

Memorandum

Date: **Our File:** 43131
From: Richard Feehan
Minister of Indigenous Relations **Your File:**
To: Honourable Premier and Ministers of Cabinet

Subject: Approval of the Standards for Métis Consultation and the Métis Consultation Policy

As you are aware, Indigenous Relations (IR) is requesting Cabinet approval of the Standards for Métis Consultation, and the Métis Consultation Policy (MCP). I would like to share with you what this milestone entails and some of the work that has been completed in arriving at this recommendation.

On July 9, 2018, Cabinet provided approval in principle for new Standards for Métis Consultation. Following Cabinet direction, IR engaged further on the Standards to ensure that they are practical and feasible for Alberta's context. Through engagement with the Métis Nation of Alberta (MNA), [REDACTED] minor amendments to the Standards were identified to better align with MNA preference and existing policies. IR recommends approval of the Standards, including these minor amendments.

Once the amended Standards are approved by Cabinet, these Standards will be Alberta's decision-making criteria regarding which Métis to consult under the MCP. The Standards are a made-in-Alberta approach that answers the question of whom to consult under the MCP and indicates to all in the consultation process who are the proper party to consult. IR heard loud and clear through engagement with industry and municipal stakeholders, as well as Métis organizations, that transparency is required in how Alberta makes decisions of whom to consult. The Standards meet this need and provide a clear path forward for consultation under the MCP.

The MCP is modelled after Alberta's existing Metis Settlements Consultation Policy. It aligns with the consultation processes already established for consultation with First Nations and Metis Settlements. Following Cabinet approval, the MCP will be implemented in Fall 2019.

During engagement on the MCP, a concept that was explored is a regional approach to Métis consultation. In a regional approach, it is anticipated that 5 MNA Regions could meet the Standards and be considered regional communities for consultation. Through dialogue with industry, municipalities, and cross-ministry partners, as well

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as Métis organizations, it became clear that a regional approach to Métis consultation is practical and preferred. It would be efficient and competitive, as long as the mechanism for consultation is clear and there is demonstrated support from Métis organizations for a regional approach.

IR has addressed these conditions by establishing the mechanism for regional consultation under the MCP. The MCP includes two Appendices: 1) The Standards, to provide transparency in how Alberta makes decisions of whom to consult; and 2) Single Point of Contact Parameters, to demonstrate buy-in from Métis organizations and establish the mechanism for regional consultation. The MCP is responsive to stakeholder needs and has been tailored to ensure that it supports a competitive investment environment in Alberta.

IR has worked closely with our cross-ministry partners through the Indigenous Advisory Committee and Economic Impacts Working Group to identify the potential economic impact of implementing the MCP. These groups found that there may be impacts to the energy and forestry sectors, which are deemed as reasonable. There will be some impacts to internal operations of ministries and no new FTEs will be requested to support the implementation of the policy.

To implement the Policy, IR will involve other ministries in the development of the Guidelines through the Indigenous Advisory Committee. Ongoing collaboration across government will ensure that the MCP is successful and meets the needs of all Albertans.

Thank you for your consideration of these matters, and for working together to move this important initiative forward.

Richard Feehan

Attachments

CABINET REPORT EXECUTIVE SUMMARY: MÉTIS CONSULTATION POLICY

DECISION REQUESTED

Cabinet approval is requested to enable the successful implementation of the Métis Consultation Policy (MCP):

1. Approve the Standards for Métis Consultation.
2. Approve the MCP, including the mechanism for regional consultation with Métis, encompassing:
 - a. Defined parameters for the appointment and level of responsibility of an authorized single point of contact for each Métis organization approved under the MCP; and,
 - b. Creation of consultation areas which are used to inform decisions on whether consultation is triggered with a Métis community.

BACKGROUND AND ANALYSIS

Métis Consultation Policy

- Alberta currently does not have a consultation policy on land and resource management for Métis who are not part of the Metis Settlements.
- The absence of a MCP increases legal risk for project proponents and Government of Alberta (GoA) ministries due to the lack of clarity on which Métis to consult.
- Without a GoA policy, project proponents make ad hoc decisions on whether or not to consult Métis organizations. These decisions are inconsistent across and between sectors which negatively impact relationships and consultation timelines.
- The proposed MCP will provide clarity and transparency to proponents, GoA ministries and Métis organizations as to whom to consult. The MCP will align with the current procedural aspects of consultation under the existing First Nation and Metis Settlements consultation policies, providing further certainty to project proponents when they are directed to consult Métis.
- All stakeholders involved in the consultation process – industry, municipalities, GoA ministries – including Métis, are supportive of the development and implementation of a MCP. The policy will bring clarity, which will decrease risk for project proponents and thereby increase Alberta's competitiveness.
- Through engagement with stakeholders, concerns were identified about the process of determining which Métis to consult with and how consultation may operate with Métis. These concerns were captured and are addressed in the policy presented for Cabinet approval.

Standards for Métis Consultation: A New and Transparent Process

- The Standards for Métis Consultation (Standards) are the criteria GoA will use to make decisions of whom to consult under the MCP. The Standards offer a practical and reasonable approach to case law while reflecting the unique context of Métis organizations in Alberta.
- In July 2018, the Standards were approved in principle by Cabinet.¹
- The Standards require full approval by Cabinet prior to decisions being made on whom to consult.

