

# Appendix 4-Y

---

Overview of the BC Environmental  
Assessment Process



Environmental  
Assessment Office



# Environmental Assessment Office

**OVERVIEW OF THE BC ENVIRONMENTAL  
ASSESSMENT PROCESS**



## Outline

1. The BC Environmental Assessment (EA) Process
2. Top 10 Tips for an Effective , Efficient EA

## BC Environmental Assessment Office

**Vision: Vibrant communities, healthy environment and a prosperous economy.**



**Mission: EAO leads an objective and respected environmental assessments which are inclusive and transparent and contribute to BC's social, economic and environmental well-being.**



Environmental  
Assessment Office

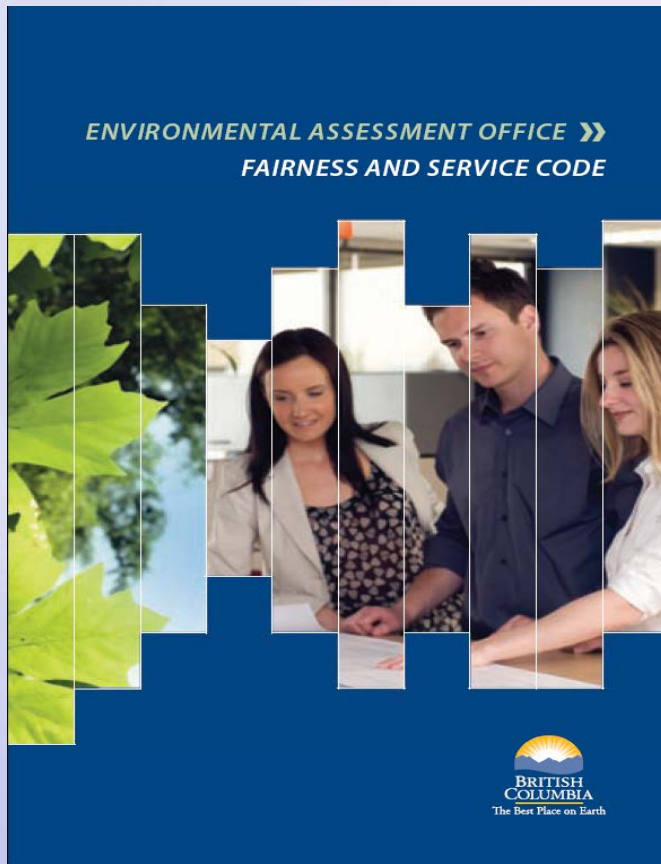


## Environmental Assessment Office

- Objective provincial agency responsible for administering the BC *Environmental Assessment Act (BCEAA)*.
- Manages the BC environmental assessment process
- Makes recommendations to ministers on Environmental Assessment Certificate



