

# NORTHERN SECWEPEMC TE QELMUCW (“NStQ”)

---

## Consultation and Accommodation Guidelines for Government and Third Parties

June 2003  
First Edition

# 1. Purpose of these guidelines

This document sets out the expectations of the Northern Secwepemc te Qelmucw (“NStQ”) with regard to consultation and accommodation by government, government agencies, industry and other third parties which plan and undertake activities which may infringe upon the Aboriginal Title and other Aboriginal Rights of the NStQ.

Through these guidelines, the NStQ plan to:

- ❑ Provide stewardship and protection of the Traditional Territory and the cultural heritage of the NStQ,
- ❑ Increase mutual understanding and respect with other levels of government and with third parties operating in the Traditional Territory,
- ❑ Provide certainty and clarity to other levels of government and to third parties regarding their activities in the Traditional Territory,
- ❑ Provide economic opportunities for the NStQ and other people in the Traditional Territory,
- ❑ Develop NStQ capacity in governance, stewardship and resource management in the Traditional Territory.

## 2. Definitions

In this document:

**“Aboriginal Rights”** means rights relating to the cultural practices, traditions and customs of the NStQ. They include but are not limited to:

- ❑ Aboriginal Title;
- ❑ The Right to self-governance;
- ❑ The Right to protect and provide stewardship throughout the Traditional Territory;
- ❑ The Right to harvest the resources of the Traditional Territory for domestic purposes and for trade, barter, and sale on a non-commercial scale;
- ❑ The Right to benefit economically from the Traditional Territory;
- ❑ The Right to pursue commercial opportunities within the Traditional Territory;

**“Aboriginal Title”** means the title which the NStQ hold throughout the Traditional Territory. This title flows from the use and occupation by the NStQ of the Traditional Territory prior to the British Crown’s declaration of sovereignty in 1846. It is a communally-held proprietary interest in the land with an “undeniable economic component”. Aboriginal Title is based on the NStQ’s attachment to the land.



**"Activity"** means any legislation, regulation, policy, procedure, plan, tenure, grant, license, restriction, amendment, approval, authorization, transfer, transaction, operation or other activity which may have an impact on NStQ Aboriginal Title and other Aboriginal Rights in the Traditional Territory.

**"Government"** includes the government of Canada or British Columbia, their Cabinets, committees, Ministries, Crown Corporations, agencies, employees and contracted agents.

**"Member Community"** means one of the four member bands of the Northern Secwepemc te Qelmucw people, namely **Tsq'escen'** (Canim Lake Indian Band), **Xgat'tem/Stswecem'c** (Dog Creek/Canoe Creek Indian Band), **Xats'ull/Cmetem'** (Soda Creek/Deep Creek Indian Band), and **T'exelc** (Williams Lake Indian Band).

**"Northern Secwepemc te Qelmucw"** or **"NStQ"** means the people of the four Member Communities of Northern Secwepemc te Qelmucw, who are negotiating together as a First Nation with Canada and British Columbia through the B.C. Treaty Process. It also includes the survivors of the **Tcuxkexwa'nk** (Buckskin), **Tcexwe'ptem & Komenka'ksxen** (Empire Valley), **Se'tlemux & S'nhaxala'us** (Farwell Canyon), **Peltcoktcotci'tcen** (Williams Lake), **Hatli'nten** (Lac la Hache), **Pelstsokomu's** (Upper Bonaparte), **Texhoilu'ps** (Chilcotin Mouth), **Peq & Sulta'tkwa** (Riske Creek), **Oxtseta'ks** (Doc English Bluff), **Te'lzenten** (Green Lake/Green Timber), and other Northern Secwepemc communities decimated by disease and other effects of colonization.

**"Third Party"** means any individual, corporation, firm, municipality, regional district, industry, society or other non-government organization carrying on Activities in the NStQ Traditional Territory.

**"Traditional Territory"** means the traditional homeland of the NStQ in British Columbia, over which the NStQ asserts Aboriginal Title. The Traditional Territory is outlined on the map at Appendix A.



