

The power of consultations

By Paul General, George McKibbon and Leigh Whyte

Hamilton McKibbon, my great, great, grandfather, emigrated from Ireland to Canada around 1830. He settled in Seneca Township in Haldimand County where he purchased land from the Crown, cleared a farm, built a cabin and raised a family. Tales from these days were passed along to his descendants. One involves an Iroquois harvester who visited the farm often and shared meals with my ancestor whenever possible. I have often wondered what they talked about.

The Crown has a duty to consult where development may affect First Nation and Métis communities. This paper offers advice on how planners may consult First Nation and Métis communities in land use and environmental decisions.

Judge Linden's Ipperwash Report is an important starting point. The many background research papers, report and recommendations are informative and provide insight into the history and challenges First Nation and Métis peoples experience when addressing land use and environmental issues.

Judge Linden observes we are all beneficiaries of treaties and, as subjects of the Crown, are bound to respect their provisions. Treaties are living documents needing to be interpreted under the circumstances that exist today. First Nation and Métis peoples are not stakeholders in the same way that the Federations of Naturalists or Anglers and Hunters are stakeholders. Our obligation to consult First Nation and Métis communities is embedded in the constitution.

Co-ordination

The *Provincial Policy Statement, 2005* (policy 1.2.1) mandates co-ordination among municipalities. Good neighbours develop procedures and agreements to coordinate their interests where they share concerns. We aspire to be good neighbours; policy 1.2.1 should set the standard for discussions with First Nation and Métis communities.

The *Indian Act* mandates procedures for land management on reserves. Often this involves using certificates of possession issued by Band Council resolution. Many reserves are experimenting with the new federal *Land Management Act* to find new ways of addressing land management on reserves and address the need to provide capital for new business, institutional and community development.

The recently approved *Northern Growth Plan* addresses First Nation and Métis communities together with organized municipalities where the implementation of its goals, objectives and policies are concerned. The precedent has been set.

Other planning and management procedures, such as those

established by the Forest Stewardship Council for the management of the boreal forest, have established rigorous standards for First Nation and Métis community involvement in the management and harvesting of forest resources. These standards include free and informed consent to forestry plans, protection of important harvesting and sacred sites and compensation where traditional knowledge is shared.

These standards help implement international consultation standards included in the *International Labour Organization Convention on Indigenous and Tribal Peoples*. Although Canada isn't a signatory to the convention, it guides consultation practice internationally.

Organizing a consultation approach

First Nation peoples understand the treaties as agreements to share lands and resources. While lands have been settled and used for a variety of uses, treaty and Aboriginal interests remain and consultation is needed to address these interests appropriately. Two topics are especially important: graves and sacred places and traditional harvesting.

Southern Ontario was settled prior to European settlement and former Aboriginal settlements and their remains are still important to First Nation peoples. Graveyards especially require protection. Archaeological master plans are important tools in determining where these settlements occurred and in making arrangements for site preservation. Archaeology involves the study of these sites but the spiritual significance is a matter for First Nation and Métis communities to determine and that can only be accomplished through consultation.

Unfortunately, the residential schools legacy remains and there exists a reticence among individuals and communities to share information concerning sites of special meaning and spiritual significance. Exceptions do exist and planners need to take sufficient time to listen carefully and respectfully to community members.

Harvesting for country food and medicinal plants continues to this date. First Nation and Métis harvesters may use settled



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lands, but many have found areas in parks and in and along waterways. Often these practices are held in strictest confidence among the harvesting clans involved. However, examples exist where harvesters have agreements with organizations such as Parks Canada (Navy Island in the Niagara River) and conservation areas in managing wildlife resources.

The environmental quality of the land and waters within traditional territories is paramount. First Nation and Métis peoples are most interested in the environmental protection measures contained in municipal policies and plans, especially where land uses may severely impact environmental quality.

The word “traditional,” when applied to harvesting and ecological knowledge, unfortunately suggests that these activities happened in the past but don’t happen now or that this knowledge is quaint and out of date when compared to current science. Harvesting country food is an essential activity in defining First Nation and Métis community’s identity.

Ecological knowledge, gathered over centuries of practice, will be an important ingredient in responding to climate change and in the preparation of the Grand River watershed plan under the *Clean Water Act*. The Six Nations of the Grand River is using this collected wisdom in a variety of ways on reserve and to manage ecosystems throughout its traditional territories. For example, the elected council through the Eco-centre helped form the award winning Grand River Fisheries Management Plan responsible for helping restore a healthy fishery in the Grand River. Other parties to this effort include the Federal Department of Fisheries and Oceans, the Grand River Conservation Authority, the Ontario Ministry of the Environment and the Ontario Federation of Anglers and Hunters.

The Red Sky Métis Independent Nation recently consulted with a renewable energy proponent on a project in its traditional territory. Community members raised concerns about potential impacts on medicinal plants that had not been sufficiently inventoried. The proponent arranged for the community’s traditional healer to accompany its biologists in a supplemental survey. This effort illustrated that, by agreement, measures could be introduced to protect these plants for future community use.

I will never know what my ancestor and his friend spoke about in the 1830s. But Leigh, Paul and I agree as planners we must continue the conversation with the goal of creating an atmosphere of peace, respect and friendship.

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In the winter semester, George was “planner in residence” at the University of Guelph’s School of Environmental Design and Rural Development where he taught a course on First Nation and Métis consultation. Paul and Leigh also lectured in this course and students, Hamad Alhamad, Erica Ferguson, Feinan Long and Alberto Salguero helped draft and edit this paper.