



Government of Alberta's Proponent Guide to First Nations Consultation Procedures for Land Dispositions

February 3, 2015



About this version:

The changes in this version are an outcome of the Aboriginal Consultation Office's (ACO) continuous improvement initiatives. As a part of these initiatives, engagement sessions aimed at gathering participant feedback were held by the ACO from October 1 to November 6, 2014. An attempt was made to address the issues that were identified as of greatest importance from the feedback. Although not all feedback was incorporated, it has been duly noted for future considerations. We thank all participants involved in the sessions and we look forward to future dialogue aimed at improving the consultation process in Alberta.

About this document:

The procedures outlined in this guide are specific to lands disposition applications that are processed through the Electronic Disposition System (EDS) portal. Some activities may not require consultation. To determine whether an activity or application is classified as not requiring consultation, refer to both the appendices of *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014* and to the Public Lands Administration Regulation (PLAR) document in [Important Links](#).

For consultation advice on dispositions that are not handled through the EDS (such as grazing leases and public land sales), please contact your regional Environment and Sustainable Resource Development (ESRD) office using the forestry and grazing leases links under [Important Links](#).

Note: This Guide is intended to be consistent with the government of Alberta's consultation policy and guidelines, and it is not intended to be used as a standalone document. Both *The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management, 2013*; and *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014* should be referred to when carrying out consultation activities. Should there ever be a conflict between the contents of this Guide and the Policy or Guidelines, the prevailing order of authority will be: 1) the Policy; 2) the Guidelines; and then 3) this Guide.

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List of Acronyms

ACO	Aboriginal Consultation Office	FA	<i>Forests Act</i>
AER	Alberta Energy Regulator	FNC	First Nations Consultation
AR	Aboriginal Relations	GoA	Government of Alberta
ATS	Alberta Township System	LNC	Letter of No Concern
AUC	Alberta Utilities Commission	LOC	Licence of Occupation
AS	Approvals Specialist	MSL	Mineral Surface Lease
CA	Consultation Advisor	PDA	Pre-disturbance Assessment
EDS	Electronic Disposition System	PLA	<i>Public Lands Act</i>
EIA	Environmental Impact Assessment	PLAR	Public Lands Administration Regulation
EPEA	<i>Environmental Protection and Enhancement Act</i>	ROC	Record of Consultation
ESRD	Environment and Sustainable Resource Development	SML	Surface Materials Lease
EZE	Easement	WA	<i>Water Act</i>

Important Links

Aboriginal Consultation Office (ACO) Contact Lists:

<http://www.aboriginal.alberta.ca/575.cfm>

Alberta Culture – *Historical Resources Act* approvals:

<http://culture.alberta.ca/heritage/resourcemanagement/archaeologyhistory/researchpermitmanagementsystem/OPaC.aspx>

Alberta Energy Regulator (AER):

<http://www.aer.ca/about-aer/what-we-do/Q-and-A-PNoA>

Alberta Utilities Commission (AUC):

<http://www.auc.ab.ca/Pages/Default.aspx>

Electronic Disposition System (EDS) First Nations Consultation User Manual:

<http://esrd.alberta.ca/forms-maps-services/industry-online-services/electronic-disposition-system/default.aspx>

Environmental Assessment:

<http://esrd.alberta.ca/lands-forests/land-industrial/programs-and-services/environmental-assessment/default.aspx>

First Nations' Contact Lists:

<http://www.aboriginal.alberta.ca/576.cfm>

Forestry:

<http://esrd.alberta.ca/about-esrd/contact-esrd/documents/ESRD-ForestryOfficeContacts-Jul%2025%202014.pdf>

Grazing Leases:

<http://esrd.alberta.ca/recreation-public-use/recreation-on-agricultural-public-land/documents/RecAgriculturalPublicLand-YouNeedKnow.pdf>

Public Lands Administration Regulation (PLAR) Approvals and Authorizations Administrative Procedures - Tables C & D:

<http://esrd.alberta.ca/forms-maps-services/forms/lands-forms/esrd-forms/documents/ApprovalsAuthorizationsProcedures-Apr2014.pdf>

The Government of Alberta's Policy on Consultation with First Nations on Land and Natural Resource Management, 2013:

<http://www.aboriginal.alberta.ca/documents/GoAPolicy-FNConsultation-2013.pdf?0.9275569916071316>

The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014:

http://www.aboriginal.alberta.ca/documents/First_Nations_Consultation_Guidelines_LN_RD.pdf?0.39682027473109776

Note: These links may be updated from time to time.

1. Creating an Assessment Request

An Assessment Request is an electronic submission carried out by a proponent via the Electronic Disposition System (EDS) in order to seek information on the consultation requirements of a proposed project. The submission, reviewed by an Approvals Specialist (AS) on behalf of the Aboriginal Consultation Office (ACO), will result in a Pre-consultation Assessment. The Pre-consultation Assessment will indicate whether or not consultation is required. If consultation is required, the Pre-consultation Assessment will identify both the level of consultation and the First Nation(s) to be consulted.

1.1. Setting Up an EDS Client ID and User ID

In order to create an Assessment Request, proponents will need to set up both a client ID and a user ID within EDS.

To apply for a client ID,

- i. go to <http://esrd.alberta.ca/forms-maps-services/forms/lands-forms/esrd-forms/default.aspx>,
- ii. click User IDs & Client IDs for access to Industry Online Services, and
- iii. click Application for Client ID—complete the application.

To request a user ID,

- i. go to <http://esrd.alberta.ca/forms-maps-services/forms/lands-forms/esrd-forms/default.aspx>,
- ii. click User IDs & Client IDs for access to Industry Online Services, and
- iii. click User ID Request Form-EDS-LAT-PCS-IWCP-FireWeb-PHAP—complete the form.

1.2. Creating or Managing Assessment Requests

To log in to EDS,

- i. go to <http://esrd.alberta.ca/forms-maps-services/industry-online-services/electronic-disposition-system/default.aspx>,
- ii. click **Login to EDS** and enter your login information, and
- iii. on the EDS Main Menu page, click option **5. First Nations Consultation Submissions**.

From here, proponents can

- create and submit a Pre-consultation Assessment request,
- respond to a Pre-consultation Assessment,
- view submission status,
- submit a request for adequacy assessment, and
- cancel a First Nations Consultation (FNC) file.

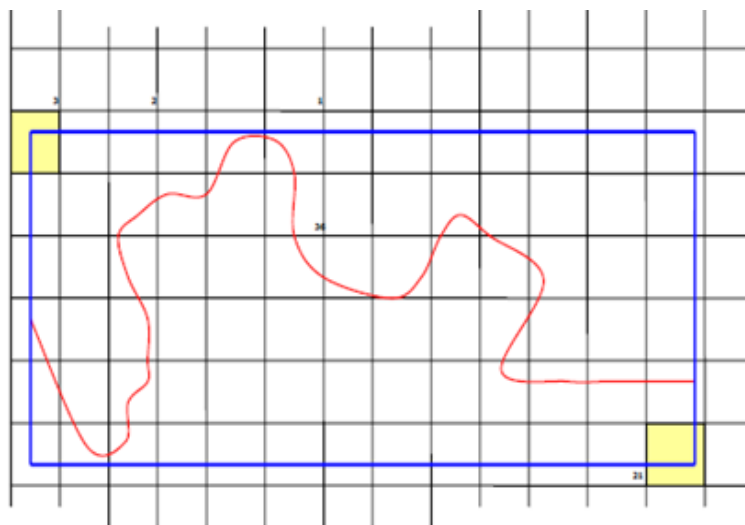
For more information, please refer to *EDS First Nations Consultation User Manual* (EDS Menu Page, p. 7) in [Important Links](#).

