



# What We Heard: Summary of Discussions with Treaty 20 First Nations on the Draft Official Plan

City of Peterborough Official Plan Update

June 2021

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#	Comment/Question	City's Response / What We Did
1	Recommended changing the sub-heading from "Indigenous Peoples of Canada and Engagement" to "Indigenous Peoples of Canada and the Duty to Consult" and deleting references to the "Williams Treaties".	The sub-heading for Section 7.1 has been revised to Indigenous Peoples of Canada and the Duty to Consult and all mention of the Williams Treaties have been removed.
2	Signatories need to be mentioned in the first sentence (i.e., Curve Lake First Nation, Hiawatha First Nation and Mississaugas of Scugog Island First Nation) of Section 7.1.	Added to Section 7.1(a) "The modern First Nations signatories to Treaty 20 are Curve Lake, Hiawatha and Mississaugas of Scugog Island."
3	Section 7.1(d) needs to speak to the importance of Constitutional rights and that the language needs to be much more profound than mutual respect as it relates to access to food and medicines. The policy needs to clarify what rights are protected under Treaty 20 and inherent rights. Treaty 20 gave rights to all the wetlands, rice beds, maple bush, islands and shorelines.	No change recommended - Do not believe it is appropriate for the Official Plan to provide interpretation of Treaty 20. These rights are protected under Section 35 of the Constitution Act.
4	Regarding Section 7.1(b), language around free, prior and informed consent (FPIC) needs to be stronger. FPIC means consulting with First Nations prior to development and gaining consent to move forward. Suggest adding text to explain what FPIC is in the Official Plan. FPIC is connected to Section 35 of the Constitution Act and United Nations Declaration on the Rights of Indigenous Peoples.	Added to Section 7.1(b) that "Free, prior and informed consent involves consulting with Indigenous Communities prior to development and gaining consent before moving forward, where appropriate".

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5	Regarding Section 7.1(c), "interests" needs to be changed to "rights" and suggest adding a section on constitutionally protected rights. Remove the reference to Alderville First Nation and adding "other local First Nations".	<p>Revised Section 7.1(c) to "The City will engage and partner as appropriate with Indigenous Communities when considering planning matters that may affect their rights."</p> <p>No change recommended with respect to request for a new section on constitutionally protected rights - do not believe it is appropriate for the Official Plan to provide an interpretation of the Constitution Act, further noting that the Constitution does not define Indigenous rights under Section 35.</p> <p>Reference to Alderville First Nation has been replaced with "other local First Nations" as suggested.</p>
6	Regarding Section 7.1(e), the Official Plan needs to acknowledge inherent rights and Constitutionally protected rights and should have a section explaining the Duty to Consult.	Section 7.1(d) acknowledges that there are Aboriginal and treaty rights as set out under Section 35 of the Constitution Act, 1982. Policies regarding consultation with First Nations are located throughout the Plan and a separate section is not necessary.
7	Regarding Section 7.1(f), the policy needs to further describe the process for partnerships and how that policy may look like on the ground. The policy should be strengthened and require protection of wetlands, rice beds, maple bush, islands and shorelines or broadening the reference to a "case-by-case" or other provisions to offer flexibility.	No change recommended – some examples of potential partnerships are mentioned in the Plan (e.g., Archaeological Management Plan, watershed planning initiatives). Listing items of interest because it may pose limitations in the future and is not advisable.
8	Remove the word "affected" from "affected Indigenous Communities" in Section 5.1(d), reference to the Chippewa Nation in Section 5.1(e) and Section 1.1(b), and "all" from "all Indigenous Communities". The policy should pertain only to Williams Treaties First Nations.	Removed "affected" and all reference to Chippewa Nation from the Plan as suggested.

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9	Regarding Section 5.1(h), it is requested that “should” be replaced with “will” in the policy to read “Indigenous place names will be acknowledged on the physical landscape of the City”.	Changed “should” to “will” – It is noted that the City’s Naming Policy adopted in 2003 recognizes significant local events, people and geographic features through the naming of streets, parks and municipal buildings/facilities. The Naming Policy states that a database of possible street/park/building names will be compiled and includes a category for Local First Nations. The Policy also states that additions to the name back may be proposed by members of the community and that names should be chosen with consideration to gaps in previous naming practices (i.e., First Nations). Emergency response/911 concerns are foremost in all criteria included in the policy.
10	Regarding 5.1.6(c), the reference to “a Complete Application” leaves a gap for minor variances. Concern was expressed regarding minor projects in area of high archaeological potential (e.g., 300 metres from shorelines) or known archaeological sites.	Revised this policy to remove reference to a Complete Application and added reference to site alteration:  “Upon receiving information that lands proposed for development or site alteration may include archaeological resources or constitute an area of archaeological potential, the City will not take any action to approve the development, and the owner of such land will be required to have an Archaeological Assessment and fieldwork studies carried out by a licensed archaeologist in accordance with Provincial standards.”

