

Summary

- **This Bulletin represents interim guidance** for decision-makers who are responsible for consulting with Indigenous communities and organizations during the COVID-19 pandemic.
- **In-person consultation meetings should be suspended or postponed** until such time as provincial health authorities are no longer recommending that all British Columbians practice social distancing. Virtual tools including phone, email and videoconferencing are recommended for any communications.
- **Before contacting First Nations:** consult Profiles of Indigenous Peoples (PIP) for any community updates including office closures. If an office is closed, follow the advice in PIP and or expect to adjust timelines and defer engagement accordingly. Check with regional Indigenous relations teams to see if consultation can be coordinated or simplified with any existing arrangements (including any process agreements such as a strategic engagement agreement).
- **For existing consultation processes:** agencies should, at a minimum, expect delayed responses and should be prepared to extend timelines or defer decisions where appropriate. Agencies should critically review processes and consider continuing based on priorities and time sensitivities: see considerations below.
- **For new consultation processes:** agencies should critically review any new consultation processes and consider initiating consultation processes based on priority and time sensitivities. This may mean delaying consultation activities for the time being; see considerations below.
- **Statutory decision makers** should consider whether the Province has acted honourably in meeting its duty to consult and accommodate, particularly in light of an absence of responses from First Nations in the current pandemic situation. Further policy or legal advice should be sought where there may be some urgency in relation to the decision.

Key Messages

- The Province's immediate concern is to contain the COVID-19 pandemic, an unprecedented event with effects rippling out to every aspect of our work and lives, and placing exceptional demands on governments, communities and families.
- Indigenous communities are prioritizing the health and safety of families and community members. Understanding this, their capacity to respond or participate in consultation processes may be limited.
- For those communities facing such challenges, provincial agencies should look to extend timelines where requested, and potentially defer decisions where appropriate. Where there is some urgency associated with a proposed activity, agencies are urged to find ways to accommodate the capacity challenges in a considered and sensitive approach.
- Proponents need to be kept informed if there are actions taken that impact authorization timelines in relation to an application.
- As we all work together to manage through the COVID-19 pandemic, it's important to know that the situation is fluid and will change over time. We will need to continue to assess consultation activities with First Nations to ensure we continue to be responsive to the current circumstances.
- The province is committed to working together with Indigenous communities to ensure they have needed support to prepare and respond. That work is being led by the First Nations Health Authority, in partnership with the Office of the Provincial Health Officer, BC Centre for Disease Control, Indigenous Services Canada, and Emergency Management BC.

Considerations

- When reviewing whether to proceed with new or existing consultation processes, include the following considerations:
 - Does the proposed activity:
 - Support essential services;
 - Address a health or safety issue?
 - In cases where there is some urgency to the proposed decision (e.g. public safety, environmental protection) it may not be appropriate to (significantly) delay or defer consultation and decision-making.
 - The Province should communicate with the impacted First Nations the reason for needing to continue with the consultation process, particularly where a First Nation has indicated limited capacity to engage in consultation activities at this time.

Requests for timeline extensions should be reasonably considered and provincial staff should work with the First Nation to try to find ways to accommodate their capacity challenge (e.g. resending referral material electronically).
 - Are the impacted First Nations meaningfully able to participate in consultation activities during the pandemic?
 - Consider any communication government has had with any of the affected First Nations regarding the effect of Covid-19 on their operations and ability to continue to engage in consultation processes. Please refer to Profiles of Indigenous Peoples (PIP) for specific community advice or updates.
 - Where consultation is being carried out pursuant to an agreement, and the First Nation has indicated it is unable to respond to referrals within the timelines set out in the agreement, consider extending the timeline as set out in the agreement. Seek further policy or legal advice as needed.
 - How far along is the consultation?
 - Where consultation has just begun, it may be appropriate to allow more time, whereas if consultation has already progressed over several months and all concerns have been addressed, it may be reasonable to proceed.
 - What concerns have been raised to date?
 - Where significant concerns have been raised, or are anticipated to be raised, it may be necessary to wait until the First Nation is able to continue engaging in respect of those known concerns.
 - What is the nature of the potential impact on First Nations?
 - The more serious the impact, and the more significant the decision is to a First Nation (e.g. due to location within its territory), the more consideration should be given to allowing more time for consultation.

First Nation community impacts

- While all First Nations will be impacted by COVID 19, the scope of these impacts on their operations will vary based on a large number of factors (community infection rates, internet connectivity, ability of staff to work from home, availability of food, health services etc.).
- Some Nations will or have shut down their band offices due to the pandemic. The majority are currently only providing essential services. There is uncertainty as to how long these closures will last. Please refer to Profiles of Indigenous Peoples (PIP) for specific community advice or updates. PIP will continue to be updated as information is learned. If staff become aware new information, please send an email with changes to PIP@gov.bc.ca.
- Elders are especially vulnerable to the effects of COVID 19 and communities will likely be placing special focus and resources on ensuring the health and safety of their elders.

- First Nation communities have historically borne the most extreme impacts of infectious disease outbreaks, such as smallpox. Sensitivity, compassion and cultural safety are key components for all communications with First Nations during this difficult time.
- MIRR will continue to review and monitor to supplement and or update this document, including any transition planning for returning to “business as usual.”
- Ministries may provide further guidance to meet their respective line of business needs consistent with this document.

Suggested responses for proponents

- The COVID-19 emergency presents an unprecedented challenge for government, industry, and First Nations. This includes our ability to respond and process permit applications.
- A variety of factors could result in permit decisions being delayed during this time, for instance capacity of local governments and availability of professional consultants. One is our ability to appropriately consult and accommodate First Nations.
- Provincial agencies will be adjusting engagements with First Nations based on our understanding of their capacity to participate in consultation efforts.
- Applicants are also encouraged to tailor their interactions with First Nations according to their capacity to engage during this time.
- Indigenous communities have a broad set of responsibilities which includes the health and safety of their membership. Not all are in a position to support non-emergency-related activities at the same time they are responding to the COVID-19 crisis.
- Applicants who would normally consult with First Nations and include their engagement records with their applications may not be able to provide that information because of the COVID-19 emergency.

More Information

- COVID-19 information at BC Centre for Disease Control:
<http://www.bccdc.ca/health-info/diseases-conditions/covid-19> or 1-888-COVID19
- General information on COVID-19: gov.bc.ca/covid19