



# What We Learned Report

CNSC Listening Tour – 2025



## **What We Learned Report; CNSC Listening Tour - 2025**

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A map of Canada highlighting meeting locations.

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# Executive Summary

From May to September 2025, the Canadian Nuclear Safety Commission (CNSC) conducted a listening tour with Indigenous Nations, communities and organizations across the country. The tour provided an opportunity for participants with experience working with the CNSC to discuss broader policy issues beyond project-specific matters.

The listening tour enabled the CNSC to hear directly about participants' experiences with CNSC policies, procedures and processes. Participants offered feedback and recommendations, including actions for the CNSC to consider in improving its approach. Some suggestions have already informed immediate adjustments, while others will contribute to longer-term changes. Overall, participants identified opportunities for the CNSC to strengthen its practices and improve the experiences of Indigenous Nations, communities and organizations.

This What We Learned Report (WWLR or the report) summarizes selected feedback received during the listening tour. It presents information under two main categories: Discussion Guide Topics and Cross-Cutting Themes. Participants provided input on consultation and engagement, the Duty to Consult, the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), free, prior and informed consent, regulatory framework, the Registry, Commission proceedings and processes. Cross-cutting themes included communication, cumulative effects, legacy issues, Indigenous worldviews, Indigenous Knowledge, cultural awareness, and community values.

To reflect participant voices authentically, the report includes direct quotations alongside CNSC staff's interpretive summaries. The report is selective rather than exhaustive and is intended to convey participant perspectives for information only.

Through continued transparent engagement, the CNSC aims to build stronger relationships with participating Indigenous Nations, communities and organizations. The listening tour represents one step in the CNSC's ongoing efforts to support effective and inclusive regulation.

# 1.0 Introduction

## 1.1 Purpose

In May 2025, the Canadian Nuclear Safety Commission (CNSC) launched a listening tour to hear from Indigenous Nations, communities and organizations with established relationships with the CNSC. Invitations were sent in early May 2025, and meetings took place between May and September 2025. Nineteen Indigenous Nations, communities and organizations participated in these meetings, either virtually or in-person, that were held across regions with major nuclear facilities.

To help organize discussions, the CNSC provided participants with a set of questions in advance of the meetings. These questions focused on the following four key topics:

- consultation and engagement
- duty to consult, UN Declaration and free, prior and informed consent
- regulatory framework
- Registry, commission proceedings and processes

During the meetings, participants also raised additional topics of concern:

- communication
- cumulative effects and impacts
- legacy issues
- Incorporating Indigenous worldviews
- Indigenous Knowledge
- cultural awareness
- community values

This What We Learned Report (WWLR or “the report”) provides a factual summary of selected feedback received during the five-month listening tour. The report is not an exhaustive record of all comments received; it reflects CNSC staff’s synthesis and interpretation of recurring and significant themes as presented by the participants rather than the positions of the CNSC.

Participants previously expressed that CNSC documents summarizing their feedback do not adequately reflect Indigenous perspectives. In response, this report intentionally emphasizes Indigenous voices through the inclusion of verified direct quotations and participant notes.

Each section of this report begins with a summary of recurring themes, followed by anonymized quotations or verified notes. In some cases, notes are included where direct quotations were not available, and verified by the respective Indigenous Nation, community or organization.

A full list of acronyms used in the report is provided in [Section 3.0](#).

Meeting attendees varied across the listening tour, as each Indigenous Nation, community or organization identified the individuals they felt were most appropriate to participate. As a result, participants represented a wide range of roles, including community members, land users, coordinators, staff, legal counsel, Elders, and leadership.

Participants also brought differing levels of experience with CNSC processes. Some have reviewed many CNSC regulatory documents, while others have had limited exposure. At times, participants raised issues outside the CNSC's legislative mandate. In such cases, CNSC staff committed to sharing the feedback with the appropriate federal department or agency.

As requested by participants, this report includes an overview of the data collected and a regional breakdown of feedback. This information is provided in [Appendix A](#).

## 1.2 Methodology

For the listening tour, the CNSC sought to hear from all Indigenous Nations, communities and organizations with experience engaging on CNSC policies, programs and processes. Between May and September 2025, nineteen (19) Indigenous Nations, communities and organizations participated in the listening tour. Meetings were located across regions from Saskatchewan to New Brunswick, with participants representing a broad cross-section of Indigenous Peoples with interests related to CNSC regulated facilities.

CNSC staff followed a consistent methodology throughout the listening tour:

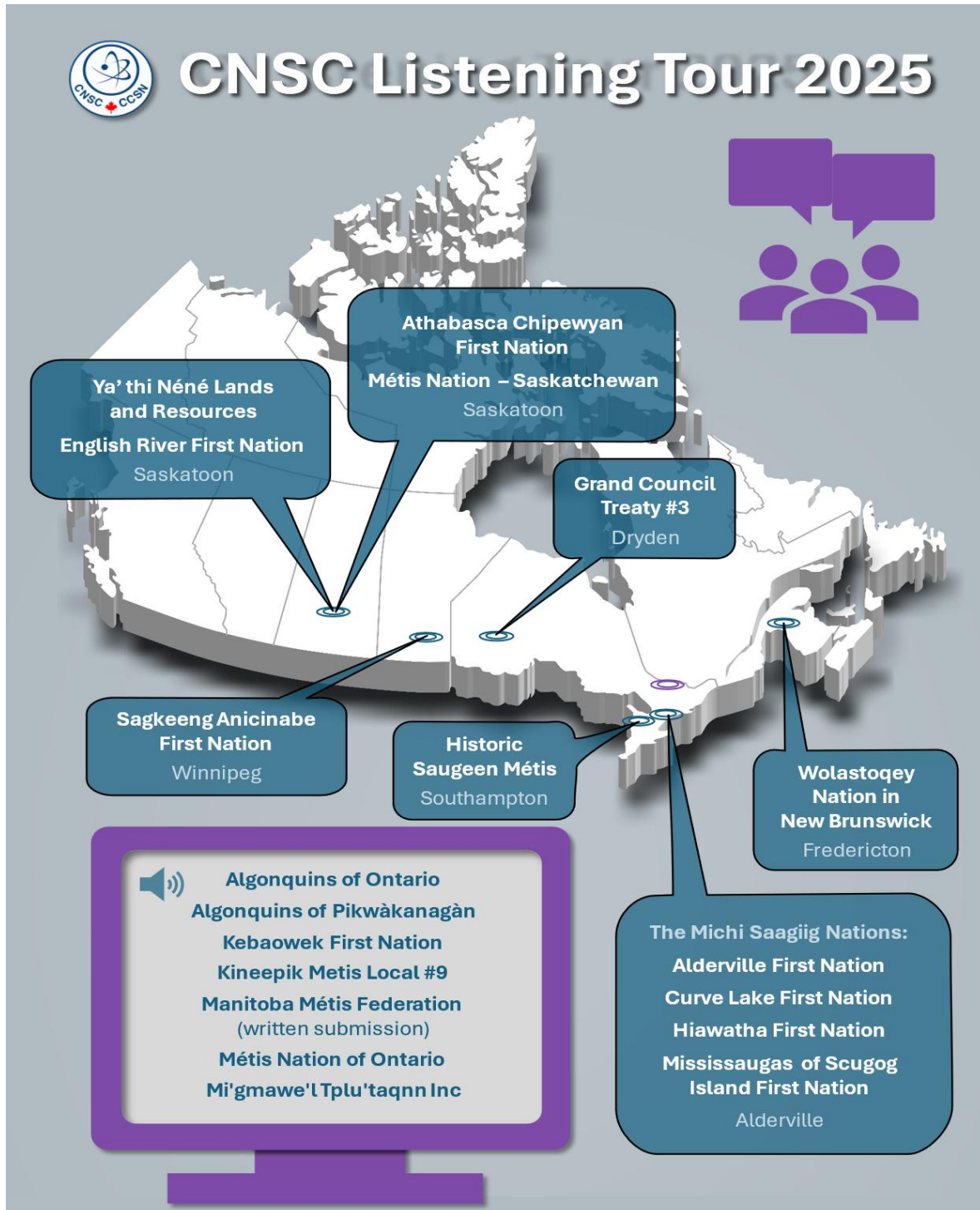
1. CNSC sent invitation letters to Indigenous Nations, communities and organizations introducing the listening tour. A copy of the discussion guide included with the invitations is provided in [Appendix B](#).
2. CNSC staff and the participating Indigenous Nation, community or organization coordinated meeting dates and formats (virtual or in-person).
3. Where applicable, CNSC staff reviewed previous submissions and feedback from the participant prior to the meeting.
4. Meetings were held to discuss topics from the discussion guide and any additional issues identified by participants. Meetings were recorded where possible.
5. CNSC staff prepared meeting summaries and shared them with the participant for verification.
6. Participants provided additional feedback, as needed, either orally or in writing.
7. All feedback was entered into the CNSC listening tour database.

Table 1 lists the participating Indigenous Nations, communities and organizations and Figure 1 illustrates the locations the meetings were conducted.

**Table 1: Participating Indigenous Nations, communities and organizations**

Indigenous Nation, community or organization	Type of participation
Algonquins of Ontario (AOO)	Virtual meeting
Algonquins of Pikwàkanagàn First Nation (AOPFN)	Virtual meeting
Athabasca Chipewyan First Nation (ACFN)	In-person meeting
English River First Nation (ERFN)	In-person meeting
Grand Council Treaty #3 (GCT3)	In-person meeting
Historic Saugeen Métis (HSM)	In-person meeting
Kebaowek First Nation (KFN)	Virtual meeting
Kineepik Metis Local #9 (KML)	Virtual meeting
Manitoba Métis Federation (MMF)	Written submission
Métis Nation of Ontario (MNO)	Virtual meeting
Métis Nation Saskatchewan (MN-S)	In-person meeting
Michi Saagiig Nations <ul style="list-style-type: none"> <li>• Alderville First Nation (AFN)</li> <li>• Curve Lake First Nation (CLFN)</li> <li>• Hiawatha First Nation (HFN)</li> <li>• Mississaugas of Scugog Island First Nation (MSIFN)</li> </ul>	In-person meeting
Mi'gmawe'l Tplu'taqnn Inc. (MTI)	Virtual meeting
Sagkeeng Anicinabe First Nation (SAFN)	In-person meeting
Wolastoqey Nation in New Brunswick (WNNB)	In-person meeting
Ya'thi Néné Lands and Resources Office (YNLR)	In-person meeting & written submission

Figure 1: Meeting locations



The above figure depicts the locations of seven in-person meetings across Canada with the Indigenous Nations, communities and organizations. Also shown is a list of the six participants who contributed either virtually or in writing.

CNSC staff worked with each participating Indigenous Nation, community or organization to determine the preferred meeting format. Many participants were concurrently involved in other CNSC processes, including Commission proceedings. CNSC staff remained mindful of these commitments when scheduling meetings. While participants generally valued in-person engagement, virtual meetings were sometimes used to accommodate capacity and regional considerations.

Some Indigenous Nations, communities and organizations declined to participate, either due to capacity limitations, lack of resources or existing concerns related to CNSC processes. Although existing concerns are not part of the listening tour dataset, CNSC staff will use them as an additional source of input when developing future actions.

The CNSC respects each Indigenous Nation, community and organization's decision to participate in the listening tour and remains committed to ongoing listening and relationship-building beyond this initiative. A full list of those invited is provided in [Appendix C](#).

The discussion guide shared with invitations outlined four main topics for consideration:

- CNSC's current consultation and engagement practices
- Indigenous perspectives on the duty to consult, United Nations Declaration on the Rights of Indigenous People (UN Declaration), and free, prior and informed consent (FPIC)
- Experiences with the CNSC regulatory framework
- Experiences with the Registry, Commission proceedings and related processes

Each topic included several subthemes, which appear throughout the report. Feedback on these subthemes is often connected to broader themes such as preserving ways of life, maintaining connection to the land, supporting self-governance, and asserting Aboriginal and Treaty rights.

All feedback was entered into the CNSC listening tour database. This database informed the development of the WWLR and will continue to guide work on a future CNSC action plan.

## 1.3 Next steps

The feedback consolidated in this report will inform improvements to the CNSC's consultation and engagement practices and will continue to guide the CNSC's work to implement the UN Declaration Act (UNDA) and considerations related to FPIC. The feedback will also support enhancements to internal processes and contribute to improving Indigenous experiences with the CNSC's regulatory framework.

The CNSC will use the feedback received through the listening tour to develop guiding principles for working with Indigenous Nations, communities and organizations. These principles will build on participants' reflections, concerns and recommendations shared throughout the listening tour.

The CNSC remains committed to ongoing engagement with Indigenous Nations, communities and organizations as the next phases of this initiative progress.

## 2.0 Feedback received

The following sections present feedback received during the listening tour. The summaries are based on more than 700 comments collected during meetings with 19 Indigenous Nations, communities and organizations. Unless otherwise noted, direct quotations reflect the views of individual participants. Summaries should be understood as CNSC staff's interpretation of feedback related to each theme.

To preserve the authenticity of participant voices, the report includes both direct quotations and verified participant notes. Where direct quotations were not available, notes have been validated with the respective Indigenous Nation, community or organization. All quotations are anonymized. The perspectives shared should not be interpreted as CNSC agreement, disagreement or endorsement.

A few participants also shared their consultation protocols, which are included in [Appendix D](#) with their permission.

### 2.1 Discussion guide topics

#### 2.1.1 Consultation and engagement

##### 2.1.1.1 Meaningful consultation and engagement

###### Summary

This summary reflects CNSC staff's interpretation of feedback related to meaningful consultation and engagement. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants described meaningful consultation as a relationship-based process grounded in regular communication, consistent points of contact, transparent information-sharing and culturally appropriate approaches. Many participants emphasized that staff turnover and inconsistent contacts undermine trust and continuity. A consistent, accessible point of contact was identified as a key factor in building constructive relationships.

Participants frequently noted capacity constraints that contribute to consultation fatigue for both staff and community members. Many emphasized the need for additional training, resources and support to participate effectively in discussions related to CNSC-regulated projects.

Clear, plain-language communication was identified as essential. Participants stressed that scientific and regulatory information must be accessible to Elders and community members, and that heavy reliance on technical language, acronyms or online-only materials can create barriers. Participants explained that improved clarity would help reduce misinformation and gaps in understanding.

Participants also highlighted the importance of in-person engagement, including community visits, cultural events and informal conversations. They noted that communities face varying levels of internet connectivity, making virtual participation challenging for some members.

Across discussions, participants described meaningful engagement as requiring multiple approaches tailored to local needs, including in-person meetings, virtual options, information sessions, visual materials and clear briefings.

Several participants expressed frustration when they felt their concerns were not heard or reflected in processes. Others raised concerns about CNSC timelines, the interpretation of rights, and the relative recency of formal consultation practices within the nuclear sector.

### **Participant Notes and Quotations**

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN urged the CNSC to establish a clear mechanism to assess how proponents meet AOPFN's consultation requirements. They noted that some proponents respond defensively to feedback and treat Indigenous comments as disruptive. Other proponents operate without formal obligations to engage, creating gaps in accountability.

Algonquins of Ontario (AOO):

- AOO spoke about the value of personal relationships with an organization's point of contact, noting that it was helpful to discuss issues in an off the record manner. AOO expressed a desire to establish a single point of contact relationship like this in the future.

- AOO stated it would be helpful if CNSC had someone working as a traveling liaison to go directly into communities and speak with community members more frequently. AOO believes this could help counter a common perception in communities that CNSC is allied to industry and helping industry hide information from the public. AOO emphasized that more time spent in communities or presenting to council could help this issue.

Athabasca Chipewyan First Nation (ACFN):

- An ACFN community member stressed the importance of face-to-face communication, if the CNSC comes to community “[We] know people are starting to care for us.” The community member explained how the ACFN members in this meeting regularly communicate and share what they’ve learned with Elders.
- ACFN suggested that CNSC use fewer acronyms in their communications and meetings with Indigenous Nations and communities, stating that plain language is best for clear communication. ACFN stated that the CNSC needs to understand their audience and meet people where they are at.
- ACFN identified a broader communication issue for the CNSC when it published information solely online. ACFN emphasized that Indigenous Nations and communities need direct communication and the CNSC has a responsibility to communities. ACFN stressed that many Elders do not use current technology, some do not use computers, and others do not use smart phones. ACFN wanted to know how the CNSC is communicating to those Elders. An ACFN community member suggested that CNSC come do an open house in the community to build trust and show transparency “This shows our people that they matter to you... that’s how you’re going to establish that trust [with our community];” Another community member added the importance of feeding people if we come into a community because it shows reciprocity, when you want something you need to give, which is part of protocol.

English River First Nation (ERFN):

- Several ERFN community members shared that they believe that land acknowledgements feel performative or like box-checking exercises with no passion behind the statements.

Kebaowek First Nation (KFN):

- KFN said that in-person visits with the CNSC work well, such as when CNSC has joined the community events in the past.

Kineepik Metis Local #9 (KML):

- KML noted that they typically have the same Elders speak during consultation processes, but the quiet ones feel like they are not heard. Sometimes these Elders struggle to understand the use of the duty to consult. For these Elders, the best way to engage is visually. Outside of the duty to consult process, they need more information.

Manitoba Métis Federation (MMF):

- MMF is concerned by the lack of opportunity for meaningful participation in CNSC regulated projects outside of Manitoba such as the uranium mines and mills, nuclear research facilities, proposed Small Modular Reactor facilities, Deep Geological Repositories as well as any additional nuclear project in the National Homeland being proposed. The MMF stated they should be granted the ability to contribute to these projects through early engagement and consultation, and the lack of participation has limited the MMF's ability to have the project's potential impacts on Red River Métis rights, claims, and interests appropriately understood and considered as well as other critical plans and filings with the CNSC.

Métis Nation of Ontario (MNO):

- An MNO staff member expressed "I have a thought based on my personal experience. I find a lot of regions are experiencing, basically, consultation and exhaustion. We often pull and pry on them a lot for any project that comes this way. And I'm not sure if you can even fathom how many projects there are: whether it's industry, whether it's legislation, provincial, federal, it's truly endless. So, I think it's really important to make sure that when [meetings occur] they're very concise and meaningful – because if not, then it just adds that overall exhaustion."
- MNO staff shared that "There's still a lot of misinformation and misunderstanding around nuclear. So, to get that out to the public citizen level is really helpful."

Métis Nation Saskatchewan (MN-S):

- MN-S shared concern that the CNSC approach to consultation and engagement can be First Nations-centric. MN-S explained that they have not entered treaty and therefore have not extinguished certain rights. MN-S expressed interest to know how the CNSC is treating their rights and how it will approach MN-S's ongoing title claim.

Michi Saagiig Nations:

- The Michi Saagiig Nations raised concern that the consultation process treats them as a stakeholder not a rights' holder and has not been culturally appropriate.

#### Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI staff conveyed that: “The most important thing with consultation and engagement is early consultation, reaching out and basically sharing the information as you’re interested in how it is you wish to engage with the Mi’kmaq community. I think that’s first and foremost. And again, one of the big sayings is ‘it takes 500 cups of tea to get to where we go;’ and you start those 500 cups with pouring the first cup of tea... reaching out and initiating that consultation and communication back and forth is the biggest first step. And from there it mostly becomes organic and we’ll just grow and the [Mi’gmaq Rights Impact Assessment Framework (MRIA)] process allows us to communicate back and forth and pushes you through those processes.”

#### Sagkeeng Anicinabe First Nation (SAFN):

- SAFN leadership explained that CNSC and Canadian Nuclear Laboratories (CNL)’s communications use too much technical and scientific language. Leadership added that when communicating with Elders, CNSC should use visuals because speaking with too much scientific language or jargon can be disrespectful.

#### Wolastoqey Nation in New Brunswick (WNNB):

- WNNB suggested that CNSC staff could aid in their consultation work by providing objective, scientific information on projects that are easily understood and written in plain language. WNNB recommended that any information sent to communities about a project is sent out early and well ahead of events like town halls. WNNB staff commented “I see the REGDOC data, but how many people have that data? or understand it; the CNSC needs to disseminate that information out to the public.”

### 2.1.1.2 CNSC practices and processes

#### Summary

This summary reflects CNSC staff’s interpretation of participant feedback related to CNSC consultation and engagement practices and processes. It highlights themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or imply CNSC endorsement. Indigenous perspectives appear in verified quotations and notes below.

Participants expressed interest in helping to improve the quality of CNSC’s consultation and engagement practices. Participants acknowledged improvements in recent years, including clearer communication and opportunities to interact directly with CNSC staff. Some participants highlighted the value of interactions with CNSC staff, particularly in their ability to explain

complex technical information in an accessible way, while others noted opportunities for improvement in this area.

Participants requested process changes to enhance Indigenous participation, including more consistent follow-up, clearer expectations and greater accountability in how consultation requirements are met. Participants also expressed a desire for the CNSC to track and demonstrate how consultation input is reflected in decisions and processes. See [2.1.3.3 Indigenous participation](#) for additional detail.

Visits to communities by CNSC staff, senior leadership and Commission members were described as valuable. Participants stated that more frequent visits would help support meaningful dialogue, build trust and improve mutual understanding of community concerns and priorities.

### **Participant Notes and Quotations**

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN called for the development of a formal accountability mechanism within the CNSC to assess how both CNSC and project proponents are meeting consultation and engagement requirements, specifically those defined by AOPFN.

Historic Saugeen Métis (HSM):

- HSM explained that if the documents are technical, they will contact local CNSC staff who come to their semi-annual meetings or council and speak about the issues.

Kebaowek First Nation (KFN):

- KFN leadership commented that “President Tremblay has come to the community recently... something like that should be a common practice. You know, for the Commissioners to visit those communities that are most impacted by their decisions... it just goes a long way of showing where communities like us, like Kebaowek, come from.”
- KFN expressed concern that decisions are often made by the Commission without KFN having access to full and complete information. KFN explained that their information requests to the CNSC have gone unfulfilled, forcing KFN to submit their comments without full knowledge or understanding of the activities taking place. KFN added despite undertakings from the CNSC that the information requests would be fulfilled, oftentimes a Record of Decision is issued without this information ever being shared with KFN. KFN staff stated, “[the lack of follow up and the lack of disclosure of documents remains a critical key barrier and repeatedly we find ourselves in a position of having to track down who said they would follow up on it...that is a huge capacity burden.”

Grand Council Treaty #3 (GCT3):

- A GCT3 community member commented: “[CNSC should be] engaging people at the traditional level. That’s what most community members need: the most basic level. Because it can be a bit overwhelming for someone who doesn’t have the background.”

Métis Nation Saskatchewan (MN-S):

- MN-S said they would like to have improved engagement, including access to all decision-making processes including operations, monitoring, decommissioning, and closure through improved engagement, support, and knowledge exchange.
- MN-S noted that the CNSC’s deadlines and expected response times can be difficult to adhere to because of the geographic realities and organizational capacity. “We are a distinct group and have distinct needs at the Métis Nation – Saskatchewan.”

Michi Saagiig Nations:

- The Michi Saagiig Nations noted that CNSC’s Indigenous Consultation and Engagement Division staff do a good job at helping summarize meeting minutes and listen to feedback provided by the Nations. They said they feel their input is incorporated into CNSC processes to the extent possible, however, they feel that their feedback and comments about larger issues are not addressed.

English River First Nation (ERFN):

- ERFN expressed concern with right to consultation with First Nations membership spread across reserves or living off-reserve. They explained this situation is further complicated by people moving around, how the Indian Act determined Indian status, and people losing or regaining status.
- ERFN staff stated: “I want you guys to know there’s a grey area with consultation sometimes.”

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI staff commented: “We have done several community engagement sessions where CNSC has participated. I think it was last spring, and it went very well. It was well received by the community. I must say for New Brunswick, we have a fairly well-educated population and for the most part I would say the majority of First Nations or persons in the First Nations are accepting of nuclear. I think it was a little bit of an inroad, but the more we bring them to the site at Point Lepreau and the more we educate them, that seems the more comfortable they've become.”

### 2.1.1.3 Rights Impact Assessments

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback on the Rights Impact Assessment (RIA) process. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants raised concerns about the CNSC's processes and timelines associated with the RIA. Many contributors emphasized that Indigenous Nations or communities are the experts on their own rights and are best positioned to determine whether those rights may be impacted.

Perspectives were shared by the participants on cumulative effects in the process. For more information on feedback, see [2.2.2 Cumulative effects and impacts](#).

Participants want to better understand how the CNSC evaluates the level of impact to rights and determines the level of consultation required to adequately address and accommodate impacts on rights. Participants noted dissatisfaction with CNSC's lack of understanding of rights and potential impacts.

#### Participant Notes and Quotations

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN conveyed that large-scale nuclear projects have not been adequately considered through Indigenous-led or inclusive processes and hope that future Impact Assessments (IAs) co-led by the Impact Assessment Agency of Canada (IAAC), CNSC and AOPFN may begin to address this gap.
- AOPFN expressed that they expect to be treated as a full partner in regulatory and assessment processes involving CNSC, IAAC, and project proponents.
- AOPFN stated they are hopeful that future major project IAs will better reflect RIAs, Traditional Land Use, and Psychosocial Impact Assessments.

Historic Saugeen Métis (HSM):

- HSM noted that their community no longer harvests around the Bruce Power facility due to environmental changes. An Elder stated, "... used to talk about fishing in that area and he won't fish in that area anymore [because] the whole environment has changed." HSM added that whole community aspect of going to that area and fish in that area is gone, the intangible aspect is gone and the tangible part that [some of] the community does not eat fish from around the site.