## Objective Assessments



### Guiding principles for EAO:

Fairness

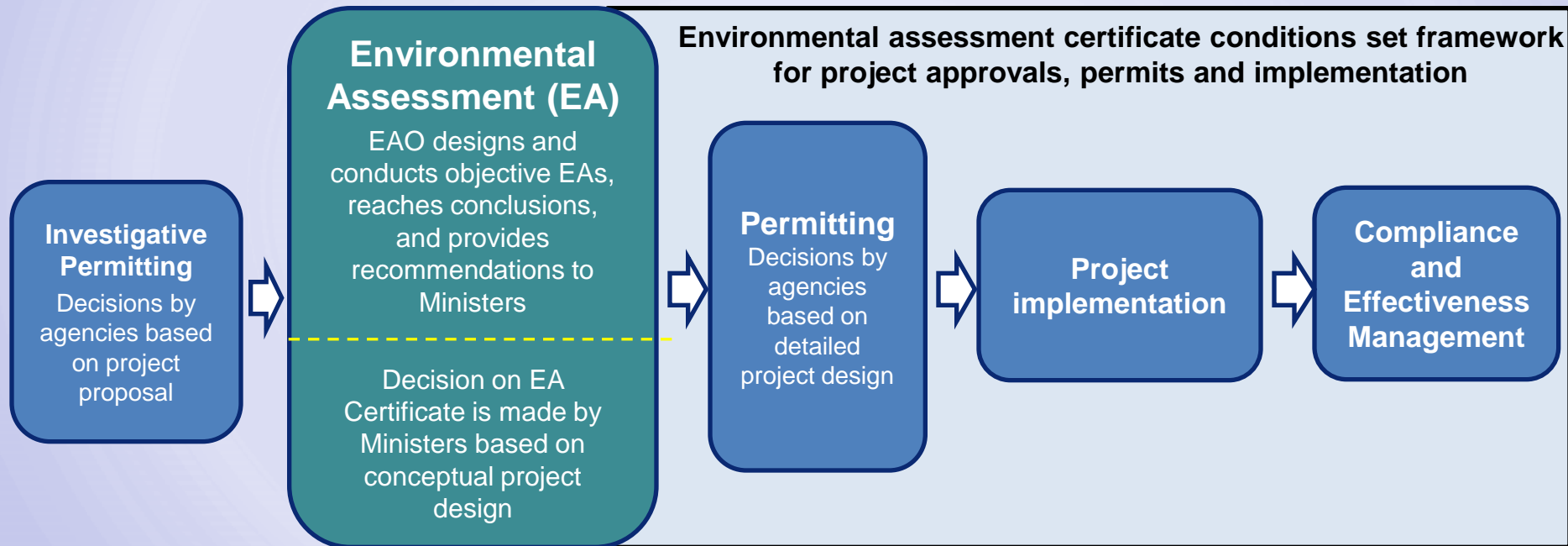
Transparency

Inclusiveness

Comprehensiveness

Efficiency

## Project Development Framework

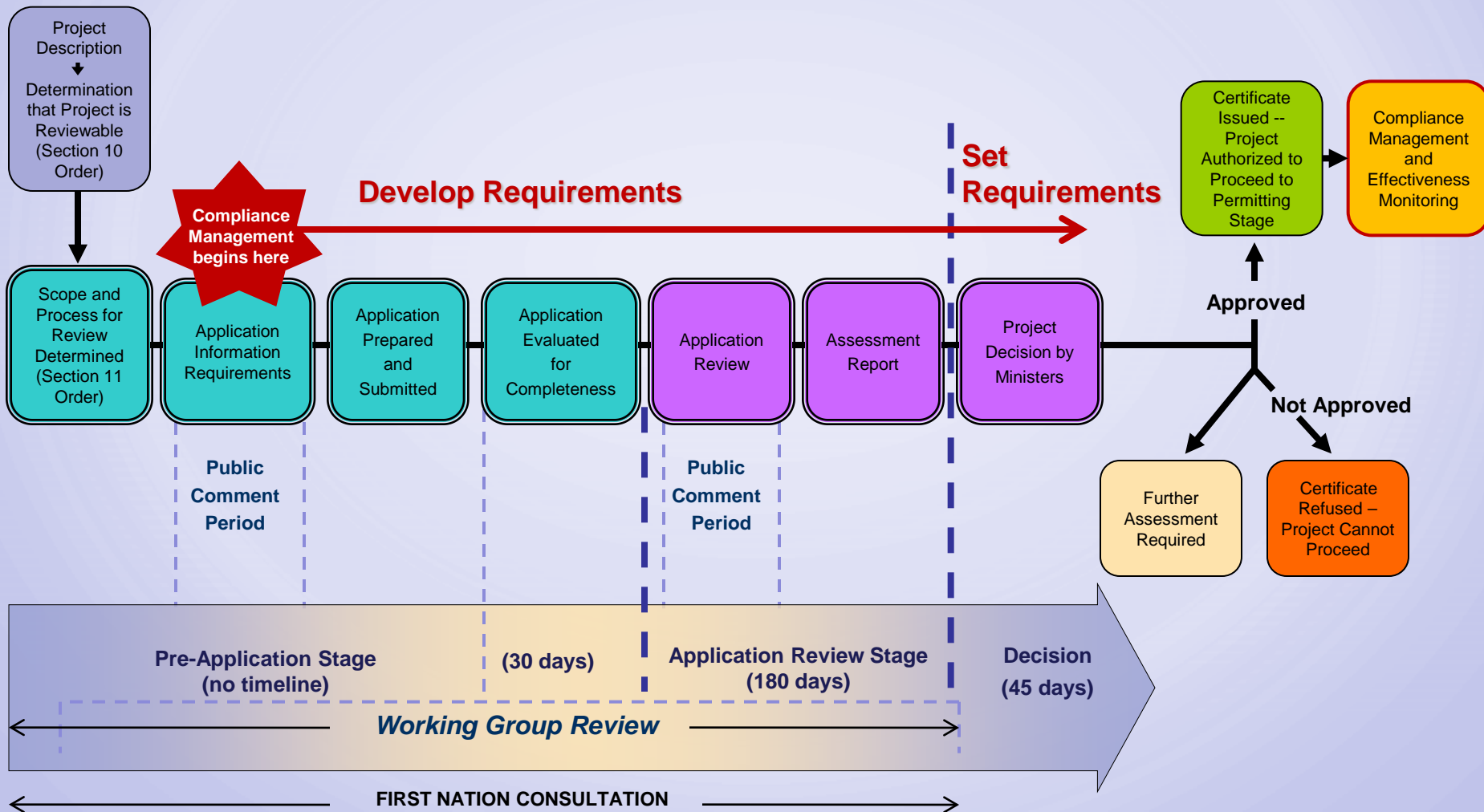


## ***BC Environmental Assessment Act***

- The overall purpose of the Act is to identify, avoid or mitigate potential significant environmental, social, economic, heritage and health effects associated with major project developments in BC
- Legal framework for proposed major projects in the province's EA process.
- Supported by several regulations, including the Reviewable Projects Regulation, and a variety of policy, procedure and technical guidelines



## Environmental Assessment Process





## Role of Proponent

- Provides all information about proposed project
- Consults with public and First Nations in pre-Application stage
- Addresses issues raised in pre-Application and Application Review stages



# Key Review Participants





## Working Group

- Inter-governmental committee chaired by EAO for technical review and advice
- Membership usually provincial, federal, local government and First Nations
- Proponent is not a member of the Working Group - may be invited to provide information
- Identifies issues and information requirements, works with proponent on issue resolution



## Public Involvement

- Consulted during pre-application and application stages
  - Formal request for written comment
  - Open houses
  - Posting of information, comments and
  - Proponent responses on EAO website



## Aboriginal Involvement

- EAO required to fulfill Crown's duty to consult – potential impacts to asserted rights and interests
- Proponent required to engage Aboriginal groups—delegated some procedural aspects of consultation
- Aboriginal groups invited to review key documents from EAO and Proponent
- Aboriginal groups invited to participate in the Working Group
- Aboriginal groups have opportunity to submit separate report at end of EA

The British Columbia flag, featuring a red cross on a white field with blue and red stripes, set against a background of a sunset over a body of water with mountains in the distance.

## Aboriginal Consultation

- Rapidly evolving case law impacts EAO's approach to consultation and accommodation.
- Resource agencies working together to coordinate consultation.
- Challenges:
  - Assessing cumulative effects on aboriginal rights; and
  - Harmonizing consultation approaches for joint federal-provincial EAs.