¹ The July 2018 Cabinet Report is attached in Appendix 12 for reference.

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- Through engagement with the Métis Nation of Alberta (MNA), [REDACTED] minor amendments to the Standards were identified to better align with MNA preference as well as the Metis Settlements Consultation Policy and Métis Harvesting in Alberta Policy.

[REDACTED]

- [REDACTED] Indigenous Relations believes Alberta's approach of requiring a majority of membership for the Standards provides greater certainty and clarity on whom to consult in Alberta for the purposes of the MCP.
 - Removing the majority requirement has the potential to open up the MCP to numerous groups and negate the regional approach to the MCP.
 - Not all risk can be eliminated. Alberta should have had an MCP years ago. The risk of not having a policy is greater than the risks above.
- With these amendments, Indigenous Relations (IR) is seeking Cabinet's full approval of the updated Standards for Métis Consultation, reflecting the minor amendments made as a result of further engagement.³
- The Standards will be listed as an appendix in the MCP, allowing for transparency and certainty to all involved in the consultation process, with much-needed clarity regarding how decisions on whom to consult are made.
- The MNA has submitted historic and contemporary information to support their claim to meet the Standards. Through discussions and the review of submitted information, five regional Métis communities are anticipated to be able to meet these new Standards. Additional information is still required from the MNA on each element of the Standards in order to be approved; however, MNA's further submission are anticipated shortly.
- The geographic boundaries of these five Métis regional communities are anticipated to reflect the MNA's regional administrative boundaries.
- While all claims brought forward to Alberta will be reviewed and assessed in a fair and equitable manner, it is anticipated that the MNA will be the only Métis organization that will meet the Standards, thereby confirming the regional approach to Métis consultation.
 - MNA takes the position that its regions and Locals are all one organization, and only the provincial MNA can put forward a claim on behalf of their members.

A Regional Approach to Métis Consultation

- At present, in the absence of a MCP consultation with Métis is sporadic and inconsistent, and proponents decide on an ad hoc basis whether to consult with a Métis organization.
- As the GoA does not at this time direct consultation with Métis, some Métis have filed Statements of Concern with the Alberta Energy Regulator (AER) or have filed litigation against projects to force proponents to consult with them. These actions have resulted in longer consultation timelines and more costs for proponents. This uncertainty has led to some proponents conducting risk management decisions, resulting in some Métis being consulted and others not.

² [REDACTED]

³ Please refer to Appendix 1 for the updated Standards for Métis Consultation, and Appendix 2 for an analysis of the changes.

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- The concerns expressed by project proponents are most noteworthy in Region 1, in northeast Alberta. There are 11 Métis Locals in the region, with six in particular who have developed established relationships with proponents. In some cases, these Locals have negotiated long-term financial and socio-economic agreements.
- The inconsistency in approach on which Métis are consulted on a particular project creates challenges for project proponents. Adding to the confusion is the number of Métis Locals within a geographic area who claim to represent Métis members on project-specific concerns requiring consultation. In some cases, Métis regions and the provincial office contact proponents and claim to represent Métis for consultation purposes.
- The proposed regional approach to consultation with Métis seeks to address this uncertainty by clearly identifying who should be consulted on what project.
- A regional approach to consultation means that those regions that meet the Standards will be consulted at a regional level. This would result in each MNA region, rather than Locals, would be consulted.
- The MNA comprises the provincial office, six administrative regions⁴ and approximately 35 Métis Locals throughout Alberta. The governance structure is complex; each Local has an elected leadership including a president. Each region comprises of the presidents of all Locals within that region, as well as an elected president and vice president. The MNA provincial council has the presidents and vice presidents of each of the regions, as well as a provincial president and vice president.
- MNA Regions 1, 2, 4, 5 and 6 are anticipated to meet the Standards.⁵
- The MNA has proposed that each of their regional offices will identify a single point of contact (a consultation coordinator who is the designated representative for consultation for the region), and create internal processes to ensure the regional Métis community is meaningfully consulted, and potentially impacted Locals and members have opportunities to participate in consultation activities. This approach is consistent with existing First Nation and Metis Settlement consultation. A regional approach will:
 - Create important efficiencies for all involved in a streamlined consultation process, resulting in one Record of Consultation log and the concerns of the regional community addressed, mitigated, minimized or accommodated meaningfully;
 - Create certainty as clear roles and authorities will be transparent to all;
 - Increase the effectiveness of consultations by combining staff capacity at the regional level for the benefit of all in the region. Several Métis Locals have developed significant technical knowledge and staff capacity to participate in the regulatory system; and,
 - Streamline capacity funding and provide substantial resources to Métis regions in a manner that is effective and efficient.
- During engagement, concerns have been expressed by Métis Locals in Region 1 (eight of the eleven Locals), and Locals in regions 4 (two of seven locals) and region 6 (one local of five Locals). These Locals indicate they want to be consulted at the Local level as they have been consulting directly with proponents at the Local level for some time. They have established their own relationships and consultation processes; they want to keep these structures and relationships intact. Locals state they want to ensure consultation is effective and meaningful, and they are best positioned to identify and address potential project impacts.

⁴ Please see [Appendix 7](#) for a map of the MNA regional administrative boundaries.