### 3. How to use this document

The following conditions apply to the use of this document:

- ❑ It must be read and applied in its entirety. The appendices form part of this document.
- ❑ The guidelines set out in this document are the NStQ's minimum requirements for consultation and accommodation.
- ❑ Nothing in this document shall abrogate or derogate from any party's consultation and accommodation obligations pursuant to the constitution of Canada, statute or the common law.
- ❑ Nothing in this document shall constitute acceptance by the NStQ of current legislation, regulations, policies, procedures or practices of Government or the plans, policies, procedures or practices of Third Parties in the Traditional Territory.
- ❑ These guidelines are "without prejudice" to current treaty negotiations.

**For further background about NStQ Title, other Aboriginal Rights, and the developing relationship between the NStQ and B.C. and Canada, please obtain a copy of the document entitled, *NStQ Title and Rights: Background Materials*. It is available from the Cariboo Tribal Council.**

### 4. Scope of this document

These guidelines apply to all Activities of Government and Third Parties (see Definitions above).

These guidelines are subject to periodic review by the NStQ and are in effect until further notice.

### 5. The need for this document

Government and Third Parties have a legal obligation to consult with First Nations with respect to activities which may impact on Aboriginal Title and other Aboriginal Rights.

Courts have repeatedly stated that consultation with First Nations must be timely, detailed and meaningful. First Nations interests and concerns must be accommodated and taken seriously.

So far, however, consultation with and accommodation of the NStQ has been far from satisfactory. With the exception of a few specific treaty-related measures dealing with land use, parks planning and sub-regional planning, the NStQ have not been involved in a meaningful way in long term planning about resource extraction and land transactions on the Traditional Territory. NStQ involvement has been limited to responding to last minute



“referrals” sent by Government and Third Parties, just before a forest is about to be logged or a parcel of land is about to be sold. These referrals are usually received too late for meaningful input. They come with little information. The volume of referrals is also far in excess of what the NStQ are able to respond to with limited resources, and where a response is given, it often has no effect on the proposed Activity. This process only allows for reactive participation by the NStQ and not for input before the activity has been proposed to government. Efforts to accommodate NStQ interests have by both Government and Third Parties have been insufficient.

The Government of British Columbia has developed a “*Provincial Policy for Consultation with First Nations*”. Ironically, this consultation policy was developed without consultation with the NStQ. Although the NStQ agree with parts of the provincial policy, they object to many aspects, including the following:

- ❑ The provincial policy refers to the Aboriginal Title and other Aboriginal Rights of First Nations such as the NStQ as “unproven”. In fact, Aboriginal Rights have been established by the NStQ in the Traditional Territory in the case of *R. v. Alphonse*. In addition, the NStQ have a wealth of archaeological and traditional use information supporting their title and other rights. Finally, the NStQ have been negotiating a treaty with British Columbia and Canada in good faith for 9 years. If it weren’t for NStQ Aboriginal Title and other Rights, Government wouldn’t be at the treaty table. Therefore, to refer to NStQ Aboriginal Title and other rights as “unproven” is inaccurate and inflammatory.
- ❑ The provincial policy calls for legally untrained government decision-makers to assess the “soundness” of the NStQ “claim” to Aboriginal Title and other Rights within the Traditional Territory. The NStQ assert Title and other Rights throughout the Traditional Territory and expects to be consulted about activities throughout it. Having government line decision-makers trying to assess Aboriginal Title and other Aboriginal Rights—a task which have consumed legal scholars for over 100 years—is inappropriate, inefficient and legally and politically dangerous.
- ❑ The provincial policy has a strong bias toward carrying out Activities even over strong objections of the NStQ. It mentions the need to accommodate NStQ interests, but provides an incomplete list of ways to do so. It does not, for example, provide for stopping an Activity altogether. The NStQ feel that many Activities planned and undertaken throughout the Traditional Territory have been and continue to be harmful and irreparable. A policy of consultation and accommodation must acknowledge that canceling an Activity—not just modifying it or compensating for it—is a viable option.
- ❑ The provincial policy lists a number of activities from telephone calls to meetings which B.C. considers consultation. Again, this list was developed without NStQ input and the NStQ *do not accept it as describing consultation*. Through these NStQ Consultation Guidelines and subsequent agreements with Government and Third Parties, the NStQ seek to clearly define what constitutes consultation and what does not.



