

**The Government of Alberta's Guidelines on Consultation with  
First Nations on Land and Natural Resource Management**

**May 9, 2014**

**DRAFT FOR DISCUSSION**

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# 1. Introduction

*The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management, 2013 (2013 Policy)* was released on August 16, 2013. The *2013 Policy* and this document, *The Government of Alberta's Guidelines for Consultation with First Nations on Land and Natural Resource Management (Guidelines)*, replace the 2005 policy and the guidelines established in 2007. To fully implement the *2013 Policy*, the Government of Alberta (GoA) committed to developing these *Guidelines* along with sector-specific consultation matrices (Appendix A). For a glossary of terms used in this document, please see Appendix C.

## A. Purpose of the *Guidelines*

The *Guidelines* provide an overview of the standards to follow in the consultation process and advice in how the duty to consult may be fulfilled. This document is intended to clarify expectations for the consultation process and provide direction to all parties in how to undertake a meaningful consultation process that meets the GoA's legal obligations. Because consultation is fact-specific, these *Guidelines* provide for a process that remains flexible to allow the GoA to carry out its duty to consult on a case-by-case basis. Therefore, these *Guidelines* only represent a starting point for this process. Each step in these *Guidelines* must be taken in good faith with the intent of substantially addressing First Nations' specific concerns in regard to potential adverse impacts on the exercise of Treaty rights and traditional uses, creating a meaningful process, a better understanding of the issues, and more positive relationships.

The *Guidelines* apply to all strategic and project-specific decisions that may adversely impact the continued exercise of Treaty rights and traditional uses. They are intended to be used in addition to statutory and regulatory requirements. Depending on the responses received from First Nations and the dynamics of the activities involved, a proponent may be required to repeat certain steps under these *Guidelines* or to take additional steps to ensure meaningful consultation.

## B. Crown's Duty to Consult and Accommodate

Various decisions made by the Supreme Court of Canada and the Court of Appeal of Alberta have confirmed that a duty to consult may be triggered when the Crown contemplates conduct that could have an adverse impact on the exercise of Treaty rights. The Court has identified consultation as the primary mechanism to manage the taking up of land under the Treaty and the balancing of the concerns of First Nations with the interests of all Albertans. The *Guidelines* are consistent with case law and demonstrate a practical approach to meeting the requirements established by the courts. This document will be updated periodically as case law evolves.

The Crown's duty to consult is rooted in the honour of the Crown and the protection afforded to Aboriginal and Treaty rights under Section 35 of the *Constitution Act, 1982*. Consultation is a process intended to help parties understand and consider the potential adverse impacts of anticipated Crown decisions on the exercise of Treaty rights and traditional uses.

For the purposes of these *Guidelines*, the term "Crown" is used interchangeably with "GoA".

The GoA recognizes that a duty to consult exists when:

1. Alberta has real or constructive knowledge of a right;
2. Alberta's decision relating to land and natural resource management is contemplated; and
3. Alberta's decision has the potential to adversely impact the continued exercise of a Treaty right.

Consultation may reveal a Crown duty to accommodate First Nations. The primary goal of accommodation will be to avoid, minimize, or mitigate adverse impacts of a Crown decision on Treaty rights or traditional uses. Furthermore, the Crown will consult in relation to potential adverse impacts on traditional uses as defined in the Policy.

Accommodation, where appropriate, will be reflected in the Crown's decision.

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## 2. Roles and Responsibilities in the Consultation Process

The GoA, Alberta Energy Regulator (AER), third parties such as project proponents, and First Nations all have roles and responsibilities within the GoA's consultation process. These roles and responsibilities are outlined in this section.

### A. The GoA

The legal responsibility for fulfilling the GoA's duty to consult with First Nations rests with the GoA. The GoA will undertake substantive aspects of consultation, including determining if the duty to consult is triggered, assessing which First Nations to consult and at what level, ensuring that First Nations are provided with sufficient information to describe the proposed decision or activity, gathering information on First Nations concerns, and determining what, if any, accommodation is required. In addition, the GoA holds overarching responsibility for overseeing and managing the procedural delegation of consultation to proponents described in detail in Section 3.

GoA decisions will generally occur within statutory and regulatory timelines and in accordance with the sector-specific matrices, where applicable. Depending on the potential adverse impact on the exercise of Treaty rights and traditional uses, the consultation issues raised, and the specifics of the proposed project or initiative, consultation timelines may vary.

Ministries with statutory and regulatory responsibilities related to Crown land in Alberta are responsible for ensuring that First Nations are consulted if there is potential for adverse impact on the exercise of Treaty rights and traditional uses. In some cases, ministries may be both responsible for ensuring that consultation obligations are met, while also carrying out the procedural aspects of consultation activity. In these cases, the ministry acts as a project proponent. In other cases, procedural aspects of consultation may be carried out by a separate proponent, while the ultimate decision on whether a duty to consult was met will be made by individual ministries.

Crown-led consultation may be carried out by the GoA on activities or decisions regarding land and natural resource development that have the potential for adverse impacts on the exercise of Treaty rights and traditional uses that could include, but are not limited to, the following examples:

- Regulatory change;
- Infrastructure and facility development;
- Policy development; and
- Planning initiatives.

#### i. Alberta Aboriginal Relations, Aboriginal Consultation Office

To strengthen the GoA's role in the First Nations consultation process, the GoA created the Aboriginal Consultation Office (ACO). The ACO, administered by the Ministry of Aboriginal Relations, was established to provide consultation management services to meet the needs of GoA ministries, First Nations, the Alberta Energy Regulator (AER), and project proponents, in a way that is efficient, coordinated, and consistent. The ACO has the following objectives:

- Uphold the honour of the Crown with respect to First Nations consultation for land and natural resource management matters in alignment with GoA priorities;
- Clearly discharge the legal duty of the Crown and ensure that the GoA works towards reconciling First Nations Treaty rights and traditional uses and the interests of all Albertans;
- Ensure consistency, certainty, and predictability with clear roles and a standardized process that First Nations, proponents, and the Crown can follow; and

- Enhance relationships with the federal and provincial governments, leading to a coordinated approach to First Nations consultation.

The ACO will support all GoA ministries with First Nations consultation and will support consistent application of policy, process, and best practices. ACO support will include the following:

- Pre-consultation assessment advice;
- Advice during the consultation process; and
- Recommendation on consultation adequacy.

For matters under the jurisdiction of the AER, the ACO will manage the consultation process and provide support for the following:

- Pre-consultation assessment;
- Direction and advice during the consultation process; and
- Decision on consultation adequacy.