## Additional Permits and Approvals

- EA is a “strategic level” decision
- Provincial agency permits will be required after EA Certificate decision before construction/operation can begin
- Proponent may request “concurrent review” of required provincial agency permits
- Provincial agencies use EA to satisfy their technical and public review requirements
- Permit decisions must be made within 60 days of an Environmental Certificate decision (concurrent permitting)





## Top 10 Tips for a Successful EA

1. Be familiar with the EA process, Act and Regulations
2. Communicate often with EAO/CEAA (issue resolution, FOI and confidentiality issues)
3. Start engaging with First Nations and the Public early
4. Be mindful of difference between FN economic benefits vs. legal duty to consult
5. Be flexible and creative but no need to re-invent wheels
6. Track issues/responses – develop an effective internal process
7. Ensure there are clear roles and responsibilities for consultants and the Proponent (need for process Champion)
8. Apply project management discipline – work planning/ schedules
9. Guard professionalism/ credibility - Provide timely, high quality materials
10. Network/engage key agencies outside formal EA process



## Pre-Application: Key Steps

### Technical Review

- Submission of VC Scoping Document –
- Working Group review of VC Doc – May/June
- First Working Group Meeting (and site visit?) – May/June
- EAO Public Comment Period on VC Doc – May/June
- Proponent Responses to all comments – July/Aug
- EAO to finalize VC doc - Aug
- Submission of draft AIR document – Sept
- Working Group review of draft AIR document – Oct/Nov
- Proponent responses to WG comments – Dec
- Finalize AIR - Jan



## **Pre-Application: Key Steps**

### **Aboriginal Consultation**

- Proponent to draft Aboriginal Consultation Plan (ACP)
- Proponent to circulate ACP to Aboriginal Groups
- Proponent to submit ACP to EAO for review – update?
- Proponent to submit Aboriginal Consultation report #1

### **Public Consultation**

- Proponent to draft Public Consultation Plan
- Proponent to draft Advertising plan for public comment period on VC doc
- EAO to review Public Consultation Plan and Ad plan (including advertisement – to follow EAO template)



# Environmental Assessment Office





# Environmental Assessment Office





Environmental  
Assessment Office



# Public Consultation

Crown Mountain Coking Coal Project  
EAO Workshop  
April 21, 2015

## Outline

- Purpose of Public Consultation
- Legislated Requirements for Public Consultation
- Section 11 Requirements
- EAO Guidance to Proponents
- Guiding Principles

## Purpose of Public Consultation

- Identify groups that need comprehensive consultation
- Improve overall community/public understanding of project and provide information to communities
- Ensure that public concerns relevant to the assessment are identified and addressed
- Prepare local communities for managing the social, economic and land use impacts of a project
- Help identify options to enhance positive aspects or mitigate adverse effects
- Information gathering for government decision-making



## Section 11 Requirements

- Section 11 Order sets out specific requirements regarding public consultation
- Proponent must provide a public consultation plan to EAO within specified timelines for review and comment
- EAO assesses the adequacy of the public consultation plan
- EAO to hold public comment periods, (with open houses) on key documents:
  - A 30 to 75 day public comment period on the draft Application Information Requirements including at least one open house
  - A 30 to 75 day public comment period on the Application including at least one open house

## Section 11 Requirements

- Proponent to respond to all relevant public comments
  - Guidance on response process and template from EAO
  - Comments and responses are made public
- Proponent to provide written reports on key public consultation activities within specified time frames

## Consultation Methods

- Dependent on the level of public interest, and level of consultation needed
- Information sharing approaches:
  - Publications: brochures, fact sheets
  - Exhibits or displays in public places
  - Media notices or interviews by representatives
  - Advertising in newspapers
  - Project website
- Direct consultation:
  - Public open houses, meetings or panels
  - Workshops or focus groups
  - Surveys and questionnaires
  - Phone lines
  - Project site visits

**Effective  
consultation  
that is reaching  
the desired  
audience**

## Based on Experience

- Involve local government
- Utilize consultants at open-houses
- Clarify the project stage and opportunities for involvement with the public
- At open-houses, refer to EAO or CEAA to answer EA process questions
- Members of the public must submit comments on EAO forms or online
- Coordinate activities and avoid “consultation fatigue”
- Best use of technology
- Make sure public concerns are heard
  - Link consultation to identification of social value components
  - Link public comments to mitigation measures

