



Module 5: Documentation

In this module:

[Learn the five hallmarks of successful documentation](#)

[Identify key materials to have in a documentation file](#)

[Decide on a documentation format that is accessible and culturally responsive](#)

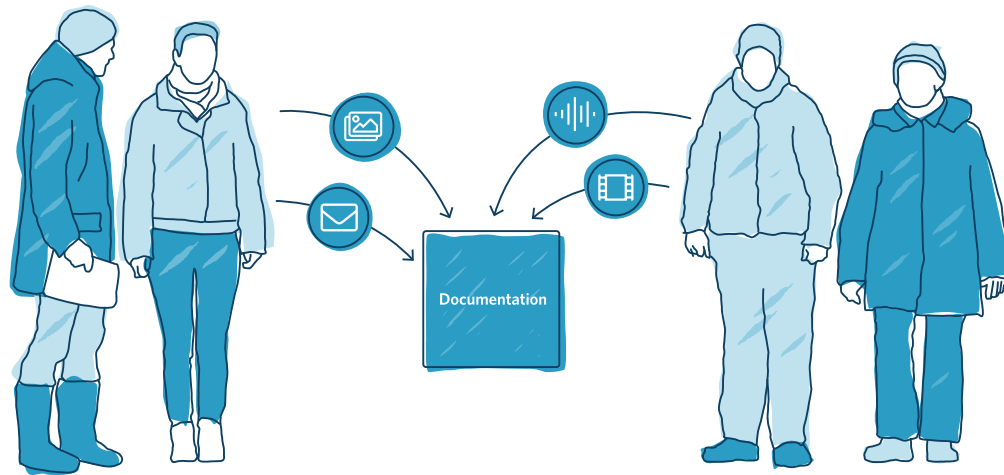
Wenland Case Studies:
[5A. Conflict Resolution](#)

Introduction

The Documentation Module provides the context, purpose and standards for documenting an initiative. Specific recommendations are provided in the “Documentation to Save” section of each module.

Historically, poor documentation has reflected both careless record-keeping and intentional efforts to conceal human rights abuses. Strategically self-serving documentation—a record that only reflects the experiences, perspectives, interests and language of the record-keeper—has been used to coerce, oppress and silence indigenous peoples.

Ideal documentation is not just thorough and consistent but also co-created and co-maintained by TNC and the IPLCs. Many IPLCs practice an oral tradition, and therefore a culturally responsive documentation file may contain formats besides written documents, which could include audio recordings, smartphone videos, captioned photos or email exchanges.



Documentation is not expected to look the same across different initiatives and IPLCs.

But documentation should be thorough and consistent with the guidance in this module. From a human rights perspective, careful documentation provides a record for TNC and the IPLC to assess their work's alignment with the Principles and Safeguards.

Collaborative documentation helps communication, inclusion and relationship-building by ensuring everyone understands which issues have been considered, what actions have been taken, and the terms of any agreements. Documentation is also helpful for TNC staff or external auditors to review the work.

Shared documentation reflects agreements on process and outcomes, substance and experience. When parties agree to document or memorialize a view, story, or agreement for the record, they are validating the experience and its importance—both listening and being heard.

Principles and Safeguards

The Introduction includes a discussion of all the [Principles and Safeguards](#) that apply to equitable partnerships. Five are particularly important for documentation:

Key Principles and Safeguards for Documentation

Prior Engagement and Collaborative Relationships:

Creating a shared record of experiences is a powerful tool for mutual learning, building trust and reinforcing collaboration.

Accountability:

Documentation prompts authorities and participants to accept responsibility for their actions. A historical record allows us to draw lessons from the past and make better decisions in the future.

Equity:

Documentation includes a record of decisions regarding benefit sharing agreements, measures to mitigate power imbalances and access to resources. The documentation process itself should further the principle of Equity by respecting IPLC value systems and choices, and culturally responsive formats.

Inclusion:

Documentation should include the voices and perspectives of diverse social identities. Rigorous documentation may reveal the need to address gaps in participation and improve inclusion.

Meaningful Consultation:

Careful documentation ensures that TNC and the IPLC have a complete picture of what has been agreed upon and by whom — a critical component of a robust, ongoing consultation process.

Guidance

Documentation should begin at the concept stage and continue throughout the collaboration. It should serve both TNC and the IPLC, being responsive to language, format, literacy levels, internet access, and cultural practices and preferences. Technical support or capacity-building may be needed to ensure the IPLC's participation, and TNC staff may need to improve their understanding of the documentation formats preferred by the IPLC.