2. Completing an Assessment Request

2.1. Information Required in the Assessment Request

When proponents submit a new FNC Assessment Request, they must accurately enter the following information about the scope of the project—based on disposition and purpose type.

- Area (in hectares) or linear distance (in kilometers and hectares) of the project, with all areas being inclusive of the site plan (new and existing clearing/cut).
- A map that clearly illustrates the location of the proposed project in relation to any easily identified or commonly known landmarks (e.g., settlements, rivers, lakes, roads).
- A site map that clearly illustrates the nature, scope, and magnitude of the proposed activity (e.g., basic linear measurements and aerial dimensions, existing and proposed facilities, means of access and egress).
- Detailed sketches of each activity and overall project plans with the Alberta Township System (ATS) legal locations representing the project footprint.
- Linear activities (e.g., License of Occupation (LOC), Pipeline), site plan including routing and distance (in kilometers and hectares).
- ATS “To” and “From” locations.
 - The ATS “To” and “From” points represent the location of the project and help guide the ACO in determining which First Nation(s) should be consulted with. The box represented by the ATS “To” and “From” points is not the footprint for consultation.
 - To identify the “To” and “From” locations, the proponent should draw a box around the proposed project. The top-left corner of the box represents the “To” location, and the bottom-right corner of the box represents the “From” location. The proponent should ensure that no additional land is included and no land is excluded (if applicable, buffers must be included. For more details regarding the use of buffers, please refer to [Appendix C](#)).
 - The diagram below depicts an example of a linear feature and an ATS “To” and “From” points.



If applicable, proponents should also:

- Provide documentation of previous consultation efforts that included or are related to the specific FNC activities now being applied for to demonstrate that consultation has previously been completed. If available, include the previous FNC number, and note whether this application is part of a larger consultation (e.g., Environmental Impact Assessment (EIA)).
- In the Client Remarks section, include associated approvals and conditions required for the project that have already been issued (e.g., Water Act (WA)/Environment Protection and Enhancement Act (EPEA)), or a note indicating that this FNC number is in support of a WA/EPEA project that is not yet approved.
- Include documentation for “As-built” projects.

Refer to [Appendix A](#) for more details.

Note: When uploading documents to EDS, proponents should ensure that file naming conventions are indicative of the respective documents. For guidance, please refer to *EDS First Nations Consultation User Manual* (Document Naming and Type, p. 41) in [Important Links](#).

3. Assessment Request Submission

Submitting a completed Assessment Request will prompt the EDS to trigger a notification that an FNC file is ready for review. Proponents should be aware that:

- Once the proponent has submitted the Assessment Request, they have a narrow window of time to notify the ACO of errors made in the submission (refer to [GoA's Consultation Guidelines](#) for more information on the Pre-consultation assessment timelines).
- If a proponent needs to make changes to their Assessment Request, they must email the [FNC Unit inbox](#) (ar.fnconsultlands-eds2110ea@gov.ab.ca) so that the ACO may release the Assessment Request back to the proponent who will then make the appropriate changes. Finally, the proponent must re-submit the Assessment Request with the changes made so that the Pre-consultation Assessment can be issued.
- If the Approvals Specialist identifies an error(s), they will send a Request for Information to the proponent highlighting the error(s) made. The proponent must respond to the Request for Information—making the necessary changes—and re-submit the Assessment Request so that the Pre-consultation Assessment can be issued.
- The Approvals Specialist's direction and decision will be based on the information submitted.
- If the corporate status (ownership) changes during the consultation process on lands associated with an FNC number, the FNC number must be cancelled and a new Assessment Request will have to be submitted.

For more information, please refer to *EDS First Nations Consultation User Manual* (FNC Save/Submit Confirmation Page, p. 19) in [Important Links](#).

4. Pre-consultation Assessment Process

4.1. Pre-consultation Assessment Requirements

The Approvals Specialist will determine the requirements for consultation and provide the proponent with a Pre-consultation Assessment. The Pre-consultation Assessment will identify the level of consultation required and inform the proponent which First Nation(s) to consult with.

- **If consultation is not required**, the Pre-consultation Assessment will state “No Consultation Required.”
- **If consultation has previously been completed and assessed as adequate**, the Pre-consultation Assessment will state “Already Deemed Adequate.”
- **If consultation is required**, the Pre-consultation Assessment will indicate the level of consultation (as described in *The Government of Alberta’s Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014*) and which First Nation(s) need to be consulted.

4.2. Alberta Culture HRV 4c Listings

In the Pre-consultation Assessment stage, the Approvals Specialist, when applicable, will strive to advise proponents of Alberta Culture’s requirements. Consultation overseen by the Approvals Specialist, and consultation required to meet Alberta Culture’s requirements will proceed concurrently as parallel processes. The adequacy decision provided by the ACO is independent of and does not replace Alberta Culture’s decision on adequacy of consultation related to Culture’s regulatory decisions.

If the project area submitted by a proponent includes sites classified by Alberta Culture’s Listing of Historic Resources as HRV 4c, these sites contain a cultural historic resource and may require avoidance and/or consultation with First Nations. If advised of an HRV 4c overlap, proponents should contact Valerie K. Knaga at (780) 431-2371 or valerie.k.knaga@gov.ab.ca to inquire as to whether consultation will be required per Alberta Culture procedures. Proponents may also apply online for *Historical Resources Act* approvals, refer to [Important Links](#).

5. Levels of Consultation

The following information regarding levels of consultation is consistent with *The Government of Alberta’s Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014*.

5.1. Level 1

Level 1: Streamlined Consultation

- Notified First Nations have up to 15 GoA working days to respond¹ to a project notification.
- Where First Nations respond to notification, consultation should be complete within 15 GoA working days of response to notification.

¹ Response: Feedback from First Nations regarding the proposed project’s potential adverse impacts to treaty Rights and traditional uses. A response stating acknowledgment of reception of notification, or awareness of the project, does not suffice as a response for this purpose. This applies to all levels of consultation.

- If the 15-day notification period has expired and a First Nation has not responded, the proponent
 - will provide the First Nation with the consultation record, and
 - may ask the ACO to review the consultation record after the First Nation has had 5 GoA working days to review the record.

Note: The response period begins on the GoA working day following verified receipt of the notification package (please refer to [section 6.1](#) for more details regarding the notification package) by the First Nation—see [section 6.2](#) for more details regarding verifiable delivery methods. For a visual illustration of the timelines, refer to [Appendix F](#).

5.2. Level 2

Level 2: Standard Consultation

- Notified First Nations have up to 15 GoA working days to respond to a project notification.
- If no response is received from the First Nation(s) within approximately 5 GoA working days of initial project notification, the proponent will follow-up² with the First Nation(s).
- If a response is still not received from the First Nation(s) within approximately 10 GoA working days of initial project notification, the proponent will follow-up a second time with the First Nation.
- Where First Nations respond to notification, consultation should be complete within 20 GoA working days of response to notification.
- If the 15-day notification period has expired and a First Nation has not responded, the proponent
 - will provide the First Nation with the consultation record, and
 - may ask the ACO to review the consultation record after the First Nation has had 5 GoA working days to review the record.

