



# Indigenous Peoples

*This guideline expands on what is expected by the criteria statements in the Hydropower Sustainability Tools (HST) for the Indigenous Peoples topic, relating to assessment, management, conformance/compliance, stakeholder engagement, stakeholder support and outcomes. The good practice criteria are expressed for different life cycle stages.*

*In the Hydropower Sustainability Assessment Protocol (HSAP), this topic is addressed in P-15 for the preparation stage, I-11 for the implementation stage and O-11 for the operation stage. In the Hydropower Sustainability ESG Gap Analysis Tool (HESG), this topic is addressed in Section 7.*

The Indigenous Peoples guideline addresses the rights at risk and opportunities of Indigenous Peoples with respect to the hydropower project or operating facility. This guideline accompanies and is additional to that provided on Project Affected Communities and Livelihoods, to be applied if there are Indigenous Peoples among these communities. The good practice requirements

for potentially affected Indigenous Peoples are in line with those outlined in the Project Affected Communities and Livelihoods guideline in terms of establishing a socio-economic baseline, assessing risks, analysing the degree and nature of potential impacts, identifying opportunities, and outlining impact avoidance, minimisation, mitigation and compensation measures to be embedded into management plans for construction and operation. This guideline is focused on supplementary measures or extra care in approaches that constitute international good practice in matters relating to the rights of Indigenous Peoples.

**Indigenous peoples** refers to a distinct social and cultural group possessing the following characteristics in varying degrees:

- self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- customary cultural, economic, social or political institutions that are separate from those of the dominant society or culture; and
- an indigenous language, often different from the official language of the country or part of the country within which they reside.

The intent is that the hydropower project and operating facility respect the dignity, human rights, aspirations, culture, lands, knowledge, practices and natural resource-based livelihoods of Indigenous Peoples in an ongoing manner throughout the project life.

Indigenous Peoples require particular attention because, as social groups with identities distinct from dominant groups in national societies, they are often the most marginalised and vulnerable segments of the population. Indigenous Peoples' collective attachment to land, water and natural resources can pose particular challenges for hydropower developments that cause significant changes to the landscape. Indigenous Peoples can be particularly vulnerable to the impact of hydropower projects where they have a high dependence on natural resources, limited recognition of their rights to land tenure and access to natural resources, and/or difficulties to advocate and negotiate safeguards and agreements for their rights at risk.

A number of international instruments recognise and guide the considerations relevant to the rights of Indigenous Peoples, such as in the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP) and the International Labour Organisation Convention No. 169. The rights of Indigenous Peoples include:

- the right to self-determination;
- the right to ownership and property;
- the right to practise and revitalise cultural traditions and customs;
- the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; and
- the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.

The UN DRIP, adopted by the UN General Assembly in 2007, sets an important standard for the treatment of Indigenous Peoples towards eliminating human rights violations and helping combat discrimination and marginalisation. It refers to the individual and collective rights of Indigenous Peoples, as well as their rights to culture, identity, language, employment, health, education and other issues. It emphasises the rights of Indigenous Peoples to maintain and

strengthen their own institutions, cultures and traditions, and to pursue their development in keeping with their own needs and aspirations. It prohibits discrimination against Indigenous Peoples and promotes their full and effective participation in all matters that concern them and their right to remain distinct and to pursue their own visions of economic and social development. The UN DRIP has an emphasis on Indigenous Peoples being able to protect their cultural heritage and other aspects of their culture and tradition.

Ethnic minorities may have a number of similar characteristics as Indigenous Peoples, including often being among the more vulnerable and marginalised, and this guidance may also be useful in relation to these groups. An ethnic minority is a group of people who have a different ethnicity, religion, language or culture to that of the majority of people in the place where they live. The concept of ethnicity is rooted in societal groups marked by a shared identity, which may be through nationality, tribal affiliation, religious faith, language, or cultural and traditional origins and backgrounds. Countries may have ethnic minority groups living in particular regions, sometimes due to historical social migrations or changes in national boundaries. The distinguishing feature between ethnic minorities and Indigenous Peoples is that Indigenous Peoples have a collective attachment to geographically distinct habitats or ancestral territories and the natural resources of these areas, as well as customary traditions and spiritual beliefs that are strongly rooted in the location in which they live.