⁵ Due to binding case law in *Hirsekorn*, consultation will not be directed in southern Alberta (approximately the Treaty 7 area). Region 3 is the MNA region in southern Alberta, and will not be consulted under the Métis Consultation Policy at this time. The GoA may, at a future date, discuss consultation in Region 3 in areas that are outside of the geographic area of Treaty 7.

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- There is also ongoing litigation between the MNA and Fort McKay Métis Community Association (FMMCA) with regard to who may represent it for consultation purposes. The FMMCA has submitted a claim in Alberta's credible assertion process – the current process that GoA uses to assess who to consult.
- The concerns expressed by Locals relate to the issue of representation; Locals seek to have a high level of autonomy in the consultation process, and be consulted directly with proponents. As the proposed regional consultation approach is championed by the MNA, many of the concerns expressed by the Métis Locals relate to governance issues they have with the MNA structure and who represents which concerns. While disputes within the MNA governance structure are not the GoA's responsibility to resolve, it will be important to the success of the policy for the MNA to continue their discussions with these Métis Locals to ensure they have an opportunity to be heard and accommodated if possible.
- The MNA provincial office has signed protocol agreements with regions and Locals to identify how consultation could operate within the MNA governance structure:
 - The MNA has developed regional protocol agreements for MNA Regions 1, 2, 4, 5, and 6.
 - In regions 2 and 5, all parties support the regional approach; many of the Locals in Regions 1, 4 and 6 are supportive. The outstanding Locals are in dialogue with the MNA provincial office to identify concerns and accommodate if able.
 - IR is encouraged by recent dialogue in MNA Region 1 between MNA Locals, Region 1, and the MNA provincial office regarding a regional consultation process and approach. It is anticipated that continued collaboration between could result in a regional consultation protocol and process for Region 1.
- To ensure regional consultation can work, GoA has identified parameters to designate a single point of contact within a region in the Policy. These parameters include indication of whom the proper party is to designate to speak on behalf of the community for the purposes of consultation.

Mechanism for Regional Consultation with Métis

- To enable successful implementation of the MCP, a consultation mechanism is required:
 - Defined parameters for the appointment and level of responsibility of an authorized single point of contact for each Métis organization approved under the MCP; and,
 - Creation of consultation areas which are used to inform decisions of whether consultation is triggered with a Métis community.
- The above mechanism is consistent with the existing First Nation and Metis Settlement consultation policies, however, additional parameters have been developed to adapt consultation to the regional Métis context.
- To operationalize consultation, Alberta's existing process requires that each Indigenous community identify a single point of contact who is authorized to act on behalf of the community in consultation matters. The single point of contact has the authority to approve key consultation documents, and is the one (and only) conduit for all communication with proponents and the GoA on consultation matters.
- Each region's single point of contact will coordinate the efforts to ensure all communications and decisions regarding consultation activities, participation, and outcomes are conveyed to participants in the process. This provides clarity for proponents on their role and expectations during the consultation, while also providing time and cost efficiencies that will help keep Alberta competitive and include Métis perspectives in the decision-making process.
- Due to the existing ad hoc approach to consultation, proponents have advised IR that they prefer to work directly with the authorized single point of contact for each region to complete consultation activities. They want to ensure that the single point of contact is authorized by the Métis in the region, so as to know they are consulting with the right party.

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- IR has developed parameters for determining the single point of contact in each region, to demonstrate buy-in and authorization from Métis in the region.⁶ The region must submit the following to IR:
 - The single point of contact's name, contact information and position title;
 - A document that includes:
 - Verification from the leadership of the organization, from each level of the governance structure, who authorizes the single point of contact as the designated representative for consultation.
 - A declaration⁷ signed by the leadership of the organization, from each level of the organization's governance structure, that demonstrates understanding and support for authorizing the single point of contact for consultation purposes.
- In the regional approach, leadership of the Locals, region and in some cases the provincial office, will provide the above verification and sign the declaration to authorize the specific single point of contact. It will be clear to all in the consultation process that the necessary parties in the region have authorized the single point of contact to conduct consultation activities, allowing for efficient and effective consultation to happen.
- These parameters will build trust and increase consistency as project proponents and GoA ministries will know who the single point of contact to work with to conduct consultation. The single point of contact will be relied upon as the sole authority to speak on behalf of the community with regards to consultation.
- To provide transparency and legitimacy to the single point of contact approach for Métis, the parameters and requirements will be detailed as an appendix to the MCP document.
- As with the existing First Nation and Metis Settlement consultation processes, the single point of contact's name and contact information will be available through various means and for the purposes of consultation to internal and external parties.
- In terms of the second portion of the mechanism, consultation areas for each region will be created to inform decisions of whether consultation is triggered with the Métis region.
- Under the existing First Nation and Metis Settlement process, consultation area maps are:
 - Used as one important tool to help inform decisions of whether consultation is triggered with an Indigenous community;
 - Evidence-based maps that reflect where Indigenous community members harvest and practice traditional land use activities;
 - Collaboratively developed with Indigenous communities through the cross-ministry Geodata Mapping Project process; and,
 - Considered "living maps". This means that they may change over time as more information is assessed, and/or if land use activities change.
- The mechanism for regional consultation will strengthen the MCP and allow for a regional approach to be implemented successfully.

