



# **Indigenous Engagement Protocol Introduction**

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**Policy Planning Unit  
Development Services Department  
County of Brant**

## **County of Brant Land Acknowledgment**

We acknowledge that we meet on the lands and territory of the Mississaugas of the Credit First Nation, Six Nations of the Grand River, and the traditional territory of the Attiwanderonk.

We remind ourselves that the County of Brant is situated on lands that are full of rich Indigenous history and home to many First Nations, Inuit, and Métis people today; we recognize the significance of their contributions to the past, present, and future of this land.

As a County, we have a shared responsibility for the stewardship of the land on which we live and work and a commitment to the Truth and Reconciliation Calls to Action. We commit to continue learning, reflecting on our past, and working in allyship.

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\* All **defined terms** in this Protocol appear in **bold** upon their first use. For full definitions and additional context, please refer to the **Glossary** located in the Introduction section of this document.

## 1. Indigenous Engagement Protocol Introduction

The principle of mutual recognition, as outlined in the Royal Commission on Aboriginal Peoples (RCAP) and Two Wampum Belt Covenant calls for both Indigenous and non-Indigenous Peoples to recognize each other's rights, relate to one another as equals, and coexist while maintaining distinct self-governance.

As a municipality, the County of Brant has an important role to work towards fulfilling the Truth and Reconciliation Commission (TRC) Calls to Action. The TRC provides actions municipalities can take to participate in the healing, learning, and restoration required to support reconciliation with Indigenous Peoples. Through this document, the County is seeking to address the Calls to Action with Six Nations of the Grand River (SNGR) and The Mississaugas of the Credit First Nation (MCFN), specifically Call #92 i. which speaks to ensuring business and **development** projects respect Indigenous rights and include meaningful **engagement**. However, the County also recognizes the importance of the following Calls for municipalities:

*43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.*

*47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.*

*57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.*

The *Planning Act* establishes development permissions in Ontario. As a municipality, we are seeking to ensure that development incorporates **Traditional Knowledge** sharing between the County, SNGR and MCFN. The County recognizes the role we play in reconciliation, both in facilitating learning internally for Staff but also in ensuring that those developing within the County are doing so in a manner that respects and reflects the goals and visions of SNGR and MCFN.

The Indigenous Engagement Protocol (“the Protocol”) serves to help approach County of Brant development and land use planning in a way that honours the rights, interests, and voices of Indigenous Peoples, to ensure meaningful engagement with SNGR and MCFN. In practice, this Protocol shall consider both the long-term visions of the County’s Official Plan – *A Simply Grand Plan*, while simultaneously giving consideration to the visions that SNGR and MCFN have for the land, and upholding their voices.

## 2. Purpose of the Protocol

The main purpose of this document is to outline guidelines for engagement with both **Indigenous Nations**, and proof of engagement that is to be followed for *Applicants* undertaking development projects under the *Planning Act*.

For the purposes of development applications, engagement should go beyond solely circulating a development proposal to SNGR and MCFN. Rather, this Protocol is intended to promote relationship-building, truth-telling, and reconciliation by engaging in direct discussions to strive towards consensus with these Indigenous Nations in an engaged format and timeline. By embedding these principles into how we plan and grow, we strive to honour the deep histories, present realities, and future aspirations of Indigenous Nations. This Protocol is a step toward shared understanding, mutual respect, and the co-creation of a more inclusive and just future for all who live here.

At its core, the Protocol aims to support the establishment of respectful and reciprocal relationships, promote principles of meaningful collaboration, and recognize the vital importance of Indigenous planning practices and Traditional Knowledge in shaping development. By providing clear guidance, this document seeks to promote engagement that is consistent, meaningful, and collaborative.

Two separate protocols have been developed, one for SNGR (Appendix A) and one for MCFN (Appendix B) to recognize and honour the differences of each Nation. These Nation-specific protocols are intended to establish clear standards that support fulfilling the County’s Official Plan policies regarding early and constructive engagement with Indigenous Nations, as well as the provision of proof of engagement as part of a complete application submission. **Applicants** should look to both protocols and the respective attachments when guiding Nation-specific engagement processes.

This Protocol is a living document. County staff have the discretion to update the introduction and Nation-specific protocols as needed to ensure they continue to reflect lessons learned through ongoing evaluation, with the goal of better

supporting and benefiting the interests, priorities, and experiences of the SNGR and MCFN.

### 3. Policy and Legal Framework

This Protocol is guided by policy and legal frameworks both at the municipal and higher levels of government. These frameworks establish the foundation for the County's relationship to engagement and the Crown's Duty to Consult and Accommodate through provincial-approval processes. The Duty to Consult is not a duty of local governments. However, in some cases, the Crown has endeavoured to satisfy its own Duty through delegation of certain aspects to municipalities through the *Provincial Planning Statement (2024)*.