## Assessment

*Assessment criterion - Preparation Stage: An assessment of the representation of Indigenous Peoples in the project-affected community has been undertaken, including identification of their rights at risk in relation to the project, utilising local knowledge and expertise.*

Each country is unique in its recognition of Indigenous Peoples. The legislative and policy context for Indigenous Peoples must be well-understood when planning the project impact assessment process. National approaches may influence how impact assessments and

engagement are conducted for Indigenous Peoples, and in some countries interactions with Indigenous Peoples may be required to be conducted through a specific government agency. The developer needs to use all means possible, including appropriate expertise and local knowledge, to determine if Indigenous Peoples are represented within the project affected communities. There may be different views within an indigenous community on the methods used to determine recognition as part of a particular group.

The baseline studies for the project Environmental and Social Impact Assessment (ESIA) need to include consideration of those aspects of the environmental and social setting and dynamics that are of special relevance and importance to Indigenous Peoples. Such considerations are both physical and non-physical. Research should be conducted to identify what may or may not be relevant in the project area, and what changes may directly and indirectly occur due to project preparation, development and operation. Good baseline information is outlined in the Environmental and Social Issues Management guideline. Additional information to help understand if the rights of Indigenous Peoples are potentially at risk by a project should include:

- A full description of the social and economic situation relevant to the indigenous communities, including demographic information, and details of living standards and livelihoods.
- Natural resource uses and their role in the livelihoods of Indigenous People, which may be based on non-monetary economies;
- Land use, land tenure and resource use for Indigenous People, noting these may not be officially recognised but based on customary use;
- Important social and cultural practices and resources distinct to the indigenous communities, such as migrations, resource harvesting activities, festivals and traditions, rituals, culturally significant sites, and flora or fauna used in traditional medicines;
- Analysis of the social and governance structures within the indigenous communities, the degree of social cohesion, the leadership situation, and decision-making processes;

- The socio-political setting and community institutions;
- Differing roles, needs, interests, values and aspirations of sub-groups of the indigenous communities (e.g. women, elders, minorities);
- Legacy issues and experience of past projects.

Indigenous Peoples' rights are considered at risk when project activities or impacts prevent Indigenous Peoples from exercising their rights. Issues arising from the project that may pose risks for Indigenous Peoples' rights should ideally be self-identified. This does not mean that the indigenous communities must have identified the issue, but that if suggested by others the affected communities concur. Any views expressed as community views should come from members of the community or their appointed leaders.

Any impacts of the hydropower project listed in the Project Affected Communities and Livelihoods guideline may affect Indigenous Peoples in ways different to or more severely than for other segments of the affected population. Examples of impacts from the experiences of hydropower to date, for which particular care should be taken, include to cultural practices, traditional lands, natural resources, livelihoods, transportation and migratory routes, community cohesion, public health, customary practices, sacred sites and burial grounds.

There can be a number of practical challenges and barriers to the assessment of Indigenous Peoples' rights at risk. The ability or willingness of the indigenous community to participate in an impact assessment may be influenced by factors such as: previous experience with development projects or government interventions; legal recognition and land tenure status; cultural differences that create challenges for information exchange; consultation and agreement to plans; and the level of community organisation for representation and decision-making.

Local knowledge is essential for an assessment process relating to Indigenous Peoples. The methods used should be designed with regards to the needs, situation and sensitivities of the indigenous communities. Any expert assessment of indigenous issues should involve community members that represent different perspectives (e.g. men, women, elderly, leaders, youth).

Professionals that may be involved in the assessment and management of indigenous issues and rights at risk include archaeologists, social anthropologists, environmental anthropologists and indigenous language specialists. These experts are usually not members of the indigenous communities that are the subject of the assessment. In some cases, these experts may act as representatives for indigenous people in engagement or participatory processes, often through organisations such as social NGOs or appointed indigenous councils.

