

# A Quick Guide to Voluntary Engagement with First Nation and Métis Communities

## Introduction

Government has a duty to consult on decisions that could adversely affect the rights of First Nation and Métis communities. This duty to consult is often triggered by requests to develop land or resources.

While the duty to consult belongs to government, the proponents of land and resource development projects play an important role in the process. By engaging early with First Nation and Métis communities, project proponents can help ensure that projects move ahead without delay and in a way that respects the rights of Saskatchewan's Indigenous people.

## Key Concepts

- First Nation and Métis Communities have rights based on their customs, practices, and traditions that predate European control. First Nation communities also have rights guaranteed through Treaties. The fundamental rights relevant to this Guide are the Aboriginal and Treaty rights to hunt, fish, and trap for food, and to use lands and resources for traditional uses such as ceremonies or gathering medicine. These rights apply to unoccupied Crown lands, public water bodies, and occupied Crown lands where First Nation and Métis people have a right of access.
- The Government of Saskatchewan has a duty to consult. This is a constitutional requirement to both:
  - Consult with First Nation and Métis communities before making decisions that could adversely affect the exercise of any Aboriginal and Treaty rights; and
  - Accommodate, as appropriate, to avoid, minimize, or mitigate adverse impacts on those rights.
- The duty to consult can significantly affect the timelines and outcomes of the review process for development projects.
- A project proponent is an entity that seeks permission from government to undertake a proposed project. A proponent may be a private company, ministry, agency, Crown corporation, or municipality. Project proponents have a role in the duty to consult process. They are also strongly encouraged to undertake voluntary engagement by contacting and building relationships with affected First Nation and Métis communities.

## The Value of Voluntary Engagement

Voluntary engagement has two main benefits:

- It establishes a relationship between the project proponent and nearby First Nation and Métis communities, which can last throughout the life cycle of the project. Strong proponent-community relationships benefit both parties before, during and after the duty to consult process.
- It allows project proponents to collect and document information relevant to government's duty to consult and submit it as part of a project proposal. Relevant information from early engagement, and related documentation, will be considered in government's duty to consult process.

## What is the Time Frame for Voluntary Engagement?

Voluntary engagement would occur *before* the proponent submits their project proposal to government. Receiving a proposal that may affect First Nation and Métis communities' rights will begin government's duty to consult process. Any information relevant to the duty to consult process may be submitted as part of the project proposal. Once the government's duty to consult has been triggered, procedural aspects may be delegated to proponents on the impacts to rights.

Early community engagement is critical. It allows more time for involvement, ensuring the community understands the project and the proponent understands the community's concerns before submitting to the government.

There are no set standards for the duration of voluntary engagement. Proponents are encouraged to engage until all relevant issues have been identified and meaningfully addressed. In general, the more significant the impact project will have on a community's rights to hunt, fish, and trap for food and make traditional use of the land, the longer and more in-depth the engagement process should be.

Engagement with the community would continue beyond the submission of the project proposal.

## Which Communities Should be Engaged?

A project proponent should engage with any First Nation and Métis community whose rights may be adversely impacted. The government ministry, agency, or Crown corporation to which the project proposal will be submitted can assist. The proponent should contact the government ministry, agency or Crown corporation as early as possible to discuss the list of communities they plan to engage. A good starting point is to identify the communities in close proximity to the planned project site. Up-to-date information about First Nation and Métis communities is available from:

- [Crown-Indigenous Relations and Northern Affairs Canada](#)
- The federal government's [Aboriginal and Treaty Rights Information System](#)
- [The Federation of Sovereign Indigenous Nations](#)
- [Métis Nation-Saskatchewan](#) (*while MN-S is conducting their review of Locals contact the ministry, agency or Crown responsible for information*).

First Nation and Métis communities' traditional territories must also be considered. Information about traditional territories is not readily available, but proponents should be prepared for additional communities to identify an interest in the project once engagement begins. These communities may be located further from the project site, and multiple communities may identify an interest in the same traditional territory.

