

The Mississaugas of the Credit First Nation (“MCFN”)

Municipal Official Plan Input Document

December 16, 2020

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Overview

The purpose of this document is to streamline MCFN’s participation in the review of Municipal Official Plans. It does this by providing language that can be inserted into your Official Plan to help guide municipal planning and better inform planners and developers about our rights and interests.

Similar to the *Provincial Policy Statement*, which sets the minimum standards that Municipal Official Plans must align with to comply with provincial planning requirements, these key elements represent our minimum standards for inclusion in all Municipal Official Plans within our Territory.

1. Recognition of MCFN and MCFN’s Territory as an Integral Component of the Planning Context

MCFN have Aboriginal and treaty rights over our Territory which spans much of southern Ontario and the area now known as the Greater Golden Horseshoe region. We are the original owners and stewards of the land to which your Official Plan will apply. Our community and our rights form an integral component of the regional context within which land use planning and planning decisions will occur.

The following language can be included in any introductory section in your Official Plan that describes the geographic and historical background within which municipal planning takes place:

DRAFT FOR DISCUSSION PURPOSES ONLY

MCFN is an Indigenous community and Aboriginal people within the meaning of section 35 of the Constitution Act, 1982, with inherent, Aboriginal, and treaty rights throughout their Territory. As further outlined below, MCFN has treaty rights over some areas of their Territory and these areas are occasionally referred to as MCFN's Treaty Territory. Other areas (such as the Rouge River Valley, and the waters, beds of water, and floodplains) have never been subject to a treaty between MCFN and the Crown and so MCFN has Aboriginal title to these areas, which may be referred to as their Territory or Traditional Territory. For the purposes of this document, all of these areas are included within the definition of MCFN's Territory.

MCFN's Territory commences at Long Point on Lake Erie and extends eastward along the shore of the Lake to the Niagara River and down the River to Lake Ontario. It further extends northward along the shore of Lake Ontario to the Rouge River east of Toronto, then up the Rouge River to the dividing ridge. From the dividing ridge, it extends to the headwaters of the River Thames, then southward to Long Point, where it began. MCFN's Territory encompasses, among other places, present-day Kitchener, Niagara Falls, Hamilton, Toronto and the City of Toronto, as well as the lands and waters between and surrounding these places. Moreover, MCFN are the original owners and stewards of the lands and waters that make up what is now known as the Greater Golden Horseshoe region. Their Territory has defined and sustained MCFN for countless generations and must continue to do so for generations to come.

Between 1781 and 1820, MCFN entered into various treaties with the Crown, establishing treaty rights throughout their Territory. In addition to treaty rights, MCFN has Aboriginal rights and title to the waters, beds of water, and floodplains in their Territory, including the lakebeds of Lake Erie and Lake Ontario, as well as Aboriginal title to their lands in the Rouge River Valley. In 2015 and 2016, MCFN requested to enter into negotiations with the governments of Canada and Ontario aimed at reconciling their Aboriginal title with the present-day use and occupation of their title land and waters by the Crown and the public. MCFN is currently engaged in negotiations with Canada to explore new approaches to understanding and implementing their rights and title.

Please see the attached MCFN Treaty and Traditional Territory map.

Note that text above refers to a map of MCFN Territory. We have provided you with a map of our Territory for you to include in your Official Plan to accompany the description above. The blue highlighted text above suggests how you can refer to this map in your Official Plan.

2. Having MCFN Rights and Interests Recognized in Official Plans

MCFN's rights and interests with respect to the lands, waters, and resources in our Territory should be explicitly acknowledged and accounted for in Municipal Official Plans and planning decisions.

The sections below describe how MCFN's rights and interests can be recognized and incorporated into your Official Plan.

a. MCFN stewardship and the protection of land and water

MCFN has a responsibility to be stewards of our Territory, and to sustain and protect our lands and waters for generations to come.

Where Municipal Official Plan deals with the natural environment, MCFN's stewardship responsibilities and our rights to actively protect land and water in our Territory for future generations should be recognized.

A description of MCFN's stewardship responsibilities for the lands, waters, and resources of our Territory, and MCFN's rights to protect the same for future generations, can be inserted into your Official Plan as follows:

Corresponding to and arising from MCFN's Aboriginal and treaty rights, MCFN has a responsibility to act as stewards of their Territory, including to sustain the lands, waters, and resources for the benefit of generations to come. MCFN's responsibility to act as stewards of the lands, waters, and resources must be considered in all development proposals.