#### Kebaowek First Nation (KFN):

- KFN stated that while the CNSC has nuclear expertise it lacks expertise in environmental assessment. They suggested developing a joint assessment framework, including processes where Fisheries and Oceans Canada would have an active role.

#### Métis Nation Saskatchewan (MN-S):

- MN-S expressed concern with industry taking minerals from the area MN-S asserts as its land, particularly with mining projects. The MN-S stated that there have been disturbances to this land, and they've received no benefits because they do not have an agreement with the Crown. MN-S noted that their rights to the land have not been extinguished.

#### Michi Saagiig Nations:

- The Michi Saagiig Nations stated the RIA process needs to be collaboratively developed. They explained that they have read the RIA conducted with the CNSC and Indigenous Nations and communities for the Near Surface Disposal Facility (NSDF) Project and identified many differing perspectives between the CNSC staff and Indigenous representatives. The Michi Saagiig Nations shared they thought the NSDF RIA highlighted staff's lack of understanding of Indigenous worldviews and perspectives, and it did not accurately reflect the severity of impacts to rights, which they brought forth.
- The Michi Saagiig Nations stated the definition of impacts and cumulative impacts is hard to define as "impacts" is narrow and does not consider the truth of Canada's history and intergenerational impacts on the lands, languages and cultures. They highlighted some of the ways methodologies could be improved would be to "... revisit Canada's truth," and recognize that impacts are not limited to ecology but have social, cultural and land access impacts. The Michi Saagiig Nations noted when they meet with their consultation teams, Chiefs and community, they have a shared understanding that everything is interconnected. They highlighted their frustration that CNSC staff may understand the interconnectedness but the regulatory process and the law limits putting this perspective into practice within impact assessments.

#### Mississaugas of Scugog Island First Nation (MSIFN):

- MSIFN staff stated that "CNSC staff should not even have the opportunity to comment on [rights impacts] because Commissioners should be able to review that without any sort of Crown input. Those are the First Nations perspectives and, I think, in the spirit of UNDRIP that needs to be respected because that is based on, again, our knowledge, our understanding and our values... If [the Rights Impact Assessment framework] were a genuine process, there would be no Crown involvement. There would be a document that outlines what those impacts are, and it would go straight to the Commissioners."

- MSIFN provided an example from a previous hearing where the CNSC staff determination differed from the First Nation's determination on the impact of rights. They said, "The CNSC staff determination influences the Commissioner's decision-making process, as well, and that needs to be flagged here as a deficient process because, respectfully, CNSC staff don't know what the impacts are to rights-holding First Nation communities."

### 2.1.1.4 Jurisdiction

#### Summary

This summary reflects CNSC staff's interpretation of feedback related to jurisdictional challenges. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations and does not represent consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants highlighted jurisdiction issues between different levels of government for the uranium mine sites regulated by the CNSC.

Multiple participants in Saskatchewan commented on dangerous roads in their communities due to mine sites and the difficulty of resolving this issue. Similarly, participants took issue with exploration on their territory and commented that there is a gap where industry feels that there are no rules during exploration.

Participants had concerns about the transfer of CNSC regulated sites into the Institutional Control Program (ICP) overseen by the Saskatchewan provincial government.

#### Participant Notes and Quotations

Athabasca Chipewyan First Nation (ACFN):

- ACFN commented on exploration activities in their territory for potential new mines. ACFN stated that this division of jurisdiction [exploration not falling under the CNSC mandate] is a challenge to regulatory frameworks.
- ACFN raised concerns about the transfer of facilities to ICP and subsequent oversight from the province. ACFN suggested that the CNSC add conditions for a site moving into ICP. ACFN noted that this is a gap between the Federal and Provincial Crowns with the potential to affect the honour of the Crown. Additionally, ACFN shared concerns about navigating the jurisdiction between the provincial, territorial and federal governments.

#### English River First Nation (ERFN):

- ERFN expressed frustration at having the province decide whether First Nations have the ability to negotiate with the federal government, pointing to precedence of First Nations in British Columbia.

#### Kineepik Metis Local #9 (KML):

- As voiced by a KML community member: “My main question was how can CNSC pressure the industry to make sure someone is taking care of the safety of the people traveling on the same roads that the industry is using? The public roads that we use – [industry] are damaging it, damaging our vehicles and our safety from the dust flying.”

#### Ya’thi Néné Lands and Resources Office (YNLR):

- YNLR raised the impacts due to increased exploration activity with little to no consultation or engagement during the exploration phase. YNLR questioned whether companies damaging the roads are obligated to maintain and clear the road or whether they have free reign until they get a licence from CNSC. YNLR members also raised frequent concern from community members over heavy equipment damaging the roads without adequate repairs, maintenance, or community consultation being done, leaving the community with minimal recourse.

### 2.1.1.5 Holistic approach to consultation

#### Summary

This summary reflects CNSC staff’s interpretation of feedback related to holistic approaches to consultation and assessment. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants stated that the CNSC should adopt a more holistic approach to consultation, noting that licence applications are often reviewed in isolation despite cumulative impacts on their territories ([2.2.2 Cumulative effects and impacts](#)). Participants emphasized that Indigenous worldviews must be meaningfully reflected in regulatory processes.

Some participants expressed concerns that existing CNSC practices and legislative frameworks are not designed to incorporate Indigenous worldviews and may be outdated, restrictive or overly narrow ([2.2.4 Incorporating Indigenous worldview](#) and [2.2.7 Community values](#)).

Participants also raised concerns about historical legacies, piecemeal approaches and limited opportunities to shape decision-making processes.

## Participant Notes and Quotations

### Athabasca Chipewyan First Nation (ACFN):

- An ACFN community member stated: “Give us more to read or learn about or be more involved, it will remove some of those negative stigmas that we’re only an afterthought. I’m a firm believer that we walk in this world together. These are our traditional lands, let us show you... a real holistic approach [is needed] ... There’s always a mandate and an end point, but true collaborative consultation is working together, and we do this together. You have your book smart people and your land smart people. You can build something pretty fantastic if you allow for that type of engagement.”

### Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN noted that several legacy projects in their territory continue to be assessed under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012). They asserted that CEAA 2012 has limitations that proponents and the CNSC have “used as a crutch”, particularly the lack of assessment for psycho-social impacts.
- AOPFN stated they strongly recommend that consultation adequacy be evaluated through a joint CMD submission process, in which Indigenous perspectives are given equal weight alongside CNSC staff assessments. They emphasized that Indigenous Nations should not just be reviewing an already-filed CNSC staff CMD but should be engaged in reviewing a draft CMD before it goes to the Commission.
- AOPFN further asserted that when there is a fundamental difference of opinion between CNSC staff and Indigenous communities, Indigenous Nations must have the ability to insert their position directly into the CMD that goes to the Commission, not only in a rebuttal, (as is the case in the current process). They added this approach would ensure AOPFN’s voice is formally and visibly part of the decision-making record and that CNSC staff is not prematurely filing CMDs before engaging with Indigenous Nations.

### Manitoba Métis Federation (MMF):

- In its written submission, MMF stated: “The CNSC engagement and consultation framework uses a piecemeal approach to funding engagement and consultation activities. The need to apply for every activity requires the constant need of the MMF to conduct administrative duties which takes time away from meaningfully engaging with the CNSC and consulting on nuclear projects with Red River Métis Citizens.”

### Michi Saagiig Nations:

- The Michi Saagiig Nations expressed their view that the CNSC tends to compartmentalize potential impacts on rights because of the piecemeal approach to assessing licence applications. They explained that, from their perspective, the CNSC

does not fully consider the cumulative impacts on their rights, and they feel this is why it is easy for CNSC staff to dismiss Nations' views and agree to disagree; a practice they question.

- The Michi Saagiig Nations highlighted the need for methodology to recognize the truth, even if it is difficult to do so and commented that the truth cannot be ignored if CNSC wants to build meaningful relationships with them.
- It was also noted by the Michi Saagiig Nations that CNSC staff need to understand where they are coming from and why items of concern and impacts are identified and brought forward, and how these concerns are rooted in Canada's legacy. They stressed that any assessment methodology must consider this context.

Ya'thi Néné Lands and Resources Office (YNLR):

- YNLR noted that CNSC Commissioners have used multiple terms for Traditional Knowledge inconsistently during the same meeting. They stated, "The guidelines in CEAA 2012 that are used to guide the incorporation of Traditional Knowledge into CNSC's decision-making process do not define Traditional Knowledge and those guidelines do not provide any methodology for incorporation of Traditional Knowledge into the decision-making process. In fact, those guidelines are detrimental to development of a clear methodology for the use of Traditional Knowledge in a public review."

### 2.1.1.6 Funding programs

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback regarding CNSC funding programs. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations and does not represent consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants shared a range of views on the Participant Funding Program and the Indigenous and Stakeholder Capacity Fund (ISCF). Many appreciated the support provided and described CNSC staff as helpful and responsive, and that the overall funding process is comprehensive and easy to understand.

However, participants also identified several challenges. The application and reporting system were described as administratively burdensome and, at times, difficult to navigate. Participants emphasized that each community has distinct needs, varying capacity and different levels of experience with CNSC processes and reporting. Participants have highlighted the need for clearer information on hearing processes, reporting and participation to properly estimate capacity and funding needed associated with the workload.

Several participants noted that capacity needs vary significantly across Indigenous Nations, communities and organizations, particularly for those with large geographic areas or limited staff. Participants also expressed interest in greater transparency around funding decisions and in expanding eligible activities. Participants stated that CNSC timelines can be difficult to meet, especially while adhering to their internal approval processes.

### **Participant Notes and Quotations**

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN emphasized that maximum funding should be prioritized for the most impacted First Nations, ensuring they have the resources necessary to fully participate in all stages of the process. AOPFN added that funding should be proportionate to the level of impact on each Indigenous Nation or community.

Athabasca Chipewyan First Nation (ACFN):

- ACFN suggested the CNSC should fund training for community members, noting if a community lives with risk from a nuclear facility, community members should be trained and aware of what is going on. Communities need information on all potential risks. ACFN staff cited examples of high-risk public projects in other countries, stating that in those cases everyone within 100 miles would be aware of the dangers and risks. CNSC stated that we have heard this suggestion before and the concern from Indigenous Nations and communities is not solely related to training for monitoring activities but being involved in a broader way.
- ACFN staff commented: “We benefit from [the funding programs]. I must say about the capacity funding, [other regulators] can learn a lot from you... [The CNSC funding team] are the best I’ve ever experienced in this country.”

Algonquins of Ontario (AOO):

- AOO stated: “budgeting and paying staff can be confusing because certain staff are covered by funding and others are not, and there are always multiple projects, which is where the financial confusion comes from, creating “an administrative burden.”
- AOO explained that it took time to understand the different funding streams of the ISCF, and which application is applicable to which stream. AOO noted that CNSC staff have been helpful in the past to indicate which application is for which stream, but CNSC staff could have explained more about exactly what each stream meant. AOO also indicated the need for more information on how the funding streams interact with different projects. AOO explained that if an AOO staff member is working on contract on the nuclear files under one of the streams, there’s confusion when that staff member cannot be included in other funding. AOO requested more insight when dealing with the steps to apply.

Historic Saugeen Métis (HSM):

- HSM stated that over the past 7 years, the ISCF has been greatly beneficial in terms of capacity provided. HSM explained that they appreciate the reporting structure and that the funding allowed the community to go places and build understanding, including providing opportunities to go on inspections. HSM stated, “It’s made a real change to a small community like this to be able to enhance staff.”

Kebaowek First Nation (KFN):

- KFN staff voiced that: “Funding is always the biggest thing... I know there are programs and we do our best to apply to [capacity funding], but just that in and of itself too, is another hurdle. When we have X amount of funding agreements and you’re always being tied to reporting. It becomes a heavy burden.”
- KFN staff expressed concern indicating the funding committee is inaccessible for discussions surrounding funding and how funding decisions are made. “We’ve asked to know who the funding committee is, how we can speak to them, how we relay these concerns, but that doesn’t go anywhere. [CNSC staff are] not upfront on how we would even convey that. So that remains a very significant barrier because again, now we’re having to do research and spend time on, what is the specific link, what is CNL doing in X location that makes you interested and having to do that research up front to make the case for involvement. The onus is not on Kebaowek to make that argument.”

Kineepik Metis Local #9 (KML):

- KML emphasized the need for more opportunities for reconciliation through organic capacity building in communities. Lack of professional capacity to engage meaningfully or as equals can pose issues for engagement. They expressed a desire to create capacity for communities to create their own Indigenous processes for regulations. KML wants their members working in these jobs and meaningfully participating in all aspects of industry activities, including monitoring, sampling, and STEM-related work.
- KML asked whether funding is available for Elder and community training. KML stated the community could use more ways to share information and have a better idea of what to expect in the consultation process.

Métis Nation of Ontario (MNO):

- An MNO staff member expressed: “In my experience, the CNSC has been really good in that sense, we’re notified of everything. We’re given the option whether or not to apply for funding and move forward. Funding is always available, whether it be project specific or Stream 3 funding. I would say you guys are pretty good in that sense.”

- MNO stated the [Indigenous and Stakeholder] Capacity Fund allows them to participate in CNSC processes in a way that is meaningful. “We would not be able to participate without the capacity support fund, so it is critically important, and it's been a great program.”

Métis Nation Saskatchewan (MN-S):

- MN-S explained that there is only one team with two people dedicated to consultation. While the CNSC funding has helped, the team is travelling constantly and spread across thirty projects, dealing with everything from Estevan to Uranium City.
- MN-S asked if CNSC can provide information on how decisions are made to determine the amount of funding allocated. MN-S is interested because they cover such a vast geographic area, it changes their funding needs compared to other recipients. MN-S emphasized “We are distinct as Métis people... we are representatives of the whole province and the CNSC needs to think about how we meet the needs of the whole province.”

Michi Saagiig Nations:

- The Michi Saagiig Nations highlighted that funding notices do not identify if a hearing will be in one, two or three parts. They expressed their need to know how long hearings will be to anticipate the work associated with the hearing and know how much funding will be necessary. They also shared that they are still working on accurately identifying the workload and capacity needed to support participation in the hearings.
- The Michi Saagiig Nations commented that more funding would be helpful as their interventions are becoming more complex and there are more applications being submitted by proponents. They explained they require a sustaining capacity for base staff and incremental capacity to be able to keep pace and participate in CNSC processes. They said that applying for every task and activity becomes an administrative burden and emphasized the need for 3 streams of funding rather than 2: one to fund an employee position, a second for capacity funding and another for intervention funding.
- The Michi Saagiig Nations noted the CNSC provides at least a 50 percent advance and explained that a 50 percent advance is sometimes not enough as interactions have now become more complex, external support is needed (i.e. Legal), and the cashflow is not available through the Nations. For future applications, they will request advances above 50 percent to help with capacity.

Mississaugas of Scugog Island First Nation (MSIFN):

- MSIFN noted that delays in funding decisions hinder their ability to begin reviews early. They stated, "The funding for this, it just closed two weeks ago, right? And the funding decision probably will be about a month from now, or sometime then. So, it does delay

our ability to get ahead on these things because we could be starting a review with our legal team, but we can't really do that until we have the promise of funding. I think if the CNSC is moving towards doing things... earlier and more often consultation, which is good, the funding part of the CNSC might just need to think about that as well and releasing those opportunities earlier so things can get started earlier.”

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI staff commented: “By the time you write the briefing to ask permission to apply – because we always have to get permission from leadership to apply for funding for these things before we can actually apply – we have to write a briefing note up to leadership to get permission to apply and then by the time you fill out the application and apply sometimes that can take you know a month or two in itself just get through that process. So, a lot of times, when you find out about something, it's really hard to apply for funding and meet that circumstance of getting a month ahead of time notice because a lot of times it takes two months to get the paperwork filled out and get it in before to get things moving.”

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB explained their experiences with the funding programs and mentioned the growth in their team facilitated by the ISCF. WNNB commented that the funding was restrictive in some senses. They stated that managing the funding structure has been challenging as WNNB receives ISCF stream 1 funding in a 70-35-35 structure over three years, and years two and three will be harder to manage.

Ya'thi Néné Lands and Resources Office (YNLR):

- YNLR community members expressed appreciation for CNSC funding, but specified additional funding for remote community member travel was needed.

## **2.1.2 Duty to consult, UN Declaration and free, prior and informed consent**

### **2.1.2.1 Aboriginal and Treaty rights**

#### **Summary**

This summary reflects CNSC staff's interpretation of participant feedback on Aboriginal and Treaty rights. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Upholding Aboriginal and Treaty rights is critical for Indigenous Nations, communities and organizations across Canada. Participants emphasized that Aboriginal and Treaty rights extend to Indigenous practice and are not solely related to land use. Participants voiced their concern that CNSC processes could not adequately protect or consider Aboriginal and Treaty rights.

Some Métis Nations expressed their concern over the lack of recognition of Métis rights as their populations were not included in treaty processes. Further, Métis are currently asserting land rights and titles.

### **Participant Notes and Quotations**

Athabasca Chipewyan First Nation (ACFN):

- ACFN stated CNSC standards are not designed to consider constitutionally protected Treaty rights and a traditional lifestyle involving consumption of country foods and water.
- ACFN emphasized that if the government wants to speed up projects, the key is to respect Aboriginal and Treaty rights.

English River First Nation (ERFN):

- ERFN highlighted that Treaty rights are not just hunting and gathering but also apply to ceremony. They invited several CNSC staff to sweat lodge ceremonies to build understanding that the willow and wood for fire, rocks and medicines used in ceremony come from the Northern territory. They noted that not all families practice in such a way, and it was only preserved due to people taking ceremony underground at a time when it was illegal.

Kineepik Metis Local #9 (KML):

- KML encouraged the CNSC to incorporate of Indigenous-Valued Ecosystem Components to consider crucial components of significant importance for Indigenous communities. Including language, cultural practices, demographics, education, water, air flora and fauna.

Manitoba Métis Federation (MMF):

- MMF included in its written submission: “The MMF is reluctantly targeting this listening tour to demonstrate of Red River Métis Land use across the National Homeland both historically and contemporarily. We are of the view that the limited scope of the CSNC does not align with the Crown’s duty to consult in respect of an Indigenous collectivity’s asserted and established section 35 rights – not just limited portions of that collectivity. Accordingly, moving forward and relating to future projects, it is critical that the CNSC understand and accept that Red River Métis rights are collectively held, and the ability of our Citizens to exercise collectively held rights is not restricted only to Red River

Métis who reside in proximity to nuclear projects. Because Red River Métis are collectively held by all of our Citizens, all Red River Métis Citizens are equally concerned with any project within the Red River Métis National Homeland. Collectively held rights mean that all Red River Métis have equal rights to harvest anywhere within the homeland, regardless of where a Citizen resides.”

Métis Nation Saskatchewan (MN-S):

- MN-S stated concern that their Métis land claim is not considered in CNSC's processes for consultation and engagement, “If I can further explain comments about Title, what I’m trying to get across is that our asserted right to Title is different. It’s unique [compared to] any other Indigenous group in the province of Saskatchewan. In that we are asserting a right that is unique. Métis Title is not something that’s been established within Canadian law. However, we assert that right and does CNSC have a stance in how they consult with us? My thought is that it is a unique right, so CNSC needs to take time to consider how that is different, say compared with using land on First Nations territory. It’s different. The mineral rights are an example where it’s different because there has been no extinguishment of land within an agreement, we have continued to assert that there is Title.”
- MN-S explained that in 10-20 years if Métis Title has been established and rights have been proven, the Nation will look back at how they protected those rights when they were being asserted. MN-S encouraged the CNSC to look at how they are protecting asserted rights, too. MN-S stated if the CNSC’s position was that CNSC will not discuss land, that would be fine if every Indigenous Nation and community had Treaty rights, but that is not the reality. MN-S is asking for the CNSC position on Métis Title and how that will be protected.

### 2.1.2.2 Duty to consult

#### Summary

This summary reflects CNSC staff’s interpretation of participant feedback related to the duty to consult. It highlights recurring themes and does not represent consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants raised concerns related to the CNSC’s approach to the duty to consult, how CNSC staff understands the duty, how the duty must be met, and how the duty’s requirements and obligations change based on the extent of the potential impacts on rights. Participants expressed that they are not consulted early enough, nor properly, in the project planning process. Other participants asserted the duty to consult determination should rest with them.

## Participant Notes and Quotations

### Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN emphasized that CNSC must demonstrate how it has met its consultation obligations, and that the same standards must apply to proponents. This includes respecting AOPFN's principles and requirements, such as free, prior and informed consent (FPIC), economic inclusion, and cultural engagement.

### Grand Council Treaty #3 (GCT3):

- GCT3 staff noted: "It's very important for the community to define what is effective consultation and what constitutes consent. It's not homogenous across Treaty 3."

### Kebaowek First Nation (KFN):

- KFN staff stated: "The best way I could describe it is the CNSC has almost drawn a geographical line around Kebaowek as a community, and I'm not sure what the radius is, but they say outside that radius, you have no interest, you have no impacts to your rights. So if something happens in a different area, no notice is flowing, no information is flowing, and that is fundamentally flawed. Whenever there is any activity that's contemplated, even if it's not happening yet, that could impact Kebaowek rights, they have a right to be there, to have a say, to be engaged, consulted, and accommodated."
- KFN staff noted that issues with funding are often closely related to the CNSC's determination of when the duty to consult applies and said, "The chain of nuclear activities is so interlinked. Simply because it's happening out of province to where Kebaowek lives doesn't mean there's no potential impacts to their rights, and so we are constantly stuck trying to make that argument, which is the law. We're not even trying to push things in a new direction; it's just a fundamental misconstruction of the law by the CNSC and how they're applying their consultation obligations and so then Kebaowek is being removed from those licensing matters and no funding is being provided by virtue of the CNSC."

### Manitoba Métis Federation (MMF):

- In MMF's written submission, it is stated that "The CNSC, as the agent of the crown, must fulfill the duty to consult and accommodate any adversely impacted Indigenous or treaty rights due to a nuclear regulated project. As the federal regulator, the CNSC has the duty to regulate which Indigenous nations the proponent should be engaging with on nuclear regulated projects. As the CNSC does not currently afford proponents the duty to consult with the MMF, the MMF is not in a position for meaningful dialogue with proponents outside of the current purview of CNSC regulated projects in Manitoba."

Michi Saagiig Nations:

- An Alderville First Nation (AFN) Elder stated that the government has only started to have conversations with Nations although they have been around for many years, and this is under the guise of reconciliation, “I don’t mean to be disrespectful, I am not that way, but I just feel that I have a problem with the duty to consult. It is what you have to do. We’ve been around for many years and now we're just starting to talk? Better communicate just now, just because of reconciliation, supposed reconciliation? But, I have to acknowledge when we talk about the truth, I don’t know that it is there yet. I have hopes that we will be there [and] that you will get there, but it is only through discussion and understanding, and open mindedness, and respect, and love and bravery from the people that bring these things up – you need to do better.”
- The Michi Saagiig Nations asserted that the determination of whether the duty to consult has been met should rest with the Nations and not CNSC staff.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN explained that consultation obligations differ depending on the level of potential impact. They stated that for significant rights impacts, “hard consent” may be required, whereas other situations may require robust consultation. They stated, “For SAFN, waste is buried on their title territory, meaning they have a strong right and high impact, which is why a hard consent right is required. Whereas Nations with a more tenuous claim on the area or with less significant impacts, would be owed a robust process, but those Nations’ ‘No’ does not necessarily mean ‘No’.”

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB commented that they are often brought in late in the process for nuclear projects. They stated they are often put in a position where the federal and provincial governments have invested millions of dollars into projects, creating a momentum and situation where the government and proponent expect an approval from the Nation. In these cases, WNNB is brought in late to the process and expected to catch up. WNNB staff noted a lot of people are realizing they need to bring First Nations into the process earlier and it’s always the case that the government or proponents are saying “We should’ve [included Indigenous Peoples].”

### 2.1.2.3 UNDA implementation

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback on the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA). It does not represent consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants raised several concerns over CNSC's implementation of the UN Declaration and UNDA into licensing processes, noting the importance to incorporate the legal obligations set out under these authorities within CNSC processes.

Participants explained the need for UNDA implementation to be inclusive of Indigenous Nations, communities and organizations' distinct perspectives.

Participants expressed concerns over the CNSC' and federal government's interpretation of UNDA.

#### Participant Notes and Quotations

English River First Nation (ERFN):

- ERFN staff stated: "[I] would like to see an Indigenous engagement report similar to the Regulatory Oversight Report, with a similar amount of input from the entire agency. And at the end of the day, CNSC can confirm the uranium mines and mills were operating in accordance with the principles of UNDRIP at the point where UNDRIP and the duty to consult were properly achieved. That's what I'd like to see."

Historic Saugeen Métis (HSM):

- HSM expressed that they would like to see more Indigenous perspectives, knowledge and understanding in the reports. "When you talk about UNDRIP and engagement and consultation that [Indigenous] understanding needs to get into the reports and there needs to be a better understanding. And, from our perspective, we can help."

