



Interim Statement of Principles on Métis Consultation and Accommodation and General Métis Framework for Consultation and Accommodation

Adopted November 17, 2008

- The Crown's duty to consult and accommodate finds its source in the honour the Crown and the "promise" of s. 35 of the *Constitution Act, 1982* to Métis people. The duty does not find its source in provincial or federal legislation or regulations. It is a super-added duty that is constitutional in character and it cannot be limited, constrained or confined by provincial or federal legislation, regulations or policy.
- The obligation to fulfill the duty to consult and accommodate rests with the Crown and the Crown alone. The Crown cannot leave the development of consultation and accommodation processes and measures to industry. The discharge of the duty requires the Crown to pro-actively engage Métis government and to provide the support needed for Métis government to effectively engage government and industry.
- The Crown has the same constitutional "honour" to all Aboriginal peoples – First Nations, Inuit and Métis. There is no hierarchy of rights in s. 35 of the *Constitution Act, 1982*, therefore, Métis must be treated fairly and equitably in relation to consultation and accommodation processes with other Aboriginal peoples.
- Métis rights co-exist with First Nation rights throughout Ontario. Similar to how the Crown should recognize and respect the rights of First Nations, Métis rights should be recognized and respected.
- Consultation and accommodation must be with regional rights-bearing Métis communities, through the Métis government structures that are elected and supported by the members of these regional rights-bearing Métis communities. In Ontario, Métis citizens and regional rights-bearing Métis communities are represented by the Métis Nation of Ontario at the local, regional and provincial levels through MNO Chartered Community Councils, the Women's Secretariat of the Métis Nation of Ontario, the Captains of the Hunt, the Provisional Council of the Métis Nation of Ontario and the MNO Annual General Assembly, consistent with the MNO's Statement of Prime Purpose and governance documents.

- Rights-bearing Métis communities are regional in size and scope and are not limited to individual settlements, villages, towns, cities or limited areas. Consultation must occur with the potentially affected regional rights-bearing Métis community and its citizens, which may be represented by the various MNO governance structures and institutions.
- The Crown has real knowledge of credible Métis rights claims throughout Ontario. The duty is triggered throughout the province in relation to Métis customs, practices and traditions (i.e. Métis land use, harvesting, etc.).
- The Crown's duty to consult and accommodate is engaged in planning, development, implementation and monitoring of activities that have the potential to affect Métis rights, interests and way of life throughout Ontario.

Engagement, Consultation and Accommodation Principles

- The fulfillment of the duty requires good faith on the part of all parties and consultations must be conducted in equitable, transparent and respectful manner.
- Timelines must be reasonable and provide sufficient opportunity for the Métis to review and assess the information provided by the Crown or industry.
- The Crown must recognize and support the unique capacity needs and realities of the Métis people and their elected governance structures at the local, regional and provincial levels.
- The Crown must provide the necessary funding/capacity to Métis government or ensure the necessary funding/capacity is provided to Métis government to engage with government and/or industry as well as Métis citizens.
- Consultations must be with the Métis government structures that are elected and supported by the Métis people based on credible identification systems. Consultation with individual Métis, groups or associations with no objectively verifiable members, service delivery organizations or pan-Aboriginal structures cannot discharge the duty owed to the Métis.
- Métis government has the responsibility to consult with its citizens and represent its citizens, not the Crown or industry.
- Métis consultation processes must provide all Métis citizens the opportunity to participate and be heard (i.e. citizen's meetings, timely information, etc.).
- Ultimate decision-making with respect to consultation and accommodation must rest with the affected regional rights-bearing Métis community.

A General Framework for Métis Consultation and Accommodation

While each consultation situation must be assessed on a case-by-case basis in order to ascertain how meaningful consultation will occur, the Métis Nation believes the steps below provide a workable framework to orientate future engagement and discussions. Further, the MNO believes an effective consultation process must assist and provide direction and supports for the government, the proponent of the project, and, the Métis to complete and discharge their respective obligations and duties as a part of the steps listed below.

1. **Notice** – Government must give notice that it is considering a development project, activity, policy change, etc. The notice must go to all of the Aboriginal peoples, including the Métis, who live in and use the affected area. In the interim, while capacity is being built throughout the MNO, notice should be given to potentially affected MNO Community Councils, Regional Métis Consultation Committees as well as the MNO Natural Resources, Environment and Community Relations.
2. **Funding/Capacity** – Government and/or the proponent of the project must ensure Métis can participate, in a meaningful way, in any consultation and accommodation process. Various levels of Métis government – through Regional Métis Consultation Protocols – may work together to decide who does what within consultation process in order to ensure efficiencies and that entire affected rights-bearing community is engaged.
3. **Information Exchange** - Government and the proponent of the project must fully inform the Métis about the proposed development. The Métis must fully inform the government and proponent of the project with relevant information about the land and resource use of the Métis people in the project area. Since Métis may not have necessary information in aggregated form or research and study is required, funding from Step #2 will be used to undertake necessary work.
4. **Assessing Effects on Métis** – Government, the proponent of the project and the Métis must work together to understand how the proposed project might affect Métis rights, culture, way of life and economy based on work, research and information from Step #3.
5. **Accommodation** – Government, the proponent of the project and Métis must work together to ensure that the project protects and accommodates Métis rights, culture, way of life and economy when it is initiated and as it proceeds. This may be achieved through various types of accommodations (*e.g.*, changes to the project's plans, arriving at impacts and benefits agreements, etc.).