5.3. Level 3

There are two categories under level 3 consultation: Level 3: Extensive consultation and Level 3: Extensive consultation for projects with EIA's. Under both categories, there is a requirement for proponents to prepare and submit a consultation plan. The proponent will be directed in the Pre-consultation Assessment to contact a designated Consultation Advisor (CA) for consultation plan direction. Once the proponent has completed their consultation plan, they may submit the plan to the CA for review and approval. If the CA identifies any outstanding issue(s) in the plan during the review process, then the CA will advise and direct the proponent of the appropriate measures to address these issues. Once the plan has addressed all issues, the CA will send the proponent a letter that indicates plan approval and identifies the consultation reporting requirements.

The consultation plan, at minimum, shall include

- the project proponent's contact information and if applicable, all sub-contractors' contact information;
- a list of First Nations to be consulted with as directed by the ACO;
- a plain language information package;
- the method(s) of delivery for providing the First Nation(s) with the information package;
- the potential method(s) for communicating direct notices to First Nation(s);

² Follow-ups: Proponent requests information from the First Nation(s) regarding issues and concerns related to the proposed project. For further information regarding response and follow-ups, refer to *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014* (part 3, section F. ii. d., Follow-Up with First Nation, p.15).

- any available information regarding potential adverse impacts to First Nation(s)' treaty rights and traditional uses;
- timelines and schedules for consultation activities, including any significant milestones; and
- the reporting procedures for providing status updates to the ACO regarding the progress and results of consultation.

Note: A consultation plan is not required to be sent to a First Nation and it does not have to be approved by a First Nation. The proponent must still provide the First Nation(s) with an information package. Please refer to [Appendix E](#) for further information regarding consultation plan requirements and consultation status reporting methods.

Level 3: Extensive Consultation

Once the proponent's consultation plan is approved by the ACO:

- Notified First Nations have up to 20 GoA working days to respond to a project notification.
- If no response is received from the First Nation(s) within approximately 10 GoA working days of initial project notification, the proponent will follow-up with the First Nation(s).
- If a response is still not received from the First Nation(s) within approximately 15 GoA working days of initial project notification, the proponent will follow-up a second time with the First Nation(s).
- Where First Nations respond to notification, consultation should be substantially underway or complete within 60 GoA working days of response to notification.
- If the 20-day notification period has expired and a First Nation has not responded, the proponent
 - will provide the First Nation with the consultation record, and
 - may ask the ACO to review the consultation record after the First Nation has had 10 GoA working days to review the record.

Level 3: Extensive Consultation for projects with EIAs

Once the proponent's consultation plan is approved by the ACO:

- Notified First Nations have up to 20 GoA working days to respond to a project notification.
- If no response is received from the First Nation(s) within approximately 10 GoA working days of initial project notification, the proponent will follow-up with the First Nation(s).
- If a response is still not received from the First Nation(s) within approximately 15 GoA working days of initial project notification, the proponent will follow-up a second time with the First Nation(s).
- Where the First Nations respond to notification, consultation is expected to be completed within the applicable regulatory timelines.
- If the 20-day notification period has expired and a First Nation has not responded, the proponent
 - will provide the First Nation with the consultation record, and
 - may ask the ACO to review the consultation record after the First Nation has had 10 GoA working days to review the record.

For information on the EIA process, please refer to [Important Links](#).

Note: For all levels, the timeline for completing the consultation process will be driven by the particular circumstances arising within the particular process. While consultation should be complete within the timeframes noted above, there may be cases where further time is required to complete a reasonable consultation process.

6. Proponent Consultation

6.1. Information Package

The proponent will notify the First Nation(s)—as identified in the Pre-consultation Assessment—by sending an information package and notification letter to the official First Nation consultation contact (<http://www.aboriginal.alberta.ca/576.cfm>). The information package must be submitted electronically as one PDF document or in hard copy by registered mail to each First Nation. The information package will include:

- an FNC number and WA and/or EPEA application numbers, where applicable;
- the level of consultation (streamlined, standard, and extensive) and the associated timelines;
- a notice that the proponent has been advised to consult with the First Nation and share information about the proposed activity. For proponents' convenience, Notification Letters have been developed for each level of consultation. To access the Notification Letters, go to <http://esrd.alberta.ca/forms-maps-services/forms/lands-forms/esrd-forms/default.aspx> and click First Nations Consultation;
- a note that this project may be in the proximity of an HRV4c site, where applicable;
- plain language documentation describing the proposed activity, its location, and its potential short- and long-term adverse impacts. Additionally, the plain language document should include
 - a map that clearly illustrates the location of the proposed project in relation to any easily identified or commonly known landmarks (e.g., settlements, rivers, lakes, roads);
 - the expected life of the project (including timeline)
 - a site map that clearly illustrates the nature, scope, and magnitude of the proposed activity (e.g., basic linear measurements and aerial dimensions, existing and proposed facilities, means of access and egress); and
 - a detailed sketch of each activity and overall project plans with ATS legal locations representing the project;
- any information provided by the GoA about potential First Nations' concerns in the area (e.g., if the project has an HRV 4c listing in the area, proponents will be notified of such at the Pre-consultation Assessment stage);
- a description of the GoA or regulatory authorization being sought (e.g., WA, EPEA, PLA, Forest Act (FA)); and
- a request that the First Nation send feedback to the proponent—quoting the FNC number—within the prescribed time period about how the project may adversely impact the First Nation's treaty rights and traditional uses.

The response period begins on the GoA working day following verified receipt of delivery of the notification package to the First Nation.

Note: Proponents must use one of the accepted and verifiable means of delivery authorized by the ACO—see [section 6.2](#). Furthermore, proponents must use the First Nations consultation contacts list and the prescribed consultation contact methods identified on the Aboriginal Relations (AR) website: <http://www.aboriginal.alberta.ca/576.cfm>. This list may be amended from time to time and use of any other list or method of contact—as identified above—will not be accepted and will result in a determination of Incomplete Consultation.

6.2. Verification of Delivery of Information Package

Below is a list of accepted verifiable delivery methods.

Email: The proponent must provide a copy of the sent email as it will show that documents were sent to the First Nation. Additionally the proponent shall provide a delivery receipt to show that the email has reached the intended recipient. Other forms of delivery verification may be acceptable, such as a First Nation representative responding via email to confirm receipt of the proponent's email. While it is ideal for the proponent to provide a read receipt, it is not a requirement as the person receiving the email has the option to respond or not respond to all requests for a read receipt.

Registered mail/courier: The proponent must provide a copy of the signed receipt of proof of delivery.

Personal delivery: The proponent must document the following in the Record of Consultation (ROC): who delivered the information to the First Nation, the name of the First Nation representative who received the information, and the date of delivery. Additionally, proof of receipt must be provided by the proponent (via a First Nation representative's signature).

Fax: The proponent must provide a copy of the transmission receipt.

Electronic submission/portal: Some First Nations are directing proponents to submit notification packages via online consultation tools. The ACO encourages but does not require the use of these tools. Until this process is standardized, the Approvals Specialist will review submissions on a case-by-case basis to confirm whether they meet ACO's verification standards.