An Example of Regional Consultation with Métis:

- Alberta does not prescribe specific processes to tell Indigenous communities how to respond to consultation. Each community determines this for itself. An internal process for consultation needs to consider:
 - How potential adverse impacts to community members' harvesting and traditional use activities will be identified and communicated;

⁶ Please refer to [Appendix 1](#) for the Single Point of Contact Parameters.

⁷ The declaration text can be found in the Single Point of Contact Parameters document, in [Appendix 1](#).

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- How community members and representatives will be involved in consultation activities; and
- How information will be managed, communicated and shared within the community and with leadership.
- Through engagement with the MNA, IR has learned about how the MNA proposes to conduct regional consultation.
- Their proposal involves collaboration between the Métis Locals, region, and provincial office. This collaboration is solidified in an agreement between the three levels of governance. Decisions regarding consultation are determined by a Consultation Committee, which is comprised of the presidents of the Locals in the region, the regional president and vice president, and a delegate from the provincial office.
- As an example, Region 6 shared their process that they have been using for the past year.⁸
- Region 6 Consultation Committee hired a Regional Consultation Coordinator who has served as the designated single point of contact for consultation.
- The Coordinator receives a notification and brings forward the details of the project to the Consultation Committee. This Regional Consultation Committee would meet, discuss the project and provide direction to the Coordinator such as:
 - How to respond to project notifications and information packages;
 - Identify potential adverse impacts of a Crown decision on community members' harvesting and traditional use activities;
 - Who should be involved and included in consultation activities such as site visits, meetings with proponents, and traditional land use studies; and
 - Proposed measures to avoid, minimize, mitigate, or accommodate adverse impacts.
- The Coordinator conducts the consultation activities identified by the Consultation Committee on behalf of the regional community. The Coordinator will bring members and Locals together, if needed, to conduct these activities.
- Upon completion of consultation, the Coordinator will bring forward the Record of Consultation log for the Consultation Committee to review and approve.
- The above example may evolve over time, especially with further training and capacity funding to understand the consultation process in a more in depth manner.
- It is likely that the approach may be streamlined, such as engaging in more "strategic" information gathering at the regional level to allow some steps of the consultation process to be fulfilled by the Coordinator without involvement of the Consultation Committee for decisions on each file.
- IR will work with each region to also clarify the roles and responsibilities of the Coordinator, under the single point of contact parameters. In particular, the initial response to notifications and information packages, and review of the record of consultation, likely do not need to involve the Consultation Committee and community members.
- The above process may operate slightly different in other regions, but conform to the consultation process that is prescribed under the MCP.

Capacity Funding

- Consultation capacity funding is an important factor in the success of the MCP, as without adequate funding, Métis will be unable to fully and meaningfully participate in the consultation process.

⁸ A visual representation of a potential regional consultation process, provided by the MNA, can be found attached in [Appendix 6](#).

- For 2018-2020, \$2.69 million has been allocated to the implementation costs of the MCP.
- Annual consultation capacity funding will also be provided to regions, similar to other Indigenous communities that participate in consultation. Individual allocations are still being determined for the regions; it is estimated that each region will receive between \$300,000-\$500,000 annually.
- Implementation funding will cover the following:
 - Capacity funding to Métis to assist them with the costs associated with submitting information to Alberta to meet the Standards;
 - Capacity funding to the MNA regions who have met the Standards to support the initial start-up costs required to participate in the consultation process. This includes setting up a regional consultation office (this is separate funding from the annual contribution; Capacity funding to research and document traditional land use information to support the development of consultation areas;
 - Costs related to a contractor and technical staff to complete consultation maps for each Métis region; and,
 - Costs related to adding further communities to the Aboriginal Consultation Office (ACO) Internet Mapping Tool, a database used by the ACO to determine where to direct consultation and other web mapping tools that utilizes this data.
- Following the current First Nation and Metis Settlement consultation capacity program, annual capacity funding will also be provided to regions.
- IR will negotiate contribution agreements with each region and will ask how they can best utilize the consultation capacity funding in order to effectively and efficiently participate in Alberta's consultation process.
- An additional \$300,000 has been set aside to allow for flexibility in adjusting funding allocations given the uncertainty on the amount of consultation that the regions will participate in.
- As an umbrella organization, the MNA provincial office will be provided with an annual funding allocation of \$200,000 to assist with provincial consultation-related costs.

Implementation

- With approval of the Standards, IR will continue to work with the MNA to discuss the outstanding information required to meet the Standards.
- Once approved, the MCP will come into effect in Fall 2019,⁹ with the operationalization of the Guidelines.
- For successful implementation, it is important to address the capacity needs of each region and allow them to understand the consultation process. The implementation period will enable each region to:
 - Meet the Standards;
 - Set up a consultation office, recruit and train staff;
 - Conduct Traditional Land Use studies;
 - Create consultation areas;
 - Identify and communicate a single point of contact;
 - Create an internal process to ensure the regional community is meaningfully consulted, and potentially impacted Locals and members have opportunities to participate in consultation activities.
- The implementation period will also allow proponents to become adept with the new process of consulting with Métis. Those who already have agreements in place with Locals or consult on a good-neighbour basis can ensure a smooth transition to the procedures of regional consultation.

⁹ A detailed Implementation Plan can be found in [Appendix 8](#).