## **ii. Alberta Environment and Sustainable Resource Development**

Alberta Environment and Sustainable Resource Development (ESRD), as stewards of air, land, water, and biodiversity, will lead the achievement of desired environmental outcomes and sustainable development of natural resources for Albertans. ESRD takes a cumulative effects management approach that establishes outcomes for an area by balancing environmental, economic, and social considerations and implementing appropriate plans and tools to ensure those outcomes are met.

The Stewardship Branch is a shared service function that provides Aboriginal policy advice, strategic and operational Aboriginal engagement, and consultation support to the ministries of Alberta Energy and ESRD.

Examples of initiatives requiring Crown-led consultation that are core to the business of Alberta Energy and ESRD include:

- ESRD provincial/regional policy development and implementation;
- ESRD management frameworks, sub-regional plans, and other planning initiatives (e.g., Caribou Range Planning and similar species-at-risk plans); and
- Regional planning under the Land Use Secretariat.

Examples of initiatives requiring proponent-led consultation pursuant to the 2013 Policy that will be supported by the ACO include those under the following legislation:

- Environmental Protection and Enhancement Act;
- Forests Act;
- Public Lands Act; and
- Water Act.

## **iii. Alberta Culture, Historic Resource Management Branch**

Alberta Culture's Historic Resources Management Branch (HRMB) is mandated to protect and preserve Alberta's historic resources under the legislative authority of the *Historical Resources Act (HRA)*, which applies to all lands within provincial jurisdiction, both publicly and privately owned. The *HRA* protects historic resources such as designated historic places, archaeological and paleontological sites, and historic buildings, while regulating development to preserve these significant historical resources.

Traditional use sites that are considered historic resources include, but are not limited to, burial grounds, ceremonial sites, gathering sites, and historic sites or ceremonial locations.

As part of the *Historical Resources Act* regulatory process, when a known traditional use site of an historic resources nature has the potential to be adversely affected by a development project, either consultation with the respective First Nation(s) or avoidance of the site may be required. First Nation traditional use sites of an historic resource nature that are known to Alberta Culture appear on the *Listing of Historic Resources (Listing)* as a generalized legal land description. The *Listing* informs developers of potential impacts their proposed project may have on a traditional use site of an historic resource nature, without revealing the specific location and information of the traditional use site.

Additionally, section 31 of the *HRA* states that a person who discovers an historic resource in the course of making an excavation for a purpose other than for the purpose of seeking historic resources shall notify the minister of the discovery. This section applies to newly discovered traditional use sites of an historic resource nature that are encountered during the development activities. If such historic resources are encountered and may be impacted by the proposed development, the proponent is required to notify Alberta Culture immediately.

#### **iv. Alberta Tourism, Parks and Recreation**

Alberta Tourism, Parks and Recreation (TPR), Parks Division, is responsible for regulatory and land management activities of Alberta's Parks system, including Wilderness Areas, Ecological Reserves, Natural Areas, Heritage Rangelands, Wildland Provincial Parks, Provincial Parks, and Provincial Recreation Areas. Willmore Wilderness Park is established and managed under its own Act.

Consultation may be required when TPR, Parks Division, is considering a decision that has the potential to adversely impact the exercise of Treaty rights and traditional uses. In specific circumstances, the following statutory and regulatory decisions made by TPR under Parks-related legislation may adversely impact Treaty rights and traditional uses:

- Regulatory and policy changes related to resource protection, resource management, land use, or activities in Alberta Parks system;
- Establishment of new parks or expansion of existing areas;
- Development of new facilities within parks;
- Re-designation of a park to a different classification;
- Development or revision of park management plans;
- Issuance of dispositions within the Alberta Parks system; and
- Issuance of research or collection permits within the Alberta Parks system.

#### **v. Alberta Municipal Affairs**

Alberta Municipal Affairs is responsible under the *Special Areas Act* for administering approximately 2.6 million acres of public land within southeast Alberta, which is administered by the Special Areas Board. The Special Areas Board is directly responsible to the Minister of Municipal Affairs.

Municipal Affairs is also responsible, through part 15 of the *Municipal Government Act*, for all functions of local government in improvement districts (IDs).

Consultation may be required when Municipal Affairs makes decisions associated with lands in the "special areas" or IDs that have the potential to have an adverse impact on the exercise of Treaty rights and traditional uses.

Municipal Affairs, under the purview of the *Municipal Government Act*, also provides support and advice to assist municipalities in providing Albertans with strong and effective local government. While First Nations consultation is the responsibility of the GoA, municipalities could be delegated some procedural aspects of First Nations consultation as a project proponent.

#### **vi. Alberta Transportation**

Alberta Transportation is responsible for road authorizations, planning, and other aspects of highway and bridge design. Consultation may be required in some cases, and Transportation may be a proponent for such projects.

#### **vii. Alberta Infrastructure**

Alberta Infrastructure is responsible for infrastructure planning, and building and managing government-owned infrastructure. Consultation may be required in some cases, and Infrastructure may be a proponent for such projects.

### **B. Proponents**

When considering proposals regarding land and natural resource management, Alberta may delegate procedural aspects of consultation to a third party, such as a project proponent. Proponents may include industry, municipal governments, or any other organization or individual requiring provincial approval. Procedural aspects of consultation to be delegated may include notifying and engaging with First Nations to discuss project-specific issues and possible mitigation. Delivery of procedural aspects of consultation is expected to comply with the *2013 Policy and Guidelines* and support Alberta's duty to provide meaningful First Nations consultation.

Section 3 of these *Guidelines* provides more specific information for proponent activities that are included in procedural aspects of consultation. Appendix A provides sector-specific consultation matrices to assist proponents in understanding the potential impacts of activities and how they influence consultation requirements. A proponent's guide to consultation will provide additional details on the consultation process (to be released with the final *Guidelines*).

Proponents are encouraged to notify and consult with First Nations as early as possible and must document their consultation activities, share their consultation record with First Nations and provincial staff, and advise the GoA of any issues that arise.

The GoA recognizes that many First Nations and proponents have longstanding and established relationships. The GoA encourages strong relationships and clear communication between proponents and First Nations.

### **C. First Nations**

First Nations are expected to participate in the consultation process in good faith. Where a First Nation asserts that their exercise of Treaty rights or traditional uses may be adversely impacted, they are expected to outline their concerns to the proponent, the location of the potential impacts, and how the proposed project creates a potential adverse impact.