Not only should local knowledge inform the assessment of Indigenous Peoples' rights at risks, but it can be a valuable input for the overall ESIA process for the project. Indigenous Peoples have extensive experience and unique knowledge of lands, water, animals, plants and their use by members (e.g. where fish spawn, animals migrate, rare plants are found). Indigenous local indigenous knowledge is proprietary and it is up to the Indigenous Peoples if and how it will be shared. Indigenous local knowledge, when respectfully used by a developer and with the communities' permission, enables a greater understanding of how a project may affect the people and the environment as it is built and operated. Affected communities will be more comfortable sharing traditional knowledge if a developer clearly acknowledges and demonstrates an understanding of its importance and indicates how this knowledge may influence the project.

Issues for Indigenous Peoples with natural resource development projects such as hydropower can be complex. Indigenous issues can in cases be highly politicised and susceptible to political interference in assessment processes and decision-making. Some jurisdictions may not recognise Indigenous People as members of the community with equal rights or land tenure status. The barriers to effective assessment, engagement and management of Indigenous Peoples are often political, institutional, legal and cultural (e.g. the attitudes of the broader community towards indigenous rights).

Opportunities to improve the status of Indigenous Peoples through project benefits should also be a component of the assessment process (see Outcomes criterion).

*Assessment criterion - Implementation Stage: Issues that may affect Indigenous Peoples' rights in relation to the project have been identified through an assessment process utilising local knowledge and expertise; and monitoring of project impacts and effectiveness of management measures is being undertaken during project implementation appropriate to the identified rights at risk.*

*Assessment criterion - Operation Stage: Ongoing or emerging issues relating to the operating hydropower facility that may affect Indigenous Peoples' rights have been identified, and if management measures are required then monitoring is being undertaken to assess if management measures are effective.*

Further to the above guidance, assessment requirements at the implementation and operation stages are consistent with those outlined in the Project Affected Communities and Livelihoods guideline. Notably, the developer and owner/operator should ensure processes are in place to identify any ongoing or emerging issues for the Indigenous Peoples in relation to the project or operating facility activities, and monitoring should ensure any required management measures are being implemented effectively.

Relevant management plans should identify the monitoring indicators or parameters and targets, the time span for the monitoring, frequency, location, monitoring techniques, responsibilities, measurement metrics criteria for acceptability, and costs. Adaptive management processes should be included in the plans, to be followed when the monitored outcome differs from the predicted outcome or if new opportunities arise.

Responsibilities for monitoring, issues identification and follow-up may be handed over to government agencies over time. Regardless of who has direct responsibility, it is a good practice expectation that the owner/operator of a mature hydropower facility will remain engaged through agreed mechanisms (see the Stakeholder Engagement criterion) with indigenous communities on issues that evolve over time in relation to the hydropower operations and activities.

## Management

*Management criterion - Preparation Stage: Plans and processes have been developed for project implementation and operation to address the Indigenous Peoples' rights at risk in relation to the project, and formal commitments are publicly disclosed.*

*Management criterion - Implementation Stage: Measures are in place to address the Indigenous Peoples' rights at risk in relation to the project, and formal commitments are publicly disclosed.*

*Management criterion - Operation Stage: Measures are in place to address the Indigenous Peoples' rights at risk relating to the operating hydropower facility; and formal agreements are publicly disclosed.*

Measures to address Indigenous Peoples' rights at risk in relation to the project need to be incorporated into plans and processes that are clearly linked to identified impacts and issues for Indigenous Peoples. If there are significant shortcomings in the assessment or issues identification process, the plans will also have shortcomings. Measures to mitigate issues that may affect Indigenous Peoples should ideally be self-identified and incorporate the insight and input of local Indigenous Peoples. Mitigation measure examples from the experience of hydropower projects globally include:

- impact avoidance measures through siting and design choices;
- protection of and respect for cultural practices;
- agreed arrangements for moveable and immovable physical cultural resources;
- health risk prevention and management;
- support for rituals and traditions;
- ensured access to and quality of natural resource-based livelihoods.