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11	<p>Regarding 5.1.6(e), CLFN recommended strengthening the policy wording to indicate “Early and on-going engagement with Indigenous communities throughout the Archaeological Assessment process is [advised]”. CLFN also recommended that the policies direct developers to the First Nations archaeological protocols and that the protocol be mentioned at the beginning of the policy. CLFN indicated that the following statement in the policy should read “Where the preservation of the archaeological resources in situ is not possible, the proponent [must] engage with [appropriate Treaty 20 First Nations] to address their interest in the resource and define interpretive and commemorative opportunities related to the resources”.</p>	<p>Changed policy to “Early and on-going engagement with Indigenous communities throughout the Archaeological Assessment process is [advised]”.</p> <p>Added to Section 5.1.6(f) that the “The proponent shall have regard for the applicable First Nations archaeology protocols within the Treaty 20 area.”</p> <p>Revised Section 5.1.6(g) to state “Where the preservation of the archaeological resources in situ is not possible, the proponent must engage with appropriate Treaty 20 First Nations to address their interest in the resource and define interpretive and commemorative opportunities related to the resource” as suggested.</p>
12	<p>Regarding 5.1.6(h), it is recommended that the policy wording be revised to state that the City [will] prepare an Archaeological Management Plan or note an Archaeological Management Plan or “similar value” to ensure an Archeological Plan or Study occurs in areas of high archaeological potential.</p>	<p>No change recommended - the specific language used throughout the policies of this Plan is intentional and indicates the level of flexibility, or lack thereof, that exists in implementing this Plan – this is described in further detail in a new Section for “How to Read this Plan”.</p>
13	<p>CLFN stated that Section 4.6.1(a) needs to be followed by policy directing the protection and monitoring of water and wetlands. At present, it states that it is acknowledged that water and wetlands are sacred and are of utmost importance to the Michi Saagiig Nation but does not have any policy language to follow-up with this statement.</p>	<p>Added criteria to Section 7.21.2(g) that an Environmental Impact Study shall meet the following general requirements: (ix) “Outline potential impacts from the proposed development and any mitigation measures or monitoring to address these impacts” and (x) “Assess whether there will be any residual impacts after mitigation”.</p>
14	<p>Regarding Section 4.6.1(b), add some language on what climate emergency declaration means.</p>	<p>No change recommended - climate change is applicable to multiple sections (not only the Natural Heritage System) and is discussed throughout the Plan. The climate emergency declaration is discussed in further detail in Council Report IPSIM20-003.</p>

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15	There is inconsistency between protection and compensation objectives in the Official Plan.	This comment was perceived to be directed towards the natural heritage system framework, specifically with regards to wetlands and compensation. The natural heritage system framework allows opportunity for compensation where some features may not need to be protected in situ. For example, the relocation of small patch of wetland to a larger wetland will allow for a higher level of wetland function because the small wetland patch is not functionally connected.
16	The term "long-term sustainability" stated in Section 4.6.1(d) was problematic language.	No changes proposed. Disagree that the term is problematic – this is a commonly referenced term.
17	CLFN indicated that the phrase, "provide opportunities" should be removed from Section 4.6.1(e)(i) so it reads "protection from the impacts of development of all significant natural heritage features".	Section 4.6.1(e)(i) has been revised: "Provide protection from the impacts of development on natural heritage features and their associated ecological functions".
18	Access to traditional harvest and education should also be listed under Section 4.6.1(e)(ii): "Provide access, where appropriate, to the Natural Heritage System for the purposes of environmental education and nature-based recreation, and integrate nature-based recreation opportunities within parks and along walking trails and bicycle routes that facilitate active transportation;"	Added traditional harvest to this policy.
19	Why isn't a 120-metre buffer applied as the minimum for provincially protected wetlands?	Table A of the Official Plan identifies a minimum vegetation protection zone of 30 metres for provincially significant wetlands. However, a site-specific Environmental Impact Study will still need to determine an appropriate width and demonstrate why they do not need more than the minimum prescribed in Table A of the draft Official Plan.

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20	Pleased with Section 4.6.1(h) which states "The City will establish Environmental Impact Study guidelines in consultation with the Conservation Authority, Indigenous Communities and appropriate stakeholders to fulfill the policy requirements of this Plan."	No change needed – comment is in support the draft policies. Noted that the policy has been moved to Section 7.21.2 (Complete Application Requirements).
21	First Nations must be listed in Section 4.6.1(i), to require consultation with First Nations regarding development and/or site alteration of a minor nature and scoping/waiving EIS requirements. This comment needs to be applied throughout the document, where appropriate.	Policy has been added to Section 7.1(f) that "Involvement and engagement with Indigenous Communities will occur as early as reasonably possible on future planning proposals."
22	Under Section 4.6.2(r), where there are negative impacts within a Level B Natural Heritage System feature, First Nations must be consulted and listed in the policy. First Nations need to be in discussions before mitigation and compensation.	See response to Comment #21. Section 7.13 (Securement of Lands within the Natural Heritage System) also states that the City will undertake a Restoration and Enhancement Strategy in consultation with the Conservation Authority, Indigenous Communities, and stakeholders to guide acquisition, compensation, restoration and stewardship activities within the City. The Restoration and Enhancement Strategy will provide recommendations regarding the identification of priority areas for restoration, enhancement and securement using principles of conservation biology and landscape ecology, including special consideration of Regional Connections and Proximity Linkages, and will allow for compensation measures to be directed in a manner that will provide a benefit for the overall Natural Heritage System.

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23	Do not agree with the Level classification system for wetlands and believes the policies for Level C wetlands may still impact Section 35 Constitutional rights.	Further to the response to Comment #22, it is a requirement that the Provincial Policy Statement is implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982. Added language that "Free, prior and informed consent" involves consulting with Indigenous Communities prior to development and gaining consent before moving forward, where appropriate.
24	The Official Plan should start with a land acknowledgement	Added land acknowledgement to the beginning of the Plan: "We respectfully acknowledge that the City of Peterborough is situated on the treaty and traditional territory of the Mississauga Anishinaabeg. We offer our gratitude to the First Peoples for their care for, and teachings about, our earth and our relations. May we honour those teachings."