

NWTMN Consultation Guide

In reference to the following definition of “consult” in the MVRMA:

3. Wherever in this Act reference is made, in relation to any matter, to a power or duty to consult, that power or duty shall be exercised

(a) by providing, to the party to be consulted,

(i) notice of the matter in sufficient form and detail to allow the party to prepare its views on the matter,

(ii) a reasonable period for the party to prepare those views, and

(iii) an opportunity to present those views to the party having the power or duty to consult; and

(b) by considering, fully and impartially, any views so presented.

There are 2 aspects of consultation: 1) consultation required by legislation, e.g. MVRMA; and 2: consultation of government required by the common law. Based upon case law government, the duty of government to consult is triggered upon a proposed government action that may adversely affect the exercise of an aboriginal right. Any government engagement to address a potential adverse impact with an aboriginal group is section 35 consultation. The section 35 consultation is in addition to what is required by the MVRMA.