Failure to pick up package: If the First Nation does not pick up a notification package and the ROC within 5 GoA working days of the first verifiable delivery attempt, the Approvals Specialist will consider the notification package and/or ROC as received.

Note: If the ACO is not provided with verification of delivery by proponent, and the First Nation in question indicates they never received the package, then proponents will be directed to re-send the package and re-initiate consultation.

6.3. Record of Consultation (ROC) Log

The proponent will maintain an ROC using the ROC log template. The ROC log must be used to ensure consistency across the province and any format that is inconsistent with the form on the website indicated below may be rejected. The ROC form can be found at <http://esrd.alberta.ca/forms-maps-services/forms/lands-forms/esrd-forms/documents/FNC-RecordofConsultationLog-Feb27-2013%20B.pdf>.

Proponents will maintain an ROC for each First Nation consulted with. This will contain a complete, detailed, and accurate chronological account of the consultation activities, including all successful and unsuccessful efforts to engage and/or consult and any supporting documentation (emails, letters, meeting minutes, memos, etc.).

The ROC should include

- project/activity name/ID;
- names of person(s) contacted;
- method(s) of contact (e.g., phone, fax, email, voice mail, in person, letter),

- details of contact with, or attempt to contact, the First Nation (including dates)—indicate cases of no response, provide details of conversations (issues discussed or concerns raised), or any other type of response;
- identifying the concerns; providing details about how the concerns were addressed (how the impacts were, or will be, avoided or mitigated);
- identifying site-specific concerns and any other concerns raised that are directly related to the project.
- identifying issues where agreements could not be reached and the reasons why; and
- identifying and detailing the outcomes of consultation (i.e., agreements reached, accommodation strategies agreed upon, etc.).

Note: Supporting documentation should be referenced in the ROC log and included as PDF documents in the submission.

6.4. ROC Log Verification

When the proponent completes consultation, or prescribed consultation timelines are exceeded, the proponent must send the ROC log to First Nations to review for any errors and/or omissions (not to ACO at this time). The proponent must use the First Nations consultation contacts list and the prescribed consultation contact methods as identified on the AR’s website, <http://www.aboriginal.alberta.ca/576.cfm>. This list may be amended from time to time. Use of any other list or method of contact will not be accepted and will result in a determination of Incomplete Consultation (please refer to [section 8](#) for more details).

Proof of ROC delivery via verifiable methods is required (e.g., email delivered and/or read receipt, fax transmission record, registered mail, courier, or personal delivery, refer to [section 6.2](#) for more details). The ROC review period for First Nations begins the next GoA working day following the verifiable ROC delivery date.

Levels of Consultation	ROC Review Period (GoA Working Days)
<i>Level 1: Streamlined</i>	5
<i>Level 2: Standard</i>	5
<i>Level 3: Extensive (including projects with EIAs)</i>	10

Proponents should wait for the prescribed First Nation ROC review period to elapse prior to submitting the ROC log to the ACO’s FNC unit and requesting an adequacy decision. The First Nation has the opportunity to review the consultation record for errors and/or omissions and to comment back to the proponent.

If the First Nation identifies an error and/or omission, the proponent—after being advised of the errors and/or omissions by a First Nation—must revise the ROC and send it to the First Nation as the final ROC (**Note:** there is no additional review period and the proponent may submit the ROC to the ACO and request an adequacy decision).

In the case that an Approvals Specialist finds that the proponent’s consultation record has errors and/or omissions, the proponent may be directed to make the required changes and to send the revised ROC to the First Nation who will then have 5 GoA working days to review the revised ROC.

Note: Where a proponent has acquired a Letter of No Concerns (LNC) from a First Nation stating that they have no concerns with the proposed project, the proponent will not be required to send the ROC log to that First Nation for review. For more information on Letter of no Concerns, please refer to [Appendix D](#).

7. Submitting a Consultation Record for Review

When the proponent is seeking a consultation adequacy decision, a copy of the ROC log (one for each First Nation) must be submitted through the EDS for adequacy review, including any supporting letters and documents to substantiate the consultation activities in the log.

To access the EDS, go to <http://esrd.alberta.ca/forms-maps-services/industry-online-services/electronic-disposition-system/default.aspx> and click on **Log in to EDS**.

The proponent must follow the naming conventions outlined in the *EDS First Nations Consultation User Manual* (Document Naming and Type, p. 41) which can be accessed via [Important Links](#). Failure to do so will cause the file to be rejected. When uploading documents within the FNC case file, the proponent must ensure that the naming conventions are indicative of the respective documents.

The proponent is to submit the ROC unique to each FNC case file. All documents applicable to the ROC will need to be complete, accurate, and submitted together to the FNC case file. Any missing documents or unclear information may prompt the Approvals Specialist to place the review on hold and request additional information in order to continue the review.

All electronically scanned supporting documents must be in PDF format. Scanning must meet the standards indicated in the *EDS First Nations Consultation User Manual* (Upload Documents Requirements, p. 6) which can be accessed via [Important Links](#).

7.1. Information to be Included

Consultation documentation must include the following information (ensure that information provided follows the proper format where indicated):

- i. The complete information package as sent to First Nation (for further information on the information package, refer to [section 6.1](#)).
- ii. Verification of delivery of information package:
 - Verification types include email, registered mail/courier, fax transmission receipt, electronic submission/portal, and personal delivery sign-off (refer to section 6.2 for details).
 - This documentation must be submitted as one PDF file per First Nation.

Supporting documentation:

- Supporting documentation should be referenced in the ROC log.
- Documentation should include all pertinent documents around the consultation activities (e.g., email correspondence, letters, and fax).
- Proponents must not submit duplicate emails/email chains.
- For consultation summaries that are complex or extensive, or that may need additional clarification, proponents may be required to include a summary statement containing:
 - key topics of discussion and the concerns and issues raised;
 - proposed avoidance and mitigation strategies; and
 - remaining points of disagreement and reasons why.

Note: This documentation noted above must be submitted as one PDF file per First Nation. If there is a large document, such as a technical review, create a separate PDF for that document.

ROC log:

- This documentation must be submitted as one PDF file per First Nation.
- Submit supporting documentation as indicated in the ROC.

ROC log verification:

- Verification types include email, registered mail/courier, fax transmission receipt, electronic submission/portal, and personal delivery sign-off.
- This documentation must be submitted as one PDF file per First Nation.

Letters of no concerns (if available) must be submitted as one PDF file per First Nation.

All documents sent to the ACO for review, **must be exact replicas of the documents sent to the First Nation in question.** Once the proponent has submitted the consultation documentation, the proponent will not be able to interact with the FNC case file until the Approvals Specialist reviews and provides recommendations for the FNC case file.

Note: For **Level 3 - extensive consultation**, where Bi-monthly reports are required, proponents should contact the Consultation Advisor assigned to their project for submission requirements.

8. Determination of Consultation Adequacy

The Approvals Specialist will review the FNC file, including all attached consultation documents, to determine adequacy. In assessing adequacy, the Approvals Specialist will review: information gathered during the Pre-consultation Assessment information review stage, the proponent's ROC, and any information provided by the First Nation and submitted to the ACO. The Approvals Specialist will consider, at a minimum, if the following factors have been addressed:

- Were all identified First Nations provided project information and given an opportunity to participate in the consultation process?
- Did the proponent provide plain language project-specific information within a reasonable time before approvals were required or before the project was scheduled to start?
- If the First Nation provided site-specific concerns about 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 potential impacts?
- Did the proponent indicate how they intend to mitigate any potential adverse impacts to the exercise of treaty rights and traditional uses?