At the project development stage, plans and processes that address Indigenous Peoples' rights at risk should be incorporated within the overall project Environmental and Social Management Plan (ESMP). There may be a number of plans with content relevant to indigenous communities, such as a resettlement action plan, project development agreement, a cultural heritage plan, a livelihood enhancement plan, or a biodiversity management plan. Within the

content of the ESMP, it needs to be demonstrably clear that the management plans fully address the Indigenous Peoples' rights at risk, and the issues identified as important for or of concern to Indigenous Peoples. As with any management plan, all measures need to have clearly allocated responsibilities, appropriate funding and resources, objectives and targets, and monitoring and evaluation provisions.

Plans and processes affecting Indigenous Peoples should ensure that all legal requirements relating to Indigenous Peoples are met. Cultural awareness and sensitivity training are important for project staff implementing plans or otherwise interacting with or affecting the Indigenous Peoples. A range of support measures should be planned to help communities to cope with change. Management plans should incorporate an effective grievance mechanism (see the Stakeholder Engagement criterion).

Good practice requires the developer to enter into formal agreements with the Indigenous Peoples regarding arrangements that may affect these communities. Agreements are a recorded understanding between the developer and the indigenous communities or other agreed entities. A formal agreement is one in which the commitments are recorded, documented, witnessed and publicised with mutual parties present and fully engaged. This may be in the form of a contract, a Memorandum of Understanding, a letter of intent, minutes of a meeting, a joint statement of principles, or an operating licence granted by a relevant regulator with the legal mandate to represent Indigenous Peoples or with the direct involvement and support of the Indigenous Peoples. Recollections of community elders cannot be accepted as evidence without supplementary forms acknowledged by and easily accessible to the counterparties to the agreements.

The comprehensiveness, complexity and form of agreements will depend on the circumstances, including factors such as: significance of impacts; number of indigenous communities and individuals; preferences of the indigenous communities; willingness and ability of the developer; and national laws and regulations. Agreements are not only relevant to proposed new projects. If agreements are not pre-existing, they can still be developed during the

implementation and operation stages and even for older operating facilities.

Any agreements with Indigenous Peoples need to be signed off in some manner by legitimate representative(s) of the community. The community representative must be someone selected by and confirmed by the community in a legitimate process. The legitimate representative need not be a community member and can be someone such as a legal representative elected or designated by the community.

The signing off can consist of physical signatures on the documents or by some other verifiable means. For example, witnessed fingerprints are valid if the Indigenous Peoples' representatives cannot write and this approach is accepted by the other signatory parties. If the agreement is not in the form of a contract but one of the other possibilities such as statements in an operating licence, there needs to be some means to confirm that the community representatives concurred.

The agreements should be publicly disclosed. Public disclosure involves the public being informed the agreement has been reached, and the agreement is made available through some form of document distribution or by public posting or upon request. Exceptions for portions of the agreements could include proprietary information, commercially or financially sensitive information, personal information, or indigenous knowledge. For example, an agreement with a family which includes personal information would not need to be publicly disclosed. The developer should be able to demonstrate the legitimacy of the reasons. The process for the publication of agreements and dissemination of information can be contained in the relevant agreement or engagement plan. This requirement could be fulfilled with a process for Indigenous Peoples and key stakeholders to access the agreements, and culturally appropriate activities and materials to present the contents of the agreement (e.g. presentations, focus groups, community meetings).

## Stakeholder Engagement

*Stakeholder Engagement criterion - Preparation Stage: Good-faith consultation with Indigenous Peoples' institutions of representation and decision-making, as determined by them, has been carried out through a process that was appropriately timed, culturally appropriate and two-way; ongoing processes are in place for Indigenous Peoples to raise issues and get feedback; and a mutually-agreed disputes procedure is in place.*

The same expectations on stakeholder engagement apply as outlined in the guideline for Project Affected Communities and Livelihoods. It is important to spend time researching, planning and agreeing on the appropriate stakeholders and their roles in any engagement, consultation, negotiations and agreements with Indigenous Peoples.

