

Terms of Reference
Intergovernmental Council
Impact Benefit Plans Working Group

Introduction:

In February 2014, the Northwest Territories Intergovernmental Agreement on Lands and Resource Management (the “Agreement”) was signed by the following parties: Government of the Northwest Territories (GNWT), Inuvialuit Regional Corporation (IRC), Northwest Territory Métis Nation (NWTMN), Sahtu Secretariat Incorporated (SSI), Gwich’in Tribal Council (GTC) and the Tłı̨chǫ Government (TG). This Agreement is part of the Devolution Agreement which came into effect on April 1, 2014. Acho Dene Koe First Nation, Salt River First Nation and Deninu Kué First Nation also signed onto this Agreement in May 2014. Kát’odeeche First Nation signed onto this Agreement March 2015. This Agreement also allows for other Aboriginal organizations to become a party to the Agreement.

As per the approved Intergovernmental Council’s Terms of Reference, working groups may be established by the Council to address specific tasks or issues. The working groups are advisory and accountable to the Intergovernmental Council and do not have any decision-making authority. One such working group is the Impact Benefit Plans Working Group. This Working Group was established as per directions provided by the Intergovernmental Council at its September 19, 2014 inaugural meeting.

The Agreement provided the following duty of the Council under section 5.1:

“The duties of the Council are to ... (c) address legislative requirements for benefit agreement requirements relating to resource development”.

Role & Responsibility:

The Impact Benefit Plans Working Group will undertake research to identify and assess potential options for the establishment of legislative requirements:

- a) for proponents who intend to undertake resource development activities in the NWT to enter into negotiations for benefit agreements with the affected Aboriginal groups and to conclude impact benefit agreements with affected Aboriginal groups; and
- b) for government to negotiate and conclude benefit agreements (e.g. socio-economic agreement) with affected Aboriginal groups.

This Working Group will provide a report setting out its findings and recommendations to the Intergovernmental Council for its consideration.

This research would include a review of the:

- the provisions of the *Benefits Plan Guidelines of the North* (the "Guidelines") – particular section 4.3 that establishes a preference for local Aboriginal groups – that currently apply in the NWT pursuant to section 123(5) of the territorial *Oil and Gas Operations Act*;
- the current provisions of the territorial mirror legislation relating to oil and gas and other legislative, such as section 68 of the *Oil and Gas Act* (Yukon), and policy requirements in Canada and elsewhere;
- duty of consultation and accommodation arising from Section 35 caselaw;
- benefit agreement requirements under Land Claim Agreement (e.g. Nunavut, Labrador Inuit);
- legislative and policy requirements from other jurisdictions (e.g. B.C.);
- corporate social responsibility and socially responsibility investment requirements for financing projects; and
- free and prior informed consent requirements recognized under the U.N. Declaration on the Rights of the Indigenous Peoples.

The Impact Benefit Plans Working Group will make recommendations about “best practices” and whether to proceed with setting up new legislation or if current territorial legislation needs to be amended? The Working Group will also make recommendations about the specific scope, objectives and nature of the benefit plans.

Intergovernmental Council Secretariat

The Secretariat will provide administrative support to the Working Group by:

- planning and coordinating meetings of the Working Group
- ensuring copies of required documents and briefing material are distributed in a timely manner
- preparing meeting minutes
- coordinating and monitoring any follow up required
- facilitating the exchange of information amongst the Parties
- assisting with the preparation of reports to the Intergovernmental Council

Membership:

The Impact Benefit Plans Working Group consists of duly appointed representatives from the Acho Dene Koe First Nation (ADK), Northwest Territory Métis Nation (NWTMN), Sahtu Secretariat Incorporated (SSI), Tłı̨chǫ Government (TG) and the Government of the Northwest Territories (GNWT).

The Parties may appoint an Alternate to attend meetings on behalf of the appointed representatives. The Secretariat Office is to be advised of the appointment of an Alternate in advance of a given meeting. The Secretariat Office will ensure the Alternates are kept informed and receive all documents distributed to the Working Group members.

Any change to the appointment of a representative on the Impact Benefit Plans Working Group is to be communicated in writing to the other Parties as soon as possible. Vacancies will be filled in a timely manner to ensure minimum disruption to the work of the Working Group.

Meetings:

Meetings will be held at a mutually agreed date and time. Fifty percent (50%) plus one will constitute a quorum. A GNWT representative has to be in attendance. Observers may be invited to attend the Working Group meetings but as an observer only. Subject Matter experts may also be invited to Working Group meetings to speak to or do presentations on a given subject matter.

The responsibility of chairing the meetings will be rotated amongst its members. The agenda for the Working Group meetings will be prepared by the Secretariat Coordinator. The agenda will be developed in cooperation with Working Group members and distributed at least one (1) week prior to the scheduled meeting. Required documents and materials for upcoming meetings will be prepared and distributed in a timely manner. Working Group members are expected to review the distributed material prior to the meetings.

Cancellations of meetings will be communicated immediately to the members by phone and/or email.

The Working Group can make decisions via email based on consensus. The decisions will be duly recorded and reported back on or tabled at the next meeting.

Record of Meetings:

The respective Chair of a Working Group meeting will ensure that minutes of that meeting are prepared and distributed within two (2) weeks of the meeting. The Secretariat Coordinator will coordinate the preparation of the meeting minutes.

Minutes of meetings will:

- Be approved at a subsequent Working Group meeting.
- Record who was in attendance at the meeting.
- Give summary of discussions held, highlighting any concerns or issues of relevance.

- Record the decisions made, outline the action to be taken, identify the person(s) responsible for the action items and wherever possible, establish a due date for completion of action item.
- Approved copy of the minutes to be signed by the respective chair. The original signed copy will be kept on file in the Secretariat Coordinator's office with a copy going to the respective Parties and to the Intergovernmental Council

Working Group Costs:

As per the Northwest Territories Intergovernmental Agreement on Lands and Resources Management, section 4.5, each Party is responsible for its own costs to participate on the Council. When travel is required, the respective organizations will make all the necessary arrangements for their Working Group member

Reporting:

The Impact Benefit Plans Working Group is accountable to the Intergovernmental Council on Lands and Resources. The Working Group will report back to the Intergovernmental Council through the submission of meeting minutes and written reports. Representatives are also expected to report back to their respective organization on the activities of the Finance Working Group, as appropriate. Any other reporting requirements will be referred to the Working Group to address.

Amendments:

Changes or additions to the Terms of Reference for the Impact Benefit Plans Working Group can be made upon full consent of the Intergovernmental Council or by the Working Group members.

Approved:

- **Date and signed off by members**