Stakeholder Support: Métis Consultation Policy in Alberta

Industry and Municipal Stakeholder Perspectives

- In fall 2018, IR conducted six engagement sessions with industry and municipal stakeholders to hear input regarding implementing a MCP in Alberta, the Standards for Métis Consultation, and the concept of a regional approach to consultation with Métis.¹⁰
- Through these engagements, IR heard that industry and municipal proponents are supportive of the MCP. Industry and municipalities communicated that:
 - The Standards will determine the appropriate parties to consult, which will provide much-needed certainty for proponents;
 - A regional approach to consultation reduces the burden on proponents as there are fewer communities to consult with, and the coordination of whom to consult is clearly defined;
 - Proponents seek overall transparency of the process of whom and how to consult Métis;
 - They seek assurance that the single point of contact that is designated for the region is the authorized representative of the Métis for the purposes of delegated Crown consultation; and,
 - They look to the GoA to provide regions with capacity funding to meaningfully participate in consultation.
- In the absence of a policy, industry and municipal stakeholders have established long-term binding agreements with some Métis Locals. Stakeholders have requested Alberta to develop a formal transition plan to manage a change from negotiation-based consultation at the community level to a regional approach under public provincial policy. Alberta is not a party to these agreements, and encourage proponents and Métis to discuss further.
- Proponents have also expressed concern with Métis submitting Statements of Concern to the AER, even if there is a policy. IR is working internally to ensure the Statement of Concern process within the ACO is streamlined.

Métis Perspectives

- IR has engaged with the MNA extensively for two years regarding development of the MCP.¹¹
- In addition, five engagement sessions with MNA Regions and Locals were held in November 2018 to inform the policy and how it will be operationalized.
- Métis organizations are supportive of the Standards for Métis Consultation.
 - The MNA strongly supports, as they were involved in ongoing dialogue to inform the creation of the Standards.
 - The MNA has requested minor amendments, including a request that Alberta consider census data from 1901 as applicable to meeting the Standards. This request is reflected in the recommended Option A for Decision Point 1.
- Métis are supportive of the development of a MCP. Through engagement, IR has heard that:
 - The absence of a MCP has meant that Métis are often left out of the consultation process. While some proponents have chosen to engage with Métis voluntarily, many other proponents have refused to consult Métis because they are not required to do so by Alberta.
 - Métis organizations are hopeful that the MCP will address this policy gap and ensure Métis organizations have an opportunity to be heard in the consultation process.

¹⁰ A detailed stakeholder analysis (industry and municipalities) can be found in [Appendix 4](#).

¹¹ A detailed stakeholder analysis for Métis can be found in [Appendix 5](#).

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- As described earlier, the MNA provincial office, regions and most Métis Locals are in support of the regional approach to Métis consultation, and there are protocol agreements already in place in Regions 2, 4, 5, and 6.
- IR is encouraged by recent dialogue in MNA Region 1 between MNA Locals, Region 1, and the MNA Provincial office regarding a regional consultation process and approach. It is anticipated that continued collaboration between could result in a regional consultation protocol and process for Region 1.
- Disputes within the MNA governance structure are not the GoA's responsibility to resolve.

Connections to Other Policies

- The procedural aspects of consultation with Métis will be the same as the existing consultation policies and guidelines as the First Nation and Metis Settlements. The MCP document is also consistent with the Metis Settlements policy.
- The recently approved Métis Harvesting in Alberta policy is complementary to the regional approach being proposed under the MCP. Both policies acknowledge that Métis communities may be regional in nature.
 - The Harvesting areas within the Métis Harvesting in Alberta policy indicate where approved Métis harvesters, as individuals, may choose to harvest in Alberta without risk of penalty.
 - The consultation areas within the Métis Consultation Policy will indicate where community members, including approved Harvesters, are actually harvesting and practicing traditional uses. These are therefore the areas in which Alberta may direct consultation to the collective community.

Economic and Cumulative Policy Impacts¹²

- With the implementation of the proposed MCP, there may be potential economic impacts to GoA partner ministries, industry, municipalities as well as indigenous communities.
- In conjunction with Economic Development and Trade (EDT) and other GoA ministries, an economic analysis of the MCP was conducted, focusing on potential impacts to industry and economic development.
- Within the regional approach to consultation, it is anticipated that Region 1 and 4 will be the most critical to oil and gas development. Of a total 3952 energy projects that trigger Level 1 or Level 2 consultations per year, 159 (4%) energy projects that currently do not trigger consultation with any Indigenous community may trigger Level 1 or 2 consultations under the new MCP. 472 energy projects (12%) that already trigger Level 1 or 2 consultations may need to undertake additional consultation with Métis groups as a result of the MCP. This may increase incremental consultation costs.
 - This represents a moderate impact to industry; however, Level 1 and 2 consultations are not as lengthy or costly as Level 3 consultations.
- Assuming that no consultation is currently occurring with any Métis communities, 36 energy projects that already require Level 3 consultation may need to undertake additional consultation with Métis as a result of the MCP. This is 44% of a total 82 projects that trigger Level 3 consultation.. For large projects that trigger Level 3 consultation, impacts may be neutralised in many cases where proponents are already voluntarily engaging with multiple Métis communities. (Due to the current lack of policy direction on whom to consult, some proponents choose to manage risk by engaging with multiple Métis groups. By providing certainty on whom to consult with, in practice, the MCP could actually *reduce* the number of Metis a proponent may consult with on level 3 projects.) By moving to a regional approach, the cost to conduct consultation on a Level 3 project may actually decrease, as there would be one regional community to consult with, rather than 4-6 Métis Locals.