When responding to written notification, the First Nation should name the specific project and clearly identify the potential adverse impacts on the exercise of their Treaty rights and traditional uses. First Nations are expected to respond within the timelines identified in the *Guidelines* and sector-specific matrices, if applicable, and to work with the GoA and project proponents on mitigating concerns.

## D. Alberta Energy Regulator

Pursuant to the *Responsible Energy Development Act* (REDA), the AER has jurisdiction for upstream oil, gas, oil sands, and coal activities. The AER has regulatory responsibility for the entire life cycle of upstream energy resource development in the province. To accomplish this, the AER delivers and is accountable for regulatory functions previously provided by the AER's predecessor, the Energy Resources Conservation Board, and by ESRD under the Specified Enactments (*Public Lands Act, Mines and Minerals (Part 8), Water Act, and the Environmental Protection and Enhancement Act*) in respect of energy resource development.

The AER requires applicants to meet the notification and consultation requirements imposed by the AER, such as those under Directive 056: Energy Development Applications. The AER has no jurisdiction to assess the adequacy of Crown consultation associated with the rights of Aboriginal peoples as recognized and affirmed under Part II of the *Constitution Act, 1982*, as noted in section 21 of REDA.

The ACO will work closely with the AER to ensure that any needed consultation occurs for decisions on energy project applications within the AER's mandate.

The AER categorizes approvals into three categories based upon consultation requirements assessed by the ACO. This information is for those who wish to understand how these processes are integrated.

AER's categorization	ACO's consultation requirement	ACO's required consultation steps
1	Level 1 – None	No consultation
2	Level 2A – Streamlined	Notification
	Level 2B – Standard	Notification with required follow-up
3	Level 3 – Extensive	Notification with required follow-up and consultation plan

### 3. The Process for Delegated Consultation on Resource Development Projects

ACO is responsible for managing the overall consultation process. It may delegate procedural aspects of consultation, including:

- Contacting First Nations by mail, telephone, or other means;
- Presenting and describing project plans and descriptions; and
- Modifying project plans in light of points raised during consultation.

ACO must directly carry out substantive aspects of consultation, including:

- Determining if the duty to consult is triggered;
- Determining which First Nations should be consulted;
- Determining the level and scope of consultation;
- Providing proponents with advice and any information that is available regarding potential adverse impacts to the exercise of Treaty rights and traditional uses;
- Advising First Nations and proponents of consultation requirements;
- Reviewing and approving consultation plans as appropriate;
- Directing proponents to provide First Nations with early and adequate notification;
- Monitoring proponent activities and evaluating consultation records;
- Assessing the adequacy of consultation; and
- Notifying First Nations and proponents about its decisions.

#### A. Consultation Triggers

Consultation with First Nations is triggered by an adverse impact on the exercise of Treaty rights or traditional uses. While this list is not exhaustive, the following types of decisions may produce such triggers:

- Regulation, policy, and strategic initiatives or changes to public access;
- Fish and wildlife management – A decision that may limit or alter the quality and quantity of fish and wildlife;
- Natural resource development – A decision about surface land activity related to petroleum, forestry, mines and minerals, and other forms of natural resource development; and
- Land use planning activities that provide a long-term framework for Crown decisions.

#### B. Pre-Consultation Assessment

The pre-consultation assessment is intended to:

- Assess the potential impacts of a proposed government decision or activity;
- Assess the scope of the duty to consult based upon the potential adverse impacts to Treaty rights and traditional uses;
- Determine whether or not consultation is required; and
- If consultation is required, determine the level of consultation and the First Nations to be consulted.

The pre-consultation assessment decision requires evaluation of two different types of information: the nature of the project and the nature of the location.

Projects vary in their potential to adversely impact the exercise of Treaty rights and traditional uses. The primary bases for project evaluation include the extent, intensity, and duration of the proposed activity.

Independently of the characteristics of a project, locations can vary in their sensitivity to impacts on the exercise of Treaty rights and traditional uses. Factors that influence site sensitivity include history of use and level of contemporary use, presence of special purpose sites, presence of sacred or ceremonial sites, presence of infrastructure or artifacts, and others.

It is important to recognize the presence of these two types of information in pre-consultation assessment decisions because they mean that a project that on its own may cause minor impact may require higher than normal levels of consultation if in a particularly sensitive site.

Figure 1 below presents a general approach that relies on an assessment of the potential physical impacts to the land (low/moderate/high) and potential impacts to Treaty rights and traditional uses (low/moderate/high) to determine consultation level. Scope of impact is based upon an assessment of magnitude, scale, and duration of an activity.

This consultation model is enhanced by the addition of a spatial element (e.g., GeoData) that captures and reflects First Nation areas of significance. The depth of consultation required may be elevated during the consultation process if information from First Nations demonstrates that potential impacts require more discussion. Using this matrix, those undertaking pre-consultation assessments must exercise interpretation based on the specific factors related to the activity or decision being considered.

<b>Site sensitivity</b>	<b>High</b>	Level 1 – no consultation	Level 3 – extensive process	Level 3 – extensive process	Level 3 – extensive process
	<b>Moderate</b>	Level 1 – no consultation	Level 2B – standard process	Level 2B – standard process	Level 3 – extensive process
	<b>Low</b>	Level 1 – no consultation	Level 2A – streamlined process	Level 2B – standard process	Level 3 – extensive process
		<b>No Impact</b>	<b>Low</b>	<b>Moderate</b>	<b>High</b>
		<b>Project characteristics</b> (magnitude, duration, intensity)			

**Figure 1: Project impacts and Treaty rights and traditional uses—A framework for assessing priorities and proposing consultation levels**

Industry-specific matrices of how project characteristics are evaluated for levels 2A, 2B, and 3 are contained in Appendix A. Similar matrices for Level 1 are located in Appendix B.

Pre-consultation assessments will follow these steps.

**i. Information review.**

After receiving a request for a pre-consultation assessment or for consultation advice from another ministry, the ACO will consider:

- Available information regarding the exercise of Treaty rights and traditional uses, including:
  - Information from Alberta Culture and

- Existing agreements or protocols between First Nations and the GoA;
- Whether the proposed activity can be regarded as having been adequately covered by a previous consultation; for example, because it is not expected to cause an adverse impact to the exercise of Treaty rights and traditional uses additional to the impact previously consulted on;
- Ongoing litigation or court decisions relevant to the decision or First Nation; and
- Maps depicting First Nations' areas of use or interest.

#### ii. Determination of the level of consultation.

ACO will provide proponents with guidance on what First Nations must be consulted on their proposal and the level and depth of consultation required.