- ❑ The provincial policy provides that if the NStQ and other First Nations refuse to participate in their attempts at consultation, or fail to respond, or respond on a “without prejudice” basis, the decision-maker may continue with the Activity based on his/her assessment of existing “evidence of aboriginal interests that is available to the Crown on reasonable enquiry”. Unfortunately, B.C.’s and Canada’s archaeological, traditional use and local knowledge information about the Traditional Territory is deficient. The provincial policy does not require Government to fulfill its fiduciary obligation to the NStQ by curing this deficiency before undertaking an Activity.

For the foregoing and other reasons, the NStQ do not feel that the provincial policy meets NStQ needs or even the needs of Government and Third Parties.

## 6. Underlying Principles

The NStQ and B.C. agree on a number of underlying principles about consultation. Based on the *Provincial Policy for Consultation with First Nations*, the parties agree that consultation must:

- ❑ Be well-defined
- ❑ Be efficient
- ❑ Fully consider aboriginal interests
- ❑ Be pursued diligently and meaningfully
- ❑ Be undertaken as early as possible in the decision-making process
- ❑ Be in good faith
- ❑ Be integrated where a number of agencies are involved to ensure maximum clarity and certainty
- ❑ Follow a clearly defined process
- ❑ Identify the potential effect of the proposed activity on NStQ Aboriginal Title and other Aboriginal Rights
- ❑ Be in a manageable and understandable format
- ❑ Provide the NStQ with adequate time for review and response
- ❑ Provide all relevant information regarding the proposed activity including the location, nature and extent of the Activity, and its “on-the-ground” impact.

In addition to the above principles, the NStQ assert that the following principles also apply to the consultation and accommodation process:

- ❑ The NStQ have Aboriginal Title and other Aboriginal Rights throughout the Traditional Territory. This title and these rights co-exist with other interests in the territory.
- ❑ Not only Government but Third Parties are required by law to consult with and accommodate the NStQ with respect to Activities in the Traditional Territory.
- ❑ The NStQ must have an opportunity to express its concerns and these concerns must be taken seriously by Government and Third Parties.
- ❑ Wherever possible, NStQ concerns must be integrated into the plan for the Activity. This may include placing limits on, or canceling the Activity.



- ❑ The process of consulting with and accommodating the NStQ must be separate from other
- ❑ Consultation and accommodation of the NStQ includes a timely opportunity for NStQ to assess areas through studies, reviews and community consultations. consultations by Government and Third Parties with interest groups.
- ❑ Consultation with and accommodation of the NStQ is part of the “cost of doing business” in the Traditional Territory and, as such, must be borne by the Government or Third Party whose legal obligation it is;
- ❑ Consultation must occur at all stages of an Activity. The NStQ must be involved in all planning Activities. It must also be involved in strategic, long, medium and short term planning, scientific and technical decision-making, and operational processes and approvals which may lead to the issuance of a permit, license, lease, or change in land status.
- ❑ Government and Third Parties must accommodate the NStQ Plans and these Consultation Guidelines in their own planning.
- ❑ All parties will act in good faith to implement these guidelines. In particular:
  - Government will not use the consultation and accommodation process as a platform for challenging aboriginal title and other aboriginal rights;
  - Government and Third Parties will take all reasonable steps to consult with and accommodate the NStQ, who in turn will take all reasonable steps to respond to the consultation in a timely and meaningful manner.

## 7. Obligations of the Parties

Government, Third Parties and the NStQ all have obligations in order to make these guidelines work.