Moreover, where your Official Plan addresses the management and protection of water, MCFN's title to waters, beds of waters, and floodplains should be recognized. A description of MCFN's title to waters, beds of water, and floodplains can be inserted in any such section as follows:

MCFN has Aboriginal title to the Rouge River Valley, and to the waters, beds of water, and floodplains within their Territory. These lands and waters have been used by MCFN for generations and were never surrendered by their ancestors to the Crown.

The rights that flow from MCFN's Aboriginal title are similar to those associated with fee simple title and include: the right to decide how the land or waters will be used; the right of enjoyment and occupancy of the lands and waters; the right to possess the land or waters; the right to the economic benefits of the lands and waters; and the right to protectively use and manage the land and waters for the future.

These rights must be considered and respected as a part of planning decisions that could affect MCFN's Aboriginal title to the waters and lands under water in the future.

b. Protecting our cultural heritage resources

MCFN's cultural heritage and archeological resources must be protected for the benefit of our future generations. As much of MCFN's Territory has been—and continues to be—subject to heavy urbanization and development, all of MCFN's cultural heritage resources are of utmost importance and require special care and consideration to protect and preserve for future generations.

Where your Official Plan addresses cultural heritage and/or archaeology, of if you consider developing a separate archaeological plan or strategy to support your planning activities, it should recognize the critical importance of our cultural heritage resources and refer to our *Archaeological Standards and Guidelines* which we developed specifically to help ensure that our rights and interests are protected. The following language can be used:

MCFN must be consulted on any work to that could potentially impact cultural heritage or archaeological resources within MCFN's Territory and to develop policies for the management of these resources following any identification. The extensive urbanization and development of MCFN's Territory that has occurred over the last several decades has resulted in the loss of countless archaeological and other cultural heritage resources. In light of this, any remaining resource or artifact is of the utmost significance to MCFN.

Specifically, archeologists, proponents, and others who are conducting archaeological assessment activities within MCFN Territory must refer to and follow MCFN's Standards and Guidelines for Archaeology.

These Standards and Guidelines guide engagement and involvement of MCFN in archaeological activities, including that by MCFN's Field Liaison Representatives. Adherence to MCFN's Standards and Guidelines facilitate the identification of MCFN cultural heritage resources and areas of particular significance, and will help ensure that MCFN history, culture, rights, and interests are properly protected.

c. Protecting our right to be sustained by our Territory

MCFN's Aboriginal and treaty rights fundamentally entitle us to share in the wealth and other benefits generated from our Territory. While the ways in which we are sustained by our Territory have changed over time and evolved to reflect more modern economies and realities, the

importance of our Territory to our community and our right to be sustained by it—even while we work to sustain it—must continue into the future.¹

Where your Official Plan deals with economic growth and sustainability, MCFN’s right to be sustained—economically, culturally, and spiritually—by our Territory should be acknowledged and incorporated. The following language can be used:

MCFN’s Territory has defined and sustained the MCFN community for countless generations and must continue to be able to do so for generations to come in new and evolving ways. MCFN have Aboriginal and treaty rights over their Territory that include the rights to be sustained by their Territory—economically, culturally, and spiritually. These rights and responsibilities to be sustained by their Territory must be distinctly considered as a part of land-use management and planning decisions, including economic growth planning and opportunities for involving and providing benefits to the MCFN community.

3. Triggers for MCFN Engagement and Consultation

MCFN’s Aboriginal and treaty rights entitle us to be consulted on planning decisions—such as development proposals—made under an Official Plan that could adversely impact our Territory or our rights and interests. Official Plans should therefore contain an explicit requirement to that effect.