Consultation is a dynamic process and requires flexibility. The level of consultation proposed at the pre-consultation stage may change as consultation progresses and new information is provided.

### C. The Consultation Process

#### i. Information package to First Nations.

The proponent will provide a comprehensive information package to the identified First Nations as early as possible, including:

- A description of the proposed activity;
- A description of the GoA or regulatory authorization being sought;
- Any information provided them by GoA about potential First Nations concerns in the area;
- A description of the consultation process to be conducted;
- Notice that the proponent has been advised to engage with the First Nation and share information about the proposed activity; and
- A request that the First Nation send feedback to the proponent within the prescribed time period about how the project may impact their First Nations Treaty rights and traditional uses.

#### ii. First Nation follow-up.

Within the prescribed time period of the First Nation receiving the information package, the ACO will expect the consulting proponent to follow up with the First Nation either to arrange further discussion on feedback or to again request feedback about how the project may impact their Treaty rights and traditional uses.

### D. Exploring Mitigation

Once the proponent engages with the First Nation about identified concerns, the parties are expected to discuss potential strategies to avoid or minimize the impact to Treaty rights and traditional uses and document those discussions in the consultation record.

ACO may consider the concerns raised by First Nations and seek to identify, through discussion with First Nations and relevant third parties such as project proponents, what mitigation measures may be appropriate to minimize potential adverse impacts.

Proponents are encouraged to consider options to avoid or mitigate impacts or concerns respecting Treaty rights and traditional uses brought forward during engagement with the First Nation. Such options could include changes in project timing, changes in project footprint or location, and many others.

## **E. Determination of Adequacy**

The ACO is responsible for determining the adequacy of consultation for activities requiring AER approvals. In other cases, ACO shall provide a recommendation to a Crown decision-maker on when consultation has been adequate. Although the optimal outcome of consultation is that all parties engaged in consulting can reconcile interests, agreement of all parties is not required for consultation to be adequate.

In assessing adequacy, the ACO will revisit the information gathered during the pre-consultation assessment information review and consider the following from within the proponent's record of consultation and any information provided by the First Nation.

- Were all identified First Nations provided project information and given an opportunity to participate in the consultation process?
- Did the proponent provide project-specific information within a reasonable time before approvals were required or the project was scheduled to start?
- If the First Nation provided specific information regarding how the proposed project may adversely impact their Treaty rights and traditional uses, did the proponent make reasonable attempts to avoid and/or mitigate those impacts?
- How does the proponent intend to mitigate any potential adverse impacts to the exercise of Treaty rights and traditional uses?

The ACO will verify the consultation record by having the proponent send a copy of the consultation log to the affected First Nations for their review. Where the ACO has regulatory authority, the record is verified and the consultation is determined to be adequate, the ACO will inform First Nations and project proponents of its assessment. The ACO may also provide assistance to ministerial or regulatory bodies in completing determination of adequacy.

If the proponent's consultation record appears incomplete, the ACO will work with the proponent to address any gaps. Also, if components of consultation remain outstanding, the ACO will consider whether it is appropriate to continue to involve the proponent or whether the GoA will complete the outstanding components.

## **F. Timelines**

ACO strives to process all assessments within the minimum time that allows for a thorough review of the potential for a project to impact the exercise of Treaty rights and traditional uses. It expects that first Nations and delegated proponents will devote the time to a consultation that is required to adequately address the issues identified and any others that may be discovered through their discussions. Within those general limits, ACO will act within the following timelines:

- Pre-consultation assessment: The ACO will complete pre-consultation assessments within 2 days for streamlined and standard processes and within 10 days for the extensive process.
- Consultation:
  - Level 1, no consultation – No further activity is required and therefore no further time is needed.
  - Level 2A, streamlined consultation – Notified First Nations have up to 15 working days to respond to notification. Consultation will conclude on or before 15 working days after First Nations response.

- Level 2B, standard consultation – Notified First Nations have up to 15 working days to respond to notification. Consultation will conclude on or before 20 working days after First Nations response.
- Level 3, extensive consultation – Notified First Nations have up to 20 working days to respond to notification. Consultation will conclude on or before 45 working days from the date of First Nations response.
- Adequacy assessment:
  - Level 2A – If consultation and documentation are adequate, up to 5 working days are required for adequacy assessment.
  - Level 2B – If consultation and documentation are adequate, up to 5 working days are required for adequacy assessment.
  - Level 3 – If consultation and documentation are adequate, up to 20 working days are required for adequacy assessment.
- These timelines may be extended for appropriate reasons in the appropriate cases.

## **G. Review**

As per the commitment made by the GoA to update the 2013 *Policy* annually, these *Guidelines* will also be updated annually. Feedback and comments from First Nations and proponents will be considered and incorporated as appropriate.

## **H. Contact Information**

For an up-to-date list of consultation contacts at the ACO, please refer to our website at <http://www.aboriginal.alberta.ca/575.cfm>.

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## Appendix A: Sector-Specific Consultation Matrices

The *Sector-Specific Consultation Matrices (Matrices)* complement the *2013 Policy and Guidelines* and function as tools to provide additional clarity on consultation processes for proponents and First Nations. The matrices identify the nature of the project, the potential impact and depth of consultation required, and the proposed timelines.

The *Matrices* are guided by the GoA's *2013 Policy and Guidelines*. However, the Crown must always assess consultation on a case-by-case basis and consider the specific circumstances to determine if there is a duty to consult and, if so, at what level that consultation should be undertaken. The level of consultation proposed at the pre-consultation stage may change as consultation progresses and new information is provided. Potentially adverse impacts to specific sites may also alter the consideration and rationale for consultation requirements.

Aboriginal traditional use sites, such as burial sites, ceremonial sites, historic structures, etc. may be considered historic resources under the *Historical Resources Act* (the Act). Alberta Culture identifies Aboriginal traditional use sites as an HRV 4c in the *Listing of Historic Resources* (the *Listing*). The *Listing* is a primary tool for regulating land-based development and is used exclusively to direct a proponent to apply to Alberta Culture for approval of a development under these circumstances. First Nation consultation may be required by Alberta Culture for HRV 4c sites that may be impacted by a proposed development. The presence of HRV 4c lands within a proposed project footprint may change the level of consultation required from streamlined to standard.

It is important to note that the *Listing* is only one tool that Alberta Culture uses to determine if an application for *Historical Resources Act* approval is required for all other types of historic resources (i.e., archaeological, palaeontological, historic).

