



Project planning: Engaging with Indigenous Peoples

Engagement refers to ongoing, trust-building efforts that differ from **legal consultation**, obligations (duty to consult), though highly complementary. Engagement includes open dialogue about mutual priorities, early information sharing and building relationships beyond a single project decision.

Duty to consult and accommodate

The Government of Canada has a legal **duty to consult** and accommodate Indigenous Peoples when decisions may adversely impact constitutionally protected Aboriginal and treaty rights.

This duty is triggered whenever a government action or decision could impact these rights, including authorizations under the *Fisheries Act*.

For the Fish and Fish Habitat Protection Program, this means that the duty to consult responsibilities must be met before:

- issuing *Fisheries Act* authorizations
- issuing *Species at Risk Act* permits
- entering into habitat banks
- environmental effects determinations
- other decisions taken by the Crown

Although **the legal obligation to consult and accommodate rests with the Crown**, activities undertaken by proponents can directly inform how Canada fulfills this duty. DFO may be able to **rely on actions and steps undertaken by proponents** — such as early engagement, information sharing, and records of engagement — to support the Crown in meeting its duty.

The proponent's role is not just procedural, but mainly relational: establishing long-term, respectful relationships with Indigenous Peoples contributes to efficient project review. For *Fisheries Act* authorizations, this can be done well before DFO must 'stop the clock' to ensure the duty to consult has been met before issuing authorizations, greatly reducing the time to issue authorizations.

Best practices

- **Engage early and maintain ongoing dialogue** with Indigenous Peoples, using their preferred methods or protocols, throughout the project lifecycle.
- Use **clear, accessible, sufficient and culturally appropriate materials** tailored to community needs.
- Working in partnership with Indigenous groups, identify and respect the rights and interests of potentially impacted Indigenous Peoples.
- Collaborate to **avoid, mitigate and offset** adverse impacts on Indigenous rights.
- **Document and validate** all engagement activities and efforts to address or mitigate impacts from the project.

- Provide detailed Indigenous engagement information in *Fisheries Act* authorization applications.
- Work cooperatively with Fisheries and Oceans Canada (DFO) and respond promptly to information requests or more engagement needs.
- Recognize engagement as an **ongoing process**, including monitoring and follow-up post-approval.

Benefits of early engagement

- Reduces delays by identifying concerns **before** applications for authorization are submitted.
- Enables **co-development** of project designs, reducing potential adverse impacts.
- Builds trust and improves outcomes in **multi-phase or long-term projects**.
- Allows integration of **Indigenous Knowledge** early in planning.
- Establishes positive communications and respectful relationships early in the process.
- Provides opportunity for communities to express any concerns and identify any rights they feel may be adversely impacted by the proposed project.
- Supports efficient consultation processes by proactively addressing issues.
- For *Fisheries Act* authorizations, early engagement can:
 - greatly reduce the time to issue authorizations while DFO staff ensure the duty to consult has been met
 - proactively identify the concerns and priorities of Indigenous groups during the early development of project designs
 - reduce the risk of project redesign late in the authorization process
 - allow for cooperative development of offsetting measures, which may also reduce the risk of project delays, modification or redesign

While engagement **does not replace consultation**, DFO may consider early engagement records in its assessment of the adequacy and meaningfulness of consultation, when jointly validated with the Indigenous groups.

Consultation protocols are developed by Indigenous organizations, communities or governments, sometimes in collaboration with federal or provincial/territorial governments, to:

- establish a process for addressing the duty to consult on impacts to section 35 rights
- facilitate engagement on other interests and concerns

Consultation protocols currently in place can be found through discussions with Indigenous groups and by searching the [Aboriginal and Treaty Rights Information System \(ATRIS\)](#) for “consultation protocol.”

