

# Swan River First Nation Consultation Policy

## Purpose

This Consultation Policy (Policy) sets out the objectives, principles, and process for consultation between Swan River First Nation (Swan River), the Government of Alberta and the Government of Canada (collectively, the Crown) and where appropriate, industry proponents, in respect of activities in Swan River's territory in Treaty No. 8.

## Swan River Rights & Territory

Swan River holds inherent and constitutionally protected rights (Swan River Rights) in respect of the lands and waters in Treaty No. 8. For the purposes of this Policy, Swan River's territory is defined on the map attached as Appendix "A."

We have always relied on the resources in our territory for sustenance and to carry out cultural, spiritual, and economic pursuits. Swan River members continue to exercise their inherent and constitutionally protected rights, including hunting, trapping, and gathering, throughout our territory today. Our ability to exercise our rights is integral to our culture and identity as a people.

We remain committed to protecting Swan River Rights and to fulfilling our responsibilities in accordance with our natural laws. We expect the Crown to honour and uphold our Treaty relationship and to fulfil its obligations pursuant to section 35 of the *Constitution Act, 1982*, including by consulting with us on a Nation-to-Nation basis before making decisions which could affect our lands and rights. We also expect industry proponents to engage with us and seek our consent prior to undertaking activities in our territory.

## Objectives

Swan River's objectives for consultation are to:

- ensure that Swan River Rights are recognized, protected, and respected;
- ensure that decisions relating to the use and development of resources in Swan River's territory are consistent with the purpose of Treaty No. 8 and our natural laws and stewardship responsibilities;
- provide for economic opportunities and benefits for Swan River in relation to the use and development of resources in Swan River's territory;
- provide opportunities for Swan River to monitor the health and wellbeing of our territory and promote the traditional use of lands and resources by Swan River members;
- support the development of collaborative decision-making processes between Swan River, the Crown, and industry proponents in relation to the use and development of resources in Swan River's territory; and
- where possible, achieve consensus between Swan River, the Crown, and industry proponents regarding the use and development of resources in Swan River's territory.

## Guiding Principles

- The use and development of our territory may only take place with Swan River's prior engagement, involvement, and consent.
- The use and development of our territory must be undertaken in a manner that respects Swan River's natural laws and stewardship responsibilities.
- The use and development of our territory must take place in a way that allows our members to continue to exercise Swan River Rights, and which enhances the economic, social, and cultural wellbeing of Swan River and its members.
- Consultation must take into account the existing cumulative effects of resource development on Swan River's territory.
- Swan River must be provided with sufficient time and resources to fully and meaningfully participate in all aspects of consultation, including resources to assess the impacts of a proposed activity on Swan River Rights.
- Consultation must be consistent with the purpose and intent of Treaty No. 8, the Crown's constitutional obligations, and the *United Nations Declaration on the Rights of Indigenous Peoples*. The consultation process should not be limited to or restricted by Alberta's consultation policies and procedures.

## Consultation Process

1. Consultation about a decision or activity which could affect Swan River Rights should include the following elements:
  - a. early notification of any contemplated decision or activity, including high-level strategic or policy decisions, which could affect Swan River Rights;
  - b. collaborative development of a mutually agreeable consultation process, including a timeline, deliverables, and process to resolve differences between the consultation participants;
  - c. sufficient funding to enable Swan River's informed, active and meaningful participation in consultation, including funding for Swan River to retain consultants, legal advice and/or technical staff to ensure to membership understands all real, potential, or perceived impacts of a decision or activity;
  - d. an opportunity for Swan River to carry out an independent assessment of the potential impacts of the proposed decision or activity, including an assessment of how the proposed decision or activity will contribute to existing cumulative effects of resource development on Swan River's territory and the exercise of Swan River Rights;

- e. preliminary decision-making by Swan River on whether it could consent to the decision or activity if mitigation, accommodation and/ or justification measures are implemented to address potential impacts or infringements of Swan River Rights;
  - f. subject to (e), discussion and agreement on mitigation, accommodation and/ or justification measures to be undertaken by the Crown and where appropriate industry proponents to address potential impacts or infringements of Swan River Rights, including measures to address how the decision or activity will contribute to existing cumulative effects of resource development on Swan River's territory and the exercise of Swan River Rights;
  - g. processes to resolve differences and build consensus between consultation participants; and
  - h. final decision-making by Swan River about whether it will consent to the decision or activity and if so, what mitigation, accommodation and/ or justification measures are required.
2. In addition to the process set out above, industry proponents seeking to use or develop Swan River lands must comply with the following policy statements:
- a. prior to engaging in consultation with Swan River, industry proponents will sign a confidentiality agreement to protect any cultural heritage property and traditional knowledge of Swan River obtained during the consultation process;
  - b. unless an agreement with Swan River is already in place, industry proponents with ongoing activities in Swan River's territory will negotiate partnership or other agreements with Swan River confirming the conditions on which Swan River will consent to the ongoing activities; and
  - c. industry proponents will provide capacity funding to enable Swan River's participation in engagement activities, as well as funding pursuant to any agreements entered into with Swan River.