Kebaowek First Nation (KFN):

- KFN staff expressed that the CNSC has shown resistance to implementing UNDRIP and UNDA until compelled by Justice Blackhawk's decision in the judicial review, adding "This is very much about CNSC needing to catch up." KFN staff stressed the Implementation of UNDRIP must go beyond listing existing activities as it requires intentional, transformative action.

- KFN referenced the pre-existing system of Indigenous laws and noted that these come into play with UNDA, stated that CNSC must consider legal pluralism in decision-making, and asked CNSC how delegating aspects of decision-making can function with two legal systems (Indigenous and non-Indigenous).

Métis Nation of Ontario (MNO):

- MNO staff voiced: “I think the biggest issue is just actually integrating [FPIC into the implementation of UNDA], like making sure that it's in there, that the UN Declaration is in there and that you do make that a focus like the FPIC concept that... it's not skipped over, that there is meaningful engagement prior to anything that there is free, prior and informed consent.”

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN stressed that the UN Declaration is part of the Canadian law, and that CNSC must implement UN Declaration protocols. “CNSC needs to start treating Nations as governments, not stakeholders...UNDRIP is not about making new rules. It’s about understanding land rights and what impacts projects could have.”

### 2.1.2.4 Free, prior and informed consent process

#### Summary

This summary reflects CNSC staff’s interpretation of participant feedback on the free, prior and informed consent (FPIC). It highlights recurring themes and does not represent consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants expressed a range of perspectives on the meaning and application of FPIC. Many noted that FPIC is often viewed through a Western lens, which does not reflect Indigenous worldview. Participants stressed the need for clearer definitions of FPIC and emphasized that approaches must reflect community-specific processes rather than a single, standardized model.

Some participants indicated they do not currently have formal FPIC processes to share, while others noted they will not share their processes to avoid the imposition of a pan-Indigenous model.

Participants stressed some obstacles and posed questions when thinking and speaking of FPIC, specifically consent.

## Participant Notes and Quotations

### Algonquins of Ontario (AOO):

- AOO staff identified: “FPIC is hard to get from communities because regardless of what project is going to happen there is some sort of impact.”

### Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN stated that they reserve the right to make FPIC decisions independently, based on multiple factors rooted in community input, values, and priorities. One of the foundational factors in AOPFN’s FPIC decisions is the requirement that they be consulted, engaged, and accommodated during all phases of licensing, operational decision-making, policy development, and major projects—especially those with potential impacts on AOPFN’s lands, rights, or people.
- AOPFN voiced that one of their highest priorities is ensuring that their FPIC is respected. They said historically, consent has been absent from nuclear development processes in their territory, which remains a major concern. AOPFN emphasized that seeking and securing their FPIC is not only a legal and ethical obligation but a foundational step toward building trust and accountability in future nuclear initiatives.

### English River First Nation (ERFN):

- ERFN expressed that a Regulatory Oversight Report (ROR) is just a check-in, that the duty to consult is not perpetual and expires within a lifetime or with a change in chief and council. Consent must be obtained over and over, especially in the North where changes to people, landscape and cumulative effects are prominent.

### Kebaowek First Nation (KFN):

- KFN leadership stated: “I think that’s part of the problem, right? We always get stuck on that: the C part of FPIC and more so on the consent piece instead of being more focused on the free and prior parts. You know, if we were to be more focused on the free and prior, the consent would be less of an issue, if you even want to call it an issue at the end of the day, because you get the free and the prior, then you become informed. Then you’re able to give that consent. But industry is always focused on consent. [They have this mindset of] ‘consent is a veto, we can’t be giving out any more vetoes, especially to Indigenous communities.’”
- KFN staff further voiced that “Consent is definitely the buzzword that gets a lot more hype, but it’s those other pieces, the free, prior, and informed part, those are the community dialogues. Having that conversation open and publicly and transparently [is key]...but we do see heightened use of ‘it’s security sensitive’ or ‘it’s proprietary’, and that is a complete bar to getting informed on anything, consent or consultation.”

## Manitoba Métis Federation (MMF):

- MMF’s written submission included: “The MMF submits that while free, prior and informed consent (FPIC) does not explicitly extend veto power to Indigenous groups, it does set an important standard for affording meaningful engagement and consultation where an impact to rights, claims, and interests is being contemplated such as in CNSC regulated projects within the National Homeland. The lack of meaningful engagement and consultation on nuclear project does not align with the United Nations Declaration principles of equality, non-discrimination, FPIC, and the protection of cultural and social impacts. FPIC requires the integration of various processes to ensure meaningful and effective participation in decision making to enable collaboration and partnership.”

## Métis Nation of Ontario (MNO):

- MNO stated they do not have an answer for a path forward, as they believe no one has FPIC right yet.

## Michi Saagiig Nations:

- The Michi Saagiig Nations highlighted the need to address the worldview that frames the colonial approach to FPIC, adding that for the Government of Canada, FPIC does not equal a veto, and consent is consensus with rights holding First Nations. They asked why the Government of Canada is answering the question on behalf of First Nations. The answer, the Nations said, comes down to the Canadian world view which is currently ruled by fear given the current political climate. The Nations commented the CNSC is asking the Nations how to define FPIC, when the Government of Canada has already defined aspects of FPIC based on a colonial worldview. They noted this worldview enables a paternalistic decision-making process where they are only positioned to provide consent within a framework they do not fundamentally relate to or agree with.
- It was noted by the Michi Saagiig Nations that the CNSC has not developed a process on how to obtain the Nation’s consent. They explained that since applications may bundle plans for waste management into their licence applications, it’s unclear how CNSC or proponents would plan to obtain the Nations’ consent in these scenarios. They expressed that this makes things complicated when it comes to estimating the level of effort required to be involved and participate in these CNSC processes. They also raised that there needs to be more strategic planning together in terms of the outlook of impending applications and work.
- The Michi Saagiig Nations expressed that they may feel that the consent process is rushed due to multiple projects moving at the same time, not only with the CNSC but with other regulators. They conveyed that the CNSC must adhere to Nation’s timelines for consent.

- The Michi Saagiig Nations inquired about whether the FPIC process would capture their worldviews and perspectives to solidify accommodations and mitigation measures that uphold Treaty rights.
- It was stated that the burden put on consultation teams is immense as they need to adhere to community processes. However, due to industry timelines, consultation teams often cannot follow community processes. The Michi Saagiig Nations noted that industry seeks to obtain consent on the backs of their consultation workers.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI explained that prior consent is the “Biggest one,” stating “History has always been – projects show up in First Nations backyard and then [proponents] come and ask for permission after it’s already up and operating. So, prior consent means that there’s good communication, dialogue, the MRIA process is followed that the First Nation gives consent for the project before they break ground or they do anything.”
- Regarding FPIC, MTI explained that free means the communities do not need to invest large amounts of money to investigate and research what a project is to get all the information.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN asserted that Justice Blackhawk made an incorrect interpretation of Article 29.2 of the UNDRIP because UNDRIP recognizes two types of consent. One type of consent is the right to a robust process, and the other type is hard FPIC, a yes or no decision, that rests with the Indigenous Nation or community that is most impacted by a potential project. Article 29.2 recognizes that the state action will not take place without the consent of Indigenous People.
- SAFN also stated that consent can be revoked if consent measures are not put in place or followed by the proponent. SAFN asked if CNSC will respect a Nations’ decision to not consent to a project.
- An SAFN Elder stated: “Regarding consent, when the company and the regulator start looking for consent, the consent from Sagkeeng needs to be enthusiastic and that all issues and concerns raised by community are answered, and all Sagkeeng understands what’s going on.”

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB stated: “We’re reluctant to give you a standard process” that would potentially be used for a cookie-cutter approach to all FPIC considerations in the future. WNNB noted that FPIC should be defined on a case-by-case basis, not a one-size-fits all approach. WNNB emphasized that so far, they’ve heard a lot about communication and the information transfer, the Informed piece of FPIC, but not the Consent piece.

### Ya'thi Néné Lands and Resources Office (YNLR):

- A YNLR community member shared “First of all, this document is the first time I have heard of this. The principles, this document should be presented to the people and explained about what it means. It’s hard to put an answer on something you don’t understand... Again, that document needs to be reviewed by the people. To have a better understanding, then we can go from there. It’s hard to put any words on it when you don’t know about it.”
- YNLR shared that the public is not aware of the rights First Nations have under UNDRIP. A community member asserted: “First thing is that people are not aware of the rights they have because it was just recently that Canada was against it... people are not aware of UNDRIP... we need to educate people.”
- YNLR stated that the mandate of consent from Elders is straightforward, based on protection of the land and water and traditional lifestyle from industry and for the future generations.
- YNLR specified the necessity of formalizing consent in legal agreements, and the importance of relationship building in that process: YNLR sees its mandate as the protection of the land with consent being formalized by signing legal agreements but also establishing broader relationships. The objective is to establish areas where there will be no development and balance management with areas that are open to industrial activities. Staff added, “literal protection: improvement management of land. But if there’s going to be consent, it needs participation and benefit.” YNLR stated it is an uncomfortable area for the government to get involved in so it will require industry to negotiate these agreements with a wider concept of benefit sharing.”

## 2.1.3 Regulatory framework

### 2.1.3.1 Protection of people and the environment

#### Summary

This summary reflects CNSC staff’s interpretation of participant feedback related to protection of people and the environment. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants emphasized the importance of CNSC’s role in protecting people and the environment. Safety is one of the participants’ main areas of interest as are potential impacts to the environment from CNSC regulated facilities. Concerns about potential impacts to country

food from waste are intimately connected to Indigenous ways of life and ability to safely exercise Aboriginal and Treaty rights.

### **Participant Notes and Quotations**

Algonquins of Ontario (AOO):

- AOO staff stated: “With the environment, with like harvest... in Chalk River, [community members] harvests deer, you know. The deer go eat the grass there. After 20 years... how’s it going to affect the bears? How’s it going to affect all the animals, right? And I think that’s a huge concern.”

Grand Council Treaty #3 (GCT3):

- A GCT3 community member asked: “If there was an incident with one of the reactors, would First Nations get an incident notification report and how would this be implemented with all the Nations if there was a leak in a reactor?”

Historic Saugeen Métis (HSM):

- HSM staff expressed: “From a regulatory framework perspective, we most definitely value the environmental components, try to understand them and make contributions to them.”

Kineepik Metis Local #9 (KML):

- KML stated that mechanisms for protecting animals and the environment are most important to them, as well as safe access to areas in their territory.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI expressed the Mi'gmaq First Nations are aware of the importance of the nuclear sector, but radioactive waste remains a big concern.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN leadership shared: “We’ve been going to that area for traditional medicines and everything and we don’t know if there’s anything wrong with our medicines.”

Ya’thi Néné Lands and Resources Office (YNLR):

- A community member of YNLR raised concerns regarding mining impact on safety for consumption of moose, blueberries and water due to mine discharge into local lakes.
- YNLR community member also commented: “CNSC is really strict with your regulatory system, industry follows rules. I like it because I worked with the mine before, we have to make sure they are in line. So they are really strict because they look at numbers when they are looking at the mine site.”

### 2.1.3.2 CNSC regulatory documents

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback related to CNSC regulatory documents. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants stated that they had experience and are familiar with CNSC regulatory documents. CNSC frequently heard that the language used in the regulatory documents is too technical for community members and Elders to understand. Participants commented they are thankful to have the chance to review documents and provide feedback on these pieces of the regulatory framework. However, participants would like greater involvement in the regulatory document development process, as co-creators; similarly, participants wanted to know how their comments were received and used in the regulatory document reviews.

Participants emphasized the importance of regulatory documents related to the environment, communication, transportation, and emergency management. Participants want to be consulted on any revisions to documents related to these topics.

In a few instances, participants were not aware of regulatory document updates, and it was emphasized that CNSC communication related to regulatory document reviews could be improved.

#### Participant Notes and Quotations

Algonquins of Ontario (AOO):

- AOO stated that any regulatory document or piece of the regulatory framework related to waste, the environment (especially waterways), new builds, transportation, and/or emergency preparedness is of interest.

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN asserted that Indigenous partners like AOPFN must be treated as co-creators of regulatory documents, not just reviewers. This shift would improve transparency, trust, and the quality of decision-making.
- AOPFN asserted that regulatory documents should reflect a principle where the partner with the strongest guidance or expertise on a given topic should lead or dominate that aspect of the assessment (e.g. Indigenous partners when assessing Indigenous governance and land use). This would ensure that Indigenous Knowledge (IK) is not just acknowledged but actively shapes outcomes. AOPFN noted that no regulatory documents provide guidance on building relationships. AOPFN explained that the CNSC needs to build up strengths and skills in those areas, rather than working towards existing strengths.

- AOPFN stated they have requested updates over the past 2 to 3 years on REGDOC 3.2.2, *Indigenous Engagement*. AOPFN emphasized that timely updates to regulatory guidance documents are essential to ensure relevance, transparency, and meaningful participation.

Athabasca Chipewyan First Nation (ACFN):

- ACFN expressed that it is important for the regulatory documents to be written in plain language because, while the audience of the documents are the licensees, ACFN still needs to understand what they should expect from industry: “these documents, you really need time to absorb them, read them, understand them. A lot of the time, there’s double meanings. It comes down to normal people understanding them... how do we jointly look at that... we have our own joint protocols and way of being and I don’t see them in there.”

Historic Saugeen Métis (HSM):

- HSM appreciates being asked to comment and review the regulatory documents and that it is important to know someone is reading their comments and following up. HSM noted that if they have follow-up questions on something technical, they can receive explanations from local CNSC staff.

Métis Nation of Ontario (MNO):

- MNO staff noted that their Consultations Committees are there to inform the community members and reading regulatory documents may be too technical. Indigenous communities are more focused on “... the environment and water quality, regional contamination, anything like that. I think those are the ones that really need sort of a summary that we could say, ‘hey, this is what the proponent needs to do.’ In plain language, as opposed to the more technical stuff.”

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB shared that communication around regulatory document changes could be clearer; they were not aware that CNSC’s REGDOC-2.5.2 *Design of Reactor Facilities: Nuclear Power Plants* had been updated to operate as a technology neutral regulatory document.

Ya’thi Néné Lands and Resources Office (YNLR):

- YNLR community member commented: “[regulatory documents] are quite lengthy. It would be nice if there was a high-level documentation – you have to be well educated, like a lawyer, to understand these documents. There should be a high-level explanation without reviewing the document.”

### 2.1.3.3 Indigenous participation

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback related to Indigenous participation in regulatory processes. It does not represent consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants expressed a clear desire for enhanced involvement in the CNSC's regulatory framework, particularly in environmental monitoring and oversight. They emphasized the importance of Indigenous-led monitoring programs and increased transparency in monitoring data and processes.

Participants also noted that reviewing CNSC documents often requires more time than is currently provided, given internal approval processes, competing demands and limited capacity. Many expressed their appreciation for opportunities to join CNSC staff on inspections, stating that these experiences provide valuable insight into oversight activities.

Participants also recommended improvements to CNSC's REGDOC-3.2.2, *Indigenous Engagement* and encouraged a broader strategic review of how Indigenous Nations, communities and organizations participate across the regulatory framework.

#### Participant Notes and Quotations

Algonquins of Ontario (AOO):

- AOO stated they would prefer more time for reviews of any documents and need at least one month due to internal approvals and limited staff capacity. AOO staff explained, "I do the initial review but then I need to pass it on to my team and sometimes that can take a few weeks. We all wear many hats here... We just need a lot of time, a minimum of a month for any document."

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN stated that their Aboriginal Rights Safety and Control Area criteria should be formally incorporated into CNSC's regulatory practices, ensuring that Indigenous governance and rights are meaningfully reflected in regulatory oversight, consultation and decision-making. To date this incorporation has not occurred.

Athabasca Chipewyan First Nation (ACFN):

- ACFN expressed interest in conducting Indigenous-led environmental monitoring and requested access to licensee sites. ACFN asserted their monitoring staff required access to a site in an effort to achieve FPIC for future developments. A community member suggested that the CNSC provide letters to ACFN stating they can use the lands of the

nuclear facility sites for Treaty rights use and another community member said that this statement could be included in the Terms of Reference and workplan.

English River First Nation (ERFN):

- ERFN shared that ideally proponents need a First Nations permit to act; with signed agreements requiring “guardian inspections” paid for by the proponents. ERFN stated “don’t do anything that will affect Indigenous Peoples without including them.”

Historic Saugeen Métis (HSM):

- HSM participated in a CNSC inspection for the first time in 2025 and said they found the experience valuable. HSM recognized that the inspections take a lot of effort from both CNSC and the licensee, but the community wants to hear from both sides to gain a complete picture. HSM stated “We consider [CNSC] the teeth [for oversight and] want to make sure those checks and balances are in place.” HSM hopes that by joining the inspections, they can share their perspective and bring a second set of eyes to what is important.

Michi Saagiig Nations:

- The Michi Saagiig Nations requested the CNSC undertake a full strategic review, alongside Indigenous Nations, of the CNSC's regulatory framework for Indigenous engagement to identify and fill regulatory gaps and updates to CNSC’s REGDOC 3.2.2, *Indigenous Engagement* to reflect UNDRIP and FPIC.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN members requested the development of a plan that outlines a hazardous spill evacuation plan, involving SAFN in the process planning.

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB spoke about the difficulties for the community to understand nuclear technologies given the misinformation circulating and the level of fear and misunderstanding in the communities. To illustrate the challenges for New Brunswick Indigenous communities, WNNB provided the example that 40 percent of Indigenous Peoples employed by the nuclear sector are working in Saskatchewan, while only 2 percent are in New Brunswick.

## 2.1.4 Registry, commission proceedings and process

### 2.1.4.1 Commission decisions

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback related to Commission decision-making. It highlights recurring themes raised by multiple Indigenous Nations, communities and organizations. It does not represent participant consensus or imply CNSC endorsement. Individual perspectives appear below through verified quotations and notes.

Participants expressed a strong interest in greater transparency in how the Commission makes decisions including how Indigenous interventions, perspectives and knowledge are considered. Many stated that the current process appears unilateral and that more opportunities are needed for Indigenous participation in decision-making.

Participants highlighted an interest in establishing an Indigenous Advisory Committee to support the Commission in their decision-making processes and to support CNSC staff in their Commission Member Document (CMD) recommendations. Participants also advocated for more Indigenous inclusion within the Commission in decision-making roles, not just in an advisory capacity and a desire for more collaborative, shared or co-developed pathways for decision-making in licensing processes.

#### Participant Notes and Quotations

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN supported the establishment of Indigenous Advisory Committees as a formal component of integrated assessment panel processes to ensure Indigenous perspectives are included in decision making. AOPFN urged CNSC to start working on this now rather than when there is a major project looming in the territory, noting for example that AOPFN anticipates the Shielded Facilities Program at Chalk River Laboratories will be coming.

Athabasca Chipewyan First Nation (ACFN):

- ACFN suggested that proponents should bring on Indigenous Advisors, knowledge keepers or an Indigenous Advisory Committee for the licence application review period. ACFN suggested that this would help Indigenous Nations and communities feel comfortable. For a committee, ACFN recommended that CNSC hire a diverse cross-section of Indigenous People in the territory, such as community leaders, youth and Elders.

- ACFN stated that their input during hearings was not taken into account by the Commission; similarly, ACFN wants to know how their interventions influence the Commission's decisions. CNSC staff offered to set up meetings with ACFN after future decisions to discuss the results.

English River First Nation (ERFN):

- ERFN expressed concern regarding longer and longer licensing periods with some proponents asking for unlimited licence lengths and that when Nations express opposition, CNSC and proponent point towards the Regulatory Oversight Reports (RORs) to mollify ERFN's concerns. ERFN staff stated that the ROR is not a replacement for a hearing "Comeco is like an arranged marriage, we had no input in the decision. The ROR is quiet reflection, sitting in the living room. Licensing hearings is sitting with a counselor and a divorce lawyer."

Grand Council Treaty #3 (GCT3):

- A GCT3 community member asked: "If the DGR [Deep Geological Repository] project moves ahead, will community members have a say in the regulatory process, rather than only the Commission members? Treaty 3 members want more participation in DGR project and want equal opportunities; can a subgroup be added to the regulatory process?"

Historic Saugeen Métis (HSM):

- HSM spoke about how they wanted the Commission to know how they arrived at their decisions, adding "We don't know how informed the Commission is, so we want the Commission to be informed about how we make an informed decision."
- HSM staff had mentioned: "When we did the midterm for Bruce Power, we had five points that we wanted to get across and we didn't get any feedback from the Commission on those five points. On how we could work toward improving those points. We don't expect them to resolve them, but how do we work toward improving those 5 points. And, if it's not the business of CNSC, then [which Government Department or Agency] is it and can we work together to try and improve in those areas?"

Kebaowek First Nation (KFN):

- KFN emphasized that while offers to have Commission proceedings or meetings with the Registrar on Kebaowek territory are appreciated, KFN's primary matter of concern is to further discussions around decision-making and creating a process that is co-developed rather than unilateral.

Kineepik Metis Local #9 (KML):

- KML requested stronger communication and follow-up after Commission decisions. The community wants to know how their concerns were reflected. A community member stated that if the CNSC can do this, “People will be more willing to sit down with you guys and bring their concerns to you.”

Michi Saagiig Nations:

- The Michi Saagiig Nations noted that the Canada Energy Regulator has an Indigenous Advisory Council that guides their Commission on all their work. Further noting that this council stays up-to-date with case law and brings forward the Indigenous worldview.
- They noted their experience working with various national regulators and highlighted their concern over the lack of ability to cross-examine information brought forth by CNSC staff and proponents during Commission hearings. The Michi Saagiig Nations explained that Commission members rely on CNSC staff to make judgement on evidence presented, however judicial processes in other regulator’s processes (like those of the Ontario Energy Board) involve cross examination of evidence. They stated this process allows the Board to listen and consider the cross examination to make their own judgement of the presented facts. They stated they are unsure why the CNSC does not operate similarly.
- The Michi Saagiig Nations questioned if the Commission is knowledgeable of all available resources to them and the current guiding principles foundational to the Commission. They highlighted that they are concerned that the Commission is not aware of and/or will not use all the tools available to them when making their decisions. They noted that they are looking for a response to this concern and question from the CNSC.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI recommended continued environmental monitoring by Indigenous Peoples as a condition of licensing.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN leadership stated: “When Indigenous are part of the decision making, it’s a lot easier to get consent because they’re not being told ‘this is the way it is’,”. SAFN participates in the decision-making with regulators.

- Leadership explained that it would be beneficial to have a First Nations person as a Commission member. Leadership stated, “residential schools caused us to lose our language, many Elders still speak their native language, but if they come to a hearing, it will be hard for them to understand what is going on.” Leadership described how racism and segregation are big barriers for First Nation communities, and to get a true perspective on these challenges, proponents must engage with First Nations.
- SAFN has apprehensions about the CNSC’s approach to Indigenous concerns. SAFN explained that in their experience the CNSC dismisses their concerns as “wrong,” and they see this in Commission Member Documents (CMDs).

Ya’thi Néné Lands and Resources Office (YNLR):

- YNLR shared that while overall relationships have improved, challenges remain due to a lack of acknowledgement of Indigenous concerns in Commission decision documents. YNLR feels that it is not obvious that their voices are being heard.
- YNLR asked for clearer information on how Traditional Knowledge is integrated into decision making processes and how it differs from other organizations and requested a designated CNSC contact to support this work.

### 2.1.4.2 Commission proceedings

#### Summary

This summary reflects CNSC staff’s interpretation of participant feedback on Commission proceedings. It does not represent participant consensus or imply CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants expressed interest in a two-way dialogue with the Commission members at Commission proceedings to better allow for understanding between parties and to allow the participants’ voices to be heard when opposing points are brought forth by various parties.

Participants noted issue with CNSC’s determination of hearing dates, as well as limiting participation at Commission hearings to only a few days rather than each day of the proceeding.

The need for further inclusion of Indigenous protocols at Commission proceedings as well as ensuring appropriate use of language and terminology at hearings, in regulatory documents, CMDs and RORs had been identified by the participants.

Participants noted that recent changes in the physical layout of Commission hearings, and some inclusions of Indigenous protocols represent positive steps but should be expanded.

Concern over the length of recently awarded licences as well as determination of licence conditions has been noted by participants.

## Participant Notes and Quotations

### Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN recommended the Commission build discrete “Indigenous Knowledge” settings into future hearing processes, where panels from Indigenous Nations can present their Indigenous Knowledge (IK), findings and recommendations to the Commissioners in an Indigenous appropriate, welcoming setting.
- AOPFN recommended that CNSC conduct a formal debrief with the community after each hearing. This would provide an opportunity to reflect on the experience, gather feedback, and ensure that community input is meaningfully relayed back to the Commission.

### Athabasca Chipewyan First Nation (ACFN):

- An ACFN community member stated that protocol is important and observed that in this meeting, we asked [a community member] to do a prayer, but did not offer tobacco, which the CNSC should have done. Another community member added that at the end of a meeting, CNSC should then offer sweetgrass. A third community member emphasized that offering food is important, even if it is something small, to show that you are thankful. The community member said doing a land acknowledgement is important, too.
- The following request was also made by an ACFN community member stating: “Our Elder has to speak, we didn’t bring them this far not to speak. If there are Elders coming to a presentation, allow them to speak. It gets emotional, but that’s how they relate to the land, it’s a ritual for them.”

### English River First Nation (ERFN):

- ERFN expressed that long licence terms might as well be Supreme Court decisions due to lack of money to challenge the results of a licensing decision. Communities do not have the opportunity to challenge decisions as the money must be spent on social issues, housing, preventing loss of language and culture.

