

Land and Water Boards of the Mackenzie Valley



Communique

Updated ORS Language – Crown Consultation

November 5, 2020

In 2018, the Land and Water Boards (LWBs) of the Mackenzie Valley wrote a letter to the federal and territorial governments highlighting the need to clarify the nature and extent of Crown reliance on board processes in order to satisfy consultation obligations.

In response, the federal and territorial governments prepared a statement that will be added to the LWBs' Online Review System (ORS) for every item that goes out for review (e.g., any application, policy, guidance document). The statement is as follows:

The Crown relies on the Board's process as the primary means to fulfill its duty to consult with Indigenous Peoples and, if appropriate, accommodate potential adverse impacts to asserted or established Aboriginal and/or Treaty rights resulting from any decisions by the federal government, territorial government, or Board in relation to this review item.

If you identify any potential adverse impacts to your asserted or established Aboriginal and/or Treaty rights with respect to this review item, it is important to provide a submission setting out the details as part of this review. Your submission will inform any preliminary screening determinations, the planning of future steps in the Board's process, and any other Crown consultation (Board, federal government, or territorial government) steps that may be required. Please explain and provide evidence of the following in your submission: the specific right that may potentially be adversely impacted, the specific potential adverse impacts, and how those potential adverse impacts might be accommodated.

Please note this does not impact the LWBs' regulatory process at this time. This statement is a notification that the Crown is relying on the LWBs' process relating to the Crown's constitutional duty to consult. Please also note that if the LWBs' regulatory process does not fulfill or achieve adequate consultation or accommodation, the Crown will consider whether further measures are needed to meet its duty.

For more information about the relationship between proponent engagement, the LWBs' statutory consultation, and Crown consultation, please see the MVLWB's [Consultation and Engagement Policy](#).

Should you have any questions, please contact Shelagh Montgomery, MVLWB Executive Director, at 867-766-7457 or via email.