### **Government Obligations**

#### **Government must:**

- ❑ Work with the NStQ on a government-to-government basis;
- ❑ Not pursue the extinguishment of Aboriginal Title and other Aboriginal Rights as a condition of its ongoing relationship with the NStQ;
- ❑ Recognize that the NStQ’s Aboriginal Rights include the right to self-government, and that NStQ people have jurisdiction over “their laws, their customs and their ways”;
- ❑ Recognize the NStQ’s interest in the protection and stewardship of resources;
- ❑ Recognize that the NStQ’s Aboriginal Rights have an “undeniable economic component”;



- ❑ Recognize its fiduciary relationship with the NStQ, and the obligation to uphold the honour of the Crown and conduct itself with utmost good faith with respect to the NStQ;
- ❑ Recognize that proper consultation with and accommodation of the NStQ is a legal, moral and political obligation;
- ❑ Consult the NStQ at all levels of Activities, including long, medium and short term plans, at the provincial, regional and operational levels;
- ❑ Provide the NStQ with funding, training and other opportunities to develop its capacity to meet its consultation obligations;
- ❑ Share all technical and scientific information about land, soil, air, water, flora and fauna on the Traditional Territory with the NStQ.

### **Prior to consultation, Government must:**

- ❑ Initiate consultation with the NStQ without the NStQ first having to raise questions about an Activity;
- ❑ Not limit decision-makers with inflexible policies, procedures or practices, such as those which do not provide a “non-development option”;
- ❑ Not require decision-makers to evaluate the soundness of the NStQ claim with respect to Activities in the Traditional Territory;

### **During consultation, Government must:**

- ❑ Initiate consultation as early as possible in the decision-making process, before a decision is made which may infringe on Aboriginal Title and other Aboriginal Rights;
- ❑ Provide complete information about a proposed Activity to the NStQ in a timely, manageable and understandable manner;
- ❑ Recognize current NStQ limitations in funding and capacity to participate in the consultation process, and not impose unreasonable deadlines;
- ❑ Pay for consultation of the NStQ where such consultation is Government’s obligation;
- ❑ Provide the NStQ with a reasonable opportunity to respond to the consultation, including conducting archaeological and traditional use studies and community consultations where requested by the NStQ;
- ❑ Carefully and seriously consider the NStQ’s perspective and input before making a decision about the activity, and accommodate that perspective;
- ❑ Carefully and seriously consider modifying or canceling the Activity if opposed by the NStQ.





## Following consultation, Government must:

- ❑ Immediately advise the NStQ of the decision made and the reasons for it, including any decision to infringe Aboriginal Title and other Aboriginal Rights;
- ❑ Accommodate the NStQ interests in a decision which may infringe on Aboriginal Title, Aboriginal Rights or other NStQ interests by measures which include but are not limited to:
  - modifying the Activity to minimize the infringement of NStQ Aboriginal Title, Aboriginal Rights and other NStQ interests
  - undertaking restorative measures such as replanting or restocking;
  - compensating the NStQ for the infringement;
  - providing economic and other opportunities to the NStQ
  - conservation measures
  - treaty related measures
  - economic measures
  - limitation of resource harvesting and extraction
  - programs
  - training
  - economic development opportunities
  - agreements or partnerships with industry or proponents
  - resource allocations to the NStQ
  - contracts for NStQ individuals and businesses
  - participation in future decision-making
  - joint ventures
  - revenue sharing
  - co-management
  - compensation for damages
  - other arrangements
- ❑ Provide the NStQ with a reasonable opportunity to challenge the decision or pursue dispute resolution or legal action.



## Third Party Obligations

### Third Parties must:

- ❑ Recognize that the NStQ are a level of government in the Traditional Territory;
- ❑ Recognize that the NStQ have asserted unextinguished Aboriginal Title and other Aboriginal Rights throughout the Traditional Territory;
- ❑ Recognize that the NStQ's Aboriginal Rights include the right to self-government, and that NStQ people have jurisdiction over "their laws, their customs and their ways";
- ❑ Recognize the NStQ's interest in the protection and stewardship of resources;
- ❑ Recognize that the NStQ's Aboriginal Rights have an "undeniable economic component";
- ❑ Recognize that they must deal with the NStQ in good faith;
- ❑ Recognize that proper consultation with and accommodation of the NStQ is a legal, moral and financial obligation which arises where the NStQ's Aboriginal Title and other Aboriginal Rights may be infringed by an Activity;
- ❑ Consult the NStQ at all levels of Activities, including long, medium and short term plans, at both regional and operational levels
- ❑ Provide the NStQ with funding, training and other opportunities to develop its capacity to meet its consultation obligations;
- ❑ Share all technical and scientific information about land, soil, air, water, flora and fauna on the Traditional Territory with the NStQ.