Good-faith consultation involves:

- willingness to engage in a process and availability to meet at reasonable times and frequency on the part of all parties;
- sharing of information that is accessible and understandable to the Indigenous Peoples, disseminated in a culturally-appropriate manner and in the local language(s)/dialect(s);
- commitment that Indigenous Peoples have been fully informed of project impacts affecting their rights;
- use of mutually acceptable procedures for negotiation;
- willingness to change initial positions and modify offers where possible; and
- provision of sufficient time for the Indigenous Peoples to consider information using their customary internal processes.

Institutions of representation and decision-making are community leaders or representative bodies who have been self-determined by the affected communities which they represent. Engagement should be with self-selected community representatives, i.e. individuals chosen by the indigenous community who are usually community members. Representatives could be from potentially affected indigenous communities, elders and leaders (both male and female), Indigenous Peoples associations, government institutions representing Indigenous Peoples and/or responsible for approving

Indigenous Peoples studies and plans, and/or local NGOs working with Indigenous Peoples. If representatives are chosen from outside of an indigenous community, it is important to establish how the community has endorsed a person or group as a representative. Different representatives may be put forward for different issues; for example, female community leaders may speak on behalf of women's issues. Other sub-groups with different perspectives may include youth, elders, and various resource users (e.g. hunters, fishers, gatherers, farmers).

The Indigenous Peoples may have particular communications and consultation needs and preferences relating to timing, culturally appropriate methods, and modes for two-way dialogue. The developer should seek guidance from indigenous communities on how they would prefer to be consulted. Great care is needed for the initial contact with Indigenous Peoples, as it can lay the foundation for all future interactions on the project. In addition to being respectful and knowledgeable of the local customs, history and legal status, the project proponent should ensure that local entry protocols are followed when determining who to make contact with and how to ask permission to enter and engage with the community.

Formal processes for communications and engagement may be unfamiliar and threatening for the Indigenous Peoples. Issues that will need to be incorporated into the design of engagement processes may include: language barriers; levels of literacy for written material; suitable locations for meetings (preferably in the communities); inclusion of children and family members; flexibility with time frames and logistics; avoidance of cultural taboos; and availabilities during times of cultural activity. The developer should be aware that the representatives chosen by the affected Indigenous Peoples for discussions about options may have limited expertise with regards to negotiation. The developer may need to invest in capacity building for the communities, with the agreement of the communities, to enable them to fully understand what they are being asked to sign. This may take place through the development of community representatives or providing the communities with the resources to engage, such as legal representation and financial advice.

The proponent should ensure sufficient time is allowed to enable indigenous communities or groups to fully participate in the engagement process, understand issues, and have the opportunity to voice their concerns, including opportunities to identify benefits. Internal mechanisms available for the rest of the community to access information on issues under negotiation and project aspects may be limited, especially if there is poor level of literacy in the community as frequently occurs. Community processes may be lengthy in time due to use of traditional decision-making customs. Given this, a developer should build extra time into scheduled engagements to work with affected Indigenous Peoples in a manner which allows for the growth and development of community and representative capacity so that engagement can be meaningful. The overall project development schedule should include contingencies to address delays arising from prolonged engagement and good-faith negotiations regarding the rights at risk of Indigenous Peoples.

Engagement processes need to recognise and accommodate the culture of the community. This should take into account aspects such as: language; use of written versus oral media; selection of engagement representatives on the part of the proponents; location and timing of meetings; dress; how meetings proceed and who speaks when; appropriate days and times; and how agreements are recorded and signed off.