Where your Official Plan deals with consultation and engagement, a requirement that MCFN be consulted on planning decisions that may affect our rights and interests should be included. This will help to foster the constructive and co-operative relationship encouraged by the *Provincial Policy Statement* and the *Growth Plan for the Greater Golden Horseshoe*, and to ensure that we are properly consulted.² The following language can be used:

¹ The Supreme Court of Canada has recognized how this broader context—which for MCFN includes the intense urbanization and development of your Territory—must inform the scope of the duty to consult (and also therefore whether accommodation is required): “it may be impossible to understand the seriousness of the impact of a project on s. 35 rights without considering the large context. Cumulative effects of an ongoing project, and historical context, may therefore inform the scope of the duty to consult. This is not “to attempt the redress of past wrong. Rather, it is simply to recognize an existing state of affairs, and to address the consequences of what may result from” the project.” (See *Chippewas of the Thames First Nation v. Enbridge Pipelines Inc.*, 2017 SCC 41, at para 42)

² See Government of Ontario, Provincial Policy Statement, 2020 (OIC No. 229/2020) at 5 and s 1.2.2, online: <https://files.ontario.ca/mmah-provincial-policy-statement-2020-accessible-final-en-2020-02-14.pdf>. And see Government of Ontario, A Place to Grow: Growth Plan for the Greater Golden Horseshoe (August 2020: OIC No. 641/2019 and 1244/2020) at 53 and 55, online (PDF): <https://files.ontario.ca/mmah-place-to-grow-office-consolidation-en-2020-08-28.pdf>.

The City of Toronto will engage and consult with MCFN, and partner with MCFN as appropriate, when considering planning matters, planning applications, and when making planning decisions that may affect MCFN's rights and interests, including but not limited to under:

- *Section [insert reference to section of Official Plan that speaks to MCFN stewardship] and MCFN's responsibility as stewards of their Territory;*
- *Section [insert reference to section of Official Plan that deals with MCFN's title to waters] and MCFN's Aboriginal title to waters, beds of water, and floodplains in their Territory; and*
- *Section [insert reference to section of Official Plan that speaks to cultural heritage and archeology, or to other archeology plan or policy] and cultural heritage and archeological resources within MCFN's Territory.*

More specifically, public and private developers are required to give notice to MCFN's Department of Consultation and Accommodation at fawn.sault@mncfn.ca or 4065 Hwy. 6, Hagersville, ON, N0A1H0, whenever a development proposal may impact MCFN's rights and interests, including but not limited to their rights and interests with respect to stewardship, lands, waters, and archaeological or heritage resources.

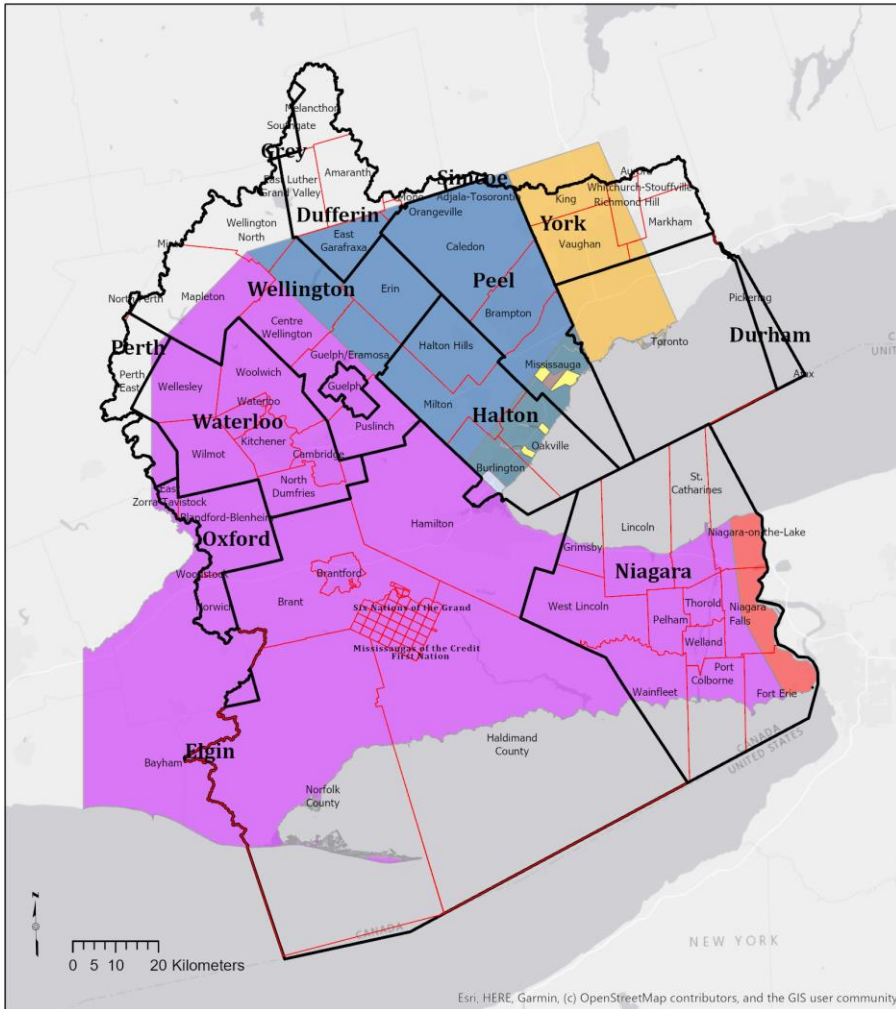
Commented [ML1]: Highlighted areas in this section to be determined by municipality.