### Prior to consultation, Third Parties must:

- ❑ Initiate consultation with the NStQ without the NStQ first having to raise questions about an Activity;
- ❑ Not limit decision-makers with inflexible policies, procedures or practices, such as those which do not provide a "non-development option";
- ❑ Not question the soundness of the NStQ claim with respect to Activities in the Traditional Territory;
- ❑ Initiate consultation as soon as possible and engage in cooperative planning with the NStQ prior to submitting plans to government.

### During consultation, Third Parties must:

- ❑ Initiate consultation as early as possible in the decision-making process, before a decision is made which may infringe on Aboriginal Title and other Aboriginal Rights;
- ❑ Provide complete information about a proposed Activity to the NStQ in a timely, thorough and understandable manner;
- ❑ Recognize current NStQ limitations in funding and capacity to participate in the consultation process, and not impose unreasonable deadlines;
- ❑ Pay for consultation of the NStQ where such consultation is the Third Party's obligation;
- ❑ Provide the NStQ with a reasonable opportunity to respond to the consultation, including conducting archaeological and traditional use studies and community consultations where requested by the NStQ;



Carefully and seriously consider the NStQ's perspective and input before making a decision about the Activity, and accommodate that perspective;  
Carefully and seriously consider modifying or canceling the Activity if opposed by the NStQ.

### **Following consultation, Third Parties must:**

- ❑ Immediately advise the NStQ of the decision made and the reasons for it, including any decision to infringe aboriginal title and other aboriginal rights;
- ❑ Accommodate the NStQ interests in a decision which may infringe on Aboriginal Title, Aboriginal Rights or other NStQ interests by measures which include but are not limited to:
  - modifying the Activity to minimize the infringement of NStQ Aboriginal Title, Aboriginal Rights and other NStQ interests
  - undertaking restorative measures such as replanting or restocking;
  - conservation measures;
  - compensating the NStQ for the infringement;
  - providing economic and other opportunities to the NStQ
  - limitation of resource harvesting and extraction
  - programs
  - training
  - economic development opportunities
  - agreements or partnerships with the NStQ
  - resource allocations to the NStQ
  - contracts for NStQ individuals and businesses
  - participation in future decision-making
  - joint ventures
  - revenue sharing
  - compensation for damages
  - other arrangements
- ❑ Provide the NStQ with a reasonable opportunity to challenge the decision or pursue dispute resolution or legal action.



## **NStQ Responsibilities**

### **The NStQ must:**

- ❑ Work with British Columbia and Canada on a government to government basis;
- ❑ Recognize that British Columbia and Canada have jurisdiction over “their laws, their customs and their ways”;
- ❑ Recognize that Third Parties have a legitimate and important role on the Traditional Territory;
- ❑ Consult with Government, and Third Parties as appropriate, on NStQ Activities which may impact on non-NStQ people in the Traditional Territory;
- ❑ Provide traditional ecological knowledge and archaeological and traditional use information where necessary to the implementation of these guidelines;
- ❑ Work in good faith to implement these guidelines;
- ❑ As resources permit, provide timely, thorough and detailed responses to consultations made pursuant to these guidelines;
- ❑ Take reasonable steps to increase NStQ capacity to fulfill its obligations under these guidelines;
- ❑ As resources permit, protect and provide stewardship of resources in the Traditional Territory;
- ❑ Assist government in integrating Regional and Subregional Land Use Plans with the NStQ Land Use Plan.

