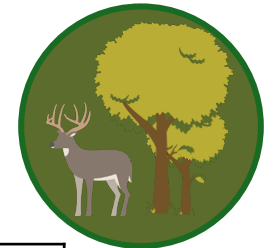
- The First Nation informs membership that a potential project on-reserve is undergoing an EA and Council will be required to make an EA decision.



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## EA Criteria\*

- The First Nation provides the proponent with the criteria or factors to be considered in their EA.



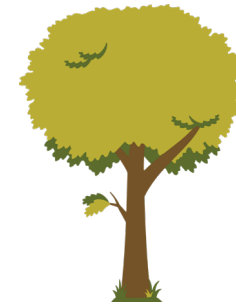
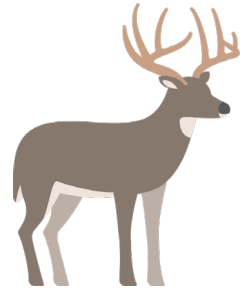
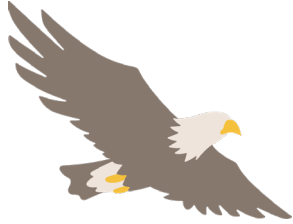
### Level of Assessment Options:

First Nations may establish different levels of assessment for different types of projects:

- Screening-level Assessment: for non-major, low risk projects
- Detailed, Project-specific Assessment: for major, high-risk projects

This is typically done by establishing a **“Major Project List” / “Designated Project List”**

# \*Step 5 Cont'd - Factors to Consider in an EA (Criteria)

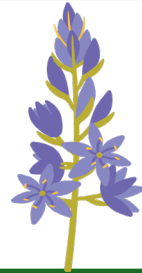


First Nations EA Processes can (and should) also consider what's important to your community. For example:



## Culturally Significant Areas

i.e., Archaeological sites, harvesting sites, spiritually significant sites



Traditional Plants, culturally significant wildlife and/or medicines



## Climate Change

i.e., Incorporation of a climate risk & vulnerability assessment

Baseline Conditions

Impacts from Project

Mitigation Measures

Environmental Effects

6

## Proponent Prepares EA Report

Proponent conducts EA studies based on the First Nation's EA criteria and submits the EA report to the First Nation for review.



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## Review of EA Report

First Nation reviews EA report.

- If necessary, the First Nation may require the proponent to provide funding to hire a third-party environmental specialist to review the report.
- If additional information or studies are required, the First Nation should notify the proponent and provide a list of the outstanding information.



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## Community Consultation - EA Report

- First Nation posts a copy of the EA Report for community review.
- First Nation may direct the proponent to participate in community meetings to present findings, discuss any significant concerns, and answer questions.



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## EA Decision

Based on the EA Report, community consultation and any recommendations from the First Nation's committees or departments, the First Nation Chief and Council make an EA decision:

- Taking into account proposed mitigation measures, is the project likely to cause adverse social, environmental, or cultural effects?
- If so, are those effects justified?



## Notice of EA Decision

- First Nation advises the proponent of the EA decision and posts a public notice to inform the community.

**Taking into account mitigation measures, Council determined that the project is:**

**Not likely to result in significant adverse environmental effects.**



The proponent may proceed with the project as planned, provided they obtain any necessary permits, approvals etc. under First Nation or applicable Federal laws prior to commencing work.

**Likely to result in significant adverse environmental effects, however, the effects are justified under the circumstances.**



The proponent may proceed with the project as planned, provided they obtain any necessary permits, approvals, etc. under First Nation or applicable Federal laws prior to commencing work.

**Likely to result in significant adverse environmental effects and those effects are not justified under the circumstances.**



The proponent may not proceed with the project as planned.

*Conduct any follow-up monitoring and reporting as necessary while project proceeds*

*\*If Enforcement is desired, EA Policy would need to be adapted into an EA Law, or Other Applicable Law*

# Other Environmental Considerations

During the development review process, also consider the following:

1. Does the First Nation have an Environmental Management Plan?	2. Are any other First Nation Environmental laws or policies applicable to the planned project?	3. What other federal or provincial laws may be applicable to the planned project?
<p>The Proponent should contact the lands office and review any applicable requirements within the First Nation's EMP.</p> <p>Examples:</p> <ul style="list-style-type: none"><li>• Best Management Practices for sediment and erosion control</li><li>• Environmentally Protected Areas</li><li>• Spill Prevention and Reporting</li></ul>	<p>Examples:</p> <ul style="list-style-type: none"><li>• Environmental Protection Law</li><li>• Soil Deposit and Removal Law</li><li>• Solid Waste Management Law</li><li>• Sewage and Effluent Discharge Law</li><li>• Forestry Law</li></ul>	<ul style="list-style-type: none"><li>• Fisheries Act</li><li>• Species at Risk Act</li><li>• Federal Migratory Birds Convention Act</li><li>• Environmental Protection Act</li><li>• Provincial or territorial water-taking legislation</li></ul>

# Thank you

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## Questions?



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