Teams should aim for a full record of processes and outcomes, fostering communication, trust and accountability. Documentation practices will vary across initiatives, but teams should meet the standards described below: robust, thorough, collaborative, respectful, and accessible.

As teams begin documentation, they should take a look back at the [Human Rights Impact Assessment](#) or other issues that have been identified so far. Priority areas and sensitive issues may need extra attention. The five key hallmarks of successful documentation are:

Five Hallmarks of Successful Documentation

Robust:

More is often better. It's impossible to predict future uses of documentation files, and items that may not seem useful initially may turn out to be important. But documentation should be intentional within this robust framework, since a file with too much in it becomes bloated, unwieldy, and less useful. To keep this balance, plan to revisit the documentation file regularly, and organize and consolidate the contents.

Thorough:

A balanced approach covering all modules, stages, and processes is important. A file that is stuffed with material regarding an FPIC consultation but has no documentation of initial engagement or implementation is not sufficiently thorough.

Collaborative and culturally responsive:

Documentation is a co-created process. IPLCs should make their own decisions about what's included, what the record will look like, and how it's used, accessed and stored. Documentation should serve both TNC's and the IPLC's needs and priorities.

Respectful:

Documentation must acknowledge the IPLC's rights, practices and contributions and, in

particular, must respect and protect an IPLC's rights to their collective knowledge and intellectual property.

Accessible:

The documentation file must be readily accessible to both TNC and the IPLC. Accessibility for third parties or the general public can also be valuable, but confidentiality concerns must be taken into account.

Key Materials to Include in the Documentation File

Background research:

Background research that was conducted to identify all potentially impacted IPLCs (desk research, expert consultations, preliminary community contacts) as described in [Step One of the Learning & Early Discussions Module](#). Research notes, resources, meeting notes and copies of materials supplied by experts should be included.

Engagement Plan:

An Engagement Plan for each IPLC, and a description of how the plan was co-created and shared. See [Step Two of the Learning & Early Discussions Module](#).

Consultation preparation:

Consultation preparation, including competencies of the TNC team, capacity needs for FPIC and any host country legislation that applies, remembering that TNC is committed to an FPIC process that may go above and beyond the legal framework. See [Step One of the FPIC Module](#).

Consultation Plan:

A Consultation Plan, including materials that describe:

1. how the plan was co-created and shared
2. the sessions, meetings and events that were held, and related materials
3. a brief outline of how information will be shared, including preferred languages and formats. See [Step Two of the FPIC Module](#).

Consent Agreement:

A Consent Agreement (if consent is given) reflecting an agreed-upon format, IPLC concerns and suggestions, who participated in meetings, and a plan for periodically revisiting the agreement, along with meeting notes, as described in [Step Three of the FPIC Module](#).

Conflict Resolution Plan:

A Conflict Resolution Plan outlining the mechanisms and terms for resolving disputes, and materials that show: (a) how the plan was co-created with the IPLC; and (b) a record of each dispute and how it was resolved. See [Step One of the Conflict Resolution Module](#).

Updated Engagement and Consultation Plans:

Updated Engagement and Consultation Plans as implementation begins, as discussed in [Step One of the Implementation Module](#), especially areas of key concern or human rights impacts identified during consultation, as described in the [FPIC Module](#).

****Teams already in implementation:**

Teams already in implementation should do a streamlined version of the above, including:

- Notes on assessments and any impacted parties, based on a review of the [Learning & Early Discussions Module](#)
- A plan for applying the FPIC steps moving forward (and retroactively where possible) in line with the [FPIC Module](#)
- A [Conflict Resolution Plan](#) per the Conflict Resolution Module

Human Rights Impacts Monitoring:

Human Rights Impacts Monitoring including practices established per the guidance in [Step One of the Monitoring, Evaluation & Adaptation Module](#), focused on areas of key concern and human rights impacts. Activities carried out per [Steps Two](#) and [Three](#) of the Monitoring, Evaluation & Adaptation Module should be fully documented, including notes on pause-and-reflect meetings.

Key Issue: Format

Documentation should be easy to implement, share, store and keep secure. Agreeing on an information-sharing database with the IPLC (e.g., a Box folder) may be a good option for keeping everything in one place. For major events or decisions, non-confidential information should be shared broadly throughout the IPLC, supporting transparency and trust. Staff should work with the IPLC to identify who should share this information and how.