### **Prior to consultation, the NStQ must:**

- ❑ Advise Government and Third Parties, in a timely manner, of concerns with respect to the consultation process with respect to an Activity
- ❑ Work in good faith with Government and Third Parties to implement these guidelines and improve them where necessary;
- ❑ Not limit decision-makers with inflexible policies or procedures inconsistent with the principles of these guidelines;
- ❑ Provide Government and Third Parties with the names of the NStQ representatives to whom to address the consultation on different types of Activities.

### **During consultation, the NStQ must:**

- ❑ As resources permit, provide timely and detailed responses to consultations made pursuant to these guidelines;
- ❑ Advise Government and Third Parties, in a timely manner, of concerns with respect to the consultation process with respect to an Activity

### **Following consultation, the NStQ must:**

- ❑ Advise the consulting party of its decision with respect to the Activity;
- ❑ Where it objects to the proposed Activity, provide reasons for the objection, and where appropriate, suggested conditions or alternatives to the Activity;
- ❑ Advise the consulting party with respect to appropriate measures of accommodation of NStQ Aboriginal Title, Aboriginal Rights and other interests.



## 8. Funding and Capacity

One of the main factors in the failure of the current consultation process is the NStQ's lack of capacity—both in funding and in human resources—to properly respond to even the inadequate level of consultation it currently gets. This lack of proper response has often been unfairly characterized by Government and Third Parties as either agreement or lack of interest.

This is simply untrue. In order to deal with the sheer volume of Activities in the Traditional Territory, the NStQ need more money and more resources.

The NStQ assert that the funds necessary for the consultation and accommodation process must be provided by the Government and/or Third Party which bears the obligation to consult and accommodate. The NStQ see their participation in the consultation and accommodation process as a valuable and necessary service to these Governments and Third Parties, and therefore one for which these parties should pay.

In addition, the NStQ need to build its technical and scientific expertise in the business of consultation and accommodation. The NStQ assert that Government has an obligation to provide funding for First Nations to develop this expertise. Third Parties, too, have an obligation to provide jobs, training and work experience opportunities within their organizations to NStQ members.

The NStQ seek to reach agreements with Government and Third Parties for funding and capacity building with respect to consultation.

## 9. Operational Procedures

The NStQ propose the following procedure for consultation and accommodation by Government and Third Parties:

### **Future Long-Term, Strategic and Operational Plans**

1. The NStQ will provide Government and Third Parties with the names and contact addresses for NStQ officials designated to deal with consultation and accommodation.
2. Government and Third Parties will provide NStQ officials with a description of their long-term, strategic and operational planning processes.
3. NStQ officials will meet with individual Government agencies and Third Parties to agree on a means by which NStQ can participate in the long-term, strategic and operational planning processes of each agency and Third Party. These agreements will be put in writing, and will contain provisions for dispute resolution.
4. The parties will take steps necessary to facilitate the agreements.
5. The parties will evaluate the process annually and take reasonable steps to modify it where appropriate.
6. Where appropriate, the parties will negotiate and try to reach agreement on appropriate measures of accommodation related to the long-term and operational plans.



## **Existing Long-Term, Strategic and Operational Plans**

1. Government and Third Parties will fully inform NStQ officials about existing long-term, strategic and operational plans impacting on the Traditional Territory.
2. NStQ officials will consult with NStQ membership and provide NStQ input to Government and Third Parties.
3. Government and Third Parties will take reasonable steps to accommodate NStQ interests through modification of existing long-term, strategic and operational plans and other measures.
4. Government and Third Parties will involve the NStQ in modifications to long-term, strategic and operational plans consistent with the process for Future Long-term, Strategic and Operational Plans.
5. Where appropriate, the parties will negotiate and try to reach agreement on appropriate measures of accommodation related to the long-term, strategic and operational plans.

## **Individual Activities Conforming to Agreed-to Long Term and Operational Plans**

1. Where an individual Activity is consistent with a long-term or operational plan previously agreed to by the NStQ pursuant to the processes described above, the Government or Third Party will notify the NStQ of its intention to commence the Activity and provide sufficient information for the NStQ to confirm that the Activity is consistent with previously agreed to long-term or operational plans.
2. The Government or Third Party will implement appropriate accommodation measures.