Applies to <sup>1</sup>	NO CONSULTATION With Exceptions (See Sector-Specific Matrices)	Activities Requiring STREAMLINED CONSULTATION (See Rationale)	Activities Requiring STANDARD CONSULTATION (See Rationale)	Activities Requiring EXTENSIVE CONSULTATION (See Rationale)
<b>Forestry and Fire Management</b>	<ul style="list-style-type: none"> <li>• Annual operating plans (AOPs)</li> <li>• Herbicide plans</li> <li>• Site reclamation plans</li> <li>• Operational plan amendments</li> <li>• Prescribed burn<sup>2</sup> (Type 3)</li> <li>• Compartment assessment</li> <li>• Six-Mile Protocol</li> </ul>	<ul style="list-style-type: none"> <li>• FireSmart plans (vegetation management component only)</li> <li>• Herbicide applications that incorporate aerial broadcast spraying</li> <li>• Temporary roads</li> </ul>	<ul style="list-style-type: none"> <li>• Forest management agreement (FMA) renewal</li> <li>• New quota</li> <li>• New FMA</li> <li>• FMP amendment (e.g., mountain pine beetle amendment)</li> <li>• General development plan (GDP), Community Timber Permit Program (CTPP), FMA, and quota holders</li> <li>• Prescribed burn<sup>5</sup> (Types 1 and 2)</li> </ul>	<ul style="list-style-type: none"> <li>• Forest management plans (proponent- or ESRD-led)</li> </ul> <p>Note: Consultation on projects subject to regulatory approvals (e.g., Alberta Culture, NEB, AER, or AUC) should align with the requirements of the regulatory approval bodies.</p>
<b>Transmission Line and Utility Corridor</b>	<ul style="list-style-type: none"> <li>• Power lines (EZE, REA) and vegetative control easements (VCE) that overlap existing surfaces dispositions, with &lt; 5 m of new cut</li> </ul>	<ul style="list-style-type: none"> <li>• Power lines (EZE, REA) and vegetative control easements (VCE) that overlap existing surfaces dispositions, with &gt; 5 m of new cut</li> <li>• Power lines (EZE, REA) and vegetative control easements (VCE) that <b>do not</b> overlap existing surfaces dispositions and are &lt; 1 km long</li> </ul>	<ul style="list-style-type: none"> <li>• Power lines (EZE, REA) and vegetative control easements (VCEs) that <b>do not</b> overlap existing surfaces dispositions and are &gt; 1 km long</li> </ul>	<ul style="list-style-type: none"> <li>• Large-scale regional transmission line projects</li> </ul>

<sup>1</sup> These matrices apply only to lands administered under the *Public Lands Act*.

<sup>2</sup> Types of prescribed burns:

**Type 1 burn** - Most complex and greatest potential for impact. Requires a detailed plan and proposal. Involves standing timber.

**Type 2 burn** - Complex and some potential for impact. Requires a detailed plan and proposal. Generally involves standing timber.

**Type 3 burn** - Least complex with little or no chance of impact. Generally consists of annual hazard reduction involving burning off grass meadows, lesser vegetation, etc. There is no detailed planning and approval process.

Applies to <sup>1</sup>	NO CONSULTATION With Exceptions (See Sector-Specific Matrices)	Activities Requiring STREAMLINED CONSULTATION (See Rationale)	Activities Requiring STANDARD CONSULTATION (See Rationale)	Activities Requiring EXTENSIVE CONSULTATION (See Rationale)
<b>Geophysical</b>	<ul style="list-style-type: none"> <li>• Low impact geophysical (non-intensive 3D and 2D)</li> <li>• Six-Mile Protocol</li> </ul>	<ul style="list-style-type: none"> <li>• Intermediate intensive 3D</li> </ul>	<ul style="list-style-type: none"> <li>• Intense 3D; time-lapse 4D</li> </ul>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>
<b>Coal, Minerals, and Quarries</b>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>	<ul style="list-style-type: none"> <li>• Coal exploration programs (CEPs)</li> <li>• Other mines and minerals exploration (MME)</li> </ul>	<ul style="list-style-type: none"> <li>• All-weather roads (haul roads, access roads) (other associated dispositions)</li> </ul>	<ul style="list-style-type: none"> <li>• Coal mines (with exceptions – see rationale)</li> </ul> <p>Note: Consultation on projects subject to regulatory approvals (e.g., Alberta Culture, NEB, AER, or AUC) should align with the requirements of the regulatory approval bodies.</p>

Applies to <sup>1</sup>	NO CONSULTATION With Exceptions (See Sector-Specific Matrices)	Activities Requiring STREAMLINED CONSULTATION (See Rationale)	Activities Requiring STANDARD CONSULTATION (See Rationale)	Activities Requiring EXTENSIVE CONSULTATION (See Rationale)
<b>Pipelines</b>	<ul style="list-style-type: none"> <li>• If a pipeline is bored, and there is no disturbance on the land</li> <li>• Pipeline installation lease (PIL) (exceptions)</li> <li>• Six-Mile Protocol</li> </ul>	<ul style="list-style-type: none"> <li>• Small power lines and pipelines (&lt; 1 km long) or pipelines bundled with single well site with associated facilities, access, pipelines (&lt; 5 ha total size)</li> </ul>	<ul style="list-style-type: none"> <li>• Gathering pipelines (&gt; 1 km long) or pipelines bundled with larger sites or projects (e.g., multiple well sites) with associated facilities, access, etc. (&gt; 5 ha total size)</li> </ul>	<ul style="list-style-type: none"> <li>• Large-scale pipeline projects</li> </ul>
<b>Sand and Gravel</b>	<ul style="list-style-type: none"> <li>• Surface materials<sup>3</sup> exploration (e.g., SME, TEP)</li> <li>• Six-Mile Protocol</li> </ul>	<ul style="list-style-type: none"> <li>• Sand and gravel sites and/or projects with associated infrastructure<sup>4</sup> (&lt; 5 ha total size) subject to the requirements for TFAs, DOAs and SMCs and require a <i>Water Act</i> authorization</li> <li>• Associated infrastructure may require LOCs for access roads, disposal sites etc. and MLLs for buildings, structures, facilities, equipment, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Sand and gravel sites and/or projects with associated infrastructure (&gt; 5 ha total size) subject to the requirements for surface materials leases (SML) and are subject to an EPEA and a <i>Water Act</i> authorization</li> <li>• Associated infrastructure may require LOCs for access roads, disposal sites etc. and MLLs for buildings, structures, facilities, equipment, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>
<b>Petroleum, Natural Gas, and Oil Sands</b>	<ul style="list-style-type: none"> <li>• n/a</li> </ul>	<ul style="list-style-type: none"> <li>• Single well site with associated facilities, access, pipelines (≤ 5 ha total size)</li> </ul>	<ul style="list-style-type: none"> <li>• Medium-sized sites or projects (e.g., multiple well sites<sup>5</sup>) with associated facilities and access (&gt; 5 ha total size)</li> <li>• Oilsands exploration (OSE) programs</li> </ul>	<ul style="list-style-type: none"> <li>• Large multiple well site<sup>5</sup> or in-situ projects with associated facilities and access (e.g., SAGD)</li> <li>• Seasonal drilling programs with landscape-level impacts</li> <li>• Oilsands mines</li> </ul>

<sup>3</sup> Surface materials for the purpose of this guide include marl, clay, silt, sand, gravel having a depositional history that is not associated with the bedrock formation.