Multilateral funders, governments or other actors may have specific documentation requirements, such as meeting minutes, a signed list of attendees or a negotiated agreement. In other contexts, documentation can take a more innovative form, such as a smartphone video of a meeting or ceremony, a recording of oral testimony, photos with captions, a WhatsApp text or voice conversation, a written report, bulleted lists, a song, or an artist's depiction of a meeting or agreement. The form of documentation must be agreed upon with the IPLC.

Documentation should serve the needs of both TNC and the IPLC. TNC may feel that certain elements need to be documented in writing, for example, for a donor report or the team's institutional memory. If the IPLC prefers a different format, it may be possible to honor both formats, as long as transparency is maintained, and the written version is not considered binding on the IPLC.

Key Issue: Additional Workload Burden

It takes effort to create a complete file for operational and human rights purposes, but the work does not necessarily need to be extensive. For example, a [Conflict Resolution Plan](#) could be a short summary of the options in the Conflict Resolution Module, including additional considerations as appropriate. On a smaller project, a [Consent Agreement](#) may be a one-page

summary of the process and terms. Meeting notes from a consultation session may be a series of photos accompanied by a bulleted list of participants and the major discussion points and decisions.

Managers should plan for additional capacity to handle a larger workload if it becomes necessary, but documentation can be efficient and thorough, as long as it is designed and carried out in collaboration with the IPLC.

Key Issue: Confidentiality



Transparency is key to establishing fairness and trust between TNC and IPLCs. But extending this principle to broader audiences is complicated. Preserving confidentiality may be paramount in certain circumstances, as indigenous peoples have intellectual property rights over their stories and practices. They may choose to share this information with TNC as part of a consultation process, but TNC must also respect the IPLC's choice not to share it. For more on IPLC intellectual property rights, see [Step Three of the Learning & Early Discussions Module](#). Confidentiality measures may be enacted around sensitive information, such as IPLC political strategies, internal administration, or information about territorial demarcation.

The need for confidentiality may arise with outside audiences as well as within the IPLC. If there is an inter- or intra-group conflict or a vulnerable group, eliciting information may require confidentiality. Cases should be addressed with continual assessment of the Principles and Safeguards and the guidance in the [FPIC](#) and [Implementation](#) Modules. The [Global Indigenous Peoples and Local Communities Team](#), members of the VCA Network, and Legal Counsel can also provide advice.

Key Issue: Legal Considerations



Organizations generally record activities, understandings, positions and decisions that can be used in audits, future negotiations, or even litigation in unfortunate circumstances. This documentation may be important for protecting TNC legally. Managers should consult with Legal Counsel as required by TNC's policies and procedures.

In keeping with the Principles and Safeguards, documentation should be designed to support intentional, informed communication and collaboration, not defensive strategies. The modules in this Guide, and related documentation, are meant to be implemented continuously. FPIC, for example, is not just obtained at a single point in time; it is continually re-assessed as circumstances shift. If the IPLC asks for a modification, TNC would not typically insist on sticking to the terms of the deal, but should see such a request as a valuable part of the relationship-building process. In some cases, it may be necessary to suspend or terminate a relationship that the IPLC no longer believes serves its needs.

Resources: Documentation

Storybook video on Healthy Country Planning in Australia

The Warlpiri speakers of the Tanami Desert have turned the English version of the Southern Tanami Indigenous Protected Area management plan into a digital storybook: a series of videos, audio and animation in the Warlpiri language. The [website](#) contains these materials as well as the English version.

Special Attention to Documenting FPIC

Equitable Origin and the Roundtable on Sustainable Biomaterials have guidance on what constitutes acceptable evidence of FPIC processes in [Enabling FPIC Through Voluntary Standards](#), Project Report, July 2018. This framework promotes best practices in natural resource development, constructed with and by indigenous peoples. They were designed to support responsible energy development, but they could be adapted for conservation. For example, in the FPIC Monitoring Tool Framework presented in Annex 3 of the Project Report, the section on the Tenets of FPIC (pages 101-103) could be used to supplement the documentation to save for Free, Prior & Informed Consent in this Guide.

5A. Wenland Case Study Documentation

As the permafrost stabilization initiative gets up and running, the TNC team conducts a documentation review per the Guide, assessing what the team has been collecting throughout the process.