## Public Comment Period

- Advertising plan and Advertisement (look at examples on EAO website)
  - Template for advertising
  - Location of hard copies of dAIR
  - Proposal for open houses
  - Advertising schedule
  - Media and advertising along the route
- Open houses
  - Location, logistics, expectations

Advertising is legally required 7 days prior to the start of any public comment period

## Guiding Principles for a Public Consultation Plan

- Clarity
  - The goal is that the public will have clear understanding of process and product, when and how public interests have been included
- Inclusiveness
  - Everyone potentially interested in or affected by a process has an opportunity to become involved
  - Efforts are made to include the under-represented and hard to reach
  - Barriers (ie. cultural, physical, social) to access are identified and mitigated
- Adaptive
  - Responding to interests and needs in an iterative way

## Guiding Principles for a Public Consultation Plan

- Appropriate process and resourcing
  - Adequate financial, technological and human resources (expertise and capacity) to achieve key objectives
- Effective communication
  - Multi-directional (not one-way) communication to support mutual understanding of interests
  - Relevant and credible information gathering
  - Reduce technical jargon
- Transparency
  - The process is transparent and deals openly with conflict and imbalances of knowledge in order to maximize participant input
  - Affected communities are informed of outcomes
  - Information is distributed regularly to anyone potentially interested in or affected by a process



## Concluding Thoughts

- Adapt proponent's established processes to fit EAO's requirements and principles
- EAO is looking at how the proponent has considered and responded to feedback and comments from the public throughout the EA process





# Environmental Assessment Office



Environmental  
Assessment Office



# Aboriginal Consultation Framework

Crown Mountain Coking Coal Project  
EAO Workshop  
**April 21, 2015**

## Outline

- Government's duty to consult
- Key consultation activities during the EA process
- Proponent's responsibilities
- Work Plan, Next Steps





## What does EA seek to achieve with Aboriginal Engagement?

- Understand potential impacts to Aboriginal Interests
- Seek to avoid, mitigate and/or other forms of accommodation necessary



## Objectives of Aboriginal Consultation

- Discharge our Consultation obligations relating to the Project:
  - Collaboratively determine potential impacts on Aboriginal Interests
  - Provide meaningful consultation opportunity
  - Guided by Strength of Claim assessment
  - Elicit and respond to feedback received from Aboriginal groups
  - Collaboratively develop an information gathering plan
  - Share information with Aboriginal groups regarding potential impacts to Aboriginal Interests
  - Delegate procedural aspects
  - Develop solutions to avoid or reduce potential impacts
- Ensure Project decision meets the Crown duty

## Trigger for the duty to consult and accommodate is met when the Crown:

- Has real or constructive knowledge of the potential existence of aboriginal rights (including title), and,
- is contemplating conduct that might adversely affect such rights.

**Aboriginal Rights** - integral to distinctive culture, and logical evolution

**Aboriginal Title** – exclusive use and possession

**Treaty Rights** – modern or historic



## Scope of the duty

- SCC: the amount of consultation and accommodation, if any, required by government is proportionate to:
  - a preliminary assessment of the strength of the “*prima facie*” case supporting the existence of the aboriginal right/title, and
  - the seriousness of the potential adverse effects upon the right or title claimed
  
- Obligations lie on a spectrum from “low” to “high” depending on these two factors



## **EAO consults with Aboriginal groups broadly by:**

1. Capacity funding
2. Invite pre-application input, e.g.:
  - Desired methods of involvement (representatives)
  - Valued Components
  - S.11 Order
  - Application Information Requirements
3. Invitation to technical working group
4. Ongoing meetings with EAO if/as required
5. Delegate procedural aspects of Consultation to Proponent
  - Aboriginal Consultation Plan and Report