¹² A detailed analysis of the economic impacts of the Métis Consultation Policy can be found in [Appendix 3](#).

- Total number of energy projects: 4034 (3952 Level 1 & 2 + 82 Level 3). Of these projects, a total of 667 (631 Level 1 & 2 + 36 Level 3) will be impacted by the new MCP (16% overall)
- Overall, this represents a low to moderate impact to industry that may be neutralized through potential cost savings.
- With respect to potential economic impacts to the Forestry sector, it is estimated that the additional cost of consultation (through quotas and Forest Management Areas) is \$1.5 million annually. In 2016, Alberta's forest industry earned revenues of \$6.5 billion, primarily from the sale of forest products and services. The additional costs of the MCP reflect 0.2% of annual forestry revenues. The ability of individual companies to absorb the additional costs will vary across the sector.
- Regarding internal impacts, Environment and Parks and Indigenous Relations indicated any impact could be managed within existing resources. The remaining cross-ministry partners indicated no impacts to their operations at the working level.

RECOMMENDATIONS AND OPTIONS

To implement the MCP, Alberta first needs to provide final approval of the Standards so Métis can submit information for consideration, and Alberta can make decisions on whom may be consulted. Alberta must also approve the MCP, including the mechanism for a regional approach to Métis consultation. These approvals will formally establish Alberta's regional approach to Métis consultation in Alberta, and enable Métis perspectives to be included in land and natural resource development decisions.

The following recommendations reflect proposed solutions based on extensive internal and external engagement, [REDACTED] Alberta's unique context, and Alberta's existing Indigenous consultation policies.

<u>Decisions and Options</u>	<u>Option A: RECOMMENDED</u>	<u>Option B</u>	<u>Option C</u>
Decision Point 1 Approve the Standards for Métis Consultation	Approve the Standards as amended, following engagement feedback. <ul style="list-style-type: none"> • The Standards, approved in principle July 2018, offer a practical and reasonable approach to determine which Métis organizations to consult in Alberta. • The amendments improve alignment with existing policies, and allow for greater flexibility in adapting to the unique circumstances of Métis communities and organizations across Alberta. The Standards require full	Provide Final Approval of the Standards for Métis Consultation that were approved in principle by Cabinet in July 2018.	n/a

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	approval by Cabinet prior to decisions being made on whom to consult.		
Decision Point 2 Approve the Métis Consultation Policy and mechanism for regional consultation with Métis	Approve the Métis Consultation Policy, including the mechanism for regional consultation with Métis, encompassing: <ul style="list-style-type: none"> Defined parameters for the appointment and level of responsibility of an authorized single point of contact for each Métis organization approved under the Métis Consultation Policy (appended to Policy). Creation of consultation areas which are used to inform decisions of whether consultation is triggered with a Métis community (Geodata Mapping Project). 	No public facing policy for Métis Consultation; Métis organizations will be consulted as they are able to meet the Standards for Métis Consultation. The procedures of the existing Metis Settlements Consultation Policy will apply.	No public facing policy; provide a mandate to develop a consultation agreement with the Métis Nation of Alberta (MNA), based on the Standards for Métis Consultation.

Decision Point 1: Approve the Standards for Métis Consultation

- If the MCP is approved [Decision Point 2], the Standards will be used to determine whom to consult under the Policy.
- The Standards for Métis Consultation are a new, practical and reasonable approach that reflects case law and the unique context of Métis organizations in Alberta.
- IR is seeking Cabinet approval of amended Standards for Métis Consultation, as per Option A.

Option A [Recommended]: Amend the Standards for Métis Consultation, based on engagement and feedback.

Provide final approval of the amended Standards.

- The amended Standards for Métis Consultation are provided in [Appendix 1](#), with the analysis of the changes in [Appendix 2](#).
- The recommended amendments reflect what IR has heard through further engagement with the MNA [REDACTED]
- Alberta will formalize these amended Standards as the criteria for Alberta's decisions of whom to consult.
- Alberta will share the Standards publicly to support transparency and procedural fairness on how decisions on whom to consult are made.
- Alberta will consult with those Métis that successfully meet the Standards.

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Pros:

- It strengthens the Standards by reflecting input from Métis organizations and evolving case law.
- It allows for the use of census data from 1901, which is reflective of the Métis population in 1900 (the date used for policy purposes as when effective European control was established). This change will support Métis organizations' ability to successfully meet the Standards.
- It improves alignment with existing policies, which may reduce the likelihood of concerns regarding how GoA considers Métis communities.
- It allows for greater flexibility in adapting to the unique circumstances of Métis communities and organizations across Alberta.

Cons:

- The amended Standards are slightly different than what was shared with Métis through engagement. Indigenous communities have indicated to the GoA that changing draft documents after they have seen them leads to mistrust. IR will provide clear messaging to Métis on the changes and why they were made.

Option B: Provide Final Approval of the Standards for Métis Consultation that were approved in principle in July 2018.

- The Standards that were approved in principle by Cabinet in July 2018 are provided in [Appendix 12](#).
- If this option is chosen, Alberta would formalize these Standards as the criteria for Alberta's decisions of whom to consult.