### Historic Saugeen Métis (HSM):

- HSM stated that the Commission visit to their community was a positive event, adding “We always appreciate the opportunity to address the Commission. One thing we really liked...we had a Commission meeting then the Commission came here on the second day. We invited them to come here and they weren't dressed up. They didn't have a timer in front of them. We got a different atmosphere.” HSM invited the Commission “and they caught it with both hands.”

## Kebaowek First Nation (KFN):

- KFN leadership commented: “We’re provided funding from the CNSC to be able to take part in these [Regulatory Oversight Report meetings]. We provide written comments and we provide our oral comments as well. We always ask ‘Now what happens with this? Where’s the change? Where’s this feedback going?’ I hate to use the comment of a box-checking exercise, but that’s very much what it feels like when you go through this year after year and you don’t see any kind of tangible change.”

## Métis Nation of Ontario (MNO):

- MNO staff highlighted that a primer would have been useful prior to attending the Commission proceeding to be better prepared and know what to expect. MNO staff stated, “We walked in a little surprised by the formality of the proceeding.”

## Métis Nation Saskatchewan (MN-S):

- MN-S asserts that CNSC’s hearings documents misrepresent the consultation and engagement with MN-S in its regulatory processes and does not consider the diversity of Indigenous Peoples being consulted.

## Michi Saagiig Nations:

- The Michi Saagiig Nations noted their interest in having a two-way dialogue with Commission members at Commission hearing proceedings. They stated the Commission can ask questions to the Nations and the Nations would like to ask questions to the Commission. They explained that the Commission determines whether the duty to consult has been met and asks questions to CNSC staff for their perspective, however they do not ask the Nations. Michi Saagiig Nations expressed they also want the opportunity to cross-examine evidence that is presented to the Commission during the proceedings. It was further commented that they tried to have a two-way dialogue with the Commission at the last hearing but acknowledged that is not the CNSC process.
- The Michi Saagiig Nations highlighted that some concerns brought forward at the Darlington New Nuclear Project (DNNP) hearing were dismissed for being out of scope for the licence. They acknowledged the licence could be amended to include the area of concern mentioned by the Nations (waste). The Michi Saagiig Nations further elaborated that the concern is that a proposed licence amendment would not trigger a Commission hearing, resulting in their views not being expressed regarding the proposed activities for “waste management related to the DNNP”. They noted the importance of their voices being heard with regards to a project involving waste in their territory.
- It was mentioned by the Michi Saagiig Nations that the incremental change between hearings is small but is going in the right direction.

- The Michi Saagiig Nations stated that overseeing the physical space where hearings will take place ahead of the hearing is beneficial for their set up and to be able to brief their Chief, Council and Elders appropriately.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI agreed that recent changes [during Commission proceedings] are good and highlighted the importance of land acknowledgements, opening prayers and smudging ceremonies when having in-person meetings and the importance of these being given by an Elder.

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN believes that CNSC's existing policies and structures are not conducive to meaningful consultation: SAFN identified difficulties created by the division of responsibility for discharging the duty to consult between CNSC staff and Commissioners, stating that the Commissioners' limited exposure to SAFN and its concern leave doubt as to the Commission's ability to understand and address SAFN concerns.

Ya'thi Néné Lands and Resources Office (YNLR):

- YNLR stated that being able to intervene in their own language is of great importance to them and appreciates the efforts in having translation at the meetings. A community member asserted: "We want to intervene in our own language."
- YNLR reiterated that they want to have hearings in their communities in Northern Saskatchewan, rather than in Saskatoon/Regina. A community member stated "It is doable. If we didn't think it was doable, we wouldn't ask."

## 2.2 Cross-cutting themes

Throughout the 2025 CNSC listening tour, participants identified several cross-cutting themes that emerged across all four topics as outlined in the discussion guide ([Appendix B](#)). While the discussion guide topics stand on their own, the cross-cutting themes present key points of feedback from the participants, sharing their concerns and insights.

### 2.2.1 Communication

#### Summary

This summary reflects CNSC staff's interpretation of participant feedback on communication. It highlights recurring themes and does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants shared a wide range of perspectives on CNSC communication. Experiences varied from satisfaction with existing communication approaches to concerns about accessibility, clarity and timeliness. Participants emphasized the need for multiple communication methods to effectively reach consultation teams, leadership, Elders and community members.

Communication was a connecting theme across other topics in this report. For example, communication themes touched on transparency in Commission decisions ([2.1.4.1 Commission Decisions](#)) and how Indigenous Knowledge (IK) is considered by CNSC staff and reflected in Commission decisions ([2.2.5 Indigenous Knowledge](#)).

Participants highlighted that they want to see more information sharing directly with communities. Additionally, participants shared the challenges they have communicating CNSC information to the relevant leadership and community members that they represent.

The sampling results cards provided by the Independent Environmental Monitoring Program were identified as an example of good communication for communities.

### **Participant Notes and Quotations**

English River First Nation (ERFN):

- ERFN reiterated that the documents CNSC releases should be written for Elders and people to understand, and the information needs to be freely understood.

Kineepik Metis Local #9 (KML):

- KML staff emphasized: “Radio is the best method to reach the most people, especially as the radio has Cree translators who can read out messages.”

Métis Nation of Ontario (MNO):

- MNO staff noted that their Regional Consultation Committees identified they would appreciate more regional Métis community information sessions. This would allow not only the Regional Consultation Committees and community councils to get their questions answered, but also regular Métis citizens.

Métis Nation Saskatchewan (MN-S):

- MN-S emphasized the unique structure of their organization, where MN-S represents a network of Métis communities spread across Saskatchewan. As a result, they face the distinct challenge of effectively communicating and sharing information with a widely dispersed population, as well as conveying feedback to the CNSC. MN-S added “It is a very different communication process” and when working with local presidents, who are volunteers, “It can’t be this snappy back and forth.”

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI noted they are happy with the communication between CNSC staff and their teams and feel that they are well informed about events.

Sagkeeng Anicinabe First Nation (SAFN):

- It was suggested by SAFN that CNSC needs to do better with communication. SAFN commented that their relationship with CNL has improved over the last five years because CNL started to actively listen to community concerns. CNSC could follow this model.

Ya'thi Néné Lands and Resources Office (YNLR):

- A YNLR community member stated: "I don't think [CNSC] are doing a good job. With the communication, they could reach out to more people."
- Another YNLR community member commented: "Since I got involved from zero to where it is right now, the communication has improved big time. The community engagement in how they [are] involving them now makes a big difference. I see a lot of improvement, we haven't [sic] met the president before. We are now involved in the ROR, and there is lots on consultation on our end."
- YNLR reiterated that proper communication with the community so they can be informed and prepared is essential. YNLR members expressed confusion regarding who monitors the companies or their decisions.
- YNLR emphasized the importance of the involvement of First Nations and frequent communication, especially when it comes to new technologies such as In-situ recovery where the impacts are unknown.

## 2.2.2 Cumulative effects and impacts

### Summary

This summary reflects CNSC staff's interpretation of participant feedback related to cumulative effects and impacts. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants expressed concern over the lack of consideration of cumulative effects and impacts within the regulatory process, the need for a cumulative effects assessment protocol that considers legacy effects as well as a regionally inclusive approach.

Participants also noted the difference between the CNSC and Indigenous definitions of cumulative effect, as well as what is affected by cumulative effects.

Funding to conduct cumulative effects studies to inform the regulatory process was identified as a need by the participants.

### **Participant Notes and Quotations**

Algonquins of Ontario (AOO):

- AOO called for a framework to address cumulative effects for various CNSC-regulated projects and other activities in the region that impact AOO rights and interests. The aim is to consider and mitigate the combined effects of multiple projects on the AOO's unceded Settlement Area.

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN shared there has yet to be a formal process by the Crown for identifying cumulative harms on Indigenous Peoples in the Chalk River area, which should be a priority for the federal government.

Athabasca Chipewyan First Nation (ACFN):

- ACFN conveyed concerns about cumulative effects and the need for more regulations and documentation. A community member expressed concern that a similar situation to imperial oil's perceived conflict with the government could happen in the uranium mining sector. This community member emphasized the importance of consistent environmental monitoring from the regulator to hold the licensee accountable.

Kebaowek First Nation (KFN):

- KFN leadership commented: "Cumulative impacts – I don't think it gets enough time when we're talking about these things because a lot of times projects get looked at in isolation... when we just look at things in isolation, they might not seem impactful. But when we look at things holistically, how everything's connected, cumulative impacts are so large on Algonquin territory... all things in life, whether you want to believe it or not, are connected in some way, shape or form. That's the lens Kebaowek looks at projects and files that happen in our territory. It's cumulative impacts of all these things that are happening, not just nuclear."

Michi Saagiig Nations:

- The Michi Saagiig Nations identified that the CNSC does not have a cumulative impact assessment policy and noted this is the most contentious issue the Nations face, as they deal with multiple projects seen as individual and siloed from one another. They highlighted the Commission does not consider cumulative effects, but the Impact Assessment Agency of Canada (IAAC) and the Canada Energy Regulator consider cumulative effects.

## 2.2.3 Legacy issues

### Summary

This summary reflects CNSC staff's interpretation of participant feedback on legacy issues. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants noted the importance of acknowledging and the need to address legacy issues. Key legacy issues raised included historical inequalities, capacity issues, trauma caused by colonialism and residential schools, not being consulted during the inception of nuclear projects and legal impacts. This cross-cutting theme is highlighted in various sections of the discussions with participants.

### Participant Notes and Quotations

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN stated that the historical lack of consent has contributed to a stigma surrounding nuclear power within AOPFN territory. AOPFN stated there is limited space for open dialogue about the fear and stigma associated with nuclear development. This silence has made it difficult to address community concerns and build understanding. The nuclear sector's failure to engage meaningfully with AOPFN has created areas where the community feels excluded or alienated. These "zones of alienation" must be examined and addressed.

Historic Saugeen Métis (HSM):

- HSM stated that overall, [HSM's] issues with the nuclear industry in the area "... goes back to a legacy issue where Indigenous communities were not consulted when the original nuclear projects got started." HSM emphasized that nuclear projects are not small projects, and they have long-term legacy issues.

Kebaowek First Nation (KFN):

- KFN staff emphasized the importance of recognizing how historical impacts can and have shaped consultation today, stating "when nuclear came about, you know, there wasn't consultation, there was no consent, there was no heads up that 'hey, this site is going to be constructed on a burial ground' or 'it's going to remove access to sacred sites.' None of that was discussed. So what is the leadership from the CNSC doing about that piece of history, where those impacts continue to echo to present day? There are tangible ways reconciliation can be played out and that is through capacity funding and resources and making sure the voices who were extinguished then have a more proportionate voice now."

## Michi Saagiig Nations:

- An Alderville First Nation (AFN) Elder highlighted that it is only through open mindedness, respect, love, the 7 grandfather teachings and resulting actions that will make a good impact. The Elder noted that the important thing to understand from the discussion is the intent and spirit Nations have, the understanding that everything has spirit and everything Nations do is with spirit. The Elder stated that they hope CNSC staff will do their research and understand more about trauma, noting the government's policy to push First Nations to reservations. Despite these hardships, First Nations survived and are still present today. The Elder said that they hope CNSC staff understands this.

## Mississaugas of Scugog Island First Nation (MSIFN):

- MSIFN staff commented: "These facilities were built without [First Nations'] consent, without any consultation. So, any impacts on rights that we consider today, have to consider the historic impact on rights during the time period when the Crown thought the rights were extinguished. But, how do you deal with that, right? This is kind of new territory, I think, for all of us, but that is the fundamental reality that we, you know, we and the leadership and community members have to deal with: how do you characterize an impact on rights? You have to deal with historic impacts."
- MSIFN asserted the Crown does not want to look at historic impacts. Proponents and the government want to look forward, but for First Nations, that is impossible. MSIFN staff added "We're not even sure that the regulator or the proponent are willing to go down that path to look at what happened."

## Ya'thi Néné Lands and Resources Office (YNLR):

- YNLR noted the long-lasting legacy of harm caused by the Beaverlodge mine and mill site and associated properties, located 8 km east of Uranium City, Saskatchewan which has resulted in significant environmental contamination to territory relied on by rights-holders, that will persist for centuries. They stated decommissioning of the mines and mill began at mine closure in 1982 and was completed in 1985, but the mill operated without an effluent treatment process from 1952 to 1977. Many water bodies in the Beaverlodge region are subject to advisories, limitations, and moratoriums on fish and water consumption, due to elevated levels of uranium and selenium.

## 2.2.4 Incorporating Indigenous worldviews

### Summary

This summary reflects CNSC staff's interpretation of participant feedback on incorporating Indigenous worldviews. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants highlighted the need to incorporate Indigenous worldviews within CNSC processes, consultation and accommodation and within future changes to CNSC policies. Several participants emphasized that working within a two-eyed seeing framework is key to meaningful consultation and engagement and is at the core of working in partnership with Indigenous Nations, communities and organizations.

### Participant Notes and Quotations

Athabasca Chipewyan First Nation (ACFN):

- An ACFN community member stated: "Let us live our lives. Not everyone wants to work for industry. Not everybody. We want to go back to the land and live there. We need to be recognized and acknowledged for that. I wrote down, what doesn't feel good this morning and one part there. It feels like – I know how these meetings go – I'm still getting the feeling that we're asking permission from you people. When that word permission comes up, it brings up the residential school... it feels like we're getting permission from you guys. That's how I'm feeling."

Kebaowek First Nation (KFN):

- KFN leadership commented: "[UNDRIP and integrating Indigenous worldviews] needs to start by working with Indigenous communities...determining what does that look like now? How do we do this? Because it's not going to be for you [the CNSC] to tell us. We should be doing it together because again, we're trying to fit Western-backed science and a Western way of thinking within Traditional Knowledge and Elders and teachings to find something that fits. We should be looking at a bottom-up approach instead of always waiting for direction from NRCan, a Prime Minister, Department of Justice, what have you."

Michi Saagiig Nations:

- The Michi Saagiig Nations noted that only Indigenous Peoples can share Indigenous life experiences and world views and encouraged CNSC to hire more Indigenous staff.
- A Michi Saagiig Nations staff member made the following comments:
 

*"I think what we need to address here is in the worldview that frames the colonial approach to FPIC. The Government of Canada has stated that consent does not*

*mean veto. The Government of Canada has said in order to obtain consent we need to find a solution towards a consensus with rights holding First Nations. I ask myself why the Government of Canada is answering a question on behalf of Indigenous communities and Indigenous Peoples. Fundamentally, that comes down to Canada's worldview.*

*The worldview of being fearful, the worldview of domination, a worldview in which that enables paternalistic decision making as long as the First Nations agree too something within that consenting process. That is the worldview and that is clear here based on Canada's history and specifically in the context of the Williams Treaty First Nations, it's been a complete denial of rights until 2018.*

*What animates the worldview of the Michi Saagiig and the Chippewas Peoples in the Williams Treaty First Nations? I can't answer that on behalf of the other communities here, but I can draw on some aspects of First Nations worldviews that animate how we see the world. There is a known responsibility. That responsibility to protect their waters, their lands is because they identify Spirit to all living and non-living things. That was clear today based on [the Elder's] opening as well, the water has spirit, the rocks have spirit. We as people possess that spirit and that animates us to follow through in our inherent responsibilities.*

*So, what does FPIC look like to you? You are asking us a question where you've already defined what FPIC is in the jurisprudence of Canada's worldview, but you've never even considered that Indigenous communities have a different worldview which animates how we get to consent. So, I find your question very problematic because you've already defined what FPIC looks like. And now you are asking us to work within your framework, because your worldview is being fearful, dominant and therefore paternalistic. That's the truth, that's evident based on Canada's current actions through Bill C5, protecting itself from Donald Trump and his tariffs. You're protecting your sovereignty, and this is animated through how you've already defined what FPIC looks like when you have a fiduciary responsibility to consult and achieve consent with rights holding First Nations.*

*So, I am not going to answer your question but the perspectives that we bring forward through our interventions are grounded in our worldviews and it's important that CNSC staff and the Commission acknowledge that those perspectives are tied to the inherent responsibility and recognition that everything here today has spirit. So, when we're making certain accommodation requests and were making certain requests in order to achieve consent, they shouldn't be dismissed because of a worldview in which Canada operates and has already defined FPIC. That's one component of reconciliation that goes beyond*

*relationship building. It acknowledges that two systems could still operate maybe not so well but operate and that is the recognition that the Crown needs to perceive when receiving those accommodation requests, those perspectives from these communities. Miigwetch.”*

## 2.2.5 Indigenous Knowledge

### Summary

This summary reflects CNSC staff’s interpretation of participant feedback on Indigenous Knowledge (IK). It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants noted the importance of IK and the need for its inclusion alongside Western frameworks, within environmental monitoring and impact assessments. It was emphasized that the information held by Elders and Knowledge Keepers is essential in understanding the land.

Participants noted uncertainty about how the CNSC protects confidential IK, which affects their willingness to share IK. Many requested clearer definitions, processes and methods for integrating IK into regulatory decisions.

### Participant Notes and Quotations

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN stated the CNSC needs to include more information on IK in their processes. AOPFN asserted there is a lack of clarity on IK, for example: IK holders, accepting IK, and integrated IK into project impact assessments. AOPFN noted that approximately five percent of inputs into EIS (Environmental Impact Statements) are informed by IK. AOPFN stated that despite claims that western science and IK should be treated equivalently, 0 percent of proponents incorporate IK holders’ assessments into the evaluation of project effects and this is a major gap for respectful and inclusive engagement.

English River First Nation (ERFN):

- ERFN staff voiced: “I may not be a scientist, but I am someone who grew up as a kid on reservation and have a lot of knowledge.”

Métis Nation Saskatchewan (MN-S):

- MN-S stated they require funding to complete a Métis Knowledge Study to inform the Commission and be factored into long term monitoring and maintenance plans.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI shared that they were unaware that CNSC could make IK confidential. MTI explained that protecting any IK submitted is critical for their communities, noting “The biggest thing is just ensuring that the knowledge is respected and the biggest ways that we do is to ensure that does not become public.”

Sagkeeng Anicinabe First Nation (SAFN):

- SAFN stated their belief that the CNSC fails to incorporate IK into CMDs. Leadership emphasized the importance of gathering knowledge from Elders, noting: “They have knowledge about the territory that needs to be considered in order to do the work you want to do, it’s up to you to listen to that knowledge and apply it in your work.”
- SAFN leadership provided an example: engineers once went to an island to drill for water, despite Elders advising them not to because the island contained salt water. The engineers did not listen, and ultimately found only salt water, demonstrating, in SAFN’s view, why IK must be taken into consideration.
- SAFN believes it would be beneficial for CNSC to establish a national Elders committee to help meaningfully incorporate IK frameworks into regulatory processes and decision-making.

Ya’thi Néné Lands and Resources Office (YNLR):

- YNLR would like to see Traditional Knowledge incorporated more by proponents and government, working side-by-side with Western science.
- YNLR recommends the CNSC define Traditional Knowledge and provide a methodology for its consideration.

## 2.2.6 Cultural awareness

This summary reflects CNSC staff’s interpretation of participant feedback related to cultural awareness. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants emphasized the need for enhanced cultural awareness and cultural competency among CNSC staff and Commission members to better support Nations and further understand their worldviews.

Participants offered different perspectives on how cultural awareness training should be implemented, some recommended mandatory training for all CNSC staff and leadership, while others felt training should be available but voluntary. Despite these differences, participants consistently stressed that cultural awareness must improve across the organization.

## Participant Notes and Quotations

Algonquins of Pikwàkanagàn (AOPFN):

- AOPFN suggested that CNSC staff and proponents in AOPFN territory should all participate in Cultural Awareness Training, which should then be reflected into work with Indigenous communities and ongoing monitoring activities.

English River First Nation (ERFN):

- ERFN expressed that the first step is education of people who work at CNSC: move away from performative land acknowledgements and build understanding of Indigenous People, understand the concept of devotion to the land and connection of Indigenous People to everything.
- ERFN shared an anecdote of first meeting with President Tremblay where they told him to take the University of Alberta course Indigenous Canada | Coursera. Both the Indigenous policy team and upper management should be required to take it to expand their knowledge on Indigenous history and issues.

Michi Saagiig Nations:

- The Michi Saagiig Nations commented that more opportunities for CNSC staff to understand historical impacts, trauma and First Nations worldviews are needed to understand their reality and bridge the cultural gap. They asked if CNSC cultural safety training is mandatory.

Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- MTI explained that having cultural awareness and understanding Indigenous audiences is important for anyone doing consultation and engagement. This understanding can help the CNSC and proponents avoid situations where language used is offensive to Indigenous audiences. MTI added “The more we can learn about Indigenous culture and the way of forming these relationships, it really goes a long way.”

## 2.2.7 Community values

### Summary

This summary reflects CNSC staff’s interpretation of participant feedback on core community values. It does not represent participant consensus or CNSC endorsement. Individual perspectives appear in verified quotations and notes below.

Participants shared the values that guide their decision-making, including responsibilities to future generations, protection of land and water, safety and community well-being. Many described their children and grandchildren as the central focus of decisions regarding development.

Some participants expressed that they are not opposed to development but want it to occur responsibly, with tangible benefits for their communities. Several noted that economic drivers appear to motivate some projects more strongly than community needs, leading to concerns about long-term impacts.

### **Participant Notes and Quotations**

Athabasca Chipewyan First Nation (ACFN):

- An ACFN community member shared “Grandma is going to try and keep us on the land and at my age I’m not going to give up because of my grandbabies... they’re not going to work for any mining companies. None of them want to work for any mining companies. If I die before them what’s left for them? Mining companies going into our land are not thinking about them. It’s really sad to see that they’re going to be so lost in our society going from place to place. I think about that a lot every night and every day.”
- Another ACFN community member expressed: “[CNSC needs] to realize the effects. Every community where you’re [granting licences] will have an effect. It’s not just ACFN... For us, we’re trying to fight for our lives, our next generation. That’s the purpose of this meeting; and if it isn’t, there’s no point in me coming here, my voice isn’t being heard... As native people we worry about our kids. We always want better for them... native people care about their kids and want a better life for them than we had.”

English River First Nation (ERFN):

- ERFN staff commented: “[Canada has] the richest uranium in the world... and our people are some of the poorest.”

Grand Council Treaty #3 (GCT3):

- A community member suggested that money is pushing nuclear projects in the GCT3 area, but thought this could cause disharmony for communities, stating “When my grandfather told me, people are not going to get along after a while because of zhoonyaa – money – I see it happening today.”

Historic Saugeen Métis (HSM):

- HSM believes that further innovation is required to address environmental concerns such as thermal, impingement and entrainment.

Kebaowek First Nation (KFN):

- KFN leadership voiced “We’re borrowing this land from our grandchildren.”

Michi Saagiig Nations:

- The Michi Saagiig Nations highlighted there has been complete denial of the Williams Treaties First Nation’s rights until 2018, which has shaped the Nation’s worldview and history. They noted that their worldview holds an inherent responsibility to protect the waters and the lands because they identify spirit in all living and non-living things and highlighted that water and rocks have spirit, First Nation’s People have spirit which animates them to follow through on those responsibilities.
- An AFN Elder stated that the regulatory framework consists of law and licences and documents that CNSC staff use to regulate the industry because this is CNSC’s role and those are the rules to follow. The Elder added that the Nation’s role and rules to follow are the 7 grandfather teachings and noted that if all of us lived within those guiding principles, Nations wouldn’t be here with their lands and waters destroyed. The Elder said it is hard to deal with all these issues, community issues, land and water issues resulting from western decisions, and noted that First Nations are supposed to think the regulatory framework supports them when it does not.

Wolastoqey Nation in New Brunswick (WNNB):

- WNNB said that economic considerations are important for community members in New Brunswick when discussing nuclear. The communities often hear from proponents, but there is doubt about how objective that information is. They said it would be helpful if CNSC staff could speak to nuclear economics and potential project viability in an objective way, questioning if it makes sense for the industry and the province of New Brunswick to pursue Small Modular Reactors (SMRs).

Ya’thi Néné Lands and Resources Office (YNLR):

- YNLR community member emphasized “[CNSC Commissioners] need to keep the people safe, the land safe and the animals safe.”

## 3.0 Acronyms

To support clarity and consistency, acronyms used throughout this report are provided in the following tables. Table 2 identifies the Indigenous Nation, community or organization while Table 3 presents the full term or descriptions.

**Table 2: Indigenous Nation, community or organization**

Acronym	Indigenous Nation, community or organization
ACFN	Athabasca Chipewyan First Nation
AFN	Alderville First Nation
AOO	Algonquins of Ontario
AOPFN	Algonquins of Pikwàkanagàn
CLFN	Curve Lake First Nation
ERFN	English River First Nation
GCT3	Grand Council Treaty #3
HFN	Hiawatha First Nation
HSM	Historic Saugeen Métis
KFN	Kebaowek First Nation
KML	Kineepik Metis Local #9
KZA	Kitigan Zibi Anishinabeg
MMF	Manitoba Métis Federation
MNO	Métis Nation of Ontario
MN-S	Métis Nation-Saskatchewan
MSIFN	Mississaugas of Scugog Island First Nation
MTI	Mi'gmawe'l Tplu'taqnn Inc.