<sup>4</sup> Infrastructure is defined as any works, buildings, structures, facilities, equipment, apparatus, mechanism, instrument or machinery belonging to or used in connection with a pit, and includes any storage site or facility, disposal site or facility, access road, haul road, railway, or telecommunication line.

<sup>5</sup> Multiple well sites refers to multiple well pads and not to multiple holes drilled on a single pad.

## Rationales

First Nations Consultation Decision Table Rationale – Forestry and Fire Management		
<p><b>Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.</b></p>		
Consultation Level	Activity	Rationale
<b>Levels 2A and 2B: Streamlined and Standard Processes</b>	Forest management agreement (FMA) renewals	No lands are being “taken up”; this is a renewal of an existing contract agreement between the GOA and a forest company to manage the timber resource on a sustainable basis. Duration is between 10 and 20 years. There is no activity on the lands being proposed at this stage; however, the agreement is within an area of existing activity and where access already exists.
	FireSmart plans (vegetation management component)	No lands are being “taken up”. The plans consist of vegetation management prescriptions and restricted access to area during operations may occur (particularly if controlled burning is prescribed). Vegetation management prescriptions may take place over multiple years and potential adverse impacts to land are mitigated through approval conditions and operating ground rules (OGRs). Total size of area planned for activities may be moderate to large.
	Prescribed burn plans – Types 1 and 2	No lands are being “taken up”. The intent of burn prescriptions are typically to reduce wildfire threat; enhance wildlife habitat; or to reduce, contain or control potential spread of pathological agents and insect outbreaks. There are possible short-term impacts to some traditional use areas such as for plant gathering. Total size of area may be moderate to large.
	Issuance of new forest tenures <ul style="list-style-type: none"> <li>• Forest management agreements</li> <li>• Coniferous timber quotas</li> <li>• Deciduous timber allocations</li> </ul>	No lands are being “taken up”. The total size of area implicated may be moderate to large. Historically, these lands may not have had the intensity of timber harvesting being considered under the proposed new tenure. No activity on the lands is proposed at this stage.
	Temporary roads	Requires <i>Public Lands Act</i> dispositions; short to moderate duration (usually only during construction phase); total area size is small; usually within an area of existing activity or where access already exists.

### First Nations Consultation Decision Table Rationale – Forestry and Fire Management

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
	<p>Forest management plan (FMP) amendments (e.g., mountain pine beetle amendments)</p>	<p>Mountain pine beetle amendments: Typically needed for conservation and salvage purposes, but sometimes for emergency situations where the window of opportunity to harvest the infested timber before the next beetle flight is relatively short. This may affect the timing and duration of consultation.</p>
	<p>General development plan (GDP)</p> <ul style="list-style-type: none"> <li>• Community timber permit program (CTPP) / Industry-led (FMA and timber quota holders)</li> </ul>	<p>No lands are being “taken up”. Harvesting activities are specific to one year, but detailed planning may span up to five years (i.e., more detail regarding block location, harvesting and log hauling schedules provided than what is described in the FMP). Potential negative impacts to land are mitigated through approval conditions and operating ground rules (OGRs). The total size of area planned for activities may be moderate to large. Consultation for DLOs occurs in the GDP process; those not included in GDP consultation will be handled as per LOCs in the oil and gas matrix.</p> <p>GDPs for small operators where the plan will not change over the five-year planning period may not require consultation every year. Where small operator forestry proponents can demonstrate that no changes have been made to the harvest plan previously consulted on, then no consultation would be required for the present harvest plan.</p>
<p><b>Level 3: Extensive Process</b></p>	<p>Forest management plans (FMP)</p>	<p>Larger scale description of activity with spatial harvest sequence for a 20-year period; planning period is between 10 and 20 years or until the next FMP is approved (usually after 10 years). The FMP requires the planning of permanent access to all parts of the planning area and possibly prescriptions for some access controls. The FMP may have the potential to adversely impact hunting and trapping over large area due to changes to forest cover distribution and connectivity for certain types of wildlife.</p>

## First Nations Consultation Decision Table Rationale – Transmission Line and Utility Corridor

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
<b>Levels 2A and 2B: Streamlined and Standard Processes</b>	Power lines and vegetative control easements that overlap existing surfaces dispositions, with > 5 m of new cut	Requires <i>Public Lands Act</i> dispositions (EZE, REA, VCE); moderate duration (usually only during construction phase); total size is small; usually within an area of existing activity or, where access already exists, a portion of the activity overlaps existing dispositions.
	Power lines and vegetative control easements that <b>do not</b> overlap existing surfaces dispositions and are < 1 km long	Requires <i>Public Lands Act</i> dispositions (EZE, REA, VCE); moderate duration (usually only during construction phase); total size is small; usually within an area of existing activity or where access already exists.
	Power lines and vegetative control easements that <b>do not</b> overlap existing surfaces dispositions and are > 1 km long	Requires <i>Public Lands Act</i> dispositions (EZE, REA, VCE); moderate duration (usually only during construction phase); total size is small; usually within an area of existing activity or where access already exists.
<b>Level 3: Extensive Process</b>	Large-scale regional transmission line projects	Requires <i>Public Lands Act</i> dispositions; moderate duration (impacts usually only during construction phase); total size is moderate to large; may traverse areas of low previous industrial activity; requires involvement of other regulators. Should be reviewed on a case-by-case basis.