Pros:

- It is consistent with what has been shared with Métis organizations through engagement.

Cons:

- It does not address the MNA's request to ensure 1901 census data can be used toward meeting the Standards, which may lead to certain regions being unable to meet the Standards.

Decision Point 2: Approve a Métis Consultation Policy

Option A: Approve the Métis Consultation Policy, including the mechanism for regional consultation with Métis. The mechanism includes: Defined parameters for the appointment and level of responsibility of an authorized single point of contact for each Métis organization approved under the MCP; and, Creation of consultation areas which are used to inform decisions of whether consultation is triggered with a Métis community.

- This option is recommended as Métis have stated they self-identify as regional communities.
- A regional process can be consistent with current Crown consultation through the existing operations of the Aboriginal Consultation Office.
- Approving a mechanism for regional consultation with Métis will include parameters and requirements that will be established by Alberta for designating a single point of contact for each Métis regional consultation office, who will be authorized to speak on behalf of the community for the purposes of consultation.
 - This approach is consistent with First Nations and Metis Settlements policies, whose authorized single points of contact are vetted and endorsed by elected Indigenous leadership (Chief and Council for First Nations; the Metis Settlements' Chairperson and Council for each of the eight Metis Settlements);

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- Authorized single points of contact for approved Métis organizations will be publicized for the reference and awareness of Métis community members, the Aboriginal Consultation Office, Government of Alberta ministries, and project proponents; and,
- In a regional approach, a project proponent will liaise with the single point of contact during all consultation activities in the region. A proponent will work with the region as one community, and will not consult with multiple parties within the region.
- The mechanism also includes the creation of consultation areas for each region, developed according to the process established through the cross-ministry Geodata Mapping Project. These consultation areas will be developed collaboratively with each region following approval by Cabinet of the MCP.

Pros:

- It aligns with the mandate provided to IR by Cabinet in October 2015.
- It is consistent with Alberta's existing Indigenous consultation policies.
- It will provide clarity to project proponents, GoA ministries, and Métis regarding Alberta's approach to Métis Consultation and whom to consult.
- This creates time and cost efficiencies and provides clarity.
- It will meet proponents' need for transparency regarding authorization of a single point of contact.
- It provides a mechanism to allow for successful implementation of a regional approach to Métis consultation.

Cons:

- Some Métis do not agree with a regional approach to consultation, creating internal conflict with the MNA. This is an issue of particular importance in Region 1 (northeast Alberta).
- Métis will need significant support and training to manage incoming project notifications.
- The MNA prefers to have a single point of contact who receives direction and authority from a consultation committee. It will be an ongoing process for the MNA to strengthen its process to keep pace with consultation timelines.

Option B: No public facing policy for Métis Consultation; Métis organizations will be consulted as they are able to meet the Standards for Métis Consultation in full. The procedures of the existing Metis Settlements Consultation Policy will apply.

- If this option is chosen, Alberta would not release a MCP at this time.
- Alberta would, however, proceed with sharing the Standards for Métis Consultation publicly.
- Alberta would direct proponents to consult with Metis organizations that successfully meet the Standards, following the consultation procedures of the Metis Settlements Consultation Policy.

Pros:

- It still allows Alberta to make decisions of whom to consult based on the Standards for Métis Consultation.
- It retains procedural alignment by consulting Métis under the existing Metis Settlements Consultation Policy.

Cons:

- It would fail to deliver on Alberta's publicly stated commitments to develop a MCP.
- It would not provide a public-facing policy to clearly state Alberta's approach to Métis consultation.
- It would not provide Métis with the recognition and standing they seek.

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- It would not create the mechanism to support successful implementation of a regional approach to Métis consultation.
- It would not alleviate the concerns raised by industry and municipal stakeholders regarding a consultation policy that clearly defines who to consult and how.

Option C: No public facing policy; provide a mandate to develop a consultation agreement with the Métis Nation of Alberta (MNA), based on the Standards for Métis Consultation.

- If this option is chosen, Alberta would not release a MCP.
- Instead, Alberta would enter into negotiations to determine an approach to consultation with the MNA.
- The negotiated approach would be formalized in an agreement between the GoA and the MNA.

Pros:

- It would emphasize the relationship between the GoA and the MNA as the GoA would only work with the MNA with regard to consultation.
- It would leave room for flexibility in negotiations on how the agreement is developed and what it encompasses.

Cons:

- It would fail to deliver on Alberta's publicly stated commitments to develop a MCP.
- It would favour the MNA over other Métis organizations. This approach would likely be seen as unfair by other groups and likely lead to litigation.
- Depending on the outcome of negotiations, it may require departures from Alberta's existing consultation processes. This would not meet proponents' need for procedural alignment in consultation.
- It would create uncertainty and erode trust for Métis organizations that are not part of the MNA, as well as for project proponents who are seeking clarity and alignment regarding Métis consultation.