Acronym	Indigenous Nation, community or organization
PRGI	Passamaquoddy Recognition Group Inc.
SAFN	Sagkeeng Anicinabe First Nation
SON	Saugeen Ojibway Nation
WLO	Wabigoon Lake Ojibway Nation
WNNB	Wolastoqey Nation in New Brunswick
YNLR	Ya'thi Néné Lands and Resources Office

**Table 3: Full term and/or descriptions**

Acronym	Full term and/or description
CEAA	<i>Canadian Environmental Assessment Act</i>
CMD	Commission Member Document
CNL	Canadian Nuclear Laboratories
CNSC	Canadian Nuclear Safety Commission
DFO	Fisheries and Oceans Canada
DGR	Deep Geological Repository
DNNP	Darlington New Nuclear Project
EIS	Environmental Impact Statement
FPIC	Free, prior and informed consent
IA	Impact Assessment
IAAC	Impact Assessment Agency of Canada
ICP	Institutional Control Program

Acronym	Full term and/or description
IK	Indigenous Knowledge
ISCF	Indigenous and Stakeholder Capacity Fund
MRIA	Mi'gmaq Rights Impact Assessment Framework
NSDF	Near Surface Disposal Facility
REGDOC	Regulatory Document
RIA	Rights Impact Assessment
ROR	Regulatory Oversight Report
SMR	Small Modular Reactor
STEM	Science, Technology, Engineering and Mathematics
ToR	Terms of Reference
UNDA	United Nations Declaration on the Rights of Indigenous Peoples Act
UN Declaration or UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WWLR	What We Learned Report

## 4.0 Conclusions

Between May and September 2025, CNSC staff hosted a listening tour to meet with 19 Indigenous Nations, communities and organizations in regions with major nuclear facilities. This What We Learned Report summarizes feedback received during the listening tour. It presents broad themes that reflect the issues, concerns and suggestions raised by participants. The report is not an exhaustive record of all comments received, rather it reflects CNSC staff's synthesis and interpretation of the most prominent and recurring feedback.

The feedback presented in this report is significant and valuable to the CNSC. The CNSC learned that participants have had many positive experiences, such as with the funding programs, CNSC staff engagement, and seeing the shared commitment to protection of people and the environment. However, there is still work to be done and the key themes across this report and all feedback received during the tour, will be analyzed and reviewed to improve the CNSC's practices, processes and policies; in turn, this work will enhance Indigenous participation and experiences with the CNSC.

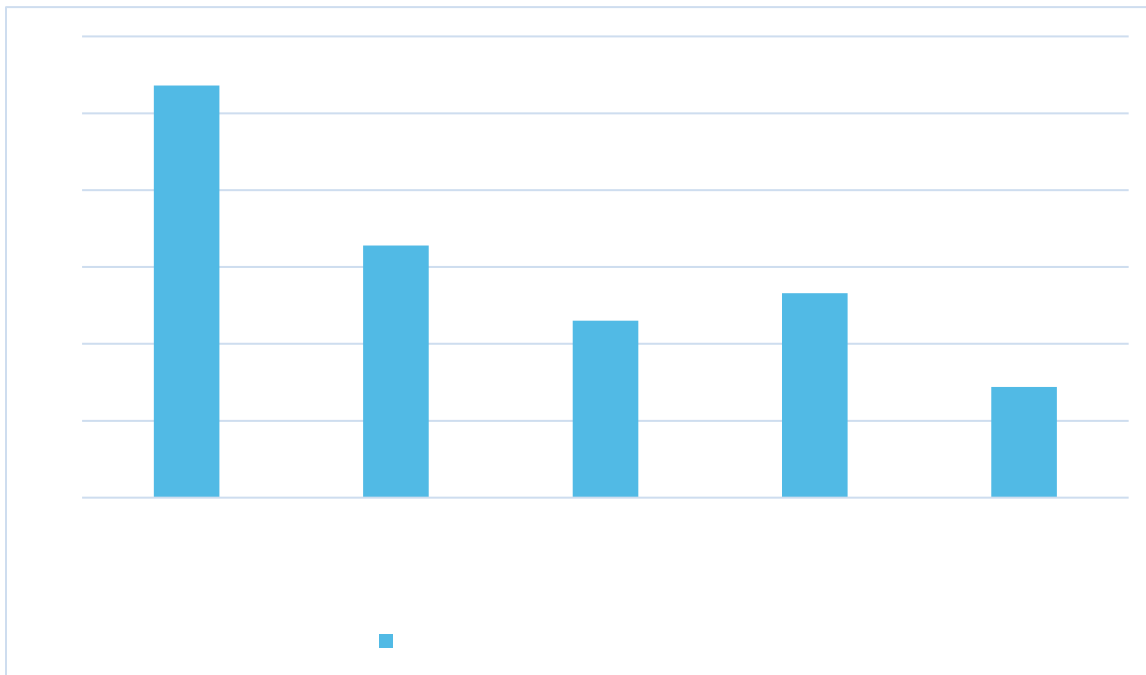
The CNSC will assess the feedback and draft an action plan to address what was learned through the listening tour. The CNSC remains committed to continuing this work in partnership with Indigenous Nations, communities and organizations. As the next phases of the listening tour initiative progress, CNSC staff will continue to engage with participants, listen to their perspectives and work together to support more meaningful, transparent and inclusive regulatory processes.

# Appendix A: Overview of data

## A.1 Collected data

CNSC created a database of the feedback received during the listening tour. Each response was broadly categorized by the topics listed in the discussion guide and assigned a theme. In total, the database contains 752 comments from all participants.

**Figure A-1: Feedback by Topic**



This figure displays all feedback based on the four key topics: consultation and engagement; duty to consult and the UN Declaration; regulatory framework; and registry, commission proceedings and processes. The chart also reflects “Other” topics that arose during individual meetings. Consultation and engagement had the greatest number of comments from the participants.

The majority of feedback (73%) was submitted orally during meetings, while some data (27%) was submitted in writing.

## A.2 Regional breakdown

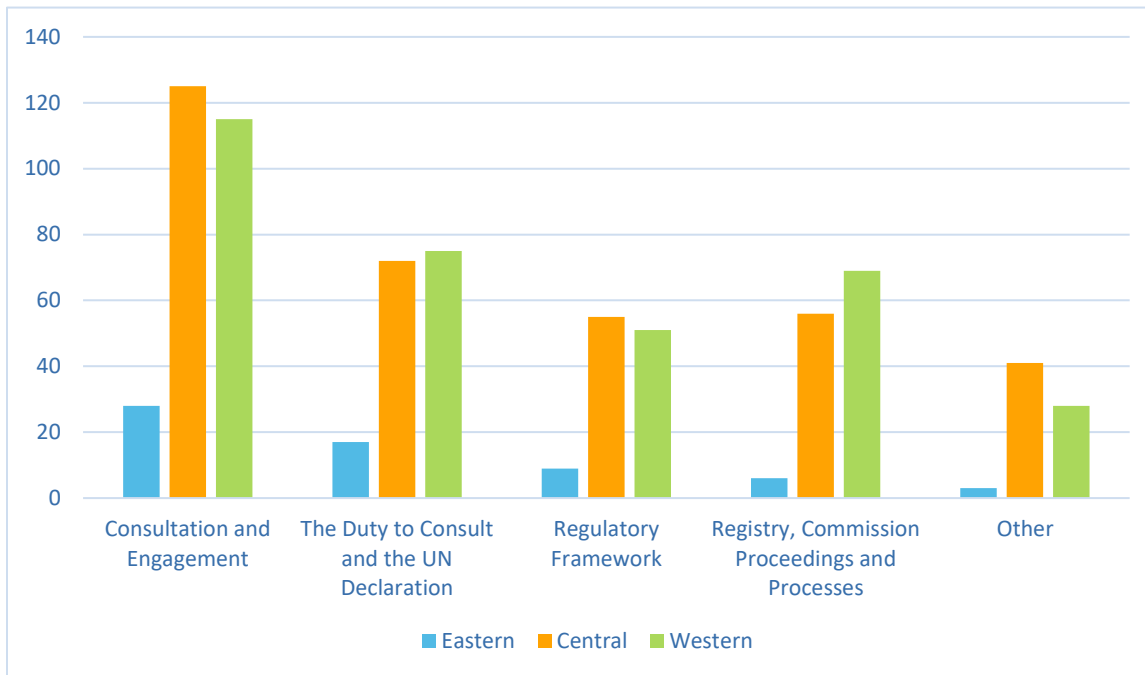
During the listening tour, participants requested that the CNSC provide a regional breakdown of the feedback received, so participants could better understand each other’s concerns. To this end, the participating Indigenous Nations, communities and organizations have been grouped regionally into eastern, central and western categories as shown in Table A-1.

**Table A-1: Indigenous Nations, communities and organizations by region**

Eastern	Central	Western
<ul style="list-style-type: none"> <li>• Mi'gmawe'l Tplu'taqnn Inc.</li> <li>• Wolastoqey Nation in New Brunswick</li> </ul>	<ul style="list-style-type: none"> <li>• Algonquins of Ontario</li> <li>• Algonquins of Pikwàkanagàn</li> <li>• Grand Council Treaty #3</li> <li>• Historic Saugeen Métis</li> <li>• Kebaowek First Nation</li> <li>• Métis Nation of Ontario</li> <li>• Michi Saagiig Nations:                             <ul style="list-style-type: none"> <li>▪ Alderville First Nation</li> <li>▪ Curve Lake First Nation</li> <li>▪ Hiawatha First Nation</li> <li>▪ Mississaugas of Scugog Island First Nation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Athabasca Chipewyan First Nation</li> <li>• English River First Nation</li> <li>• Kineepik Metis Local #9</li> <li>• Manitoba Métis Federation</li> <li>• Métis Nation Saskatchewan</li> <li>• Sagkeeng Anicinabe First Nation</li> <li>• Ya'thi Néné Lands and Resources Office</li> </ul>

Figure A-2 presents an outline of feedback representative of region and topic. This figure shows that participants have a similar distribution of data based on region to the total amount of feedback.

**Figure A-2: Feedback by Topic and Region**



This figure displays feedback on the four key topics based on the three regions. The central region presented the greater amount of feedback on consultation and engagement, regulatory framework and the “Other” category, followed by the western then eastern region. For the Duty to consult and UN Declaration as well as for the registry, commission proceedings and processes, the western region presented more feedback, followed by the central and eastern regions.

Additionally, Figure A-3 depicts the contributions of each region to the total feedback based on percentage.

**Figure A-3: Percentage of Feedback Received by Region**

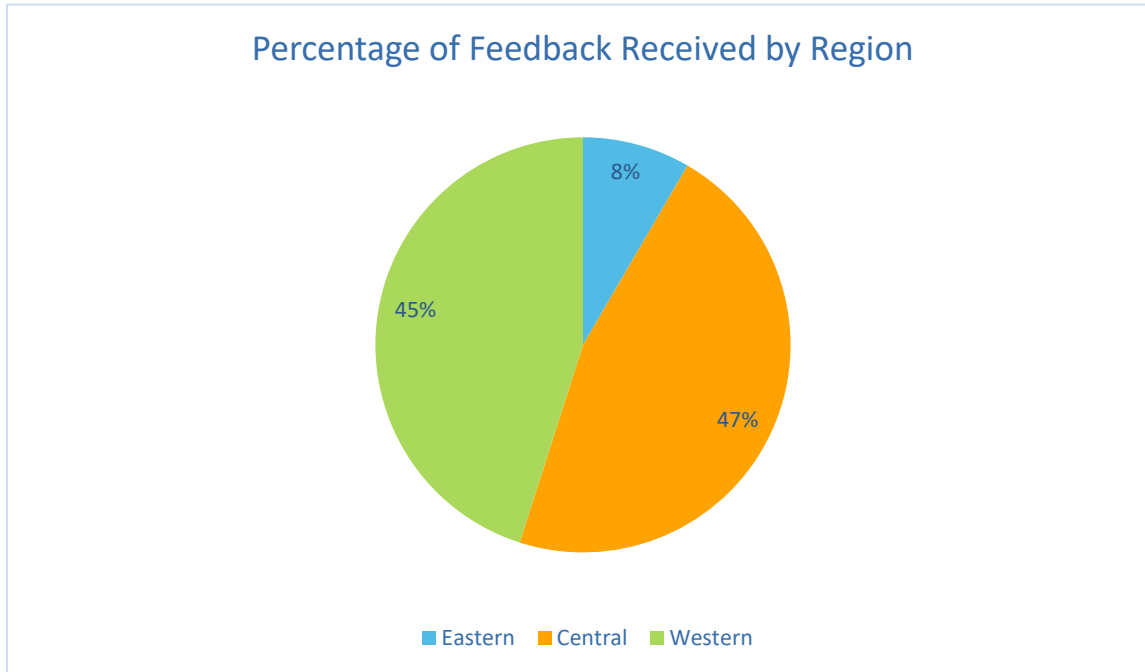


Figure A-3 displays the percentage of total feedback received from each of the three regions. Within this WWLR, 47 percent of responses came from the central region, 45 percent from the western region, and 8 percent from the eastern region.

The percentages are reflective of the distribution of Indigenous Nations, communities and organizations across the regions: 2 in the eastern region, 10 in the central region and 7 in the western region. Details of the regional breakdown are identified in Table A-1.

# Appendix B: CNSC discussion guide

The following “discussion guide” was provided with the invitations sent by the CNSC to the participants for the listening tour conducted in 2025:

## Introduction

Throughout the spring and summer 2025, the Canadian Nuclear Safety Commission (CNSC) are engaging with Indigenous Nations and communities to discuss various policy topics. This listening tour is focused on broad policy issues rather than specific nuclear projects. The meetings could take one to three hours.

We are seeking your input on the topics in this discussion guide, however, if there are items more relevant to your Nation or community, or that your Nation would prefer to focus on, please let us know ahead of our meeting. Any feedback that your Nation or community has previously provided on these topics will be included in the listening tour. Your Nation or community is welcome to submit feedback in writing or orally in a meeting, or both.

## Outcomes

The listening tour will help the CNSC and Indigenous Nations and communities discuss how we work together throughout the regulatory process and solicit a better understanding of how Indigenous partners want to be engaged and consulted. This tour will inform CNSC policy, processes and practices.

After the CNSC has met and received feedback from participating Indigenous Nations and communities, CNSC staff will produce a What We Learned Report (WWLR), which will be shared with participants. The WWLR will inform recommendations and actions for the CNSC internally, followed by the development of a set of guiding principles that CNSC staff will share with participating Indigenous Nations and communities for input. Additionally, the listening tour will inform the update of the CNSC’s reconciliation strategy.

## Funding

Funding will be provided for these discussions through the CNSC’s Indigenous and Stakeholder Capacity Fund (ISCF). If your Nation or community chooses to participate in this initiative, CNSC staff will follow up with further funding information.

## Contact Information

For more information on this initiative please contact:

[information redacted]

## 1.0 Consultation and Engagement

**Question 1.1:** Based on your experiences with the CNSC consultation and engagement practices, what works well and where could the CNSC improve?

Consider the following:

- Are there guiding principles that the CNSC should adopt when working with Indigenous Nations and communities?
- Are there certain communication methods you prefer (e.g. social media, mailing lists, direct contact from relationship leads)?
- Is the information we share meaningful?
- Does the CNSC’s approach to Indigenous Knowledge work well ([Indigenous Knowledge Policy Framework](#))?
- Are there other effective practices (e.g., collaboration on oversight activities; formal advisory committees) that you have experienced with other regulators that CNSC should consider?

**Question 1.2:** What is your experience with CNSC's participant and capacity funding programs?

Consider the following:

- Have the funding programs meaningfully impacted your ability to participate in our regulatory processes?
- Are there parts of the program (application, review process, templates, program guides, etc.) that work well or could be improved?

## 2.0 The duty to consult and the United Nations Declaration on the Rights of Indigenous Peoples

**Question 2.1:** How could CNSC processes be improved to integrate the principles of the UN Declaration Act and free, prior and informed consent (FPIC) processes?

Consider the following:

- What does FPIC look like to you?
- Does your Nation or community have a process for FPIC?

**Question 2.2:** How can the CNSC enable a more robust consultation approach in meeting its duty to consult and accommodate obligations and implementing the UN Declaration principles?

### 3.0 Regulatory Framework

**Question 3.1:** How have your experiences been working with the CNSC regulatory framework?

Consider the following:

- What parts of the regulatory framework work well?
- Are there parts that are challenging to understand?
- Are there parts you have particular interest in?
- Are there any parts that could be improved?
- Have you experienced barriers to participation in CNSC framework consultations?

For reference: The CNSC's regulatory framework consists of [laws](#) passed by Parliament that govern the regulation of Canada's nuclear industry, and [regulations](#), licences and [documents](#) that the CNSC uses to regulate the industry. The CNSC is committed to providing regulatory instruments that make its expectations clear. Published regulatory documents are considered to be living documents subject to regular review, so your feedback is welcome at any time.

**Question 3.2:** How have your experiences been working with CNSC REGDOCs?

Consider the following:

- Could the CNSC better communicate outcomes of consultations?
- Is the REGDOC development and update process transparent?
- Are there particular REGDOCs that are of interest to your Nation or community?

#### 4.0 Registry, Commission Proceedings and Processes

**Question 4.1:** How could Commission proceedings be improved?

Consider the following:

- Are there parts of the Commission proceedings and processes (e.g., timelines and CMD drafting) that work well or could be improved?
- How could CNSC further enhance your participation?
- Is the information shared in the Regulatory Oversight Reports useful for your community?

**Question 4.2:** Can you tell us about your experiences in front of the Commission?

Consider the following:

- Are your interactions with the Commission meaningful?
- Do you have the opportunity to discuss consultation and engagement issues that are important to you?

## Appendix C: Invited Indigenous Nations, communities and organizations

Table C-1 provides a list of the 24 Indigenous Nations, communities and organizations invited to participate in the listening tour. This list of invited participants is provided for transparency. All those invited regularly work with the CNSC or have participated in CNSC processes in the past.

**Table C-1: List of invited Indigenous Nations, communities and organizations**

Acronym	Indigenous Nation, community, or organization
AOO	Algonquins of Ontario
AOPFN	Algonquins of Pikwàkanagàn First Nation
ACFN	Athabasca Chipewyan First Nation
ERFN	English River First Nation
GCT3	Grand Council Treaty #3
HSM	Historic Saugeen Métis
KFN	Kebaowek First Nation
KML	Kineepik Metis Local #9
KZA	Kitigan Zibi Anishinabeg
MMF	Manitoba Métis Federation
MNO	Métis Nation of Ontario
MN-S	Métis Nation-Saskatchewan
<ul style="list-style-type: none"> <li>○ AFN</li> <li>○ CLFN</li> <li>○ HFN</li> <li>○ MSIFN</li> </ul>	Michi Saagiig Nations <ul style="list-style-type: none"> <li>○ Alderville First Nation</li> <li>○ Curve Lake First Nation</li> <li>○ Hiawatha First Nation</li> <li>○ Mississaugas of Scugog Island First Nation</li> </ul>

Acronym	Indigenous Nation, community, or organization
MTI	Mi'gmawe'l Tplu'taqnn Inc.
MFN	Mississauga First Nation
PRGI	Passamaquoddy Recognition Group Inc.
SAFN	Sagkeeng Anicinabe First Nation
SON	Saugeen Ojibway Nation
WLON	Wabigoon Lake Ojibway Nation
WNNB	Wolastoqey Nation in New Brunswick
YNLR	Ya'thi Néné Lands and Resources Office

## **Appendix D: Shared policy documents**

English River First Nation (ERFN) and Mi'gmawe'l Tplu'taqnn Inc. (MTI) shared policy documents with the CNSC during the listening tour. CNSC staff have included the documents here with permission from the Indigenous Nations, communities and organizations.

## **D.1 English River First Nation's Consultation Policy**

This consultation policy has been provided by English River First Nation and is included here with their permission.



# CONSULTATION AND ACCOMMODATION POLICY

Approved by ERFN Band Council March 26, 2025



## PURPOSE



**English River First Nation (“ERFN”) is a sovereign nation with unceded Treaty and Aboriginal rights to lands, waters, and resources in and on our ancestral homelands which, in our Dene language, we call Nuhtsiye-kwi Benene.**

ERFN has been self-determining through the application of our own laws in Nuhtsiye-kwi Benene since time immemorial. Under this inherent authority, ERFN has developed this Consultation and Accommodation Policy (the **“Policy”**) to guide all engagements with the Crown governments and third parties for all developments in Nuhtsiye-kwi Benene. For the purposes of this policy, a Crown or third party will be referred to collectively as the **“Proponent(s).”**

The Policy sets out the terms on which ERFN’s consent to any proposed activity, project, or decision affecting Nuhtsiye-kwi Benene may be obtained, and sets out the framework for how Proponents can negotiate with ERFN to ensure we are meaningfully consulted and our interests accommodated before that consent is given.

ERFN asserts our inherent right to self-determination, this Policy operates under our laws on our territory and we require that Proponent(s) adhere to this Policy for any proposed activity located in, or potentially affecting, Nuhtsiye-kwi Benene.

We welcome people on Nuhtsiye-kwi Benene but not at any cost.

We welcome development on Nuhtsiye-kwi Benene but not at any cost.

# DETAILS

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## APPLICATION

This Policy applies whenever a Proponent is contemplating any activity on or near Nuhtsiye-kwi Benene that has the potential to adversely affect ERFN's rights and interests (the **"Proposed Activity"**).

If ERFN has entered into a written agreement with a Proponent, such as an Impact Benefit Agreement or Exploration Agreement, that establishes a consultation process and accommodation and/or ERFN's consent for a Proposed Activity or decision, ERFN acknowledges that agreement will take priority over this Policy.

Nothing in this Policy is to be interpreted to limit any consultation or accommodation obligations owed to ERFN by the Crown or delegated from the Crown to a third party. The Policy operates in addition to the Crown Duty to Consult/Accommodate and should not be interpreted as replacing that duty in any way. ERFN retains the right to challenge any action or decision taken by the Crown or a Proponent who fails to first secure ERFN's free, prior and informed consent.

## ASSERTION OF RIGHTS

ERFN have been stewards on Nuhtsiye-kwi Benene since time immemorial. We consider it our sacred responsibility to monitor and protect Nuhtsiye-kwi Benene, and to maintain balance between the lands and the people that live there.

We have lived a long-established way of life in Nuhtsiye-kwi Benene, and sustained ourselves through hunting, fishing, trapping, and gathering. Today, ERFN members exercise Treaty rights on Nuhtsiye-kwi Benene and engage in the same activities and way of life that our ancestors lived here for thousands of years. The land and a healthy environment is essential to maintaining our culture and identity, and for passing traditional knowledge down to future generations.

ERFN is a government. We are distinct from stakeholders and interest groups. Chief William Apesis signed Treaty No 10 on behalf of the ancestors of ERFN on August 28, 1906. Treaty No 10 establishes a government-to-government relationship between ERFN and the Crown, and guarantees our rights of "hunting, trapping and fishing" throughout the Treaty 10 area.

The Crown must acknowledge and engage with us on a government-to-government basis, and third parties must recognize this Treaty relationship between ERFN and the Crown. We are a sovereign people, and must be treated as such.

We write this Policy as an assertion of our inherent authority over the governance of Nuhtsiye-kwi Benene.

## CONSULTATION REQUIREMENTS IN CANADIAN LAW

Our rights as First Nations peoples in what is now known as Canada are clearly recognized by Canadian courts and are solemnly protected under section 35 of Canada's Constitution Act, 1982.

The Supreme Court of Canada has repeatedly held that First Nations peoples asserting section 35 rights must be consulted and accommodated when the Crown contemplates any conduct that may adversely affect those rights.<sup>1</sup> The adverse impact in question is not limited to an immediate effect on land or resources, and must be considered in the context of the historical and contemporary uses of those lands and resources by the First Nation people.<sup>2</sup> The Duty to Consult and the Honour of the Crown are constitutional obligations that Canada owes ERFN. However, the Duty to Consult/Accommodate as laid out in Canadian law is separate and in addition to ERFN's asserted consultation process under this Policy.

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<sup>1</sup> *Haida Nation v British Columbia (Minister of Forests)* [2004] 3 SCR 511 ["Haida"] at para. 35; *Taku River Tlingit First Nation v British Columbia (Project Assessment Director)*, [2004] 3 SCR 550 ["Taku River"] at para 25; *Clyde River (Hamlet) v Petroleum Geo-Services Inc.*, [2017] 1 SCR 1069 ["Clyde River"] at para 41; *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, [2005] 3 SCR 388 ["Mikisew"] at para. 33.

<sup>2</sup> *Mikisew* at para. 34.

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## UNDRIP

In addition to the Crown Duty to Consult/Accommodate, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a universal human rights instrument with application to Canadian Law. UNDRIP recognizes a wide spectrum of rights of Indigenous Peoples, including rights to conservation and protection of the environment and the productive capacity of our lands and resources.<sup>3</sup>

Canada has committed to upholding UNDRIP through the passage of the United Nations Declaration of the Rights of Indigenous Peoples Act. The Supreme Court of Canada has also recognized that UNDRIP has been implemented into Canada's domestic positive law. This means that all parts of UNDRIP, from the right to self-determination to the guarantee of free, prior, and informed consent are now part of Canadian law.<sup>4</sup>

### Right to self-determination

Article 3 of UNDRIP recognizes ERFN's inherent right to self-determination:

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

### Free Prior and Informed Consent

Importantly, fulfilling the Duty to Consult under Canadian law alone is not sufficient when it comes to a Proposed Activity on Nuhtsiye-kwi Benene. The Free Prior and Informed Consent (FPIC) of ERFN is required. This FPIC principle is enshrined in UNDRIP and is the standard for consent that applies to all parts of this Policy. Article 32 of UNDRIP states that:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water, or other resources.