If the Approvals Specialist deems Consultation Adequate, then the adequacy decisions will be provided electronically to the proponent via the EDS system, and an ACO report will be provided to the AER, First Nation(s) and proponent. After consultation has been deemed adequate, the proponent may proceed through the appropriate regulatory application processes referencing the FNC number.

If the Consultation is Incomplete, the proponent will either be advised of the deficiencies through EDS or by the Approvals Specialist. The reviewer will outline the deficiencies, and the proponent may be required to undertake further consultation. The proponent will need to resubmit additional documentation when they are confident that the deficiencies have been addressed.

The proponent may choose to cancel either the entire FNC file or the specific FNC sub-numbers of concern (for example, FNC20140000-**001**) to allow the activities deemed adequate (for example, FNC20140000-**002**, FNC20140000-**003**) to proceed. Prior to cancelling any FNC numbers, the proponent is advised to discuss the scenario with the assigned Approvals Specialist.

Proponents who want to cancel FNC case files or FNC activities should refer to the *EDS First Nations Consultation User Manual* (Cancelling a FNC Site, p. 43) found in [Important Links](#).

Note: An adequacy decision will expire two years from the date of the adequacy decision letter.

Appendix

A. Consultation on Level 3 EPEA/WA Projects Versus Consultation on Lands Disposition Projects

To ensure that the processes of consultation on level 3 projects that require approval under EPEA and/or WA and consultation on lands disposition projects (i.e., projects that require a disposition under the Public Lands Act (PLA)) are aligned, it is important that proponents seek direction and advice from their respective Consultation Advisor and Approval Specialist after their consultation plan is approved.

Proponents applying for approval under EPEA and/or WA also need to consider if they plan to have sub-contractors applying for dispositions (e.g., pipelines, transmission lines, well pads, etc.) within their project area on their behalf. In that case, the regulatory approval holder may want to consider bringing in potential future sub-contractors early on in the consultation process, or to consider providing consultation information to them so that duplication of consultation on the same activities in the project area does not occur. It is important to discuss this process with the assigned Consultation Advisor and Approval Specialist at the beginning of the consultation process.

In the event that consultation on the regulatory project for an EPEA application and/or WA application (for which lands dispositions will be required and were already included in earlier consultation) has been previously deemed adequate, an assessment request must still be submitted to the FNC unit prior to applying for lands dispositions to determine whether further consultation is necessary. Specific details of the project should be included in the client remarks section of the assessment request. In addition, the proponent must provide evidence that the lands disposition being applied for was included as part of the consultation adequacy decision under EPEA/WA application—this evidence should be in the form of materials (maps, plain language document, etc.) from the previous consultation deemed adequate.

When applying for an EPEA/WA approval, proponents should contact the EPEA/WA coordinator to set up a meeting with the associated government departments. Proponents will then work directly with the Approvals Specialist to carry out level 3 extensive consultation. If a decision is issued deeming consultation adequate for EPEA/WA, proponents must note in the client remarks section of the assessment request that consultation for this associated disposition (Mineral Surface Lease (MSL), Surface Materials Lease (SML), etc.) was previously deemed adequate under EPEA/WA application. Proponents should include the project name and a copy of the adequacy decision letter that was received along with the assessment request submission.

B. Project Amendments

The ACO recognizes that the footprint of a project may require adjustments to the land applications because dispositions, wells, and access roads may have to be moved for various reasons, such as

- field surveyors (PDAs) indicating environmental constraints,
- First Nations or other stakeholders identifying significant site specific concerns,
- site surveyors finding construction concerns, and
- engineers refining equipment placement or alignment.

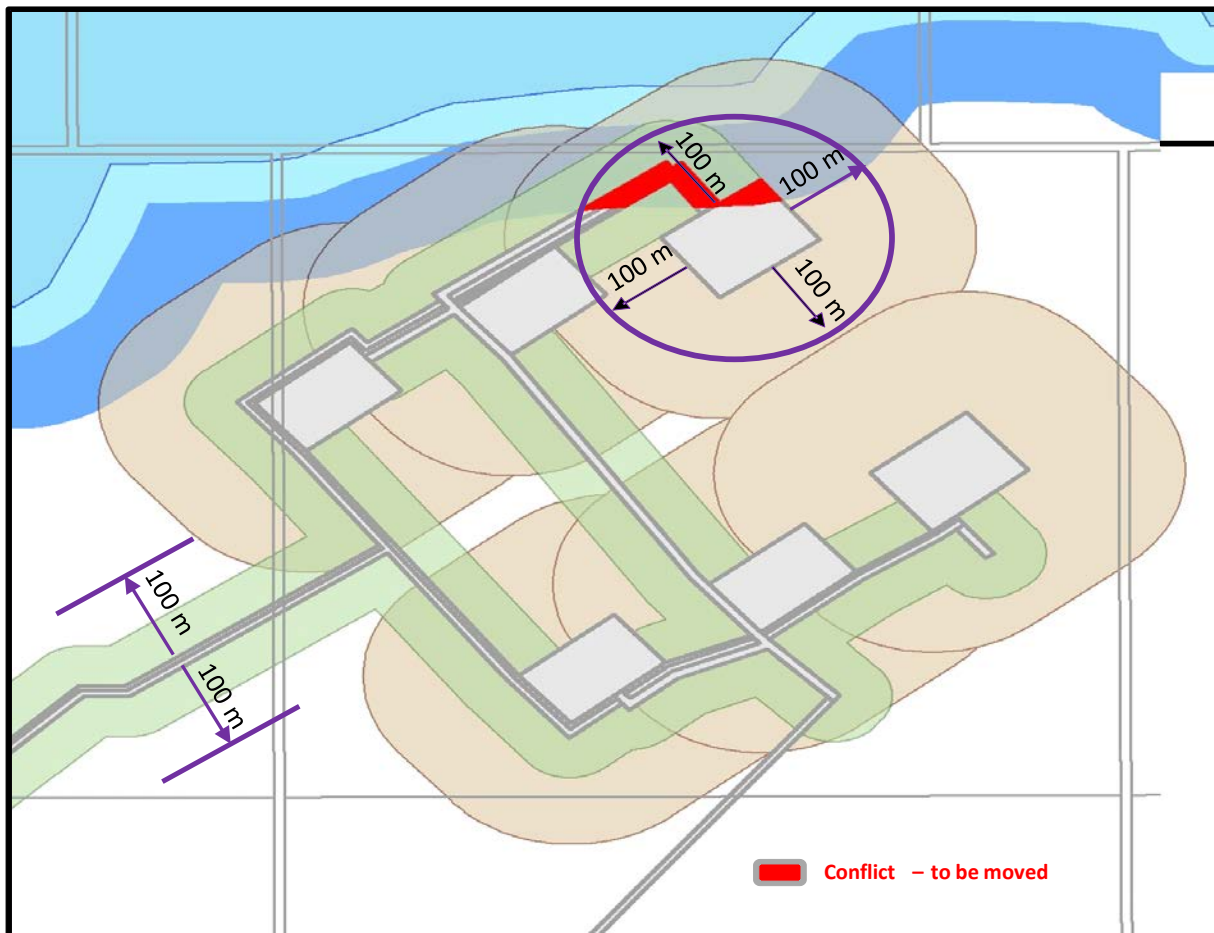
To ensure that consultation captures the potential for slight realignments due to mitigation attempts or changes in the project design, the proponent may include buffers of up to 100 metres surrounding a proposed project.

