

The Government of the Northwest Territories' approach to consultation with Aboriginal Governments and organizations

Our Commitment

The Government of the Northwest Territories (GNWT) acknowledges and respects the constitutionally protected rights of Aboriginal peoples. Accordingly, where the GNWT is considering actions that may affect these rights, we will undertake consultation guided by the following commitment:

We commit to ensure that the GNWT respects Aboriginal and Treaty rights through consultation and accommodation in a manner in keeping with the honour of the Crown.

We commit to consult with Aboriginal governments and organizations that duly represent Aboriginal peoples having asserted or established rights in the Northwest Territories.

We commit to undertake consultation in good faith, with the goal of continuing to facilitate mutually respectful relationships.

We commit to strive to meet the GNWT's obligations in all of its consultation efforts and adjust its approach in response to this "evolving" field.

We commit to honour the GNWT's duty to consult, as set out in existing agreements and as required in order to maintain the honour of the Crown when government action may potentially affect constitutionally recognized and affirmed Aboriginal and Treaty rights.

We commit to accommodate, where appropriate, the Aboriginal governments and organizations who are being consulted.

Guiding Principles

The GNWT will take a pro-active, coordinated and consistent government-wide approach to consultations.

The consultation process will be transparent, accountable and flexible, taking into account the capacity of the Aboriginal parties to engage.



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Our approach

The GNWT will follow a consultation process that consists of four basic stages:

1. A pre-consultation assessment

Following is a sample of the types of questions which will be addressed as part of the pre-consultation assessment:

Does the duty to consult arise from a requirement contained in a land claim, self-government or interim measures agreement; section 35; or a requirement of legislation or policy?

What are the potential impacts of the proposed GNWT action on the asserted or established Aboriginal rights?

Who should the GNWT be consulting with?

What level of consultation is required?

2. The design of a tailor-made consultation process appropriate to the specific circumstance

Following is a sample of the types of questions which will be addressed as part of the consultation design phase:

At what point should consultation begin?

How much time will be required for a meaningful consultation process?

What information and tools would be helpful to describe the proposed GNWT activity?

What form of communication would best meet both parties' needs?

3. Formal consultation and potential accommodation

Following are some of the critical steps taken during formal consultations:

Provide notice to the affected Aboriginal government or organization of the proposed action and desired timeframe for consultation.

Provide information respecting the full scope and impact of the proposed action.

Confirm the consultation request has been received and the desired timeframe for reply.

Listen to input received.

Based on the input received, determine if there is a duty to accommodate.

Where required, adjust proposed action accordingly.

4. Post consultation

Following are some of the critical steps to be undertaken once consultations have concluded:

Communicate the GNWT's final decision and rationale to the Aboriginal government or organization in a timely manner.

Inform the Aboriginal government or organization what, if any, accommodations will be made to address their concerns.

Our operating environment

Because jurisprudence respecting consultation with Aboriginal governments and organizations is evolving, the GNWT's approach to consultation and accommodation must be flexible.

In the NWT the federal government still has authority over northern non-renewable resources and most of the land and therefore carries much of the consultation obligations respecting development; the GNWT is however responsible for renewable resource development and activities on Commissioners' land – *coordination between the GNWT and Canada is therefore essential when a proposed action straddles both areas of jurisdiction.*

The operating environment of those we consult with

Effective consultation is a two way street – it requires government to provide the necessary information and design a process which enables those consulted to engage. For the consultation to be effective however, Aboriginal governments and organizations also need to engage and participate.

Limited capacity and coping with consultation fatigue may compromise the participation of all parties. The GNWT recognizes these realities and will make best efforts to ensure consultations are focused and the process employed is flexible.

Next Steps

The GNWT will continue to work with its departments and agencies as the jurisprudence around consultation evolves to ensure that government's duty to consult is well understood and consistently applied.

Where consultations have been completed, the GNWT will commit to follow-up assessments to see how the process could be improved
Where warranted, adjustments to the approach will be made.