## RESPONSIBILITIES OF ALL PARTIES

To ensure that consultation and any negotiations for accommodation go forward in a good way, ERFN asks that all parties conduct themselves in accordance with the following principles at every stage of engagement:

### 1. Responsibilities of all parties:

- a. participate in good faith;
- b. treat each other with respect, transparency and honesty; and
- c. recognize that each party has its own unique responsibilities to ensure that the outcome of consultation is fair, respectful, and meaningful.

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<sup>3</sup> UNDRIP, Article 29.

<sup>4</sup> *Attorney General of Quebec et al v Attorney General of Canada, et al*, 2024 SCC 5 at para 15.

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## 2. Responsibilities of the Proponent

### a. The Crown:

- i. respect and uphold Treaty and Aboriginal rights;
- ii. uphold the Honour of the Crown;
- iii. engage with ERFN on a government-to-government basis;
- iv. respect and uphold ERFN rights and give meaningful consideration to ERFN's interests; and
- v. recognize that activity cannot be permitted in Nuhtsiye-kwi Benene without consultation and accommodation with ERFN (which includes ERFN providing its FPIC).

### b. Third Parties:

- i. recognize that ERFN is a government that seeks to uphold its aboriginal and Treaty rights;
- ii. provide full, accurate, and up-to-date information about the project or activity;
- iii. ensure consultation is meaningful and not truncated by project timelines;
- iv. acknowledge responsibility to consider alternative approaches;
- v. ensure good faith and flexibility guide relationships with ERFN and commit to seeking mutually beneficial solutions;
- vi. recognize that activity cannot be permitted in Nuhtsiye-kwi Benene without consultation and accommodation with ERFN (nor in the absence of ERFN's FPIC); and
- vii. maintain open and on-going communication with ERFN.

## 3. Responsibilities of ERFN

- a. maintain open and on-going communication with the Proponent;
- b. commit to upholding the terms of this Policy and any subsequent agreements coming from it in relation to consultation and accommodation;
- c. engage in full discussion and informed decision-making regarding proposed projects or activities; and
- d. state our rights clearly and engage meaningfully with the Proponent(s) including offering suggestions about how the Proponent(s) might resolve our concerns about a project or activity in good faith.

## CONDITIONS FOR PROVIDING CONSENT

For ERFN to provide free, prior, and informed consent, consultation and accommodation must be meaningfully completed through the steps laid out below.

For clarity, the completion of this process does not guarantee that ERFN will consent to a Proposed Activity. If, following the completion of these steps, ERFN is not satisfied that our rights and interests have been accommodated, and that Proposed Activity poses too much of a risk to the health of Nuhtsiye-kwi Benene and our continued exercise of our rights on the land, we will not consent.

However, ERFN is committed to the process laid out in this Policy. If the following steps are followed in good faith, ERFN is dedicated to negotiations with Proponents and to making meaningful attempts to find a way to reach agreement where our rights and interests can be properly accommodated.

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## Step 1: Notification and Proposal

The Proponent(s) must provide ERFN with notice of a Proposed Activity at the earliest opportunity. Early engagement provides more time for a Process Agreement to be put in place before the Proponent(s) makes decisions or commits resources in relation to the Proposed Activity that may not align with ERFN's rights or interests and may inhibit future negotiations for the provision of ERFN's free prior and informed consent.

Proponents are to submit all information about the Proposed Activity that ERFN would require to make an informed decision about the consultation process, in a brief, plain-language description of the project, and must include:

- a. a detailed description of the Proposed Activity;
- b. reference maps of the Proposed Activity;
- c. accurate contact information for senior decision-makers for the Proponent;
- d. the schedule for the activity or project development with all critical dates including applications for regulatory approval and any timelines for engagement with regulators;
- e. estimated risks and impacts to land and resources, including climate change impacts and all impacts on biodiversity, air quality, watershed quality and quantity;
- f. information about the potential impacts on ERFN's Aboriginal and Treaty Rights; and
- g. explanation of how the Proposed Activity may benefit ERFN.

All notifications must be sent to ERFN's Director, Lands & Consultation using the contact information set out at Schedule B.

## Step 2: Identification of Consultation Tier

Once ERFN has been properly notified of the Proposed Activity under the process set out in Step 1, ERFN will determine the appropriate consultation process by assessing the scale of potential impacts and assigning Proposed Activities to two possible tiers:

### a. Minimal Impact Consultation

Minimal Impact Consultation is designed for a Proposed Activity over which ERFN has no substantial concerns about adverse impacts.

In recognition of ERFN's capacity, the level of involvement in the consultation process, and that not every Proposed Activity will require extensive consultation, this tier provides a method by which ERFN can receive notification, review the potential, low-level impacts, and provide a timely response to the Proponent(s) setting out ERFN's conditions for consent without triggering the entire consultation process. Consent will often be given for Minimal Impact Consultation with the condition of ongoing monitoring or communication with ERFN about the Proposed Activity and require that the Proponent(s) provide immediate updates to ERFN should details materially change. Examples of Minimal Impact Consultations may include road repair/resurfacing or the replacement of existing structures.

Steps 3 through 5 are not typically engaged for a Minimal Impact Consultation, unless ERFN determines otherwise. Consultation fees apply.

### b. Extensive Impact Consultation

Extensive Impact Consultation is the process for all other Proposed Activities and includes the full consultation process as set out in Steps 3 through 6. Examples of extensive impact Consultations may include energy sector activities, landfills, forestry or mining, mineral exploration, or other industrial projects.

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### **Step 3: Process and Funding Agreement**

The Proponent(s) must compensate ERFN for their costs of consultation and engagement. ERFN may require a range of capacity funding, depending on the nature of the Proposed Activity, in order to ensure that proposals are efficiently and fairly considered within the consultation process.

For proposed activities deemed by ERFN in Step 2 to require Extensive Impact Consultation, ERFN will require that process and funding details for the consultation be set out in a written agreement detailing the rights and obligations of all parties (the "Process and Funding Agreement").

The Process and Funding Agreement will establish the framework for consultation. It will set out the procedures for communication between ERFN and the Proponent, and inform the Proponent what ERFN requires in order to consider the proposal and make a determination about consent.

Depending on the nature of the proposal and the depth of the consultation required, the Process and Funding Agreement may include, as necessary:

- a. contact points and the establishment of a technical working group with representatives from ERFN and the Proponent(s)
- b. issues requiring determination from ERFN or the Proponent;
- c. detailed funding requirements
- d. technical review process and requirements, if appropriate
- e. a community engagement process, if appropriate
- f. a schedule of site visits or other on the land activities for ERFN and Proponents, and
- g. confidentiality and information-sharing protocols.

The information-sharing protocol would aim to ensure the confidentiality of any traditional or cultural knowledge shared by ERFN throughout the consultation process and outline the circumstances, if any, under which ERFN consents to its use.

All studies, land use information, or other information regarding ERFN, including the technical review, if applicable, that the Proponent(s) obtains through the consultation and accommodation process remain the property of ERFN. The Proponent(s) or any other cannot redistribute or use for any purpose this information without express and advance written approval by ERFN. Information includes, including but not limited to:

- a. maps;
- b. data;
- c. photographs;
- d. interview transcripts or recordings; and
- e. analysis and written reports provided by ERFN to the Proponent(s).

### **Step 4: Technical Review and Community Engagement**

Proposed activities for which ERFN determines that extensive consultation and accommodation will be required, ERFN will require technical review and robust community engagement of ERFN band members.

#### **Technical Review**

A technical review of the project allows ERFN and the Proponent to share and evaluate all relevant environmental, engineering, and other technical information concerning the Proposed Activity. Wherever possible, this technical review will include consideration of traditional or cultural knowledge specific to land use and ERFN's way of life in Nuhtsiye-kwi Benene.

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ERFN requires the Proponent(s) to meet or exceed all government regulations and guidelines as they apply to the Proposed Activity. ERFN further requires that the Proponent(s) prepare a detailed environmental and cultural protection plan for ERFN review and approval that includes:

- a. all possible adverse impacts of the Proposed Activity;
- b. specific mitigation measures to address each potential adverse impact;
- c. an adaptive management plan that provides a framework for how unexpected adverse impacts will be handled;
- d. if applicable, a specific response plan for potential major adverse impacts related to the Proposed Activity, for example an industrial waste spill.

### **Community Engagement**

The Proponent(s) is required to ensure that ERFN community members are fully informed about the Proposed Activity and to listen to and address their views on how it may impact community members and what measures must be implemented to address those concerns. Meaningful community engagement, and accommodation of community concerns is a requirement in addition to any requirements for consent set out in the Process and Funding Agreement.

ERFN will determine in negotiation with the Proponent(s) a schedule for community engagement sessions, where required, to occur throughout the consultation process.

### **Step 5: Negotiated Accommodation Agreement(s)**

If ERFN determines that our rights and interests have been adequately accommodated, it will typically require, as a condition for the provision of ERFN's FPIC, that the Proponent(s) and ERFN negotiate an appropriate Accommodation Agreement which formalizes the relationship between ERFN and the Proponent(s) regarding the Proposed Activity. Such agreements may take the form of Impact Benefit Agreements, Exploration Agreements, Collaboration Agreements – as those agreement categories are generally understood – or otherwise.

Terms of the Accommodation Agreement may include:

- a. oversight, implementation, ongoing consultation, and reporting
- b. environmental management and mitigation measures
- c. social and cultural protections
- d. arrangements for ERFN Guardians to regularly attend and monitor on-site activity
- e. formalizing any ERFN business, investment, and contracting opportunities associated with the Proposed Activity
- f. any employment, education or training opportunities for ERFN members;
- g. any royalties or other compensation to ERFN from the Proposed Activity, and
- h. minimal standards the Proponent(s) must meet in the operation of the Proposed Activity to maintain ERFN's ongoing free prior and informed consent.

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## **Step 6: Long Term Relationship**

The relationship between ERFN and the Crown or Proponent is ongoing and does not terminate with the conclusion of an Accommodation Agreement. For ERFN to provide, and to continue to provide, its free prior and informed consent, the Proponent must commit to a long-term mutually respectful relationship with ERFN that ensures proposed activities are a “net positive” for ERFN, all factors considered.

The Proponent(s) has an ongoing obligation to ERFN to keep ERFN informed about the Proposed Activity whether or not an Accommodation Agreement has been concluded.

## **DISPUTE RESOLUTION**

In the event that the Proponent(s) is not content with ERFN's decisions regarding the accommodation requirements, or if at any point in the consultation process the parties determine that an agreement cannot be reached, any party may engage dispute resolution processes as follows:

- a. ERFN expects that its expressed and timely intention to pursue dispute resolution will be sufficient for the Proponent(s) to place a hold on any development related to the Proposed Activity until the dispute is resolved;
- b. Should agreement between ERFN and the Proponent(s) be unreachable, continuing discussion should take place between senior-level decision-makers, including the Chief, Crown Ministers or Deputy Ministers and/or corporate executives;
- c. Should these discussions fail to yield agreement, ERFN and the Proponent(s) may call in the services of a neutral mediator or arbitrator, agreed to by all parties, the costs of which would be borne by the Proponent(s);
- d. ERFN reserves the right to pursue such adjudication in Canadian courts as we deem necessary.

## **EXISTING ACTIVITIES AFFECTING ERFN**

This Policy applies to all existing activities or projects in Nuhtsiye-kwi Benene when Proponents are proposing new activity or changes to existing activity.

Where ERFN has negotiated a separate Accommodation Agreement with a Proponent for an existing project, the processes in such agreements around consultation with ERFN, and accommodation, will govern.

The Crown must engage with ERFN to review past decisions about activities undertaken in Nuhtsiye-kwi Benene that were made without honourable consultation and accommodation and which continue to impact ERFN's way of life and exercise of Treaty and Aboriginal rights in Nuhtsiye-kwi Benene.

## **REVISION**

This Policy is subject to revision and further development at ERFN's discretion as determined by Chief and Council.

## **SCHEDULES**

- a. Schedule A: Map of Nuhtsiye-kwi Benene
- b. Schedule B: ERFN Contact Information



# SCHEDULE B

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## ERFN Contact Information

**All consultation matters under this Policy should be directed to:**

Cheyenna Hunt, B.A., LL.B., Director of Lands & Consultation for ERFN

**Cell:**

306.291.6808

**Email:**

[cheyenna.hunt@desnedhe.com](mailto:cheyenna.hunt@desnedhe.com)

**Mailing Address:**

English River First Nation  
Urban Office  
321 - 2555 Grasswood Road  
Saskatoon, SK. S7T0K1



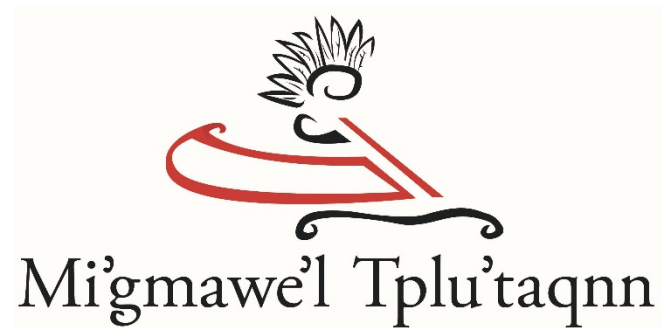


## **D.2 Mi'gmawe'l Tplu'taqnn Inc. Mi'gmaq Rights Impact Assessment Framework**

This document has been provided by MTI and is included here with their permission.

# **MI'GMAQ RIGHTS IMPACT ASSESSMENT FRAMEWORK<sup>1</sup>**

Version 1.0



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<sup>1</sup> This document was ratified by the Mi'gmaq Chiefs on November 24, 2020. It is a living document and will be updated on an ongoing basis.

## **Statement of Purpose and Introduction**

The ultimate purpose of this Mi'gmaq Rights Impact Assessment ("MRIA") Framework is for the Mi'gmaq to have a self-determining, Mi'gmaq-led process for assessing the potential impacts of proposed activities on Mi'gmaq Aboriginal and Treaty Rights and Title, and for determining if Mi'gmaq consent for a project will be granted.

When Proponents are considering activities in New Brunswick, such as resource development projects, the proposed activity will be required to undergo a MRIA. To achieve the objective of this MRIA Framework, all proposed projects and expansions of existing projects will be subject to the Mi'gmaq-led process and methodology as set out in Steps 1 through 8 of this document. A MRIA will be carried out whether or not a provincial Environmental Impact Assessment ("EIA") or federal Impact Assessment ("IA") is required for the proposed project.

A MRIA may be undertaken in conjunction with, concurrently, or separately, from a provincial EIA or federal IA, but will always be Mi'gmaq-led. If Proponents wish to obtain consent for their project to proceed, the Proponent must adhere to its obligations as set out in Steps 1 through 8 of this document. To ensure the MRIA for a project is not delayed, the Proponent should ensure that it meets its obligations set out in Step 1 as early as possible.

This Framework lays out the steps in the MRIA process, so that other governments and proponents can better understand the process. However, Proponents and the Crown must understand that the Steps set out in this MRIA Framework are not a 'tick-the-box' process, and that the completion of Steps 1 through 6 of this MRIA does not guarantee Mi'gmaq consent will be granted for a project. An overarching objective of this MRIA Framework is to ensure that Mi'gmaq Aboriginal and Treaty Rights and Title are respected and protected for future generations.

## **Mi'gmawe'l Tplu'taqnn**

Mi'gmawe'l Tplu'taqnn is an Indigenous rights organization that exists to promote and support the recognition, affirmation, exercise and implementation of the inherent Aboriginal and Treaty Rights of its member First Nations, including the right of self-determination. For the purposes of this MRIA framework and its application, Mi'gmawe'l Tplu'taqnn represents eight Mi'gmaq communities in New Brunswick: Amlamgog (Fort Folly) First Nation, Natoagaeg (Eel Ground) First Nation, Oinpegitjoig (Pabineau) First Nation, Esgenoôpetitj (Burnt Church) First Nation, Tjipôgtôtjg (Buctouche) First Nation, L'nui Menikuk (Indian Island) First Nation, Ugpi'ganjig (Eel River Bar) First Nation and Metepenagiag Mi'kmaq Nation (collectively, the "Mi'gmaq in New Brunswick").

## Context for this Mi'gmaq Rights Impact Assessment Framework

The Wabanaki Nations (the Mi'gmaq, Wolastoqiyik and Peskotomuhkati) are the original inhabitants of what is now known as the Province of New Brunswick. Long before Europeans settled in New Brunswick, the Wabanaki Nations occupied these lands and waters, and for that reason they have a unique legal status. The Wabanaki Nations have never ceded their Aboriginal Title of control and ownership over the lands of New Brunswick to the Crown. All of New Brunswick is part of unceded Wabanaki territory.

Along with their Wabanaki brothers and sisters, the Mi'gmaq entered into sacred, constitutionally protected Treaties of Peace and Friendship with the Crown, on a Nation-to-Nation basis.<sup>1</sup> The Peace and Friendship Treaties are commonly referred to as the Covenant Chain of Treaties. The Peace and Friendship Treaties were a recognition of the Wabanaki Nations Aboriginal Title, and the Treaties placed limitations on Crown settlement on their Territory. The Peace and Friendship Treaties were not Treaties of surrender or cession of land, but were drafted in broad language intended to facilitate non-conflictual interactions between the Crown and the Wabanaki Nations in their Territories.

These various Treaties which were signed, beginning in 1726 and ending in 1779 define the relationship between the Wabanaki Nations and the Crown, including that the nations would co-exist in a peaceful manner, that the Crown would not interfere with the Mi'gmaq, Wolastoqiyik and Peskotomuhkati way of life, that the Mi'gmaq, Wolastoqiyik and Peskotomuhkati would continue to exercise all of their hunting, fishing, gathering, and other inherent rights of their nations, and that the Crown would not unlawfully occupy or possess Mi'gmaq, Wolastoqiyik or Peskotomuhkati Territory without their agreement.

The Mi'gmaq have occupied and cared for the lands and waters in their Territory since time immemorial and entered into the Treaties with the Crown by which they agreed to *share* the lands, waters and resources within their Territories. The Supreme Court of Canada has upheld the continuing validity of the Treaties. The Treaties are the foundation of the relationship between the Mi'gmaq, the Crown (provincial and federal governments) and settlers (non-Indigenous inhabitants of New Brunswick).

The Treaty rights of the Mi'gmaq are quite broad, and include, amongst others, the right to hunt, fish and gather natural resources for food, social and ceremonial purposes, as well as for trade. The Mi'gmaq continue to exercise Aboriginal and Treaty rights, including the rights to hunt, fish and gather throughout their Territory up to the present day. These Rights have been repeatedly proven and affirmed by the Supreme Court of Canada and the Courts of New Brunswick. Section 35 of the *Constitution Act, 1982*, recognizes and affirms the Aboriginal and Treaty rights of the Mi'gmaq.

Consultation and accommodation is only one facet of the Treaty relationship between the Mi'gmaq and the Crown. The Mi'gmaq of New Brunswick are self-determining peoples and have the right to be fully involved in decisions that affect the lands and waters in New Brunswick. The Mi'gmaq have the responsibility as stewards of their lands and waters to ensure that they take no more than they need, and that enough is left for future generations to live and prosper.

All proponents in New Brunswick should make a good faith effort to educate themselves on who the Mi'gmaq are and the importance of their Rights. Mi'gmawe'l Tplu'taqnn is willing to provide such educational sessions to proponents. Proponents are required to adequately fund for any education session.

The Crown should also be educated on who the Mi'gmaq are and the importance of their Rights; and the Crown should ensure that all Crown employees involved in EIAs are adequately educated. Such education must come from the Mi'gmaq.

Any proposed activity taking place in Mi'gmaq Territory that has the potential to infringe or impact Mi'gmaq Aboriginal or Treaty rights requires the consent of the Mi'gmaq. This requirement of consent is rooted in the Peace and Friendship Treaties, the Supreme Court of Canada's decision in *Tsilhqot'in Nation*<sup>ii</sup> and the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP").<sup>iii</sup>

The UNDRIP is a comprehensive instrument that clarifies the nature and scope of Indigenous peoples' rights regarding their lands and resources. Article 26 of the UNDRIP states that Indigenous peoples, including the Mi'gmaq, have the right to the lands and resources which they have traditionally occupied, used or owned; and that they have the right to use, develop and control their territories and its resources. Further, Article 37(1) of the UNDRIP speaks in language similar to the Crown promises made in the Treaties to not interfere with the Mi'gmaq way of life and decision-making:

*Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.*

Canada has accepted the UNDRIP, without qualification, and the Prime Minister has called for its implementation.<sup>iv</sup>

The Mi'gmaq in New Brunswick will require a MRIA to be conducted for activities whether or not a provincial Environmental Impact Assessment ("EIA") or federal Impact Assessment ("IA") is required for the proposed project. A MRIA may be undertaken in conjunction with, or separately, from a provincial EIA or federal IA, but will always be Mi'gmaq-led. If the Proponent and the Mi'gmaq both perform separate effects assessments, then both must be included in the provincial EIA or federal IA process. A MRIA will also be required for a proposed project even if a regional assessment carried out pursuant to the federal *Impact Assessment Act* has concluded that the project can, where pre-specified mitigation and monitoring conditions are in place, avoid going through an IA.

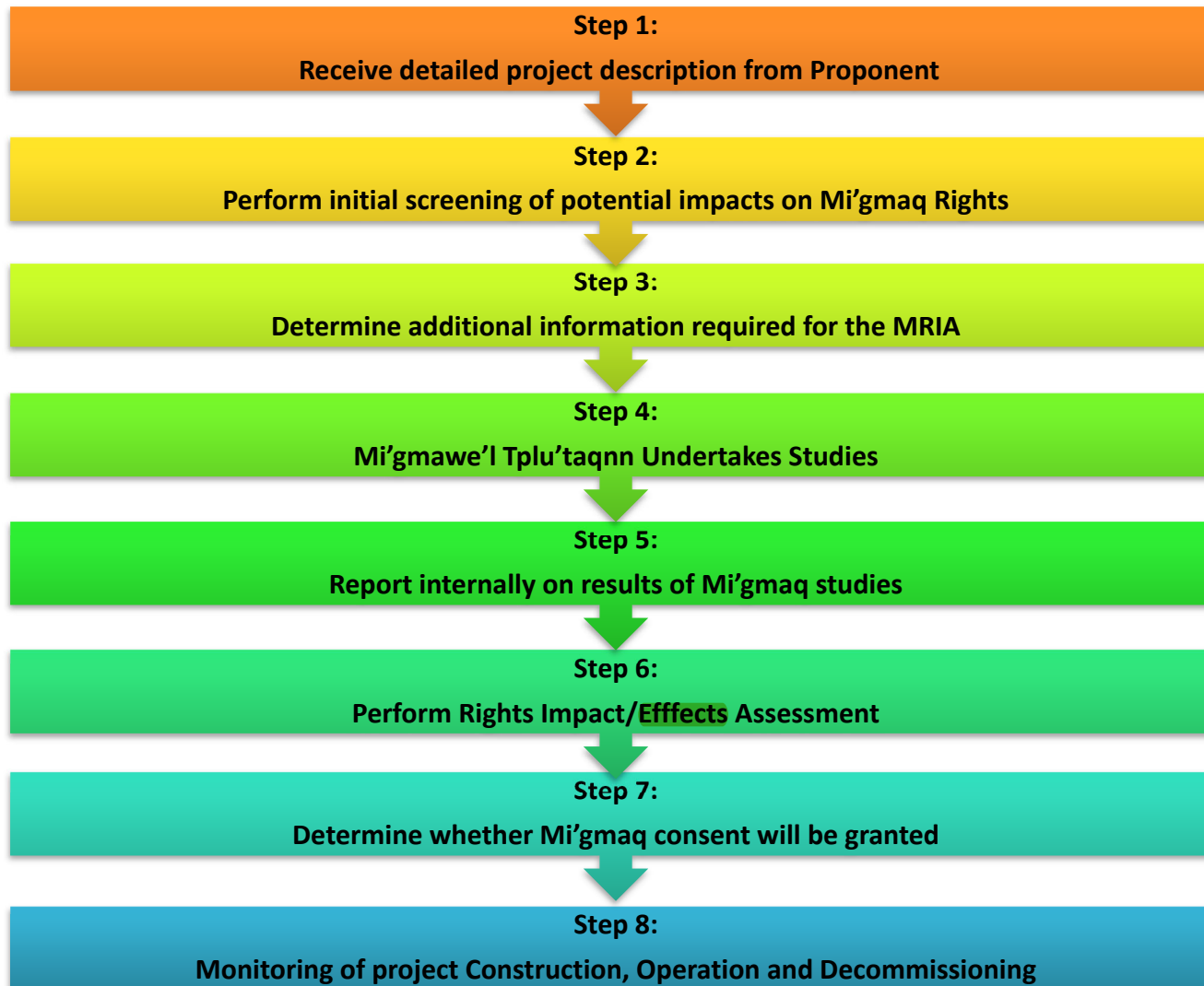
## **Fundamental Principles**

A MRIA will be conducted in accordance with the Engagement Principles set out in Schedule "A".