Checklist

Planning

- Use the ATRIS, as a starting point to identify potentially impacted Indigenous groups and existing consultation protocols or ask the Indigenous groups if they have a protocol. ATRIS is not intended to replace direct conversations with Indigenous groups.
- Collaboratively plan the process and communication methods with Indigenous groups.
- Provide plain-language, accessible and sufficient project information, diagrams and maps.
- Consider community capacity needs in reviewing and understanding information being provided.

Communication

- Ask about and respect community preferences for engagement (online portals, in-person and/or virtual meetings, phone, email, social media).
- Provide communities with clear, sufficient and accessible information about the process, with explicit clarity that this is engagement and not consultation process and the proposed activities.
- Consider community capacity constraints and competing priorities when scheduling engagement, regardless of whether the community is remote or urban.
- Be open, transparent and culturally aware (for example, offering tea instead of tobacco in Inuit communities, offer translation services to accommodate language preference).

During meetings

- Build flexible agendas.
- Listen actively.
- Consider different engagement tools and methods to facilitate open dialogue and feedback. Refer to the consultation protocol or ask Indigenous groups for their preference.
- Know and follow customs and protocols for hosting, meeting or ceremonies. If you are unsure, ask!
- Support feedback loops: revise plans in response to input.
- When possible, consider in-person meetings and covering associated costs.
- Discuss potential ways to avoid, eliminate or minimize adverse effects to Aboriginal or treaty rights.
- Document the discussion.

After meetings

- Validate concerns and responses with communities.
- Keep Indigenous groups informed of how their input shaped decisions and inform them why some feedback could not be incorporated.
- Document and summarize all meetings, including unresolved concerns, and seek review and validation from the Indigenous groups.
- Provide a “What We Heard” summary as soon as possible.

- Regular follow-ups should be planned after the proposed conduct or activity to help maintain the relationships.

Capacity and participation funding

Indigenous Peoples often face **capacity limitations** that hinder full participation in engagement activities. Proponents can help by:

- providing travel costs, honoraria or technical support
- offering funding for traditional use studies, support for document review, administrative support or local facilitators

DFO's Indigenous Habitat Participation Program

The participation program offers capacity funding for Indigenous participation in fish and fish habitat engagement and consultations activities. Proponents should:

- reference participation funding in initial engagement letters
- provide the regional participation program coordinator ([contacts by province](#))

Documentation and validation

Throughout the engagement process, proponents should maintain open communication with DFO. When submitting a *Fisheries Act* authorization application, it is strongly recommended to include a comprehensive documentation of Indigenous engagement activities, including:

- the list of Indigenous groups engaged
- descriptions of potential adverse impacts and related concerns
- details of avoidance, mitigation or offsetting measures implemented or proposed
- summaries of outstanding issues and efforts to address them

DFO officials may require more information from proponents to satisfy regulatory and legal requirements. Prompt and cooperative responses from proponents can facilitate smoother and timelier reviews.

Ongoing engagement and project lifecycle management

Indigenous engagement is an evolving process that extends beyond initial approvals. Proponents are encouraged to maintain respectful relationships with Indigenous groups throughout project construction, operation, monitoring and decommissioning phases. Proponents are encouraged to keep DFO informed during ongoing engagement, and let the department know if issues arise related to fish and fish habitat that they are having difficulty resolving. Proponents may also reach out to DFO to seek ongoing direction on the adequacy of the process conducted and if further steps may be necessary.

Monitoring and follow-up

Monitoring impacts on fish and fish habitat, and communicating results with Indigenous groups, are key to adaptive management. Establishing clear mechanisms for collaborative monitoring programs can empower

Indigenous groups to actively participate in stewardship and provide ongoing feedback.

Communication of changes

If project modifications are needed in response to monitoring results or emerging concerns, proponents should continue engagement to discuss adjustments.

Letters of support

If Indigenous groups support a project, proponents may request a letter of support. Letters written by Indigenous groups and signed by Chiefs or authorized officials can assist DFO staff in their review and may significantly shorten review timelines. DFO assessors can reference these letters in their notification correspondence with Indigenous groups and use them to seek clarification if needed. Having a letter of support in advance is highly beneficial when project support has been expressed.