If a proponent chooses to include a buffer zone on a project they are planning to consult on, the buffer zone must be included as part of the overall project footprint when submitting the assessment request. Additionally, the buffer zone has to be identified on the submitted map as a separate boundary from the original planned footprint (see example below). This information must be indicated in the notification package that is sent to First Nations, including a clear explanation of the intent of the buffer zone.

C. Information on the Use of Buffers

- When submitting an Assessment Request in EDS, the ATS “To” and “From” locations must include the buffer area to help guide the ACO in determining which First Nation(s) should be consulted with. Refer to [section 2.1](#) for additional information.
- In the “Activity Area/Distance” field in EDS, only include the total project area and not the additional area for the buffer.
- Approvals Specialist will not consider the buffer area in their assessment of the level of consultation and thus the level of consultation will not increase due to the buffer.
- For future dispositions within the buffer, the proponent will be required to consult (amendments and expansions) on those dispositions.
- The buffer zone is up to 100 meters from the perimeter of disturbance for non-linear disturbances and up to 100 meters from the edge of disturbance on either side for linear disturbances.

The diagram below (p. A3) depicts an example of a buffer zone (shown as arrows) around a project.



D. Letter of No Concerns

The ACO recognizes that, from time to time, a First Nation may not have any concerns with a proposed project that they are being consulted on. In such an event, the First Nation(s) may provide a letter to the project proponent that they have no concerns with the project. In order to be accepted by the ACO in the place of a full and complete consultation process, the Letter of No Concern (LNC) must contain the following information:

- The letter must be on the First Nation's Letterhead, or in an email from the First Nation's official consultation contact (refer to [Important Links](#) to access First Nations' contact list).
- The FNC number.
- A statement that the First Nation has no concerns to the project's potential adverse impacts on the First Nation's treaty rights and traditional uses.
- The proponent's name.
- The project must be clearly identified by name and/or project description (pipeline, MSL, LOC etc.) and/or legal land description(s).
- The letter must be signed by majority or quorum of Chief & Council or the official consultation contact for the First Nation (refer to [Important Links](#) to access First Nations' contact list).

When there are conditions placed in the LNC, the following criteria will guide proponents in anticipating whether the LNC will, or will not be accepted.

- Conditions that refer to outstanding concerns related to site-specific impacts to treaty rights or traditional uses will not be accepted as a valid LNC.
- Conditions that refer to general concerns (e.g., Out of Scope: decreasing wildlife populations/wildlife management that are not tied to the proposed project, general human population health concerns, general water and air quality concerns, decline in commercial trapping opportunities, and cumulative effects) that are not tied to site-specific impacts to treaty rights and traditional uses may be accepted as a valid LNC.
- Conditions that refer to the fulfilment of agreements between only the project proponent and the First Nation (e.g., Memorandum of Understanding, Impact Benefit Agreements, Guarantees of Contract Work, etc.) may be accepted as a valid LNC.

Note: The LNC must make clear that the First Nation in question has no concerns regarding the project's potential adverse impacts on the First Nation's treaty rights and traditional uses. If the proponent is uncertain as to whether the LNC they acquired will be accepted by the ACO, then they are advised to contact their Approvals Specialist on the file.

E. Consultation Plan Requirements

The following requirements provide guidance regarding the minimum standards required for a consultation plan to be approved by the ACO. At their discretion, proponents may choose to provide a greater level of details on the proposed project than as required here.

Proponents are not required to provide the First Nation(s) with the consultation plan.

Note: These requirements are subject to change and proponents should ensure they have the latest version of this document through their designated Consultation Advisor or the Aboriginal Consultation Office (ACO) website.

The consultation plan, at minimum, will include the following items:

- **Project proponent's contact information:** company's name and general contact information (e.g., telephone, email, fax, and mailing address). Additionally, the proponent shall identify the designated individual(s) that may be contacted for information regarding the proposed project and its associated consultation.
- **List of First Nations to consult with as directed by the ACO:** The proponent shall provide a list identifying the First Nation(s) and the level of consultation as provided by the ACO in the Pre-consultation Assessment.
- **A plain language information package:** The proponent must include the information package that they intend to send to the First Nation(s) as required by the *The Government of Alberta's Guidelines on Consultation with First Nations on Land and Natural Resource Management, July 28, 2014*. Please refer to [section 6.1](#) of *Government of Alberta's Proponent Guide to First Nations Consultation Procedures for Land Dispositions* for more information regarding Information Package requirements.
- **The method(s) of delivery for providing the First Nation(s) with the information package:** The proponent shall list the potential methods of delivery for providing each First Nation with an information package. The potential methods of delivery must be in compliance with the approved methods of delivery as set out in [section 6.2](#) of *The Government of Alberta's Proponent Guide to First Nations Consultation Procedures for Land Dispositions*.
- **Method(s) for communicating direct notices to first nation(s):** The proponent shall list the potential method(s) for communicating direct notices to First Nation(s). Potential methods could include, but are not limited to: community postings; advertisements in local newspapers or First Nations' newspapers; Face-to-Face meetings with, or presentations to, elected leaders or their delegated representatives.
- **The proposed consultation schedule:** The proponent shall include a proposed consultation schedule that outlines potential consultation activities to be carried out with each First Nation. The proponent shall include details regarding potential timelines, contacts, methods of communication, consultation tracking, and any other relevant information regarding the proposed consultation schedule.
- **The reporting procedures for providing status updates to the ACO regarding the progress and Outcomes of consultation:** The proponent will be notified by their respective Consultation Advisor as to which method they are required to follow in order to provide status updates (Bi-monthly/ROC) to the ACO. The proponent shall, where applicable, provide Bi-monthly reports (see page 3 of this document for a Bi-monthly template) to the ACO and the First Nation(s) in question. The assigned Consultation

Advisor will provide more information regarding Bi-monthly reports, including the Bi-monthly review process. For projects carried out over a short period of time—usually under 6 months—the proponent shall maintain a record of consultation that follows the requirements as set out in [section 6.3](#) of *Government of Alberta’s Proponent Guide to First Nations Consultation Procedures for Land Dispositions*.

Bi-monthly Consultation Report Template

(Project Name) Bi-monthly Consultation Report

Bi-monthly Consultation Report for the Period Ending **(Date)**

First Nation (or Aboriginal group consulted--provide specific name of group)

Date of Stakeholder Contact	Proponent Primary Lead/contact	Individuals/Groups Contacted	Method of Contact and/or activity (Direct mail; Phone Call; Email; Meeting*; Other)	Summary of Issues Discussed	Outcomes	Follow Up / Outstanding Issues (these should link back to previous reports)
		names and organizations				

* If a meeting occurred, please provide location.

General Comments and Concerns
Capture general comments on consultation process, communication issues, i.e. # of cancelled meetings, with whom, reason for meeting or activity cancelled, and any rescheduling plans, etc.

