

Federal Authority Advice Record Form

Regional Assessment in the Ring of Fire Area

Response due by November 20, 2023

Please submit the form to regionalrof-cdfregionale@iaac-aeic.gc.ca

Registry Reference No: 80468

Department/Agency	Crown Indigenous Relations and Northern Affairs Canada
Lead Contact	Felexce Ngwa A/Manager, Major Projects Management Office
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PART 1 – In providing your responses to the items below, please include any relevant information on associated Indigenous, public or other consultation or engagement activities and identify any partners or collaborations.

1. MANDATE AND AREA(S) OF EXPERTISE

Clearly outline the mandate of your department or agency and detail your area(s) of responsibility or expertise that may be related to the regional assessment.

Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) continues to renew the nation-to-nation, Inuit-Crown, and government-to-government relationships based on affirmation and implementation of rights, respect, cooperation, and partnership. The department works in partnership with Indigenous organizations and communities so that they are better positioned to govern their own affairs and achieve self-determination, and promotes the prosperity and well-being of residents and communities in the North.

CIRNAC's Major Project Management Office (MPMO) will facilitate communication and coordination of subject matter expertise from within the department and provides this expertise to partner departments and agencies involved in the Impact Assessment Process – Horizontal Initiative. For a full description of subject matter expertise and related tools that MPMO can coordinate in support of the regional assessment, please see the section *Expert Information or Knowledge*.

2. REGULATORY AUTHORITIES

List and summarize the nature of the regulatory authorities of your department or agency in relation to physical works or activities in the Ring of Fire area.

It is not probable that Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) will exercise a power or perform a duty or function related to the physical works or activities in the Ring of Fire area that would enable such activities to proceed. CIRNAC does not have a regulatory function relative to the proposed regional assessment but can offer subject matter expertise as required of Federal Authorities under the *Impact Assessment Act*.

3. EXPERT INFORMATION OR KNOWLEDGE

List and summarize the specialists or expert information or knowledge that your department or agency has that may be relevant to the regional assessment. Include all research, reports and data sets in this response inventory.

Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) has expert information, knowledge, and tools that may benefit impact assessment or regulatory processes relative to the proposed regional assessment. Specifically, CIRNAC can provide guidance and advice related to the federal government's legal obligation to consult and, where appropriate, accommodate when contemplating conduct that may adversely impact asserted or established Aboriginal and/or treaty rights, that are recognised and affirmed by section 35 of the *Constitution Act, 1982*. This duty is supported through related jurisprudence, legislation, policy, and treaties. Additionally, CIRNAC may provide advice and guidance related to specific Indigenous groups' special relationship with the Government of Canada (The Crown) including information related to recognition of Indigenous rights and self-determination tables (RIRSD), modern treaties or self-government agreements, and other related negotiations and processes.

Expert Information and Knowledge

- a) Section 35 Aboriginal and Treaty Rights are recognised and affirmed by Section 35 of the *Constitution Act, 1982*. These are reflected in court decisions, historic treaties, modern treaties, and some self-government agreements. There are elements involving s.35 rights outlined in agreements stemming from recognition of Indigenous rights and self-determination processes and other related agreements:
- CIRNAC provides guidance and advice to federal officials for fulfilling the legal duty to consult and, where appropriate, accommodate, when contemplating activities that may adversely impact upon established and asserted Section 35 rights. CIRNAC continues to work on updating the [2011 Guidelines for Federal Officials to Fulfill the Duty to Consult](#);
 - CIRNAC supports the whole-of-government approach to implementing obligations pursuant to modern treaty, self-government and related agreements, including specific consultation-related provisions and protocols. Where project impacts on Modern Treaties have been identified, federal departments and agencies must engage Indigenous Modern Treaty partners on a bilateral basis as early as possible. CIRNAC provides guidance on engagements and tailored contacts for reach out to Modern Treaty partners. [Canada's Collaborative Modern Treaty Implementation Policy](#) (2023) and the [Cabinet Directive on the Federal Approach to Modern Treaty Implementation](#) (2015) provides further guidance to departments and agencies in implementing Modern Treaties; and
 - CIRNAC leads negotiations of modern treaty, self-government, and related agreements (including consultation protocols) on behalf of the Government of Canada.