## **How Should Voluntary Engagement be Conducted?**

Each voluntary engagement process will be unique to the project, proponent, and communities involved. However, all voluntary engagements should include the three general components below.

### **Get in touch**

The first step in beginning voluntary engagement is to contact the elected leadership of affected First Nation and Métis locals. Proponents should seek support for and advice on engagement activities from community leaders and identify a specific contact or liaison from the community or the delegate.

### **Share project information**

Meaningful engagement depends on the community understanding the proposed project as fully as possible. Proponents should share with the community the most current and complete information they have, including:

- The location and scope of the project (using maps wherever possible);
- The short, medium, and long-term plans for the project;
- Anticipated effects on the community's access to land, water, and wildlife, and how those effects may be minimized or mitigated;
- The planned timeline for regulatory approval of the project; and
- The proponent should share updated information with the community as it becomes available.

### **Gather information from the community**

Proponents should work with community leaders to develop a plan for the engagement process. An engagement plan should be flexible enough to adapt to the community's needs and comprehensive enough to ensure all relevant issues are addressed. Proponents should also make it clear that the information will be shared with the government as part of the project proposal.

To inform government's duty to consult and gather information that can be useful when submitting a project proposal, there are three main subjects that engagement should focus on:

- How is the community using the land or water within the project area to hunt, fish and trap for food and carry out traditional activities?
- How will the project adversely affect the community's right to hunt, fish, and trap for food and make traditional use of the land?
- What adjustments can be made to the project to avoid, minimize, or mitigate the adverse effects?

## How is Voluntary Engagement Reported to Government?

For each First Nation and Métis community engaged with, the proponent should prepare two documents as part of their project proposal:

- *The Engagement Summary* is a summary identifying the project's adverse effects on the community and how they have been addressed, any outstanding issues that could not be resolved, and any gaps in information identified by the community.
- *The Detailed Engagement Log* records all engagement activities (such as meetings and phone conversations), and all failed attempts to engage. The proponent should keep copies of supporting documentation for all engagement activities (such as meeting minutes, written correspondence, and any studies or reports provided to the community).

Proponents may also choose to include a Voluntary Early Engagement Summary with their project proposal. This document summarizes overall project engagement. It includes a list of all communities engaged with, information on the spiritual, heritage, or conservation aspects of the project site, and anticipated positive as well as adverse effects of the project.

Templates for these documents are available as appendices to the Proponent Handbook.

## Who is Responsible for Engagement Costs?

Proponents are responsible for covering their expenses related to voluntary engagement. This includes both the cost of engaging with First Nation and Métis communities and adjusting project proposals to address concerns identified by those communities.

Proponents may also wish to offer funding to First Nation and Métis communities to ensure they have the resources to participate fully in the engagement process. Government does not provide communities with funding to participate in voluntary engagement.

## What Happens After Voluntary Engagement is Complete?

When it receives a project proposal for review, a government ministry, agency, or Crown corporation will assess and carry out its obligations under the duty to consult. The ministry, agency or Crown will:

1. Determine whether the duty to consult has been triggered.
2. If the duty to consult has been triggered, identify the level of consultation required and the associated time frames.
3. Notify affected communities of its intent to consult. (The ministry, agency or Crown corporation will ask communities to validate the engagement information provided by the proponent.)
4. Carry out its consultations with the communities. Proponents may also be delegated procedural aspects.
5. Decide how to accommodate the communities' rights. (This may include requiring adjustments to, attaching conditions to, rejecting, or delaying a project approval.)

During the consultation process, proponents may be expected to collaborate with government to provide information about the project and attend community meetings.

## Further Information

For full details about voluntary engagement and the duty to consult, see the Proponent Handbook and the First Nation and Métis Consultation Policy Framework, available on [saskatchewan.ca](http://saskatchewan.ca). Questions can also be directed to the Aboriginal Consultation Unit in the Ministry of Government Relations.

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