

INDIGENOUS CONSULTATION AND ACCOMMODATION

2026

Guide for Land Use Planning in
Saugeen Ojibway Nation (SON) Territory



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Background on the Guide

This guide is intended to support your reconciliation journey as you learn about local Indigenous histories, build relationships, and work collaboratively to identify goals and priorities for a shared future. This content has been prepared as part of an Indigenous Collaborative Hub Pilot, to support your project proposal application in moving beyond consultation, toward meaningful collaboration with the Chippewas of Nawash Unceded First Nation and the Saugeen First Nation – together, the Saugeen Ojibway Nation (“SON”). SON Territory is covered by Treaty 72 and Treaty 45 ½ and encompasses approximately 2 million acres, extending from Tobermory to Goderich in the west, through Arthur, and eastward to Wasaga Beach, and includes the Nottawasaga and Maitland rivers.

The pilot was led by the Shared Path Consultation Initiative (SPCI) in partnership with Saugeen Ojibway Nation Environment Office (SONEO) and your municipality, with funding support from the Ontario Professional Planners Institute (OPPI), the Town of Collingwood, and the Greenbelt Foundation.

Your Municipality and First Nations

Municipalities deliver services that profoundly impact daily life, including land use planning and development services. As part of this work, municipalities have a responsibility to uphold the rights of Indigenous Peoples and take steps to redress the socio-economic impacts of colonization by meaningfully advancing reconciliation and improving relationships between neighbours.

The [Association of Municipalities of Ontario's Reconciliation Action Plan](#) recognizes that municipalities in Ontario share enduring relationships with Indigenous Peoples and that all municipalities are situated on the traditional territories of First Nations and within Treaty areas.

Your Relationship with SON

As the Planning Act application proponent, this informational brochure has been prepared to support you in engaging with the Saugeen Ojibway Nation (SON) as part of your planning application submission and review. As a proponent, engaging with SON early in your planning process is beneficial to project timelines and to address concerns in the early stages.

This guide is designed to outline the legal obligations for the Duty to Consult and Accommodate. However, meeting legal obligations is the bare minimum of establishing a respectful working relationship with the SON. The Truth and Reconciliation Commission's 94 Calls to Action are a progressive next step to advancing reconciliation with First Nations.

Saugeen Ojibway Nation Context and Expectations

The Saugeen Ojibway Nation (SON), comprised of Saugeen First Nation and the Chippewas of Nawash Unceded First Nation, holds constitutionally protected Aboriginal and Treaty rights throughout its Territory, including subsistence and commercial fishing, harvesting, and land-based practices. SON has a sacred responsibility to protect its lands and waters, which have experienced significant cumulative impacts from development.

SON expects proponents operating in its Territory to engage based on the following core principles:

Respect

Proponents must conduct full environmental and cultural assessments, engage in good environmental practices, and proactively determine whether proposed project sites are culturally significant. Projects that may adversely affect SON rights or lands may be required to cease unless appropriate accommodation measures are identified. SON's Environment Office conducts peer reviews of technical studies and must be provided with all relevant materials.

Good Faith Engagement

Proponents carry the procedural aspects of the Crown's duty to consult and must engage with SON transparently, fairly, and responsively. This includes:

- Ongoing information sharing;
- Covering SON's reasonable costs of participation; and
- Willingness to modify project design in response to SON concerns

Free, Prior, and Informed Consent (FPIC)

Consistent with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), SON requires FPIC for projects affecting its lands and resources. Consent must be:

- Free (without coercion);
- Prior (before approvals or project commencement); and
- Informed (based on clear, accessible, and complete information).
- If SON determines a project is incompatible with its values or vision for the land, the project cannot proceed

Legal Framework: Duty to Consult and Accommodate

The Duty to Consult and Accommodate is a constitutional obligation of the Crown (federal, provincial, and territorial) under section 35 of the *Constitution Act, 1982* when it contemplates actions that might adversely affect their established or asserted Aboriginal or Treaty rights.

It is triggered when:

1. The Crown is contemplating a decision or action;
2. There is a known or asserted Aboriginal or Treaty right; and
3. The decision may adversely affect that right.