The developer should seek to provide a variety of mechanisms to communicate and receive feedback and to engage in ongoing dialogue. This may include efforts to select mechanisms, venues and events that encourage maximum participation, free exchange of views, and opportunities for informal engagement and ensuring information can be accessed in local languages. It may also include, where appropriate and feasible, funding for community members to facilitate timely and efficient communications (e.g. transportation, translation, community process and advisor costs) and to contribute to the development of positive community relationships. Providing cash to the communities or their representatives to participate in engagement opportunities should be reasonably limited and controlled as it may be counter-productive.

Technical information should be provided in

an easily understood form. Any misinformation should be quickly identified and corrected. Feedback received should be documented and reported on, including how participants' feedback has influenced the project. A commitment to a minimum time within which feedback will be provided by the project proponent, and ensuring that these timing commitments are consistently met, can help ensure regular contact with the community and may assist in enhancing trust.

As well as agreeing on how engagement, consultation and decision-making will take place, a disputes procedure should be developed at a relatively early stage. A disputes procedure is a mutually-agreed two-way resolution mechanism allowing for both the Indigenous Peoples and the developer to raise disputes and seek resolution. Relevant management plans should clearly state the process by which the Indigenous Peoples can self-identify and raise issues. Mechanisms to raise concerns and resolve complaints and grievances should be designed and agreed with the involvement of the Indigenous Peoples to ensure they are culturally appropriate. Responsibilities should be clear and effectiveness should be monitored.

Stakeholder Engagement criterion - Implementation and Operation Stages: Appropriately-timed, culturally appropriate and two-way channels of communication are maintained; ongoing processes are in place for Indigenous Peoples to raise issues and get feedback; and a mutually-agreed disputes procedure is in place.

Engagement with Indigenous Peoples during construction and operation should take into account when, how and who will provide regular updates to the Indigenous Peoples on the project construction, progress of implementation plans and processes, issues arising and responses, changes in roles and responsibilities, and benefit opportunities. Special communications and consultations should be planned and implemented for project milestones (e.g. reservoir filling, start of operations) and emergency events (e.g. landslips, cofferdam or dam breaks).

The methods of engagement during the project implementation and operation stages should be agreed on with the Indigenous Peoples, and should not be assumed to be the same as for the preparation stage. Some methods may be more

appropriate and effective during construction, such as periodic focus group meetings and continuous liaison with social experts present on-site who are accepted by the community and speak their language. This will allow the developer to react quickly enough if any new adverse impacts or risks emerge.

## Stakeholder Support

*Stakeholder Support criterion - Preparation and Implementation Stages: Free, Prior and Informed Consent has been achieved with respect to the Indigenous Peoples' rights at risk following the principle of proportionality.*

**Free, Prior and Informed Consent (FPIC)** is a uniquely formulated expression for stakeholder support by Indigenous Peoples, and is recognised in a number of international instruments. FPIC comprises both a process and an outcome.

The FPIC process involves:

- good-faith consultation;
- mutual and cross-cultural understanding with dialogue that is ongoing and open, and gender and inter-generationally inclusive whenever possible (with gender and age disaggregated data and analysis);
- inclusive and participatory engagement, including during the assessment of issues and the identification of mitigation measures, with clarity on the level of participation of Indigenous Peoples throughout the consultation process;
- provision of adequate resources to ensure that the Indigenous Peoples representatives can participate in the FPIC process equitably, including the services of independent technical or legal consultants (such as Indigenous Peoples Organisation);
- mutual agreement on the process and desired outcome from the outset of the consultation;
- documentation that is evaluated on an ongoing basis, is verifiable by a mutually agreed methodology, and made publicly available.

The FPIC outcome is the agreement or set of agreements, and thorough documentation of how the agreement was achieved (see the Management criterion).



FPIC does not require unanimity in the indigenous community and does not grant individuals or groups veto rights over a project. The **principle of proportionality** stipulates that the extent of consultation and consent required is proportional to the nature and scope of the indigenous rights that are impacted by the project. Ordinarily, consent will not be required for impacts that are not significant to Indigenous Peoples. However, good-faith consultation is required for this determination. The UN DRIP states that a project must obtain the consent of an indigenous community when it will result in the community's relocation from its traditional territories, and in cases involving the storage or disposal of toxic waste within indigenous lands. At the level of proven best practice, FPIC is to be achieved for the entire project, irrespective of the principle of proportionality.