Note that the blue highlighted text above indicates where you can refer to specific sections of your Official Plan that address MCFN's rights and interests.

4. The Consultation Process for Planning Decisions of Particular Concern

In addition to the proposed language above, the following basic process can be inserted into your Official Plan, which describes how MCFN will respond to notices from developers about development proposals that may impact our rights and interests.

Once MCFN has been notified by a developer of a development proposal, MCFN will conduct an initial assessment to determine if the proposal is of particular concern or interest and notify the developer as to its determination. If the proposal is of particular concern or interest to MCFN, MCFN will further specify a process to be followed for more fulsome consultation. MCFN may also specify a process for consultation on proposals of less concern. In most cases a consultation process for proposals of particular concern will involve, at a minimum, a meeting between MCFN and the developer to discuss project-specific processes, information and capacity needs, and how to proceed in a manner that will respect MCFN's rights and interests.



**UPPER AND LOWER TIER MUNICIPALITIES
WITHIN
MCFN TREATY LANDS AND TERRITORY**



- UPPER TIER MUNICIPALITIES
- LOWER TIER MUNICIPALITIES
- MCFN TERRITORY
- MISSISSAUGAS TREATY AT NIAGARA NO. 381 (1781)
- BETWEEN THE LAKES TREATY, NO. 3 (1792)
- BRANT TRACT TREATY, NO. 8 (1797)
- TORONTO PURCHASE TREATY, NO. 13 (1805)
- HEAD OF THE LAKE TREATY, NO. 14 (1806)
- AJETANCE TREATY, NO. 19 (1818)
- TREATY 22 (1820)
- TREATY 23 (1820)



Six Nations of the Grand River Value Statement

Indigenous Peoples view the world in a particular way. Our Original Instructions when we were created tell us that as the youngest members of creation, it is our responsibility to protect and to care for our elder siblings, which is we must care for the natural world. We were taught, and still believe that we have a reciprocal relationship with all of creation, as they take care of us too. Our world view consists of the values, traditions, and stories from our ancestors, family, and community. This world view also helps us to identify ourselves as a unique peoples with a strong connection to the land.

A respectful relationship with Mother Earth is central to Haudenosaunee (Rotinonshíon:ni) people and necessary for us to have healthy minds, bodies and spirits. We were given the teachings of the Ganq̄honyq̄hk (Thanksgiving Address) so we could know how to respect all the different parts of Mother Earth. The teachings remind us that she is where we came from and that we are part of her creation. In addition, they remind us that we are all connected and what is done to one is done to the whole.

We give thanks to the People in our lives for all that they bring to our lives.

We give thanks to our Mother, the Earth for all that she provides for the sustenance of our lives.

We turn to the Waters and we give thanks for the life sustaining attributes of water.

We acknowledge the Fish in the waters and give thanks to them for helping to keep the water clean.

The fish however, cannot do it alone. When we consider how human interference is impacting those fish and that water, we must stand up for them and ensure that they are no longer being impacted negatively by the daily activities of the human population.

We give thanks to the Plant people, the Food plants, the Medicine plants and we acknowledge the strawberry as the leader of the plant people.

We are losing agricultural land at a phenomenal rate. Where do we look for the provision of food if our plants are destroyed?

We turn our attention to the Animals. We are very grateful for all that they provide for the sustenance of our lives. We acknowledge the Deer, the leader of the animals, who has been with us since time immemorial and who is still providing for us today.