The depth of consultation is proportionate to:

- The strength of the asserted or established right or title; and
- The seriousness of the potential adverse impact
(*Haida Nation v. British Columbia*, 2004 SCC 73).

Consultation is intended to prevent unjustified infringement of Aboriginal and Treaty rights and generally requires early notice, information sharing, dialogue, and, where appropriate, accommodation measures to avoid, minimize, or offset impacts. Where Aboriginal title is established, Indigenous consent is required (*Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44).

Potential adverse impacts include effects on:

- Hunting, fishing, trapping, and gathering;
- Cultural and spiritual practices;
- Archaeological sites, artifacts, and cultural heritage resources; and
- Indigenous self-determination and governance.

Honour of the Crown

The Honour of the Crown underpins all Crown-Indigenous relations and requires governments to act honourably and in good faith from the assertion of sovereignty through treaty implementation and consultation processes. Where consultation is required, all parties are expected to participate in good faith, regardless of outcome.

UN Declaration on the Rights of Indigenous Peoples (UNDRIP)

UNDRIP is law in Canada and provides the national framework for reconciliation. It affirms Indigenous Peoples' rights to:

- Self-determination;
- Control over lands, territories, and resources; and
- Free, Prior, and Informed Consent (FPIC) for projects affecting their lands.

Articles 26, 32, and 34 emphasize legal recognition of Indigenous lands, Indigenous authority over land-use priorities, and consent obtained in good faith through Indigenous representative institutions.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

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

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 36

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Municipal Role and Legal Risk

While municipalities do not hold the constitutional Duty to Consult, in Ontario the Province has delegated the procedural aspects of consultation to municipalities through land-use planning legislation and policy. As a result, municipal planning decisions form part of the Crown's consultation process and must support meaningful and timely Indigenous engagement. Courts have consistently held that inadequate or late consultation can result in approvals being overturned or planning decisions being set aside, including in *Squamish Nation v. British Columbia* (2014) and *Saugeen First Nation v. Ontario* (2017).

Ontario Provincial Planning Statement (2024)

The Ontario Provincial Planning Statement (2024) requires:

- Early and meaningful Indigenous engagement;
- Consideration of Indigenous knowledge and perspectives; and
- Planning decisions consistent with the *Ontario Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, the recognition and affirmation of existing Aboriginal and Treaty Rights in *section 35 of the Constitution Act, 1982*, as well as guarantees under *Section 25 of the Constitution Act, 1982* that Charter rights and freedoms cannot be used to "abrogate" or "derogate" from any Indigenous rights.

Specific provisions require early engagement when identifying and managing archaeological resources, cultural heritage landscapes, and land-use decisions that may affect the exercise of Aboriginal or Treaty rights.

Key Takeaway

Early, meaningful Indigenous engagement is both a legal requirement and a planning best practice. In SON Territory, proponents and planning authorities must go beyond minimum legal thresholds and align with SON's principles of respect, good-faith engagement, and Free, Prior, and Informed Consent. Failure to do so creates significant legal, procedural, and reputational risk and undermines reconciliation objectives.



Engaging with SON for your Planning Application

To support the Duty to Consult, reduce the risk of delays, and build respectful relationships consider the following next steps.

Next Steps

1. Assess the location of your proposed planning application on the map of priorities on the Saugeen Ojibway Nation Environment Office's website at saugeenojibwaynation.ca to determine whether your proposed project is located within an area of interest within SON territory. Contact your local planning department's office if you have difficulty accessing the map.
2. If your planning application is located within an area of interest to SON, notify your planning department staff and circulate the planning application to the SON Environment Office as soon as possible for their review.
3. Contact the SON Environment Office to share with them the details of your application and what pertinent next steps are required to support your application review in a timely manner.

Contact Information for

Saugeen Ojibway Nation Environment Office

Website: saugeenojibwaynation.ca

Email: associate.ri@saugeenojibwaynation.ca

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“The road we travel is equal in importance to the destination we seek. There are no shortcuts.

When it comes to truth and reconciliation we are forced to go the distance.”

— Senator Murray Sinclair