NOTE: It is important for proponents to remember that the above template is not meant to be a comprehensive and exhaustive layout of all information required. The proponent is responsible for ensuring that the Bi-monthly reports adhere to the same level of detail and thoroughness that is required of the ROC (refer to [section 6.3](#) of *Government of Alberta’s Proponent Guide to First Nations Consultation Procedures for Land Disposition*).

Specific Concerns and Response Table

Note: This table is to be used in conjunction with the Bi-monthly report template and included when submitting Bi-monthly reports to ACO and First Nation.

First Nation:

Date:

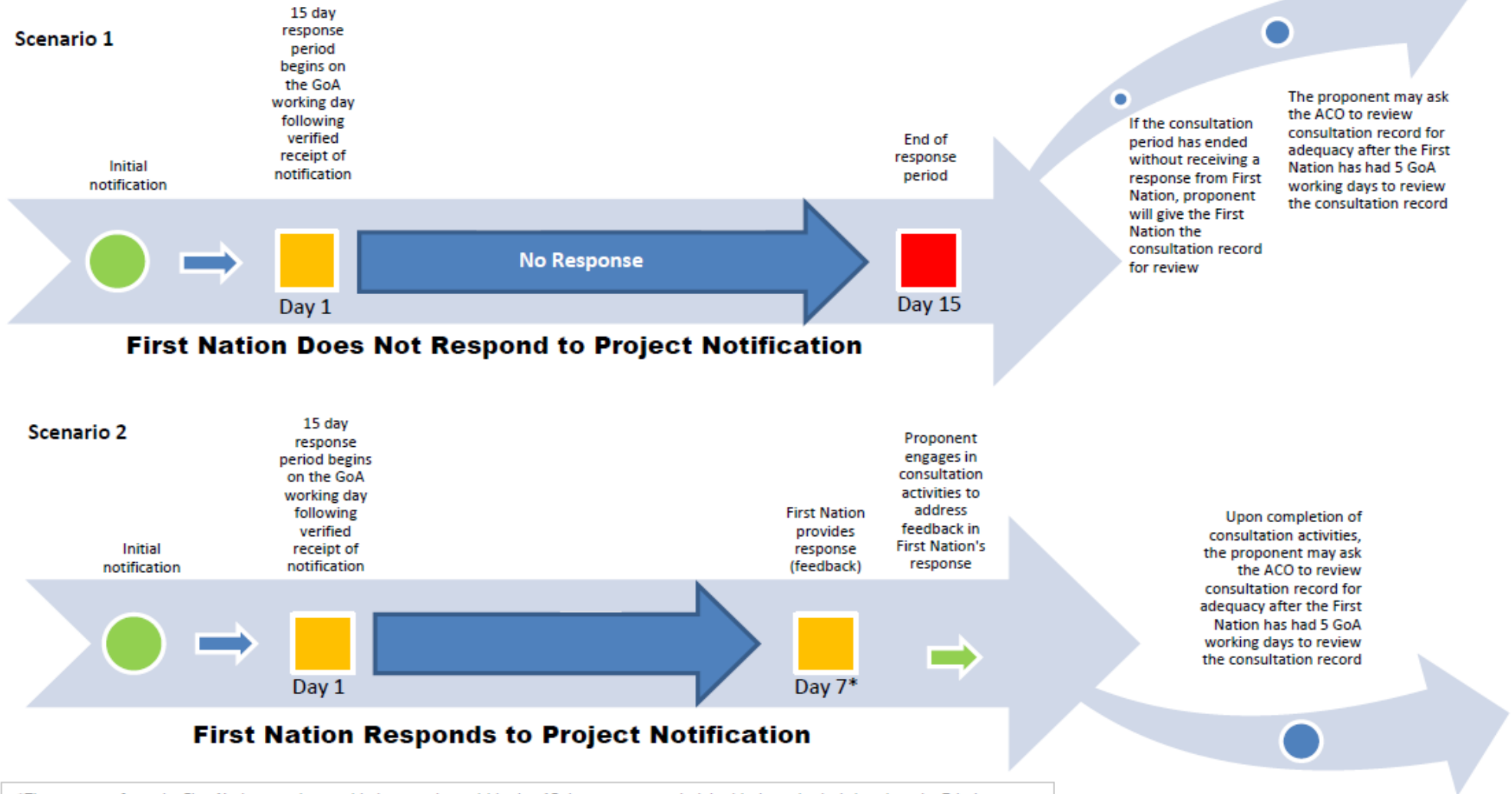
This table is designed to capture project specific concerns brought forward by the First Nation being consulted, and the proponent's plan to address the concerns through avoidance or mitigation. Any First Nation responses to the proponent should be documented.

Document or Meeting Reference	Specific Concern(s) Expressed	Project Specific Aspect of the Concern(s) Expressed	Proponent's Proposal to Avoid or Mitigate Concern(s)	First Nation's Response to Proponent's Proposal to Avoid or Mitigate Concern(s)

Reminder: The above templates are meant to guide proponents and they may be altered as required to capture the necessary amount of information. Additionally, proponents are reminded to include all supporting documentation necessary to confirm information provided in Bi-monthly report.

F. Follow-up Timelines

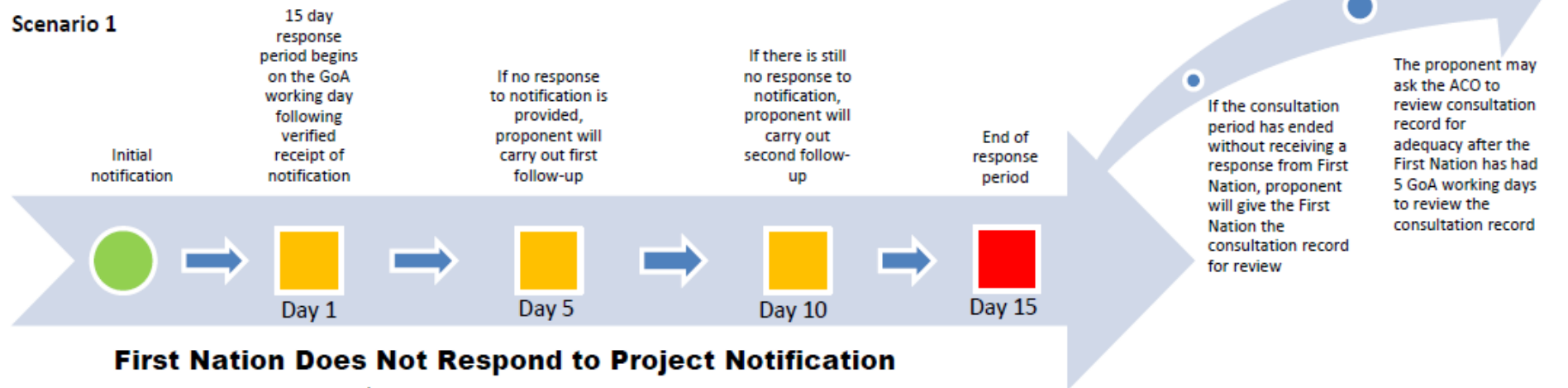
Level 1 Consultation: Streamlined Consultation



*The response from the First Nation may be provided at any time within the 15 day response period. In this hypothetical situation, the 7th day was chosen. Refer to section 5.1 for more information on Level 1 consultation timeline.