#### 3.1 Policy Framework

The policy framework of this Protocol is grounded in the recognition of inherent rights (*Calder et al. v. Attorney-General 1973, SCC*), treaty obligations of *Between the Lakes Treaty No. 3 (1792)*, policies, agreements, and the principles of reconciliation. The following provincial and municipal policies are highlighted in this section to provide context for respectful, consistent, and accountable engagement within the County. All Indigenous engagement conducted as part of development application processes must demonstrate consistency and conformity with these policies as follows:

The Provincial Planning Statement 2024 (PPS)

The PPS directs municipalities to recognize the unique role Indigenous Nations have in land use planning and development. It emphasizes the importance of early and meaningful engagement with Indigenous Nations, particularly when identifying, protecting, and managing archaeological resources, built heritage resources, and cultural heritage landscapes. The PPS requires planning authorities to facilitate knowledge-sharing with Indigenous Nations and to support the identification of potential **impacts** of decisions on their protected Aboriginal or treaty rights in Section 35 of the *Constitution Act, 1982*.

The County of Brant Official Plan, A Simply Grand Plan (2023)

As a strategic document that describes the growth of the County over a 30-year horizon, the Official Plan (OP) provides an important baseline for the County's efforts toward Indigenous engagement and Reconciliation. The OP contains key policies on building meaningful relationships and early engagement with Indigenous Nations, all while honouring the Grand River (O:se Kenhionhata:tie, Owaashtanong-ziibi, Pesshinneguning). Part 2 (*Indigenous Engagement and Reconciliation*) of the OP

requires *Applicants* to engage with Indigenous Nations being the SNGR and MCFN prior to submission of application and to provide proof of engagement as part of the complete application.

Part 5, Section 2.17 of the OP sets out policies to support proactive cultural heritage conservation. In addition to these policies, the OP requires the Arts, Culture and Heritage Strategy of the County of Brant to be referenced for recommendations and implementation items related to the cultural heritage conservation objectives and practices of the municipality. This strategy complements the direction in the OP, encouraging ongoing partnership, awareness of Indigenous rights and history, and including Indigenous voices in decision-making to ensure developments contribute positively to reconciliation.

### **3.2 Legal Framework**

While this Protocol is designed to promote collaborative relationships between the municipality, developers and the local Indigenous Nations as it relates to processing development applications, it is not a declaration or representation as to the County's obligations or legal position in the event of a dispute is not to be held against the County in a judicial or quasi-judicial environment. For clarity, and notwithstanding anything contained in this Guideline, the municipality hereby reserves (i) all rights to deny a legal obligation to any duty to consult or engage; and (ii) all rights and remedies under property law, municipal law, environmental law, torts, equity, or otherwise.

Without limiting the foregoing, nothing contained in this introduction or the related Nation specific protocols, and no decision made or action taken by the County pursuant to the Protocol in any manner limits or restricts the normal exercise of discretion by municipal departments, County officials, or County elected officials pursuant to any statute, by-law, regulation, common or equitable law.

#### **3.2.1 The Grand River Notification Agreement**

The Grand River Notification Agreement (GRNA) is an agreement between SNGR (as represented by the Elected Band Council); MCFN; City of Brantford; County of Brant; Haldimand County; Grand River Conservation Authority; and Ontario (Province) to share information about matters of mutual interest.

Through the GRNA, the County has made commitment to provide **notification** to the SNGR and MCFN on a range of matters including:

- The consideration of adopting or amending an Official Plan or Zoning By-law
- The review of applications for plans of subdivision, condominiums, or consents

- Situations where notice is required under the Environmental Assessment Act
- Situations requiring notice to or permission from a conservation authority
- The purchase or sale of land by the County
- Proposals to declare land as surplus
- Proposals to permanently close a road
- The receipt of an archaeological report
- The offering of land for sale through public tender, advertisement, or listing with a realtor

Additionally, it is the County's practice to circulate notifications for all development applications, including those not specifically identified in the GRNA, such as minor variances, site plan controls, and telecommunication towers (please note this protocol does not apply to telecommunication towers. Please see the County of Brant Communication Tower and Antenna System Preferred Location Protocol 2024 for further direction) to ensure consistent and transparent engagement with SNGR and MCFN. This Protocol is complementary to the GRNA, its requirements by providing guidance on the steps involved in meaningful engagement with Indigenous Nations with respect to development applications.

#### 4. Monitoring the Protocol

The County is desirous of promoting respect through meaningful, ongoing engagement. To ensure that the requirements of this Protocol are met by those developing within the County, in collaboration with MCFN and SNGR, the County intends to track and monitor the progress of the Protocol.