Project Description	S. 10	S. 11*	AIR*	Application Evaluation*	Application Review*	Referral	Post-Cert
<p>Phase 1: Preparation</p> <ul style="list-style-type: none"> <li>• ID Aboriginal groups</li> <li>• ID treaties or process agreements</li> <li>• Review readily available information to determine initial views of strength of claim</li> <li>• Consider consultation levels</li> <li>• Decide who will engage Aboriginal groups</li> </ul>		<p>Phase 2: Engagement</p> <ul style="list-style-type: none"> <li>• Provide info and seek input</li> <li>• Complete consultation at appropriate level</li> </ul> <p>Phase 3: Accommodation</p> <ul style="list-style-type: none"> <li>• Assess consultation and need to accommodate</li> <li>• Revisit initial views on strength of claim to establish preliminary strength of claim assessment</li> <li>• ID accommodation options</li> <li>• Propose accommodation measures and attempt to reach agreement</li> </ul>			<p>Phase 4: Decision and Follow Up**</p> <ul style="list-style-type: none"> <li>• Assess consultation and accommodation record</li> </ul>		<p>Phase 4: Decision and Follow-up**</p> <ul style="list-style-type: none"> <li>• Provide decision to Aboriginal groups</li> <li>• Implement accommodations</li> </ul>



## Accommodation

Practical accommodation measures may include:

- proposal / design modification;
- mitigation;
- avoidance;
- commitments to take other action;
- a spectrum of land protection measures; and,
- impact monitoring.



## Role of the Proponent

- Engage as early as possible
- Follow direction in Section 11 order
- Provide information about the proposed Project and potential impacts to Aboriginal groups
- Consider and respond to concerns and questions raised by Aboriginal groups
- Propose mitigation / accommodation measure to address impacts
- Document engagement activities, comments or concerns expressed by Aboriginal groups and the Proponent's response (forms part of the consultation record that the decision maker will consider)



## Proponent engagement activities may include:

- Meet with government and Aboriginal groups;
- Participate in their own meetings with Aboriginal groups;
- Provide information to Aboriginal groups about the proposed activity
  - how, where (maps), and potential impacts may be to lands and resources;
- Obtain or discuss information about specific Aboriginal Interests; and
- Discuss possible plan modifications to address Aboriginal Interests
  - avoidance; mitigations etc. as accommodation



## Suggested Best Practices for Proponents

- Provide information in meaningful and understandable formats
- Recognize the significance of cultural activities and traditional practices of the Aboriginal groups
- Act with honour, openness, transparency and respect
- Create a presence in the community
- Understand the nature of Aboriginal groups' economies
- Be responsive to their reality, engagement preferences and capacity
- Engage before planning is completed and leave room for modifications
- Be prepared to listen and allow time for meaningful discussion
- Convey willingness to describe the project and consider any concerns
- Formally recognize relationship in writing



## Section 11 Order – Aboriginal Consultation

Two main products to be provided to EAO:

1. The Aboriginal Consultation Plan:

- Provide to the Project Assessment Lead within 60 days of the Order
- Guides consultation activities during the Pre-Application and Application Review phases of the environmental assessment
- Is developed collaboratively through an iterative process with identified Aboriginal Groups



## Section 11 Order – Aboriginal Consultation

### 2. Aboriginal Consultation Report

- Summarize efforts undertaken to consult and comply with the Plan;
- Identify feedback and information received during consultation;
- Identify potential adverse impacts to Aboriginal Interests;
- Identify how the potential adverse impacts of the proposed Project will be avoided or mitigated (accommodated), including any changes to the proposed Project design;
- Include a “consultation log”, with a chronology; and,
- Summaries of engagement activities and outcomes.



## EAO FN Consultation Next Steps/ Work plan

- Regional Team Support / Coordinated approach
- Confirmation of Aboriginal groups to consult with depth of consultation and Crown rationale
- Section 11 and initial Strength of Claim (SOC) letters
- Review and provide feedback on Proponent Consultation Plan / Reports
- Working Group Meeting
- Meetings with Aboriginal Groups