### First Nations Consultation Decision Table Rationale – Geophysical

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
Levels 2A and 2B: Streamlined and Standard Processes	Exploration – Intermediate 3D	No lands are being “taken up”; activity is of a low-moderate intensity (e.g., utilizing a larger number of narrow lines spaced closer together than LIS); little or no disturbance to the ground-level vegetation or soils; short duration (usually a few weeks); drill holes are plugged/reclaimed within one season.
	Exploration – Intense 3D and time-lapse 4D	No lands are being “taken up”; activity is of a moderate intensity (e.g., utilizing a larger number of narrow lines spaced closer together than LIS); little or no disturbance to the ground-level vegetation or soils; moderate duration (maximum one season); drill holes are plugged/reclaimed within one season.
Level 3: Extensive Process	n/a	n/a

## First Nations Consultation Decision Table Rationale – Coal, Minerals, and Quarries

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
<b>Levels 2A and 2B: Streamlined and Standard Processes</b>	Coal exploration project <sup>6</sup>	No lands are being “taken up”; activity is of a very low intensity (e.g., narrow meandering lines or utilizing existing lines); little or no disturbance to the ground level vegetation or soils; short duration (usually a few weeks); drill holes are plugged/reclaimed within one season.
	Mines and minerals exploration	No lands are being “taken up”; activity is of a very low intensity (e.g., narrow meandering lines or utilizing existing lines); little or no disturbance to the ground level vegetation or soils; short duration (usually a few weeks); drill holes are plugged/reclaimed within one season.
	All-weather roads (e.g., access and haul roads)	Requires <i>Public Lands Act</i> disposition, moderate to long duration, usually involves new cut/development, total size varies from small to large, depending upon length of road.
<b>Level 3: Extensive Process</b>	Coal mines	Long-term impact to public lands potentially affecting hunting, fishing, and trapping within area; intensive activity with long duration; large size. Each proposed coal mine or related activity will be evaluated on a case-by-case basis (i.e., coal mine expansions).  <b>Exceptions:</b> Minor amendments to EPEA approvals (e.g., new settling ponds, haul roads) that are outside existing disposition boundaries but within the mine permit boundary. Minor expansions within the approved mine permit boundary where First Nations already have been consulted on may require lower-intensity consultation or no consultation at all.
	Quarry development	Long-term impacts to public lands potentially affecting hunting, fishing and trapping within the area; intensive activity of long duration or large size (e.g., projects that trigger an EIA, 10-year renewals of approvals, major new development of a project of 50+ ha on public lands).  <b>Exceptions:</b> For EPEA amendments conducted, consultation may require lower-intensity consultation or no consultation at all. Individual projects will be reviewed on a case-by-case basis.

<sup>6</sup> CEP may fall into streamlined or standard depending upon location, intensity, magnitude, scope, duration, and potential impacts to Treaty Rights and traditional uses.

### First Nations Consultation Decision Table Rationale – Pipelines

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
<b>Levels 2A and 2B: Streamlined and Standard Processes</b>	Small pipelines (< 1 km in length) or pipelines bundled with single well site with associated facilities, access, pipelines (< 5 ha total size)	Requires <i>Public Lands Act</i> dispositions; moderate duration (usually only during construction phase); total size is small; usually within an area of existing activity or where access already exists.
	Gathering pipelines (> 1 km in length) or pipelines bundled with larger sites or projects (e.g., multiple well sites) with associated facilities, access, etc. (> 5 ha total size)	Requires <i>Public Lands Act</i> dispositions; moderate duration (usually only during construction phase); total size is small; usually within an area of existing activity or where access already exists.
<b>Level 3: Extensive Process</b>	Large-scale pipeline projects	Requires <i>Public Lands Act</i> dispositions; moderate duration (impacts usually only during construction phase); total size is moderate to large; may traverse areas of low previous industrial activity; requires other regulatory approvals involvement of other regulators (Culture, AER, NRCB, etc.). Should be reviewed on case-by-case basis.

### First Nations Consultation Decision Table Rationale – Sand and Gravel

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
Levels 2A and 2B: Streamlined and Standard Processes	Sand and gravel sites and/or projects with associated infrastructure (< 5 ha total size)	Activities are ≤ a year and require a temporary field authorization (TFA), a disposition operating approval (DOA), or a surface materials licence (SMC), which is not expected to impact commercial recreational fish-bearing surface water bodies.
	Sand and gravel sites and/or projects with associated infrastructure (> 5 ha total size)	Activities are > 1 year and up to 10 years (with a renewal option) and require a <i>Public Lands Act</i> disposition, such as a surface material lease (SML); which is not expected to impact commercial recreational fish-bearing surface water bodies.
Level 3: Extensive Process	n/a	n/a

## First Nations Consultation Decision Table Rationale – Petroleum, Natural Gas, and Oil Sands

**Note: This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix.**

Consultation Level	Activity	Rationale
<b>Levels 2A and 2B: Streamlined and Standard Processes</b>	Single conventional well site with associated facilities, access (< 5 ha total size)	Requires <i>Public Lands Act</i> dispositions; moderate duration (usually drilled and completed within one season); total size is small; usually within an area of existing activity or where access already exists.
	Oil sands exploration programs	In some cases exploration consultation utilized for well conversions—permanent MSLS and LOC applications.
<b>Level 3: Extensive Process</b>	Conventional oil and gas: <ul style="list-style-type: none"> <li>• Large sites, multiple well site projects with associated facilities</li> <li>• Multiple well site projects of seasonal drilling programs with landscape-level impacts</li> </ul>	Require <i>Public Lands Act</i> dispositions; longer duration (usually one season to drill, complete and tie-in, however may be longer); total size may be moderate to large.
	<ul style="list-style-type: none"> <li>• Unconventional oil and gas</li> <li>• Multiple well site or in-situ projects with associated facilities</li> </ul>	Requires <i>Public Lands Act</i> dispositions; longer duration (more than one season to drill, complete and tie-in); intensity is higher than conventional oil and gas projects due to larger number of wells, access, and facilities; total size may be moderate to large.
	Oil sands mine pit development	Long-term impact to public lands potentially affecting hunting, fishing, and trapping within area; intensive activity with long duration; large size.

## Appendix B: Activities That Will Require No Consultation, and Activities That Will Require No Consultation (with Exceptions)

**Note:** This matrix is provided only as a starting point in the consultation process. Consultation is fact-specific, which requires flexibility. As consultation progresses and new information is provided, the required level of consultation may change. The GoA retains discretion to modify the level of consultation that is required under this matrix. If adequate consultation has been completed within 2 years and there have been no changes, then no further consultation is required.