## **Process and Methodology: Mi'gmaq Rights Impact Assessment**

The Mi'gmaq have the responsibility as stewards of their lands and waters to ensure that they take no more than they need, and that enough is left for future generations to live and prosper. The objective of the process set out in this MRIA framework document is to ensure Mi'gmaq Rights are protected, and to provide the next seven generations with healthy lands, waters and resources in order to maintain their culture and our Mi'gmaq way of life. For all proposed activities in or near Mi'gmaq Territory that may potentially impact or infringe Mi'gmaq Aboriginal or Treaty Rights or Title, the following process will apply for assessing the potential impacts on the exercise of Mi'gmaq Rights and to assist in determining whether Mi'gmaq consent will be granted for the activity:

## Overview of the MRIA Methodology



## STEP 1: Mi'gmawe'l Tplu'taqnn receives detailed project description from Proponent

- a. Early/Timely Information\*: as early as possible, the Proponent must provide Mi'gmawe'l Tplu'taqnn with the detailed project description, inclusive of the information requirements set out in this Step 1.
- i. If the proposed activity is a “designated project” under the federal *Impact Assessment Act*, then the Proponent must provide Mi'gmawe'l Tplu'taqnn with the initial project description at the same time as submitting it to the Impact Assessment Agency. Ideally, the Proponent will provide Mi'gmawe'l Tplu'taqnn with the initial project description in advance of submitting it to the Agency, even if it's not in the final form that will be submitted to the Agency.
  - ii. If the proposed activity is listed as an Undertaking in Schedule A of the New Brunswick *Environmental Impact Assessment Regulation*, then the Proponent must provide Mi'gmawe'l Tplu'taqnn with the initial project description at the same time as submitting the registration document to the provincial EIA branch. Ideally, the Proponent will provide Mi'gmawe'l Tplu'taqnn with the initial project description well in advance of submitting its registration document to the EIA branch.
  - iii. When submitting an application for any Crown regulatory approval, licence or permit, the Proponent is to provide a copy of the application to Mi'gmawe'l Tplu'taqnn Inc. as well. This applies even if no EIA or IA are contemplated. This form of early engagement will benefit all parties involved by building relationships with the Mi'gmaq and will assist with streamlining any provincial or federal regulatory review process of the project.
- b. If the proposed project is not required to be registered for review under an EIA or IA process, Mi'gmawe'l Tplu'taqnn may submit a request to the relevant Minister and assessment agency, to have the proposed project listed / designated as a project and be subject to an EIA or IA. Mi'gmawe'l Tplu'taqnn will make such a request if the proposed project:
- i. is near or in an environmentally, cultural, spiritual or otherwise sensitive location, as determined by the Mi'gmaq;
  - ii. involves new technology or a new type of activity not readily understood;
  - iii. has the potential to have adverse effects on the Mi'gmaq and/or their Rights.
- c. If the Crown is contemplating any activity or conduct that has the potential to impact or infringe Mi'gmaq Aboriginal or Treaty rights or Title (whether or not an EIA or IA is contemplated), a MRIA will be required and the Crown is to engage with Mi'gmawe'l Tplu'taqnn early in the planning process, well before a decision has been made. Such Crown activity or conduct includes but is not limited to:

\* In project assessment processes, one of the past problems that have been a common experience and complaint of Indigenous peoples throughout Canada has been the continued involvement of Indigenous people in a manner inconsistent with their constitutional Rights. This includes Consultation that occurs so late in a project assessment that it is almost impossible for the concerns of Indigenous peoples to be considered, implemented or accommodated. Early engagement at the beginning of the process and continued engagement throughout the process can begin to address this flaw.

- The creation, amendment or implementation of regulations, policies, procedures or operating plans that may adversely impact Mi'gmaq Rights;
- Change in access to Crown land(s) and resources;
- Disposal / sale of Crown lands;
- Approval / issuance of a license, lease or permit providing access to forests, minerals, wildlife, fish, or the development of a project that may adversely impact natural resources.

d. The initial project description letter from the Proponent must include the following:

- The name(s) of the Proponent and key contacts along with their contact information;
- The name of the project and the type of industry;
- Details on the purpose / rationale and need for the project;
- Clear and concise details of the project, including its size, scope, location, and projected environmental impacts;
- Description of all direct and ancillary physical works and activities related to the project, including transportation routes into and out of the project area;
- Available project plans, designs and site maps (even if in draft form);
- Any known archeological sites within the proposed project area;
- Any federal, provincial, and municipal involvement;
- Any known project and Crown regulatory timelines;
- Geographic Information System ("GIS") data;
- Available data, reports and studies that have been prepared for the proposed project, even if in draft form (if any studies have been carried out, identify the Indigenous experts / participation used in the conduct of data collection and effects estimation);
- A brief overview of alternatives to the project that could fulfill the same purpose / objective of the project, including the potential environmental impacts of the alternative (i.e., a windfarm instead of a hydroelectric project);
- A brief overview of the technically and economically feasible alternative means of carrying out the project, including the potential impacts of carrying out the project by the alternative means (i.e., a windfarm could be located onshore, offshore, and/or could have more small structures or few larger structures to generate the same amount of electricity);
- Information on any known or potential cumulative effects that may result from the proposed project: this includes information regarding any other projects / activities, existing or planned, in or near the proposed project area. If the proposed project is part of a larger plan, or is linked to other projects whether already existing or contemplated for the future, that information is to be included in the initial letter.

All of this information should be summarized in plain English.

e. Mi'gmawe'l Tplu'taqnn will acknowledge that it has received the detailed project description and advise whether the letter contains sufficient information to perform an initial screening of the project. Proponents and the Crown must understand that the MRIA will not

proceed to Step 2 until Mi'gmawe'l Tplu'taqnn has received a detailed project description sufficient to perform an initial screening / assessment.

- f. Proponents and the Crown should be proactive and share new information with Mi'gmawe'l Tplu'taqnn as it becomes available. Proponents should make it a best practice to establish a positive working relationship with the Mi'gmaq, well ahead of filing any required project plans or approval requests with the Crown. As a best practice, Proponents should be prepared to discuss and enter into a Relationship Agreement, to guide the engagement that is required for the MRIA process. A Relationship Agreement may include funding and protocols for achieving the steps outlined in this MRIA process.

## **STEP 2: Perform initial screening / assessment of potential impacts on Mi'gmaq Rights\***

- a. The initial screening / assessment of potential impacts will be guided by the information provided under Step 1, and the following:
  - i. The historical context, assisted by any historical records, of the project area and the exercise of Mi'gmaq Rights in and around the project area;
  - ii. Readily available Mi'gmaq Indigenous Knowledge, including existing Indigenous Knowledge Land Use and Occupancy Studies (IKLUOS), relevant to the project and Mi'gmaq land use and occupancy in the project area;
  - iii. The current environmental condition of the project area and the surrounding area.

In New Brunswick, because the Mi'gmaq have never ceded Title to their Territory, and because the courts have repeatedly affirmed Mi'gmaq Aboriginal and Treaty rights, Proponents should always assume that any Aboriginal or Treaty rights at issue are proven.

- b. After receiving the project description, the first task under this Step is to develop a preliminary understanding of the project and its potential impacts on Mi'gmaq Rights. This initial assessment will include, but is not limited to:
  - i. Ensuring there is an accurate and adequate understanding of the project, including: its operations, the current condition of the geographic area in and around the project, the duration (temporal aspect of the project), the purpose of the project, and how the project will likely interact with the human, social, economic, physical and biophysical environment. This requires a preliminary understanding of:
    - The project footprint: the geographical area covered by all physical works and activities required to carry out the project; and
    - The local study area: the area where direct and indirect environmental effects might be expected to occur from the project.

\* The initial screening / assessment is based on available information and is necessarily limited due to the absence of a baseline Indigenous Knowledge ("IK") study for our Territory. Mi'gmawe'l Tplu'taqnn has been calling on the Crown to provide capacity funding to carry out a province-wide baseline study, but that has yet to happen. Until then, any initial screening of potential impacts of a project will be limited; as such, under Step 3 it will likely be determined that an Indigenous Knowledge Land Use and Occupancy Study, and possibly other studies, will be required. Mi'gmawe'l Tplu'taqnn has the capacity to use a GIS to document land use information provided by its community members. A baseline IK study for our Territory would facilitate a streamlined process of project reviews and regulatory processes moving forward, as the Mi'gmaq would have a solid IK database from which to work.

- ii. With the information / data available, identify potentially impacted Mi'gmaq Rights;
- iii. Compile a list of Value Components (VCs) that will need to be considered in the assessment of the potential impacts on Mi'gmaq Rights;
  - For each VC, identify the past, present and desired future use for the Mi'gmaq;
  - Identify whether the project area holds traditional, cultural or other importance for the Mi'gmaq;
  - Identify the priority VCs that the Mi'gmaq want to protect (in other words, what matters most to the Mi'gmaq communities. Priority VCs for communities may change from project to project). Community scoping meetings can be held in order to identify what matters most;
  - The key combination here is that for a VC to be included in the MRIA, the issue or VC must: 1) be of importance to the Mi'gmaq or ecosystem function; and 2) have some plausible interaction with a change that could be caused by the proposed project.
- iv. Some questions that can be posed to determine what matters most / priority VCs, includes but are not limited to:
  - What are the most important values for Mi'gmaq community well-being?
  - What do communities and individual members want to protect the most?
  - Are there key VCs that need protection? (such as key animals, plants or other valuable resources, preferred places where fish, game or birds are harvested from)
  - What changes have been seen on the land in the project area already?
  - What are the most important concerns about potential impacts from the project on Mi'gmaq way of life?
- v. Identify baseline conditions that support, or do not support, the exercise of the Rights identified. This involves an initial overview of the current baseline condition of the environment (in and near the project area), and the health, social and economic condition of the Mi'gmaq communities that stand to be impacted. Identifying baseline conditions includes assessing the pre-industrial baseline of the area, to have an understanding of what the area was like prior to any resource / development projects. Determining the baseline conditions also involves conducting a preliminary assessment of the cumulative effects research to date, to develop an understanding of the existing impacts on Mi'gmaq communities and the ability to exercise Mi'gmaq Rights. Information sources that may assist in describing the baseline conditions, includes:
  - field studies, including site-specific survey methods
  - Mi'gmaq, Crown and Municipal database searches;
  - protected areas, watershed and coastal management plans;
  - natural resource management plans (i.e., forestry management strategies);
  - species recovery and restoration plans;
  - published literature;
  - EIA / IA documentation, including monitoring reports, from prior projects in or near the proposed project area;
  - Existing regional studies and strategic assessments carried out under the *Impact Assessment Act*;
  - Mi'gmaq Indigenous knowledge;
  - community engagement, including workshops, meetings and surveys;
  - census data;
  - community and regional economic profiles; and

- statistical surveys, as applicable

Depending on the nature and location of the project, separate baselines may be required for individual Mi'gmaq communities.

- vi. Identify trends from the past to understand the current state of VCs, and then compare a future with the proposed project (including cumulative effects from other projects) to a future without the proposed project.
  - vii. Thresholds: If the proposed project would put too much risk / harm on the ability to exercise a certain Right, or if the project would put a culturally important area, sacred site or a valuable VC at risk of exceeding an identified impact threshold, then it may not be necessary to continue with the MRIA if there are no mitigation measures that can be implemented to avoid impacts surpassing the permitted threshold (Proponents must understand that there may be existing impacts, and infringements, on Mi'gmaq Rights that are significant even without considering the impacts of the proposed project).
  - viii. Consider alternative means of carrying out the project: The Proponent must provide Mi'gmawe'l Tplu'taqnn with information regarding alternative means for carrying out the project, so that it can be determined what the effects on Rights would be under an alternative approach.
- c. The actual decision-makers within Proponent organizations, including the Crown, must be willing to meet and discuss the project and any concerns or questions raised by Mi'gmawe'l Tplu'taqnn or its member communities. If requested by Mi'gmawe'l Tplu'taqnn, the Proponent must meet with Mi'gmawe'l Tplu'taqnn and/or attend community meetings to discuss any community concerns.
- i. Respect for Mi'gmaq Territory and Culture: any meetings between the Mi'gmaq and the Proponent must happen in a spirit of respect. Wherever possible, meetings should take place in Mi'gmaq Territory, in Mi'gmaq communities, to put the discussions in the appropriate social and cultural context. Mi'gmawe'l Tplu'taqnn will organize and attend meetings and information sessions with Proponents.
- d. If required, Mi'gmawe'l Tplu'taqnn will request funding from the Proponent to assist with the initial assessment of the technical details for the project. In order to carry out the steps in the MRIA process, the Mi'gmaq may require Proponents to enter into a Relationship Agreement, to guide the relationship between the parties during the assessment process. Mi'gmawe'l Tplu'taqnn will notify the Proponent as soon as possible if it is determined that a Relationship Agreement is required. A Relationship Agreement should include funding and protocols for achieving the steps outlined in the MRIA process, and a Relationship Agreement can assist with facilitating the following:
- i. Mi'gmawe'l Tplu'taqnn consulting with its member communities;
  - ii. Scientific, technical and legal review of the proposed project; and
  - iii. Identification and understanding of the potential impacts of the project on Mi'gmaq Rights and appropriate measures for minimizing or avoiding those impacts.
- e. Identify and compile a list missing information / details that would assist in providing a further understanding of the nature and scope of the project and to adequately carry out an assessment of the potential impact on Mi'gmaq Rights.

- f. It is important for private industry Proponents to understand that even when they have been delegated procedural aspects of Consultation from the Crown, it is inappropriate for the Proponent to try and unilaterally determine whether the proposed project has the potential to adversely impact Mi'gmaq Rights. The same applies if the Proponent is the Crown; as the Crown is ill-equipped to make an assessment as to whether and to what extent the proposed project may adversely impact Mi'gmaq Rights.
- g. Where it is determined by Mi'gmawe'l Tplu'taqnn that the project will have a negligible impact on Mi'gmaq rights, the MRIA may not need to continue beyond this point.

### **STEP 3: Determination of additional information required for performing a Rights Impact Assessment**

- a. When performing the initial screening / assessment of potential impacts under Step 2, a lack of or absence of necessary information to carry out a MRIA will be identified. At this Step of the MRIA process, Mi'gmawe'l Tplu'taqnn will determine what further information / details is required to fully understanding the proposed project and assess the potential impacts on Mi'gmaq communities and their ability to exercise their Rights.
- b. This Step may involve identifying studies that would assist in providing a further understanding of the nature and scope of the project and to adequately carry out an assessment of the potential impact on Mi'gmaq Rights.
- c. As part of its ongoing engagement requirement, the Proponent is to notify Mi'gmawe'l Tplu'taqnn of any new/updated information for the project and any studies / reports that have been conducted since providing the initial project description.

### **STEP 4: Mi'gmawe'l Tplu'taqnn Undertakes Studies**

- a. The main goal of this Step is to gather important information, data, Indigenous Knowledge, and other evidence needed in order to fully understand the impacts of the project, which is required for determining whether Mi'gmaq consent will be granted.
- b. Identify to the Agency and the Proponent the studies that the Mi'gmaq require for assessing the impacts of the project. This will involve determining the role the Mi'gmaq want to play in carrying out those studies, including whether the Mi'gmaq will lead or co-lead a study, as well as the costs required to undertake the studies. The required studies will depend on the project.
- c. Depending on the nature of the project, any of the following studies may be required (which may be in addition to any similar study or report prepared by the Proponent):
  - i. Indigenous Knowledge Land Use and Occupancy Study (IKLUOS)
  - ii. Ecological Study
  - iii. Harvest and Food Security Study
  - iv. Archaeological and Heritage Study

- v. Health Impact Study (examines the direct and indirect human health effects tied to the impacts of the project);
- vi. Socio-Economic Impact Study (examines the direct and indirect community, housing, social, and economic effects tied to the impacts of the project);
- vii. Cumulative Effects Study (examines how past, present and likely future activities/projects have and will combine to impact an area and/or specific VCs);
- viii. Gender Based Study (includes a detailed examination of any vulnerable sub-population within Mi'gmaq communities. This includes an examination of any differential impacts that may occur to women, 2SLGBTQQIA, and other potentially vulnerable sub-populations);
- ix. Accident and Malfunctions Study (includes an examination of the potential risks for project accidents, spills, and malfunctions, and the impact of these on the Mi'gmaq and their Rights. This involves an analysis of all possible kinds of accidents/malfunctions, including worst-case scenarios).

Except for an IKLUOS, any of these studies may be carried out by Mi'gmawe'l Tplu'taqnn in partnership with the Proponent, Crown or other party. Mi'gmawe'l Tplu'taqnn may, in its discretion, decide that it is necessary to retain a third party to carry out or assist with any of these studies.

- d. If an IKLUOS is required, the Proponent will be required to enter into an Indigenous Knowledge Study Agreement with Mi'gmawe'l Tplu'taqnn, which outlines the terms and conditions for completing the IKLUOS, including:

- i. Funding the Proponent will be required to provide Mi'gmawe'l Tplu'taqnn to complete the IKLUOS;
- ii. The timing, process and execution for the IKLUOS;
- iii. How the Mi'gmaq Indigenous Knowledge gathered as part of the study may be used, shared and applied to assessing the impacts of the project.

Proponents should review and be familiar with the [New Brunswick Mi'gmaq Indigenous Knowledge Study Guide](#), which guides the timing, process and execution of a Mi'gmaq Indigenous Knowledge Land Use and Occupancy Study in New Brunswick.

- e. The process for an IKLUOS is spelled out in detail in the [New Brunswick Mi'gmaq Indigenous Knowledge Study Guide](#) ("NBMIKS Guide"). Mi'gmawe'l Tplu'taqnn is responsible for the administration of funding and financial oversight of an IKLUOS.
- f. An IKLUOS will be required the moment the Crown contemplates a decision that may impact the Rights of the Mi'gmaq under domestic and international law. Prior to submitting applications to the Crown for approvals, permits, licences or leases, the Mi'gmaq may require the Proponent to undertake an IKLUOS. For every new project and / or regulatory decision, Mi'gmaq Indigenous Knowledge must be included and meaningfully considered. Similarly, if there is a proposed expansion or addition to an existing project, the Mi'gmaq must be given the opportunity to review the changes and provide any new or updated Indigenous Knowledge. Crown and Proponents must not rely on previous Indigenous Knowledge submitted or considered in prior projects or review processes, unless the Mi'gmaq thinks it appropriate and consents in writing.

- g. It is likely that an IKLUOS will be required to commence before other studies, so that Mi'gmaq Indigenous Knowledge can inform the other required studies. Indigenous Knowledge supports a more comprehensive understanding of the potential impact of a project on the environment and provides Indigenous people with the ability to understand the potential impacts of a project on their Rights, lands and resources.
- h. When undertaking an IKLUOS or any other required study:
  - i. Reasonable Timeframes: The Mi'gmaq require adequate time to gather necessary information, respond to the information received regarding the proposed project, and to undertake any necessary studies identified by the Mi'gmaq;
  - ii. The OCAP® Principles of ownership, control, access and possession apply, which are discussed further in the NBMIKS Guide.ᵛ OCAP® provides a prescribed approval process for the collection, analysis and reporting of research data generated from Indigenous communities. The principles of OCAP® apply to research, monitoring and surveillance, surveys, statistics, cultural knowledge, storage and archiving, and dissemination. The Crown and Proponents must respect and adhere to these principles.
- i. Adequate Resources: The Mi'gmaq must be given adequate resources in order to obtain the input of their communities, to properly study and review the plans, and to gather Indigenous Knowledge with respect to the Rights impacted.

### **STEP 5: Report internally on results of Mi'gmaq studies**

- a. After undertaking the studies identified in Step 4, the relevant Mi'gmawe'l Tplu'taqnn staff members(s) and/or consultant will internally report to Mi'gmawe'l Tplu'taqnn and its member communities on the results of the studies. This will provide an opportunity for questions to further understand the nature and scope of the project, as well as the Mi'gmaq Rights and VCs that should be considered in the impact assessment.
- b. At this Step of the MRIA, Mi'gmawe'l Tplu'taqnn will decide if further information is required to adequately assess the level and scope of impact the project would have on the Mi'gmaq and their Rights. This may require engaging with the Crown or Proponent to exchange information to further inform / understand the results of the Mi'gmaq studies carried out under Step 4.

### **STEP 6: Perform Rights Impact Assessment**

- a. This critical step of the MRIA process involves assessing the project's positive and negative effects and the severity of these effects, on the Mi'gmaq, identified VCs, and the exercise of Mi'gmaq Rights. A combination of quantitative and qualitative methods may be necessary for a comprehensive and meaningful assessment of potential impacts; this will include considering and applying the results and recommendations of the studies carried out under Step 4. The impact assessment (prediction) is informed by the baseline and trend over

time conditions identified in previous Steps in the MRIA process. The impact assessment is achieved through determining the ways in which the project, including its operations and various components, may impact the human, social, economic, physical and biophysical environment.

- b. Except for assisting with performing the initial screening / assessment, previous Indigenous Knowledge Land Use and Occupancy Studies, or any other study undertaken for a previous activity / project, will not be relied on in assessing the impacts of a new activity / project, unless it is determined by the Mi'gmaq that doing so is appropriate.
  - i. Complete information: The Mi'gmaq require complete and timely disclosure to the Mi'gmaq of all information required to understand the impacts of a project on the Mi'gmaq and their Rights.
- c. The assessment of impacts on Mi'gmaq Rights must be informed by Mi'gmaq Indigenous Knowledge gathered as part of the project-specific MRIA. The assessment of the effects of each project component on each VC is based upon a comparison of the baseline conditions and the predicted future conditions with the project.
- d. Identify the importance of the proposed project's location in relation to the exercise of Mi'gmaq Rights, while being very careful about assumptions as to whether those Rights could be practiced elsewhere. In other words, the 'go elsewhere' argument for exercising Rights must not be considered or included in the assessment of cumulative effects, or the MRIA in general.
- c. The effects assessment for each VC will include an analysis of the magnitude/severity, geographic extent, temporal, frequency, and whether the effects are reversible or irreversible. The assessment of the effects of each project component on each VC is based upon a comparison of the baseline conditions and the predicted future conditions with the project. Key factors (VCs) that will be considered in assessing the impacts of the project, includes but is not limited assessing the impacts on the following:
  - i. Physical environment, including: land, water, fish, vegetation, wildlife, birds, etc.;
  - ii. Human health;
  - iii. Economy;
  - iv. Climate change (including the greenhouse gas emissions);
  - v. Sustainability (lands, waters and other natural resources are integral to the well-being of the Mi'gmaq, their culture and Rights. Natural resources must be managed carefully to provide benefits today, while guaranteeing the Rights and needs of future generations. The needs of future generals must be placed on equal footing with present needs).

#### Cumulative Effects

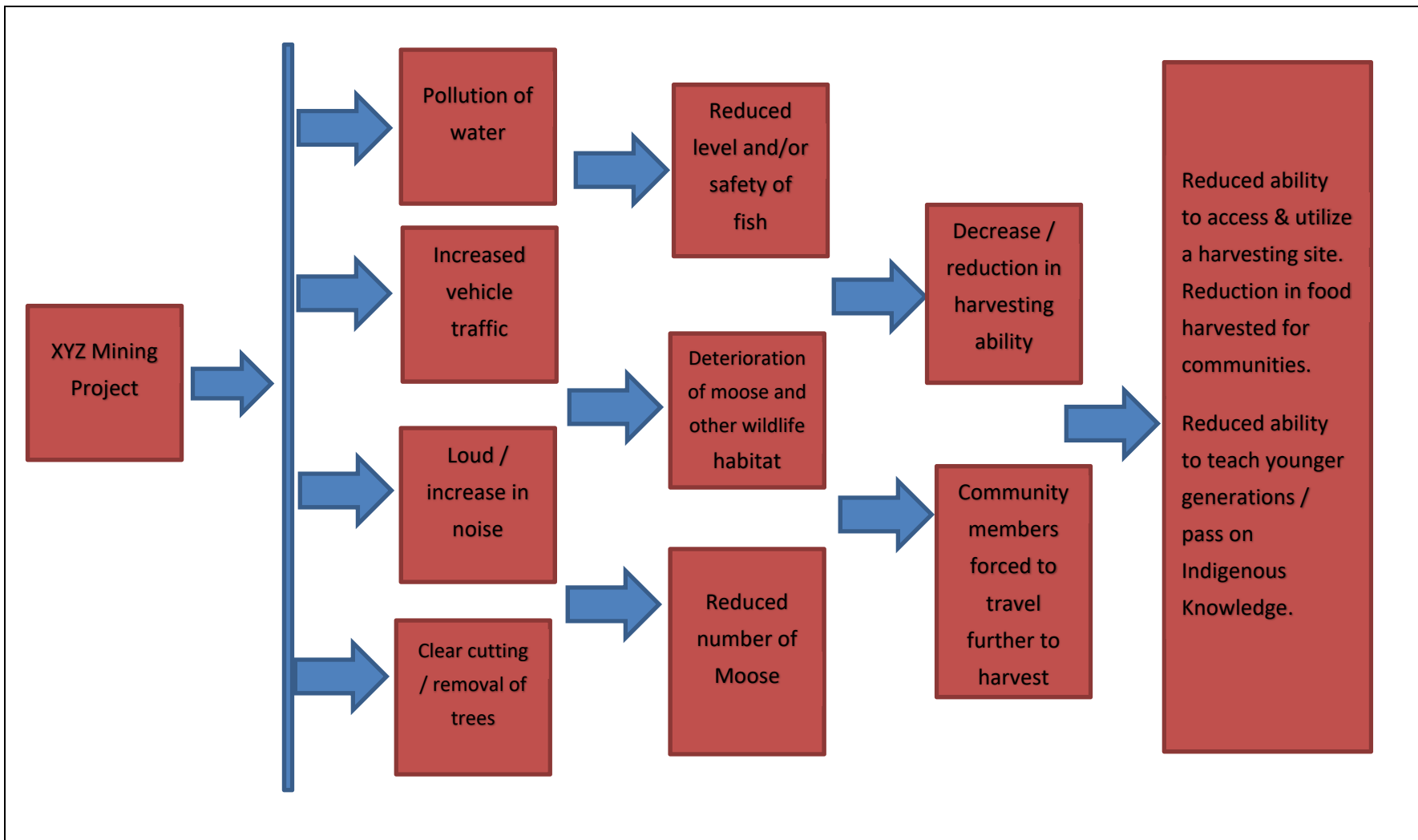
- e. Establish the degree of cumulative effects to date that have occurred for each VC. A cumulative effect on an environmental, health, social or economic VC may be important even if the project's effects to a VC by themselves are minor. VCs important to the Mi'gmaq, even if

only marginally effected by the project, will included in the assessment of cumulative effects. There will be a heavy focus on establishing a realistic portrait of total cumulative effects influencing Rights, prior to the consideration of project-specific effects.