STAKEHOLDER MANAGEMENT PLAN

- The stakeholder management plan¹³ serves to inform government departments' work and communications with stakeholders following the approval of the proposed MCP.
- IR will publicly announce the Policy and finalized Standards in January 2019.
- Métis, industry, and municipal stakeholders will receive a letter in January 2019 announcing the Policy, which will include a link to the MCP on IRs' website, and information on next steps for implementation activities.
 - See Further Engagement below for more details.
- In spring to fall 2019 IR will work to complete the Joint Operating Procedures between the AER and ACO.
- The consultation guidelines will be developed with the cross-ministry Indigenous Advisory Committee in 2019 and released at the time of Policy implementation in fall 2019.
- Amended Ministerial Orders will formalize implementation of the Policy.
- Key messages for industry and municipal stakeholders will include the following:
 - Consultation areas will be determined as approved Métis organizations identify use areas through the Geodata process, thus confirming that entire regions will not be the consultation areas.
 - Approved Métis capacity funding will be managed according to existing processes (dispensed to consultation office, as that region meets the Standards and establishes the required single point of contact).

¹³ A full Stakeholder Management Plan can be found in [Appendix 9](#).

- An internal working group will be established within IR to determine a response mechanism to manage consultation related statements of concern filed from Métis who may object to a project, even if the region has been consulted.
- Parameters to designate an authorized single point of contact in a region are within the Policy. These parameters include indication of whom the single point of contact represents (by signed authorization).
- Agreements between proponents and Métis are a private matter which Alberta does not discourage, but does not require. IR will encourage proponents to discuss existing agreements with Métis.
- Alberta will not interfere in existing agreements in any way.
- Key messaging for Métis will include the following:
 - Due to binding case law in *Hirsekorn*, consultation will not be directed in southern Alberta (approximately the Treaty 7 area). Region 3 is the MNA region in southern Alberta, and will not be consulted under the Métis Consultation Policy at this time. Region 3 will not be provided capacity funding at this time. The GoA may, at a future date, discuss consultation in Region 3 in areas that are outside of the geographic area of Treaty 7.
 - The MCP includes the full information requirements for the Standards. IR staff will meet with Métis organizations to discuss the Standards, and how to meet them, as needed.
 - IR will provide capacity funding to Métis to assist them in meeting the Standards for Métis Consultation.
 - There is no “deadline” for meeting the Standards. IR will receive information and make decisions on an ongoing basis.
 - Clarify that while the Policy does not mention the UN Declaration, the Policy approval is broadly part of Alberta’s commitments to the UN Declaration, with mention of how the Policy addresses some key aspects of the UN Declaration.
 - The cross-ministry Geodata Mapping Project team will meet with those Métis organizations that meet the Standards to discuss the process for developing consultation area maps. Capacity funding provided to Métis organizations can be used to support traditional land use mapping projects and community involvement to build consultation areas.
 - Alberta will not interfere in existing agreements in any way.

FURTHER ENGAGEMENT

- Announcement of the Standards and MCP will be followed by ongoing engagement with Métis. IR staff will engage proactively in dialogue with the MNA Regions and Métis organizations in 2019, with the following objectives:
 - Improve understanding of the Standards and the information required to meet them.
 - Maintain dialogue with MNA Regions during review of information submitted toward meeting the Standards, and identify any further information that may be required to meet them.
 - Improve understanding of Alberta’s established consultation process and the role of Métis organizations in that process, including:
 - How consultation area maps are collaboratively developed;
 - Single point of contact parameters and responsibilities; and
 - Key components and timelines of the consultation process.
 - Establish funding agreements to support Métis organizations’ ability to provide information to meet the Standards.
 - Address any additional topics through ongoing dialogue and relationship building.
- IR will also continue to engage in dialogue with industry and municipal stakeholders, with the following objectives:

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- Improve understanding of the role of the Standards in Alberta's decision making process, and how the Standards support proponents' need for clarity on whom to consult.
- Share the MCP, how it will be implemented and the Métis single point of contact parameters and responsibilities.
- Improve understanding of consultation capacity as it relates to the MCP.
- Address any additional topics related to the transition to implementing the new MCP through ongoing dialogue and relationship building.
- IR will continue to engage with Government of Alberta Ministries through the Indigenous Advisory Committee to:
 - Draft Guidelines, Ministerial Orders and Joint Operating Procedures to implement the MCP.
 - Improve understanding of how the MCP will be implemented, including Métis single point of contact parameters and responsibilities.

NEXT STEPS

- Communicate final approval of the Standards and MCP to the MNA, GoA ministries, industry and municipal stakeholders.¹⁴
- Communicate capacity funding resources available to Métis that seek to put forward a claim to meet the Standards under the Consultation Policy.
- Draft Guidelines, Ministerial Orders and Joint Operating Procedures to implement the MCP. IR to seek Communication and Public Engagement approval to engage on Guidelines development with the MNA and GoA ministries as part of policy implementation.
- As Métis organizations meet the Standards, provide training and support to establish consultation offices in a manner that will meet MCP requirements.
- The Policy will come into effect in Fall 2019.

APPENDICES

1. Métis Consultation Policy document, including the Standards for Métis Consultation and Métis Single Point of Contact Parameters
2. Standards for Métis Consultation Amendments Analysis
3. Economic Analysis
4. Stakeholder Analysis for Industry and Municipalities
5. Stakeholder Analysis for Métis
6. Visual Representation of Potential Regional Consultation Process
7. Maps of Métis Nation of Alberta Regions and Potential Consultation Areas
8. Métis Consultation Policy Implementation Plan
9. Stakeholder Management Plan
10. Strategic Communications Plan
11. [REDACTED]
12. July 2018 Cabinet Report

¹⁴ The Strategic Communications Plan can be found in [Appendix 10](#).