Addressing concerns and mitigating impacts

The proponent may choose to address Indigenous concerns during the planning phase to take avoidance, mitigation and offsetting measures for their project to gain support from Indigenous groups. The aim is to address concerns raised during consultation, and may involve:

- **project redesign or relocation**
- **seasonal timing adjustments for construction, operation or monitoring**
- **employment, training or cultural initiatives**
- **financial compensation or benefits agreements**
- **habitat restoration or offsetting measures**

Importantly, if concerns are raised early, at the design stages of a project and addressed, then Crown consultation and project decision making become more efficient.

Record keeping

When Indigenous groups raise concerns:

- document each concern clearly
- work collaboratively to identify avoidance, mitigation or offsetting options
- if changes aren't possible, provide transparent reasons why
- ensure mitigation measures are validated by the Indigenous group and shared with DFO

Mitigation measures must **directly address impacts on rights** to be relied upon by the Crown.

Conclusion

Proponents play a **crucial role** in ensuring that the approval process is as efficient as possible. They also play an important role in advancing reconciliation with Indigenous Peoples by respecting Indigenous rights, and supporting DFO in fulfilling its constitutional duty to consult. While the **Crown retains final responsibility**, the **quality and integrity of the engagement**, and how proponents respond to Indigenous concerns, will significantly shape regulatory outcomes.

By following the guidance in this document, proponents can help:

- reduce delays in project reviews and support an efficient consultation process
- build lasting relationships with Indigenous Peoples
- support responsible project development

Key tips for proponents

- **Start early:** Engage Indigenous groups well before formal regulatory submissions.
- **Listen and adapt:** Understand community concerns and tailor engagement methods accordingly.
- **Be transparent:** Share project information openly and communicate how concerns are addressed.
- **Respect cultural protocols:** Provide cultural awareness training for staff and use Indigenous languages where possible.
- **Maintain thorough records:** Keep detailed documentation of all interactions and outcomes.
- **Collaborate continuously:** Keep Indigenous groups informed throughout all project phases.
- **Use available resources:** Employ ATRIS, consultation protocols, and the DFO Concierge Service (for major projects) for guidance.
- **Plan for monitoring:** Involve Indigenous groups in post-construction monitoring and share findings.

Contact us

The DFO Concierge Service will support proponents of **major projects** by:

- offering a single point of contact for the project
- providing early guidance on *Fisheries Act* and *Species at Risk Act* requirements
- helping identify Indigenous groups and local expertise
- supporting early and consistent engagement strategies
- flagging potential issues to streamline regulatory processes

For more help or information, contact your [regional DFO office](#).

Related information

- [Consultation and Accommodation Advice for Proponents](#), Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)
- [Principles respecting the Government of Canada's relationship with Indigenous peoples](#), Justice Canada
- [Backgrounder: United Nations Declaration on the Rights of Indigenous Peoples Act](#), Justice Canada
- [United Nations Declaration on the Rights of Indigenous Peoples, 2007](#), United Nations
- [Guidance: Indigenous Participation in Impact Assessment](#), Impact Assessment Agency
- [Engagement guide: Co-developing federal distinctions-based Indigenous health legislation](#), Indigenous Services Canada
- [Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfill the Duty to Consult - March 2011](#), CIRNAC
- [Government of Canada and the duty to consult](#), CIRNAC
- [Truth and Reconciliation Commission of Canada: Calls to Action 2015](#), National Centre for Truth and Reconciliation

- [Major Projects Office](#), Government of Canada
- [Indigenous Habitat Participation Program](#), DFO: funding for Indigenous communities to participate in the conservation and protection of fish and fish habitat
- [Aboriginal and Treaty Rights Information System](#), CIRNAC