- f. Include a consideration of the potential for project-specific and future cumulative effects on future generations' ability to meaningfully exercise their Aboriginal and Treaty rights.

#### Impact Pathway

- d. Identify and describe the Pathways by which the project may affect the Mi'gmaq and the exercise of the Rights. When developing impact Pathways, tangible and intangibles VCs will be considered. This includes an understanding of the effects from the project that may be expected to interact with other cumulative effects on the same VCs. For example, the following flow-chart identifies potential impacts on Mi'gmaq Rights flowing from a mining project:



- e. Assess the level / severity of the impacts: when assessing the overall level/severity of impacts, the highest degree of severity will be used. This means that if the adverse impact on one identified VC, or aspect of a Right, is determined to be high/severe, then the overall impact on the exercise of Mi'gmaq Rights will be deemed to be high / severe. A series of 'low severity' impacts from the project, when considered as a whole, may also result in a high/severe level of impact on Mi'gmaq Rights. A list of questions and criteria to assist with determining whether an impact is low, moderate or high is in Schedule "B".
- f. Consider alternative means of carrying out the project: The Proponent must provide Mi'gmawe'l Tplu'taqnn with information regarding alternative means for carrying out the project, so that it can be determined what the effects on Rights would be under an alternative approach.
- g. Determine the likelihood of an infringement of or impact on a Mi'gmaq Right.

Identify necessary accommodation measures

- a. The Supreme Court of Canada has confirmed that where First Nations have proven their rights the Crown has a further obligation to take steps to minimize impacts on Aboriginal and Treaty Rights and ensure that the benefits of a project outweigh the negative impacts on Aboriginal and Treaty Rights. This applies to the Mi'gmaq and the MRIA process.
- b. The Duty to Consult may also trigger a duty to accommodate.
- c. Meaningful accommodation measures are those that mitigate, minimize or avoid any impacts on Mi'gmaq Aboriginal and Treaty rights and Title, and compensate for any impacts that cannot be minimized. Proponents may be required to accommodate Mi'gmaq rights and interests. As the Proponent usually knows the proposed project best, the Proponent will be best suited to work with the Mi'gmaq to mitigate and/or avoid potential adverse impacts on Mi'gmaq Rights.
- d. Accommodation can take many forms, and within the provincial EIA or federal IA process may include the Crown placing terms and conditions in licences, permits, or other Crown authorizations, as well as other avoidance, minimizing or mitigation measures. Mitigation measures should be specific to the impacts of the proposed project and linked to thresholds identified earlier in the MRIA process. Mitigation should avoid compensation-focused measures in favor of measures that avoid or greatly reduce project impacts.
- e. After carrying out the assessment of impacts under this Step 6, Mi'gmawe'l Tplu'taqnn will then identify any necessary accommodation measures required. Any required accommodation measures will be determined by the Mi'gmaq, in consultation with the Proponent and/or Crown. The objective here is to work towards mutually agreeable measures to address adverse impacts that would allow for the continued exercise of Rights, should the project proceed. Such accommodation measures may include, for example:

The Treaty rights of the Mi'gmaq are quite broad, and include, amongst others, the right to hunt, fish and gather natural resources for food, social and ceremonial purposes, as well as for trade. The Mi'gmaq continue to exercise Aboriginal and Treaty rights, including the rights to hunt, fish and gather throughout their territory up to the present day. These Rights have been repeatedly proven and affirmed by the Supreme Court of Canada and the Courts of New Brunswick. Section 35 of the *Constitution Act, 1982*, recognizes and affirms the Aboriginal and Treaty rights of the Mi'gmaq.

- i. Altering/changing the project location;
  - ii. Adjust timing of construction;
  - iii. Carrying out habitat restoration plans (commit to the rehabilitation of habitat and species that have been damaged by current and past natural resource extraction practices);
  - iv. Requiring the proponent to carry out a plan to protect certain resources
- f. Depending on the circumstances, where mitigation or avoidance is not possible, accommodation may take the form of compensation to the Mi'gmaq. The Mi'gmaq will assess whether proposed accommodation measures are adequate, including whether compensation is acceptable if it is not possible to avoid or minimize the impact of the project on Mi'gmaq Rights. Where it is not possible to avoid, minimize or mitigate the impacts on Mi'gmaq Rights, accommodation to the Mi'gmaq may be required in the form of one or more of the following:
- i. Direct financial payment;
  - ii. Profit / resource sharing;
  - iii. Scholarships;
  - iv. Skills training.

#### Residual Effects

- g. Identify any residual effects on Mi'gmaq Rights. Residual effects refer to the effects predicted to remain/subsist even after the application of accommodation measures. An analysis of the residual effects is performed for each identified VC as well as for the project's contribution to cumulative effects in the study area. The determination of the residual project-specific and cumulative effects is made by considering the following factors:
- i. Magnitude of the impacts
  - ii. geographic extent of the impacts
  - iii. reversibility of the impacts / harm
  - iv. frequency of the impacts
  - v. duration (time frame) of the impacts
  - vi. probability of impact occurrence

#### MRIA Report

- h. Mi'gmawe'l Tplu'taqnn will prepare a report that includes:
- i. A detailed description of the Mi'gmaq and their Rights in the project area;

- ii. An effects assessment, which includes:
  - a. an analysis of any potential positive effects of the project;
  - b. an analysis of the potential adverse effects on the Mi'gmaq and their Rights, as well as the severity of the impacts / how significant the effects are;
- iii. A description of how Mi'gmaq Indigenous Knowledge, and any other Mi'gmaq led studies undertaken for the project, have been included in the effects assessment;
- iv. A summary of required accommodation measures and the follow-up programs (as determined pursuant to Step 7);
- v. Whether Mi'gmaq consent is given for the proposed project (as determined pursuant to Step 7).

### **STEP 7: Determination of whether Mi'gmaq consent to the project will be granted**

- a. The objective of this Step is to determine whether Mi'gmaq consent for the project will be granted, which is a decision that is based on whether the proposed project is in the best interest of the Mi'gmaq, including Title to their Territory, and their ability to exercise their constitutionally protected Aboriginal and Treaty Rights. Determining if consent will be granted for a project is a discretionary decision that will be made by the Mi'gmaq. Proponents and the Crown must understand that even if Steps 1 through 6 of the MRIA are completed, that does not necessarily mean that Mi'gmaq consent will be granted.
- b. If consent is granted, there may be conditions that the Proponent will have to adhere to in order. Any such conditions will be included in the report prepared by Mi'gmawé'l Tplu'taqnn.
- c. Accommodation commitments: if the Mi'gmaq determine that the impacts of the proposed activity / project can be appropriately addressed, Mi'gmawé'l Tplu'taqnn or its member communities may be prepared to enter into one or both of the following agreements with the Proponent, as a condition for granting consent of the project:
  - An **Environmental Protection Agreement**: which sets out the measures that will limit and mitigate any environmental impacts, and in particular, any impacts on Mi'gmaq Aboriginal and Treaty Rights and provide for Mi'gmaq involvement in environmental protection and monitoring;
  - An **Impact and Benefits Agreement**: which provide for Mi'gmaq community benefits to compensate for any impacts that cannot be mitigated. Benefits may include job/employment creation, ownership interest in the project, profit sharing, and other compensation measures. Impact and Benefits Agreements can establish good will and grow positive relationship between the Mi'gmaq and proponents.

The goal of these types of agreements is to ensure that Mi'gmaq Rights are respected and protected, and that the Mi'gmaq get an adequate share of the benefits of projects taking place in their Territory.

- d. Securing Mi'gmaq consent is more likely to result in the following benefits for proponents:
  - i. Build and strengthen relationships with the Mi'gmaq communities;
  - ii. Create certainty in the status of a project; and
  - iii. Simplify and speed up the provincial or federal regulatory review process of a project.
- e. There may be projects that the Mi'gmaq cannot consent to. This could occur for example, where a proposed project would result in irreversible harm on a Mi'gmaq Right. In such a case, no form of accommodation would likely be adequate for the Mi'gmaq to consent. The effects assessment carried out under Step 6 will determine the severity of the impact.
- f. Even if the provincial or federal Crown grants approval for a project, that does not mean that Mi'gmaq consent will be granted. Proponents, including the Crown, are required to adhere to this MRIA process, and are required to obtain Mi'gmaq consent before any project will be permitted to proceed in the unceded Territory of the Mi'gmaq.
- g. At the end of this Step, the following should have been completed:
  - i. Conducted, and reported on, the necessary studies identified in Step 4;
  - ii. Assessed the potential impacts of the project on the Mi'gmaq and their Rights;
  - iii. Identify any accommodation measures required to avoid, mitigate or minimize the project impacts (and enter into any required agreements with the Proponent, i.e., Environmental Protection Agreement, Impact and Benefits Agreement);
  - iv. Determine if Mi'gmaq consent for the project will be granted.

All of this information will be included in a report prepared by Mi'gmawe'l Tplu'taqnn.

### **STEP 8: Project Construction, Operation and Decommissioning (if Mi'gmaq consent is granted)**

- a. If Mi'gmaq consent has been granted, subject to any necessary provincial or federal approvals that may also be necessary, the construction of the project may begin.
- b. If the proposed project would occur on one of the Mi'gmaq communities reserve land, the proponent will be required to comply with that community's laws, land codes, by-laws or administrative procedures that may be in effect.
- c. Mi'gmaq monitors will monitor the project during its construction. When project construction is completed, that does not end the potential impact on Mi'gmaq Rights, or Mi'gmaq involvement. As such, Mi'gmaq monitoring of the project / the environment, will likely be required to continue into the operation phase of the project. Depending on the nature of the project, Mi'gmaq monitors may also be required for the decommissioning of the project. Terms and funding for Mi'gmaq monitoring will be set out in either an Environmental Protection Agreement or an IKLUOS agreement.

d. The objectives of this Step in the MRIA process are to:

- i. Make sure the project / Proponent is meeting any conditions included as part of Mi'gmaq consent;
- ii. Verify whether the mitigation measures are working (in other words, confirm the effectiveness of the mitigation measures);
- iii. Make sure the project is being constructed and operating in accordance with the information provided by the Proponent (for which the MRIA is based on);
- iv. Provided follow-up information to Mi'gmaq communities on the status of the project and its impacts.

Mi'gmaq participation in monitoring, compliance and enforcement roles is critical, as it is the Mi'gmaq that often have to live with the adverse impacts of a project long after an EIA or IA is done, and long after the project is decommissioned

## Appendix A: Glossary of Terms

“**Aboriginal peoples**” is a term used in the *Constitution Act, 1982*, that refers to the Indian (First Nation), Inuit and Métis peoples of Canada.

“**Aboriginal rights**” refers to the activities, practices, traditions and customs of Aboriginal peoples in Canada that are integral to their distinctive cultures. Aboriginal rights are inherent rights which Aboriginal peoples have practiced and enjoyed since before European contact. Asserted and proven Aboriginal rights are constitutionally protected, under section 35 of the *Constitution Act, 1982*.

“**Aboriginal Title**” is a form of Aboriginal right and is a unique and beneficial interest in the land. Aboriginal title confers ownership rights, including the rights of enjoyment and occupancy of the land and the right to decide how the land will be used and managed. Mi’gmaq Aboriginal Title to their Territories (New Brunswick) is unceded, and the Mi’gmaq have ever ceded Title to their Territory.

“**accommodation**” means avoiding, minimizing, offsetting and / or compensating Aboriginal peoples for adverse impacts to their Aboriginal and Treaty Rights. In some cases, reasonable accommodation may require rejection of a proposed project.

“**baseline**” refers to what the environment, or a specific VC, was like before the proposed project. The baseline condition is compared to what the area would be like after the project in order to help determine the project impacts.

“**Consultation**” and “**Consultation process**” refers to the consultation, engagement, dialogue and joint decision-making process required of the Crown to fulfill its constitutional obligation of the Duty to Consult. Consultation depends on the circumstances, but it must always be meaningful. Depending on the nature of the Right and potential impact on the Right, Consultation may include: involvement in the early planning stages of a proposed project; the opportunity of the Mi’gmaq to make formal submissions to the Crown and/or Proponent; Mi’gmaq formal participation in the Crown’s decision-making process.

“**Engagement Principles**” refers to the engagement principles developed by the Mi’gmaq, which are rooted in a vision of collaboration and consent based decision-making. In order for consultation to be adequate and meaningful, the Mi’gmaq require that consultation and accommodation adhere, at a minimum, to the Engagement Principles, a copy of which is attached as Schedule “A” to this MRIA framework document.

“**Crown**” refers to the provincial or federal government, including their departments, agencies, corporations, boards, Ministers, commissions and representatives.

“**engagement**” refers to the procedural aspects of Consultation, such as meaningful dialogue and interaction between the Proponent and the Mi’gmaq. Examples of engagement include discussion groups, in-person meetings, exchanging information, sharing knowledge, conducting studies, relationship building, and seeking input from each other on a project and its related impacts on Rights.

“**Duty to Consult**” means the Crowns constitutional obligation to adequately and meaningfully consult, and where required, accommodate, Aboriginal peoples when the Crown contemplates actions or decisions that have the potential to impact their asserted or proven Aboriginal

or Treaty rights or Aboriginal Title. The Duty to Consult requires the Crown to consult with Aboriginal peoples before the Crown makes a decision or takes any action that might adversely impact those rights.

**“impacts”** for the purposes of this Mi’gmaq Rights Impact Assessment framework, unless otherwise specified, refers to potential impacts that may result from a proposed project or physical activity. Impacts may be tangible and intangible.

**“Indigenous Knowledge”** is a living and continuously evolving cultural imperative. It is at the heart of and reflective of the Mi’gmaq as a people and embodies cultural and spiritual values, and Indigenous science. In part it encapsulates Mi’gmaq oral history, practices, customs, and traditions regarding a certain area of lands and waters, and it is not static.

**“Indigenous Knowledge Land Use and Occupancy Study” or “IKLUOS”** is a study carried out by a Mi’gmawe’l Tplu’taqnn that identifies areas of historical and current Mi’gmaq land use in a proposed project area pertaining to lands, water and natural resources.

**“Indigenous peoples”** is a term that refers to the original peoples / inhabitants of a territory or geographical area and their descendants. For the purpose of this MRIA framework document, Indigenous peoples refers to the collective Mi’gmaq peoples, who have occupied and cared for their Territory since time immemorial, long before the arrival of non-Indigenous settlers.

**“Mi’gmaq”** and **“Mi’gmaq in New Brunswick”** refers to the collective Mi’gmaq peoples and their communities in New Brunswick, as represented by Mi’gmawe’l Tplu’taqnn. For the purposes of this MRIA framework and its application, Mi’gmawe’l Tplu’taqnn represents eight Mi’gmaq communities in New Brunswick: Amlamgog (Fort Folly) First Nation, Natoaganeg (Eel Ground) First Nation, Oinpegitjoig (Pabineau) First Nation, Esgenoôpetitj (Burnt Church) First Nation, Tjipôgtôtjig (Buctouche) First Nation, L’nui Menikuk (Indian Island) First Nation, Ugpi’ganjig (Eel River Bar) First Nation and Metepenagiag Mi’kmaq Nation.

**“meaningful consultation”** means carrying out consultation and accommodation in accordance with the Engagement Principles.

**“Mi’gmawe’l Tplu’taqnn”** means the Mi’gmaq organization that represents eight of the Mi’gmaq First Nation communities in New Brunswick in consultation matters that may affect the Aboriginal rights and Title and Treaty Rights of the Mi’gmaq.

**“NBMIK”** and **“MIK”** refer to Indigenous Knowledge of the New Brunswick Mi’gmaq. This includes the collection and adaptation of knowledge that Mi’gmaq hold in accord with all components of the natural environment and the interrelationships that exist between all Creation (animate and inanimate matter).

**“NBMIKS”** and **“New Brunswick Mi’gmaq Indigenous Knowledge Study”** mean all components of an Indigenous Knowledge Land Use and Occupancy Study, which includes the planning, collection, analysis, protection, reporting and distribution of Mi’gmaq Knowledge in New Brunswick.

**“Pathway”** is an impact pathway, which can be in the form of a flow-chart or diagram, of a linked set of cause-and-effect relationships between factors in the impact assessment analysis. A Pathway represents the relationship between the project or an aspect of the project, its effects, and the outcome or impact on Mi’gmaq Rights.

**“Proponent”** means a company, corporation, individual, or a Crown agency that is developing, proposing or contemplating a project in the Province of New Brunswick.

**“Rights”** refers to any and all Aboriginal rights, Aboriginal Title and Treaty Rights, whether asserted or proven.

**“Territory”** means the unceded land, water and air of the Mi’gmaq in what is now known as New Brunswick. The Mi’gmaq have used and occupied their Territory since time immemorial.

**“Treaty rights”** are rights that are defined by the terms of the historic Treaties of Peace and Friendship. In New Brunswick, Treaty rights include, amongst others, the right to hunt, fish and gather for food, social and ceremonial purposes, as well as for trade.

**“Valued Components” or “VCs”** are components or attributes of the physical / natural and human environment, that are determined by the Mi’gmaq to have intrinsic, legal, Indigenous, socio-cultural, economic, or scientific value, and which are considered in the Mi’gmaq Rights Impact Assessment to determine the potential impact of a project on Mi’gmaq Rights. VCs may include, but are not limited to, components of the environment such as: fish and fish habitat, species at risk, birds (including migratory) and their habitat, human health of Mi’gmaq community members, land and resource use, economic well-being of Mi’gmaq communities / members, and archaeological, historical and spiritual sites of importance to the Mi’gmaq. VCs, and the indicators that are used to measure them, are key things against which project-specific and cumulative effects are assessed during a MRIA.

## Schedule “A”

### Engagement Principles

The Mi’gmaq in New Brunswick have a vision of a collaborative process of consent-based decision-making within the context of projects in their Territory and the related Consultation process. This collaborative process based on consent-based decision-making requires the Crown, and the Proponent when having delegated Consultation responsibilities, to seek Mi’gmaq consent before making any decisions that have the potential negatively impact on their Aboriginal and Treaty Rights and Title.

The Crown must understand and work on the basis that Consultation with the Mi’gmaq is a government-to-government relationship and recognize that this relationship is based upon a shared stewardship of the land and its resources. In order for Consultation to be adequate and meaningful, the Mi’gmaq require that consultation and accommodation adhere, at a minimum, to the following principles:

**Early/Timely Engagement:** Consultation must be timely, and must take place at the earliest possible opportunity, and well before any final decisions are made regarding approval and implementation of a project;

**Complete information:** Consultation must involve full, complete and timely disclosure to the Mi’gmaq of all information required to understand the impacts of a project on the Mi’gmaq and their Rights;

**Reasonable Timeframes:** The Mi’gmaq must be given adequate time to respond to the information;

**Transparency:** Crown and Proponent decision-making must be transparent and understandable;

**Clear Delegation:** Where any procedural aspects of Consultation are delegated to the Proponent, this must be done clearly, in writing, and with notice to the Mi’gmaq;

**Real Dialogue:** Crown representatives must approach Consultation with open minds and in a spirit of two-way dialogue, which takes Mi’gmaq input seriously, and allows for real discussion and consideration of decisions, and not just an explanation of decisions which are already set in stone;

**Access to decision-makers:** The Mi’gmaq must have the opportunity to meet directly with those within the Crown and Proponent organizations who have the actual authority to make decisions;

**Meaningful Accommodation:** Consultation must result in meaningful accommodation measures to mitigate or minimize any impact on Aboriginal and Treaty rights and Title, and compensate for any impacts that cannot be minimized;

**Adequate Resources:** The Mi’gmaq must be given adequate resources in order to obtain the input of their communities, to properly study and review the plans, and to gather Indigenous Knowledge with respect to the Rights that could be impacted;

**Respect for Mi'gmaq Territory and Culture:** Consultation meetings must happen in a spirit of respect. Wherever possible, meetings should take place in Mi'gmaq Territory, and in their communities, to put the discussions in the appropriate social and cultural context; and

**Consent:** Mi'gmaq consent to projects in their Territory is required, and Consultation should be undertaken with that understanding.

## Schedule “B”

### Assessing the Severity of Impacts

Projects generally result in more than one impact (in other words, projects generally impact more than one VC or aspect of a Right). To rate the overall severity of impacts on Mi’gmaq Rights, the highest degree of severity is used. If one adverse impact is determined to be high in severity, then the overall impact of the project on Rights is determined to be high in severity. The evaluation of severity should include an assessment of the likely severity of impacts without any mitigation measures, as well as with proposed mitigation measures.

The following are some criteria and questions that can be considered when analyzing the severity of impacts on each VC and Right that is being assessed (Community scoping meetings may result in further criteria / questions to consider in the assessment of severity):

- Nature of impacts:
  - what is the spatial extent, likelihood, certainty, duration/frequency and reversibility of the project impacts on the exercise of Mi’gmaq Rights?
  - Consider the geographic extent of the impacts in relation to the geographic extent / exercise of a Right.
  - Health: consider impacts from the project on the health of the Mi’gmaq, or specific Mi’gmaq communities. Health includes considerations of physical, mental, emotional, and spiritual health.
- Cultural landscape:
  - will the project have an impact on the a Mi’gmaq community’s planning, management or stewardship of their lands and resources?
- Regional/Historic/Cumulative impacts:
  - is there an impact from past, existing, and future projects or activities on a VC and/or a Mi’gmaq Right?
- Thresholds:
  - are there applicable community thresholds that have already been crossed or that would be surpassed by the proposed project?
- Distribution of any benefits/ impacts:
  - does the project provide an acceptable level of mitigation and benefits from the Mi’gmaq perspective to justify the impacts on their Rights?
  - are the impacts disproportionately experienced by a sub-population within the Mi’gmaq, such as women, elders, 2SLGBTQQIA, and youth?
- Future generations:
  - do the project-specific mitigation measures and any benefits preserve the ability of future generations to exercise their Rights?

The severity of impacts on Mi'gmaq Rights may be low, moderate or high:

<b>Low Severity</b>	<b>Moderate Severity</b>	<b>High Severity</b>
<ul style="list-style-type: none"> <li>• project impacts may be low, or minor in scale, if the impacts:               <ul style="list-style-type: none"> <li>○ are short in duration</li> <li>○ infrequent</li> <li>○ easily reversible</li> <li>○ do not affect the exercise of Rights</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• project impacts may be moderate in scale, if the impacts:               <ul style="list-style-type: none"> <li>○ are moderate in duration</li> <li>○ are partially reversible</li> <li>○ disrupt the ability to exercise a Right, but which can be off-set by mitigation measures</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• project impacts will likely be high in scale, if they:               <ul style="list-style-type: none"> <li>○ are permanent/long-term</li> <li>○ possibly irreversible</li> <li>○ are within a preferred area of exercise for a Right(s)</li> <li>○ interact with existing impacts from past or existing projects (cumulative effects)</li> <li>○ disproportionately impact sub-groups within the Mi'gmaq population</li> </ul> </li> </ul>



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<sup>i</sup> A helpful background to the Treaties by Prof. William Wicken, PhD, found online: <https://www.rcaanc-cirnac.gc.ca/eng/1100100028599/1539609517566>; See also Francis, R. (2003) "The Mi'kmaq nation and the Embodiment of Political Ideologies: Ni'kmaq, Protocol and Treaty Negotiations in the Eighteenth Century," M.A. Thesis, Saint Mary's University.

<sup>ii</sup> *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44.

<sup>iii</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly*, 2 October 2007, A/RES/61/295.

<sup>iv</sup> See Government of Canada website, found online at: <https://www.aadnc-aandc.gc.ca/eng/1309374407406/1309374458958> [accessed October 15, 2019]

<sup>v</sup> OCAP® is a registered trademark of the First Nations Information Governance Centre (FNIGC). See: [www.FNIGC.ca/OCAP](http://www.FNIGC.ca/OCAP)