

Mineral Claims Consultation Framework – Information for First Nations

Background

The Mineral Tenure Act (MTA) governs mineral and placer rights in British Columbia. Under the MTA, Free Miner Certificate holders can register mineral and placer claims (claims) automatically using the Mineral Titles Online (MTO) system which is the Province's registry of mineral, placer and coal rights. Currently, a free miner selects available cells and pays a registration fee to automatically register a claim in MTO, and no consultation is conducted with First Nations. A 2023 ruling by the BC Supreme Court determined that this process does not allow the Province to meet its obligation to consult with First Nations, as outlined in section 35 of the Constitution Act 1982. This is because the interests and activities (i.e., activities that do not require a Mines Act Permit) related to granting a claim may impact First Nations' rights and title, and treaty rights. The Ministry of Mining and Critical Minerals (Ministry) is working with First Nations, the mineral exploration sector, and interested groups on a Mineral Claim Consultation Framework (MCCF) to be in place by March 26th, 2025 to meet the court deadline.

Note that work to develop and implement an MCCF is distinct from the work to reform the MTA. The MTA reform work is based on the need to align the act with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), while developing an MCCF is based on the immediate need for the Province to meet its obligations to consult and accommodate in accordance with section 35 of the Constitution Act, 1982.

Overview of the Mineral Claim Consultation Framework

The MCCF will establish the process for applying for a claim and consulting with First Nations before claims are registered. This process ensures the Province is fulfilling its duty to consult. The duty to consult is a legal obligation of the Crown to consult and, where appropriate, accommodate First Nations before decisions are made that may impact First Nations' rights and title, and treaty rights.

What is staying the same?

Claim holders can still maintain their registered mineral and placer claims. They can also do activities on registered claims that do not require a Mines Act permit. For example, they may conduct activities such as collecting rocks and soil samples by hand or performing airborne surveys. MTO will continue to be the platform for managing claims.

What is changing?

As of March 26th, 2025, the Province must consult First Nations before new claims are registered in MTO to understand how a claim may impact First Nations' rights and title. A decision will be made by a statutory decision maker whether to deny the claim application, register the claim or register the claim with accommodations.

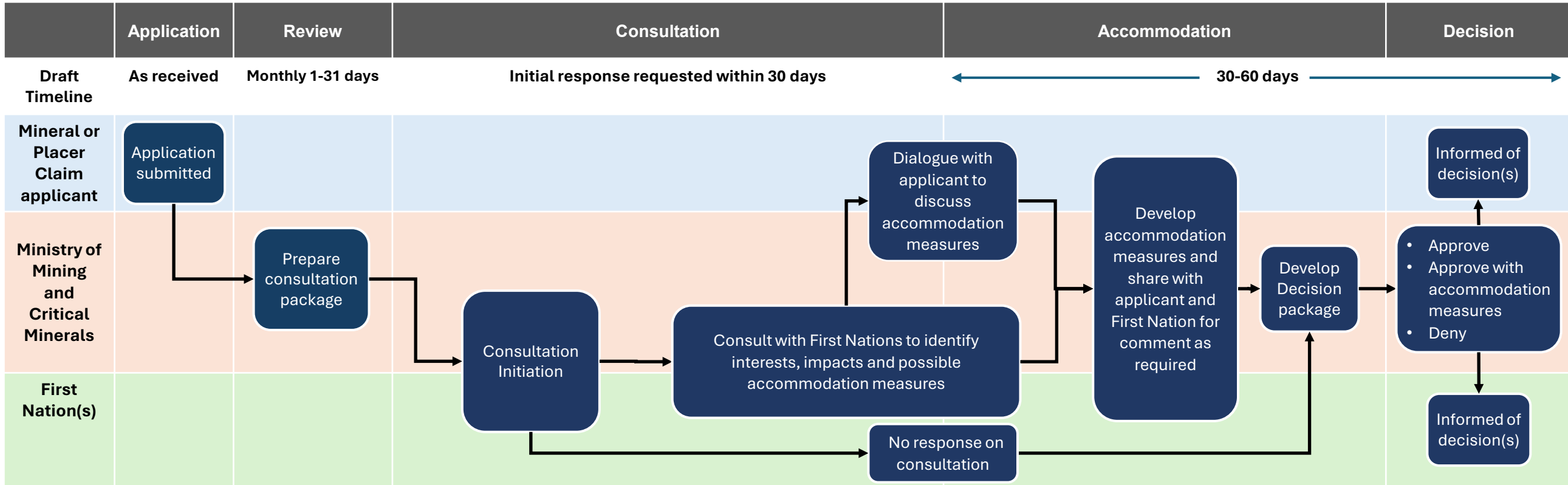
How will First Nations be consulted in the new MCCF?

When people apply to register a claim, the affected First Nation(s) will be notified. The First Nation will get information about the application, including details such as the location of the claim. The First Nation will be invited to share any concerns about how registering the claim may impact their rights and title, including those related to culture, spirituality, environment, and economy. Where specific concerns arise, the Province and First Nation will discuss how to address any such concerns.

Next Steps

The Ministry will engage First Nations to gain input on the consultation framework and identify potential improvements. After the framework is implemented (by March 26th, 2025), ongoing engagement with First Nations will be scheduled to request feedback for continual improvement.





Application

Application Process

- Applicant has a Free Miner Certificate
- Applicant uses Mineral Titles Online (MTO) to submit claim application
- Application area is required (cells will be held until decision)

Informed by implementation, future information requirements may include:

- If known, initial exploration plans (e.g. timing of activities, methods of access, exploration activities)
- If available, pre-application engagement or agreement with First Nation(s)

Review

Review Process

- Province compiles information and develops consultation package
- Province batches applications monthly by applicant and territory

Consultation

Initiation

- Consultation packages are sent to First Nations monthly by the Province
- First Nations are provided 30 days for initial response to consultation

Consultation

- If a response is received from the First Nation, consultation begins
- The Ministry works with First Nations to identify and understand interests, impacts and accommodations

Note: due to existing agreements between the Province and some First Nations, consultation processes may vary

Accommodations

Statutory

Accommodations:

- MTA Section 17 - Ministerial Order
- MTA Section 22 - Mineral Reserve

Agreement

Accommodations:

- May include agreements between the province, and First Nation or Proponent and First Nation

Decision

- Decision timeline is dependent on the need for accommodation measures
- Decision package includes a summary of consultation and proposed accommodation measures
- After considering if the duty to consult has been fulfilled, and accommodations adequate, Chief Gold Commissioner makes a statutory decision to approve/deny registration of the claim(s)
- First Nations and applicant informed of decision(s)
- Decision registered in MTO registry and made public