### Forestry and Fire Management

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
<p>Type 3 prescribed burns – Type 3 prescribed burns consists of annual hazard reduction involving burning off grass meadows and lesser vegetation. This activity is unlikely to adversely impact Treaty rights and traditional uses because these areas had previously undergone burn treatments and there is relatively low risk of this burn type becoming a wildfire compared to Type 1 and 2 prescribed burns.</p>	<p>Annual operating plans – where there are changes to block location, harvest scheduling, and road design, and these changes are inconsistent with the overall strategies of the FMP, the GDP, or the changes conflict with mitigation strategies to address concerns raised by a First Nation in previous consultation, Alberta must decide if the consultation on higher-level plan is adequate to proceed with approval of the annual operating plan or operational plan amendments. If not, the area(s) where changes will occur will be assessed using the <i>Pre-consultation Assessment</i> for potential adverse impacts to Treaty rights and known traditional uses. ESRD will decide whether the changes made are enough to warrant further consultation. If consultation is required, consultation will follow the “notification” stream for scope and scale of consultation.</p> <p>Herbicide plans – If these activities were not identified and consulted on in higher-level plans, then consultation may be required if ESRD, in consultation with the ACO, determines that the proposed herbicide plan may have potential adverse impacts to First Nations Treaty rights and traditional uses.</p> <p>Compartment assessment – If these activities were not identified and consulted on in the GDP process, then consultation may be required if ESRD, in consultation with the ACO, determines that the proposed compartment assessment may have potential adverse impacts to First Nations Treaty rights and traditional uses.</p> <p>All identified NO CONSULTATION activities are still subject to the “Six-Mile Protocol” around IRs.</p>

## Transmission Lines and Utility Corridors

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
Power lines and vegetative control easements that overlap existing surfaces dispositions, with < 5 m of new cut. Majority of activity overlaps existing dispositions; moderate duration (usually only during construction phase); little or no disturbance to the ground-level vegetation or soils. Requires <i>Public Lands Act</i> dispositions (EZE, REA, VCE).	n/a

## Geophysical

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
n/a	Low-impact seismic, non-intensive 3D and 2D All identified NO CONSULTATION activities are still subject to the “Six-Mile Protocol” around IRs.

## Coal, Minerals, and Quarries

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
n/a	n/a

## Pipelines

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
n/a	Pipeline installation lease (PIL); located on existing dispositions. Bored pipelines; surface disturbance can only occur at watercourse crossings, so impacts to Treaty rights and traditional uses will be limited to those locations. If a pipeline is bored, and there is no disturbance on the land. All identified NO CONSULTATION activities are still subject to the “Six-Mile Protocol” around IRs.

## Petroleum, Natural Gas, and Oil Sands

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
n/a	n/a

## Sand and Gravel

Activities that will require NO CONSULTATION	NO CONSULTATION (WITH EXCEPTIONS)
<p>Activities are temporary, usually under 90 days, with land use ≤ 640 acres with a requirement for a temporary field authorization (TFA) or disposition operating approval (DOA) such as:</p> <ol style="list-style-type: none"> <li>1. Surface materials<sup>1</sup> exploration activities subject to a surface material exploration approval (SME)</li> <li>2. Class I pits<sup>2</sup> that are 5 ha or larger and located on private lands,<sup>3</sup> subject to the requirements under the <i>Code of Practice for Pits</i>, the <i>Environmental Protection and Enhancement Act</i>, or the <i>Conservation and Reclamation Regulation</i>, and require a <i>Water Act</i> authorization.</li> <li>3. Class II pits that are less than 5 ha and located on private lands and/or require a <i>Water Act</i> authorization.</li> </ol>	<p>Large-scale exploration programs may require consultation at a level of notification with follow-up if they occur:</p> <ul style="list-style-type: none"> <li>• Where the SME or TEP was not previously consulted on (e.g., during the project EIA process), and</li> <li>• In close proximity to historic resource values identified by Alberta Culture, or</li> <li>• On previously undisturbed areas, and are high intensity or have significant new cut.</li> </ul> <p>All identified NO CONSULTATION activities are still subject to the “Six-Mile Protocol” around IRs.</p>

### SAND AND GRAVEL ENDNOTES

<sup>1</sup> Surface materials for the purpose of this guide include: marl, clay, silt, sand, gravel, having a depositional history that is not associated with the bedrock formation.

<sup>2</sup> Pits are defined as openings or excavations in or working off the surface or subsurface for the purpose of removing any sand, gravel, clay, or marl, where the area of the pit and any associated infrastructure, including stockpiles, connected with the pit is or at any time was greater than or equal to 5 hectares (12.5 acres), but does not include:

- (i) a borrow excavation,
- (ii) a pit on public land,
- (iii) a pit, or a portion of a pit, where the surface or subsurface of the land has not been disturbed by pit operations since August 15, 1978, or
- (iv) a pit, or a portion of a pit, on which a waste management facility is operating or operated pursuant to a valid approval or registration under the Act.

<sup>3</sup> Private lands are defined as deeded or patent land, Special Areas Board land, Métis settlements, and provincial parks.

## **Appendix C: Glossary**

### **Approval**

Any authorizations or dispositions as defined under the appropriate statutes or regulations.

### **Crown**

In Canada, the Crown refers to any of the federal government and each of the provincial governments. Within this document, the Crown refers to the Government of Alberta (GoA).

### **Decision**

Any administrative, legislative, statutory, regulatory, policy, and operational judgment, ruling, order, finding, or determination of the GoA.

### **Land and natural resource management**

Activities (on or off Crown land) potentially affecting the use of provincial Crown land where such activities arise from decisions involving land, water, air, forestry, or fish and wildlife.

### **Proponent**

An entity or person who is either seeking a Crown decision related to land and natural resource management or seeking an approval from the AER.

### **Surface disturbance**

Any disruption of an area that disturbs the Earth's surface or waters during activity or after an activity has ceased.

### **Treaty rights**

Rights held by a First Nation in accordance with the terms of a historic or modern treaty agreement with the Crown. Treaties may also identify obligations held by a First Nation and the Crown. These rights may be practised on unoccupied Crown lands and other lands to which First Nations members have a right of access for such purposes.

### **Strategic initiatives**

An embracing or overarching policy addressing an objective of the GoA that may set a context in which project-specific consultation can occur.

### **Traditional uses**

Customs or practices that First Nations may engage in on the land that are not existing section 35 Treaty rights but are nonetheless important to First Nations. These may include burial grounds, gathering sites, and historical or ceremonial locations and do not refer to proprietary interests in the land.