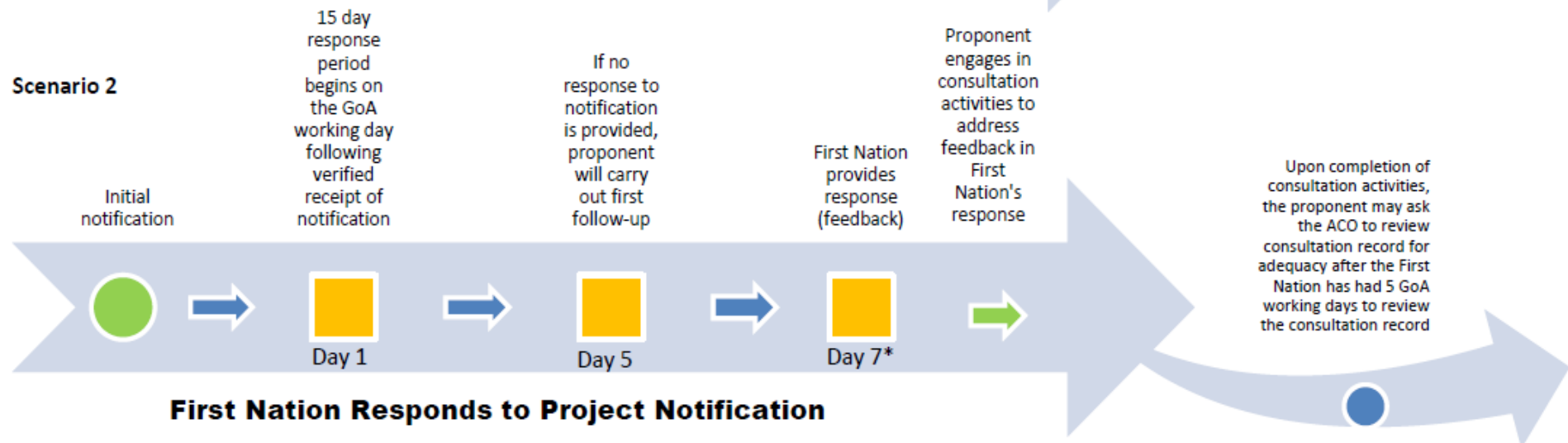
Level 2 Consultation: Standard Consultation

Scenario 1



First Nation Does Not Respond to Project Notification

Scenario 2

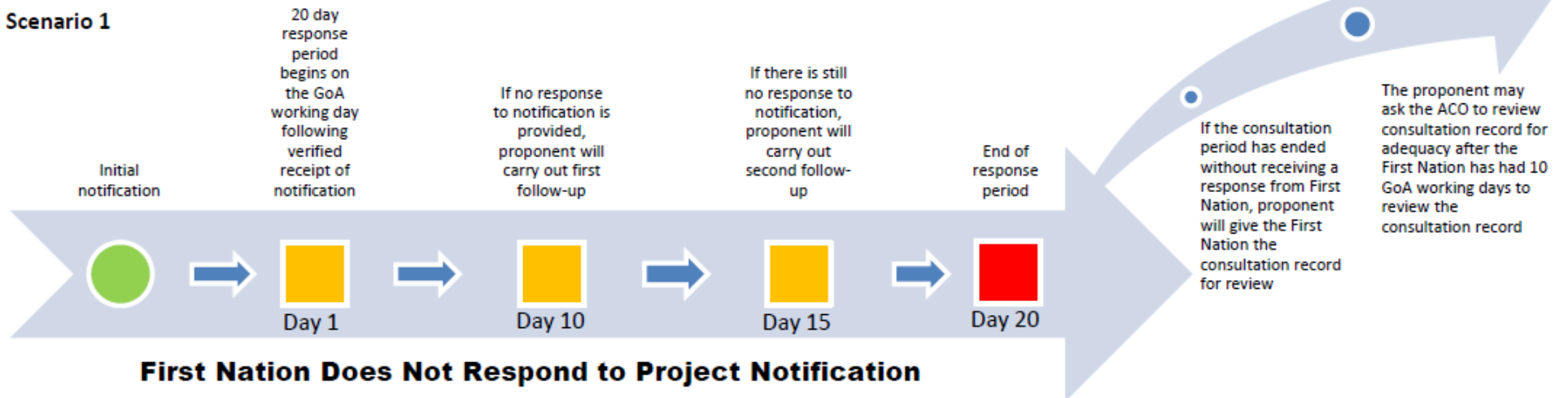


First Nation Responds to Project Notification

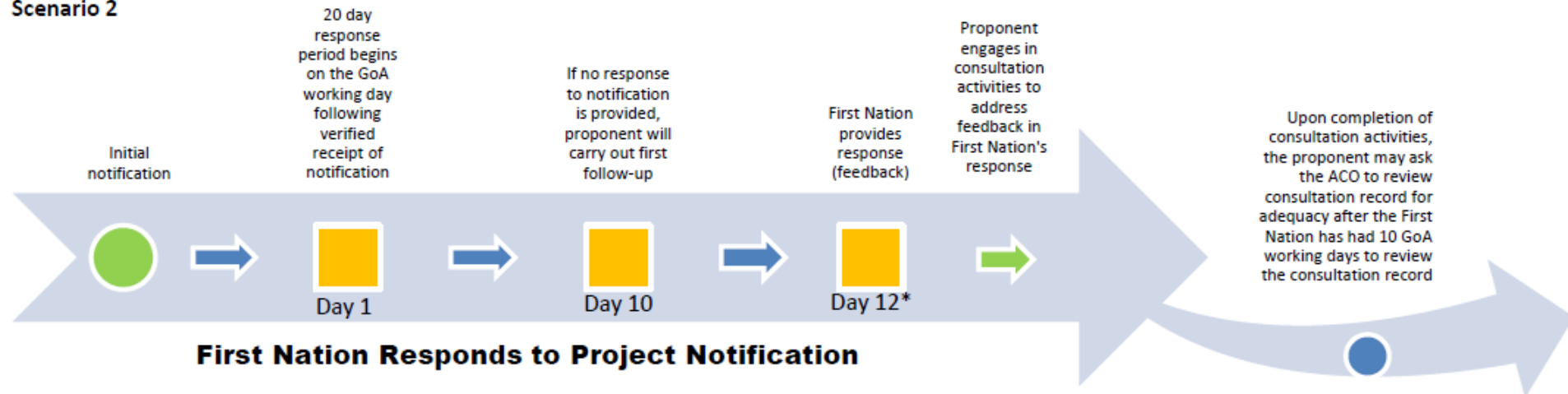
*The response from the First Nation may be provided at any time within the 15 day response period. In this hypothetical situation, the 7th day was chosen. Had the response come on the 12th day, proponent should have carried out the second follow-up as indicated in the 1st scenario within this illustration. Refer to section 5.2 for more information on Level 2 consultation timelines.

Level 3 Consultation/EIA: Extensive Consultation

Scenario 1



Scenario 2



*The response from the First Nation may be provided at any time within the 20 day response period. In this hypothetical situation, the 12th day was chosen. Had the response come on the 17th day, proponent should have carried out the second follow-up as indicated in the 1st scenario within this illustration. Refer to section 5.3 for more information on Level 3 consultation timelines