We cannot continue to allow the removal and destruction of the natural habitat of the animals or other non-human beings. We cannot survive without them.

We now give thanks to the Trees. We are very grateful that the Trees provide oxygen for us to breathe, provide wood for our shelters and fires. We would especially like to acknowledge the Maple, the leader of the Tree people who has also provided for us since time immemorial and continues to provide for us today.

This land was once covered with rich, lush forests and the few that are remaining are being diminished daily. We need to save and enhance the forests that are remaining to ensure the sustenance of our own lives. We need the tree people to survive.

We acknowledge the Birds with their beautiful plumage and songs. We turn our attention to the Eagle who is the leader of the bird people. The Eagle flies high in the sky above us, watching over us. We are so grateful that the Eagle has returned to watch over us again. We almost lost the Eagle to pollution. We need to learn the lesson from that near extinction and change our ways.

We now turn our attention to the Four Winds. We are grateful to hear their voices as they bring us fresh air to purify our surroundings.

We are grateful for our Grandfathers, the Thunder Beings. We celebrate their return in the spring as they bring with them the water that renews and cleanses the drabness of the receding winter.

We now give thanks to our Elder Brother the Sun. He is the source of all life and we are grateful that he continues to greet us each day.

Of course we also give thanks to our Grandmother Moon. She is the leader of all women and we honour and respect her.

We send greetings to the Stars, who along with Grandmother Moon lights the night sky so that we may find our way.

Climate Change is creating destructive weather anomalies that are not so anomalous any longer. The winds are getting stronger, the sun is hotter, and the skies are being polluted to such an extent that we can no longer see the stars. We need to take responsibility that it is human activity that is causing climate change and we need to change our ways to stop those effects..

When we forget how to live in harmony, the Enlightened Teachers guide us and lead us on the right path. We send greetings and thanks to them now.

We now turn our thoughts and our gratitude to the Creator for all of the gifts of Creation. Everything we need to sustain our lives has been provided by the Creator and we are so thankful for his wisdom and love.

If we have forgotten to give thanks for any part of creation we do so now. It is not our intent to leave anything out.

Indigenous people of Turtle Island created a treaty with one another. The Dish with One Spoon Treaty is an important treaty to understand. It was made as a measure to outline our responsibilities to share the land with one another. The basic tenets of the Dish with One Spoon Treaty are: take only what you need for sustenance, be sure to leave something in the dish for others, and keep the dish clean. This treaty was made not only between Indigenous Nations, it also included the natural environment, and it was like a promise to our non-human brothers and sisters.

Since settlers arrived on Turtle Island, forests have been decimated and waters have been poisoned. Animals have been destroyed to near extinction. It wasn't so long ago that our ancestors could collect clean water from the Grand River. Never did anyone have to wonder if it was safe to eat the fish they caught or to breathe the air around them.

When Europeans first arrived in North America, Indigenous Peoples helped them to survive. The Five Nations' original treaty with Dutch Settlers, the Two Row Wampum, indicated that the relationship between the European people and the Original people was to be not like the relationship between a father and a son, but like that of two brothers, each travelling along the river in separate vessels, a canoe for the Indigenous people and a boat for the settlers - neither steering the other's vessel.

In the time since that first treaty, settlers have paved over floodplains, excluded Indigenous people from harvesting on lands and in waters that we have always relied on, and have not taken care of Mother Earth in a way that would allow her to provide for us.

It is time for all humans, not just Indigenous people to begin to extend to the non-human people the same moral consideration that they would extend to themselves, recognising that all species, rivers, ecosystems, have a right to exist free of pollution and unnecessary development and that their existence continues to sustain us. We must sustain them in return.

Mother Earth is a living breathing entity and every building, every highway, every source of her destruction is permanent destruction. She is fighting for her life and she will continue to fight back until we change our ways and remember that we are all connected. What is done to one is done to the whole.

Another responsibility that we have according to our Original Instructions is to use a good mind in making decisions and to think of the effect that our decisions and actions have on the generations yet to come. We must ask ourselves everyday, "How is what I am doing impacting the earth for the use of the next seven generations into the future?" "Is what I am doing leaving the world in a better place than what it was when I was born?" We must consider whether we will be proud of what we are leaving our future generations and if the answer is no, then we must reconsider what we are doing, why we are doing it, how we are doing it and can we do better.