Six months following the release of this Protocol, the County anticipates undertaking a review to assess the Protocol's effectiveness and identify any gaps or areas for improvement. Following this initial review, ongoing monitoring will occur year-round through the development of an MCFN and SNGR engagement Report. This report will include both qualitative and quantitative analysis to evaluate the engagement processes and outcomes and inform future updates to the Protocol. County Staff shall provide a tracking model to MCFN and SNGR to demonstrate the engagement process and its efficacy.

As part of the County's commitment to continuous evaluation and learning, internal staff training and outreach to developers will also be conducted to support the effective implementation of the Protocol. This may include training on cultural awareness, best practices, and monitoring processes for staff and those pursuing development are well-equipped to uphold the principles outlined herein.

## Glossary

**Applicant:** means a party (which could include the County of Brant, an organization, a developer, or a resident) that proposes to undertake or is undertaking development within the County of Brant.

**Duty to Consult:** means the 'Duty to Consult and Accommodate' being a Crown obligation under Section 35 of the Constitution Act, 1982, typically triggered when proposed activities may affect Aboriginal or treaty rights. This is a duty of federal and provincial governments and not municipalities. \*This term is not used throughout the Protocol but is provided for context between the terms engagement and consultation.

**Development:** means, in the jurisdiction of the County of Brant, the creation of a new lot, a change in land use, intensification of a site, the construction of buildings and structures, or other matters requiring approval under the Planning Act, but does not include:

- Activities that create or maintain infrastructure authorized under an environmental assessment process;
- Works subject to the *Drainage Act*; or
- Underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion 5E, where advanced exploration has the same meaning as under the *Mining Act*.

**Engagement:** means, in the context of development applications the proactive, respectful and ongoing process of building relationships and sharing information with Indigenous Nations, as set out in this Protocol.

**Inclusions:** means measures to minimize the impact on Indigenous Nations and/or to address feedback provided by Indigenous Nations throughout the engagement process. Inclusions should balance the needs and values of Indigenous Nations with other municipal, environmental, or business considerations. Inclusions are not a requirement of the engagement process, but where inclusions are not made justification will be required to determine the quality of engagement.

**Indigenous Nations:** means, in the context of this Protocol, Six Nations of the Grand River and the Mississaugas of the Credit First Nation.

**Impact:** means potential impacts, both positive and negative, of a proposed development or redevelopment on the rights, interests, and well-being of Indigenous Nations.

**Lands of Significance:** means lands that encompass cultural, historical, spiritual, and ecological connections to Indigenous Nations. Lands of significance hold deep value to the Indigenous Nations, and can be integral to the identity, practices, and well-being of the Indigenous Nations. Lands of significance can include but are not limited to traditional territories, sacred sites, and areas vital for cultural, ecological, and economic sustenance.

**Major Developments:** refers to developments which are of sufficient scale or significance to potentially cause environmental harm, result in non-compensable damage, or affect Indigenous Nations' interests or Treaty Rights. Major developments require early discussion to determine potential studies and associated terms of reference. Such major developments may include:

- Plans of Subdivision;
- Official Plan Amendment;
- Zoning Bylaw Amendments for alterations that result in an increase in the size or impact of the use;
- Site Plan Controls; and,
- Development (e.g. creation of a new lot) or site alteration in or adjacent to natural heritage features and areas and/or with high archaeological potential.

**Minor Developments:** refers to Developments where the potential Impacts on the environment or lands of significance are minimal, and the nature of the Development minimizes or does not infringe upon Aboriginal interests or Treaty Rights. Such Minor Developments may include:

- Creation of a new lot in settlement areas with no impacts identified to natural heritage features or where an archaeological assessment is not required;
- Creation of a new lot for a residence surplus to a farming operation;
- Creation of a new lot as a result of lots that have unintentionally merged;
- Minor variances located outside lands of significance;
- Lot line adjustments;
- Zoning bylaw amendments or alterations that do not increase the size or Impact of the use;
- Site plan amendments where no impacts are identified to lands of significance;
- Easements; and
- Any other application determined to be minor by Indigenous Nations.

**Notification:** means the process of informing Indigenous Nations about actions taken by the County of Brant, or Applicants of Development that may Impact the

rights, lands, or resources of Indigenous Nations, pursuant to the Grand River Notification Agreement or pursuant to this Protocol, as the case may be.

**Required Studies:** means any study required, as determined by County Staff, as part of a complete application submission that needs to be reviewed by Indigenous Nations.

**Traditional Knowledge:** Also referred to as “Traditional Knowledge Systems” or “Indigenous Knowledge”, Traditional Knowledge is the collective knowledge of Indigenous Nations related to culture, traditional teachings and includes Traditional Knowledge of land, water, animals, and plants may be distinct for each respective Nation.