## Individual Activities not Conforming to Agreed-to Long Term and Operational Plans

### STEP 1 – INITIAL INFORMATION ABOUT ACTIVITY

For the NStQ to be involved in the early planning stages of resource and land use and development plans before the referral stage, the Government or Third Party planning to undertake the Activity will provide the NStQ with a Information Package as early as practicable containing sufficient information for the NStQ to fully consider the proposed Activity. The Information Package will include:

- ❑ the name and telephone number of the appropriate Government or Third Party contact
- ❑ clearly drawn or reproduced, referenced maps of the area in question (including a small-scale locator map with the relevant British Columbia Geographic System map-sheet number included and a large scale map showing land forms), if applicable,
- ❑ references to any background information currently available, or to studies currently in progress, including development plans, archaeological, ethnographic, traditional use, environmental or other reports, or any other relevant information,
- ❑ a description of the land and resources involved, and the current value of the proposed Activity,
- ❑ a complete description of the proposed Activity,
- ❑ the time frame for the commencement and completion of the proposed Activity,
- ❑ the details of any anticipated impacts on the land itself and an initial assessment of any anticipated impacts to Aboriginal Title or Rights,
- ❑ a copy of any internal assessments (for example, the "pre-consultation assessments" recommended in the Provincial Guidelines or the "Aboriginal Interest Assessments" required by the BC Assets and Land Corporation guidelines),
- ❑ information on any anticipated economic benefits for the NStQ community(ies), a requested time frame for response, including justification for that time frame,
- ❑ other information as may be requested by the NStQ.
- ❑ information sharing agreements will need to be negotiated in order to ensure the confidentiality of culturally sensitive information.



## STEP 2 – INITIAL COMMUNITY REVIEW

The NStQ will review the Information Package (**subject to financial considerations, see Section 8**) and may request further information relating to the proposed activity, such as background information referenced by the agency, site or area visits, or further studies or assessments. The NStQ may require funding from the Government or Third Party in order to conduct such review.

## STEP 3 – INITIAL COMMUNITY RESPONSE

Subject to financial considerations, the NStQ will provide a written response detailing any concerns and objections regarding the proposed Activity, and, subject to capacity, recommendations as to how those concerns or objections may be met or accommodated. Where there are concerns or objections which the NStQ believe may be resolved with further review, the NStQ will provide the Government or Third Party with an estimate of the time and cost of conducting the further review. If the NStQ are unable to respond to the referral, they will notify the relevant Government or Third Party. ***If the NStQ do not respond to a referral, it does not mean that it consents to the Activity. It is the responsibility for Government or the Third Party to follow up with the NStQ seeking a response. Failure of the Government or Third Party to do so will be deemed to be a lack of consultation with and accommodation of the NStQ.***

## STEP 4 – GOVERNMENT/THIRD PARTY RECONSIDERATION

Upon receipt of the Initial Community Response from the NStQ, the Government or Third Party will reconsider the Activity consistent with these *NStQ Consultation and Accommodation Guidelines for Government and Third Parties*. If the Government or Third Party cannot meet the concerns or objections of the NStQ, it will initiate a Consultation Meeting with the NStQ to attempt to resolve those concerns or objections.





## STEP 5 – CONSULTATION MEETING

NStQ and the relevant Government or Third Party will meet and try to reach agreement with respect to the Activity. The result of this meeting will be:

- an agreement to proceed with the Activity as planned
- an agreement to proceed with the Activity with conditions and accommodations as agreed by the parties
- an agreement to abandon or postpone the activity, with or without an agreement to conduct a further review, or
- no agreement

The result of the meeting will be put in writing. A copy of the final document will be sent to the NStQ.

## STEP 6 – DISPUTE RESOLUTION

Where the result of the Consultation Meeting is “no agreement” but both parties feel that agreement may reasonably be achieved, the parties may agree to submit the matter for dispute resolution.

## STEP 7 – IMPLEMENTATION

Where an Activity proceeds, either as initially planned or as modified pursuant to this process, Government or the Third Party will implement accommodation measures in a timely manner.