## Conformance/Compliance

*Conformance/Compliance criterion - Implementation Stage: Processes and objectives relating to Indigenous Peoples' rights at risk have been and are on track to be met with no major non-compliances or non-conformances, and any Indigenous Peoples related commitments have been or are on track to be met.*

*Conformance/Compliance criterion - Operation Stage: Processes and objectives relating to Indigenous Peoples' rights at risk have been and are on track to be met with no major non-compliances or non-conformances, and commitments made to Indigenous Peoples have been or are on track to be met.*

Good practice expectations for conformance and compliance relating to assessment, management and engagement with Indigenous Peoples are consistent with those set out in the Project Affected Communities and Livelihoods guideline. Legal requirements and national policies for approaches involving Indigenous Peoples should be understood and adhered to. Agreed plans should be implemented as per the measures specified in the plans, and any variations justified, documented and approved with authorities and with the engagement and support of the affected parties. Commitments should be fulfilled in a timely manner.

## Outcomes

*Outcomes criterion - Preparation and Implementation Stages: Plans provide for negative impacts of the project on Indigenous Peoples' rights to be avoided, minimised, mitigated or compensated with no significant gaps, and some practicable opportunities for positive impacts to be achieved.*

*Outcomes criterion - Operation Stage: Processes provide for negative impacts of the project on Indigenous Peoples' rights to be avoided, minimised, mitigated or compensated with no significant gaps, and some practicable opportunities for positive impacts to be achieved.*

Avoid, minimise, mitigate and compensate is a sequential approach that should be taken to address negative project impacts on the rights of Indigenous Peoples. Measures to avoid or prevent negative or adverse impacts are always prioritised, and where avoidance is not practicable, then minimisation of adverse impacts is sought. Where avoidance and minimisation are not practicable, then mitigation and compensation measures are identified and undertaken commensurate with the project's risks and impacts.

To show that hydropower development plans avoid, minimise, mitigate and compensate negative project impacts to the rights of Indigenous Peoples, mitigation measures in the plans should be able to be directly linked to all identified issues and rights at risk. The assessment and planning should be informed by appropriate expertise. The assignment of responsibilities and resource allocation for implementation, monitoring and evaluation should be appropriate to the planned actions.

An evidence-based approach should demonstrate that negative impacts to Indigenous Peoples arising from project implementation and operation activities are avoided, minimised, mitigated and compensated with no significant gaps. The developer, owner and operator should demonstrate that responsibilities and budgets have been allocated to implement relevant plans and commitments. Monitoring reports



and data in the implementation and operation stages should clearly track performance against commitments and objectives and capture any impacts to Indigenous Peoples. The developer, owner and operator should document evidence of how identified risks from the assessment were avoided or minimised, and to show that mitigation plans have been implemented and monitored. Implementation of measures for improvements in pre-project conditions for Indigenous Peoples, such as livelihood enhancement, better access to resources, cultural support, and support for capacity building, should be evident and monitoring should show how they are achieving their stated objectives.

Good practice requires that some practical opportunities for positive impacts of the project

regarding Indigenous Peoples are achieved. Opportunities or benefits should clearly be additional to actions to mitigate or compensate impacts. A number of examples are listed under the guidelines for Project Benefits and for Project Affected Communities and Livelihoods, and any of these could be tailored specifically to fit the interests, rights, requirements and needs of the Indigenous Peoples in the project area. Opportunities, and the approaches taken to assess and manage them, should ideally be self-identified and informed by the communities themselves. Examples of opportunities might include improvements compared to pre-project conditions regarding education and training, health services, freshwater access, natural resource access, livelihood resource extent and quality, business and investment support, employment, institutional and governance frameworks, and legacy issue assistance and solutions.