[View Case Study](#)

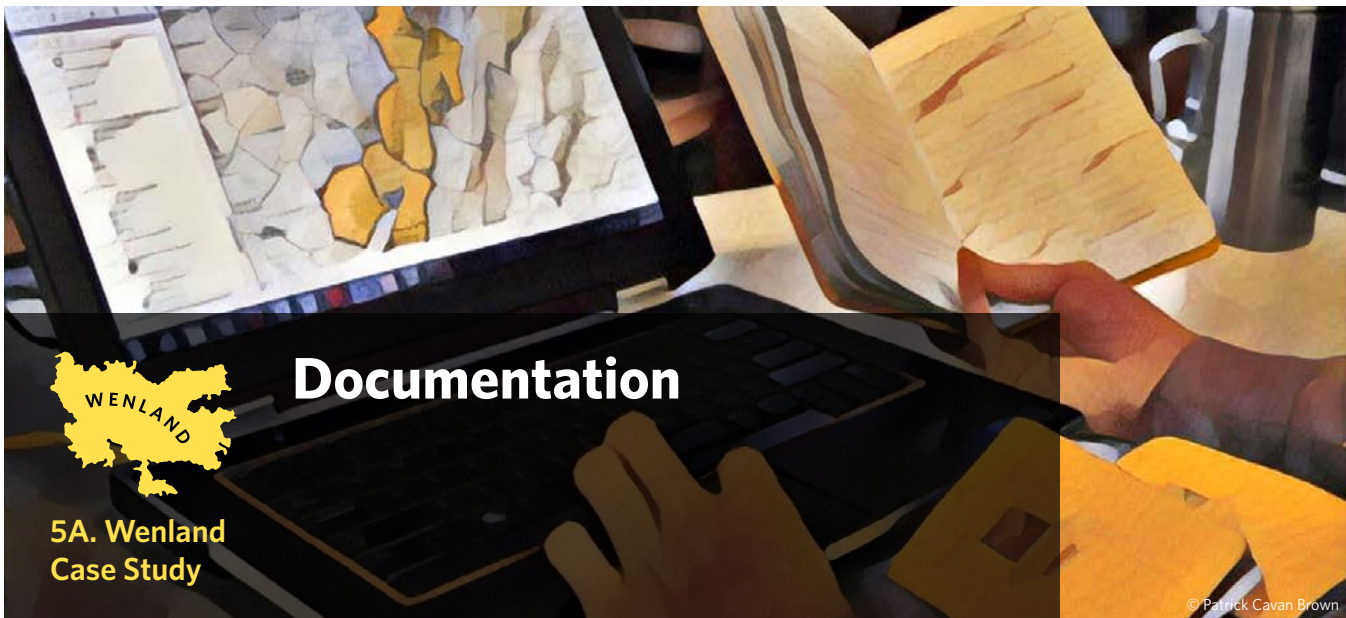
Documentation Checklist

- Establish documentation practices that facilitate communication, trust and accountability. Documentation should meet the needs of both TNC and the IPLC, including language, format, literacy levels, internet access and cultural practices and preferences
- Revisit the [Human Rights Impact Assessment](#) or other areas of concern identified during consultation, and provide added attention to these areas during documentation
- Ensure documentation practices respect and protect IPLCs' rights to collective knowledge and intellectual property, and include confidentiality provisions where necessary
- Throughout the lifecycle of an initiative, ensure documentation is continuous and thorough, yet intentional and manageable
- Support TNC and IPLC capacity-building to facilitate participation in and understanding of culturally responsive documentation practices

Documentation to Save

Key materials to include in the documentation file (see above):

- [Background research](#) identifying all potentially impacted IPLCs
- [Engagement Plan](#) for each IPLC partner
- Consultation preparation information
- [Consultation Plan](#)
- [Consent Agreement](#)
- [Conflict Resolution Plan](#)
- Updated Engagement and Consultation Plans
- For teams in implementation that have not been through the earlier modules, an adapted, streamlined version of the above, including:
 - Notes on assessments and any potential impacts or impacted parties
 - A plan for applying the [FPIC](#) steps moving forward, (and retroactively to the extent possible)
 - A [Conflict Resolution Plan](#)
- Human rights monitoring indicators, activities and notes



As the permafrost stabilization initiative gets up and running, the TNC team conducts a documentation review per the Guide, assessing what the team has been collecting throughout the process. The documentation file contains:

- A research file including copy-and-pasted news stories, some downloaded academic articles, emails with attached documents sent by some local university Native Studies professors and staff notes.
- Introductory emails among TNC staff, a Wen community contact and two Wen Camp Council members, and notes from a coffee meeting with Council members.
- Emails with a broader group of Wen Council members, arranging a time for TNC to appear before the Council. TNC's initial email conveying the staff member's understanding of how to engage the community and asking for comment on the proposed methods of engagement. A number of replies ("sounds good!") indicate approval.
- A Consultation file, including: an outline of topics to cover, annotated over time with meeting dates, issues covered and rough notes on conclusions that were reached; flash drives with video of sessions; copies of official minutes, resolutions and correspondence with the Camp Councils; copies of some reports and correspondence with outside parties; copies of posters and promotional materials regarding consultation sessions; copies of maps and handouts used at consultation sessions; drafts and an executed copy of the Initiative Agreement clearly indicating Wen consent; news articles regarding the consultation.
- A three-page Conflict Resolution Plan and a cover email from TNC to a group of Council members, saying, "This is the final version of the plan that we discussed during the consultation session on July 21; let us know if you have any comments or revisions, and please share widely within your respective communities."
- Correspondence related to the Environmental Monitoring Committees' membership issues.

1

This is a new project team, and they are eager to know whether their documentation file is adequate. Where could it be stronger?

The team's file might be improved, but it's adequate and reflects diligent efforts to document a relatively well-established relationship with the Wen. For many projects where the IPLC has less administrative or technical capacity, the file may be considerably thinner and rely primarily on TNC notes and memos documenting oral processes and agreements.

A few areas where the file could be stronger:

- *The Engagement Plan could have been more formally set out and agreed to, but this can be hard at the beginning of a relationship.*
- *The Conflict Resolution Plan should have been more clearly agreed to. The TNC team should have pushed to confirm that it had been read, understood, agreed to, and, ideally, was being promoted within the communities.*
- *While the Consultation file seems robust, an annotated outline might not be sufficient to capture such a detailed and complex process.*

2

rostLock has been keeping its own file on the project and the consultation. At the signing ceremony, FrostLock proudly delivers to the Councils a neatly prepared series of 34 binders with reports, minutes and transcripts, saying they are an invaluable historical resource. Then FrostLock asks the Wen leaders sign a statement acknowledging the volumes as the "official record of the proceedings." Should TNC have any concerns?

Yes. First, the principles of Informed Decision-Making and Overarching Good Faith weigh against seeking IPLC signatures or other approval of documents or materials that the IPLC is not familiar with in-depth and in detail. Asking the Wen to approve a document they haven't reviewed is like asking them to sign a contract in a foreign language. Second, if there is going to be an official record of the proceedings, the Wen should have involvement in, or ownership over, the process of creating it.

3

FrostLock told its investors that technical evaluations agree on the likelihood of success of its stabilization technology. The technical evaluations, disclosed during the consultation, do not contradict this, but only barely: Evaluators put the likelihood of success at 51 percent. FrostLock doesn't want evaluations to be included in the public record because they contain proprietary information. When the issue of the likelihood of success came up during consultation, the Wen said they would still support the initiative even if there was only a small chance of success. Can TNC go along with FrostLock's request to limit the record?

FrostLock's request may not be ideal, but it doesn't seem deeply problematic. Transparency is an important part of Accountability, and reasonable protection of proprietary information is not inconsistent with that. FrostLock does not appear to be misleading investors, and their relationship with their investors is not a responsibility of TNC or the Wen. The Wen apparently have the information on likelihood-of-success that they need to make their decision.

4

Same as above, but the information FrostLock wants excluded from the record is about the proprietary chemicals being used in drilling and stabilization. Several of the chemicals are new and still undergoing testing. Is this a legitimate exclusion request?

This exclusion might be seen as undermining the effectiveness of the public record.

Public policy battles are ongoing around the world over the public's right to know the contents of chemicals used for fracking. One purpose of a public record would be to allow the Wen and other stakeholders to revisit decision-making in light of new information — as might arise from ongoing testing. TNC and the Wen should try to find solutions that protect legitimate proprietary information but also accommodate the purpose of documentation. Perhaps an exception is warranted to reveal the chemicals to a select group of researchers only.

5

The Councils tell TNC they don't have the capacity to do anything with the record, like share it with the communities. They just plan to keep it on file at the Council head office. So it goes?

TNC doesn't live in a world of unlimited resources either, but the team might budget ways to make the record accessible, like an archival website, uploading key documents and session videos, or writing a one-pager that summarizes the process. If the consultation process was historic and involved collecting Wen stories, setting expectations, and hearing commitments from FrostLock and TNC, there could be many reasons that rights holders and stakeholders would want to revisit the process. Having everything readily available also serves the practice of continuous learning.