Publicly Available Tools

- b) [The Aboriginal Treaty Rights Information System](#) (ATRIS) is a web-based, geographic information system intended to help users identify the location of Indigenous groups, and to provide users with information pertaining to each Indigenous group's established and/or asserted Section 35 rights. ATRIS provides access to profiles, documents and maps that can be used to assist governments in determining their consultation obligations and other interested parties in carrying out consultation and engagement research. CIRNAC can offer assistance in navigating, and engaging with the ATRIS system.

Additional Considerations

- c) [United Nations Declaration on the Rights of Indigenous Peoples Act \(UNDA\)](#):

- The Government in Canada in implementing the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), which affirms the Declaration as a universal international human rights instrument with application in Canadian law. Justice Canada is the federal lead on UNDA, and CIRNAC has an important role due to its relationships with Indigenous partners. CIRNAC's advice and actions in relation to the initiative under consideration will be consistent with the rights-based approach endorsed by UNDA.
- Canada has worked in cooperation and consultation with Indigenous partners to develop the UNDA Action Plan. This Action Plan includes a number of measures which relate directly to Indigenous decision-making and participation and must be taken into account where Indigenous rights may be affected.

d) **Reconciliation:** All departments continue to work on implementing all 94 Calls to Action from the [Truth and Reconciliation Commission Final Report](#).

4. POLICIES, PROGRAMS OR INITIATIVES

List and summarize the past, current and planned policies, programs or initiatives of your department or agency that may be relevant to the regional assessment. Include an outline of related funding initiatives in this response and provide information on geographic locations, next steps and timing for the program/initiative.

Existing CIRNAC programs that may be relevant to the regional assessment include:

- **[First Nation Adapt Program](#):** This program provides funding to First Nation communities located below the 60th parallel to assess and plan for the impacts of climate change on community infrastructure and emergency management. The program provides support for communities to address one or more of the following types of projects:
 - risk assessments of climate change impacts on community infrastructure or emergency management;
 - development and assessment of adaptation options;
 - cost-benefit analysis of adaptation options.

The floodplain mapping portion of the program provides support for communities to:

- develop floodplain maps (including drainage studies) in order to identify flood risks to local infrastructure and inform local decision-making;
- develop best practices, tools and adaptation options for flood management;
- participate in regional watershed management processes;
- collect and share regional watershed data.

Status: Ongoing intake - funding available

Contact: Elizabeth Laval
 Email: adaptation@rcaanc-cirnac.gc.ca
 Sector/Branch: Northern Affairs / Natural Resources and Environment Branch / Climate Change and Clean Energy Directorate

- **[Nation Rebuilding Program](#):** The program will support nation rebuilding efforts that will contribute to increased capacity at the larger nation level. The provision of this capacity funding will promote:
 - the re-establishment of Indigenous nations; as self-defined and representing nation-based collectives. Could be linked by cultural or linguistic background, geographical area or historical treaty lines;
 - an increase in the ability of Indigenous nations to take on greater sectoral responsibilities, thereby facilitating a phased-in approach to self-determination and ultimately self-governance;
 - an increase in the sense of unity within Indigenous nations;
 - identification and agreement among member communities on priorities for action and approaches to issues; and,
 - a reduction in the duplication of the resolution of issues at the individual First Nation or Indigenous community level by working as a collective at the nation-level.

Status: this program is sunsetting on March 31, 2024.

Email: dsn-nsd@rcaanc-cirnac.gc.ca
Sector/Branch: Treaties and Aboriginal Government / Fiscal Branch / Negotiation Support Directorate

- **Federal Interlocutor's Contribution Program**: The objective of the Federal Interlocutor's Contribution Program is to help to build capacity, and to maintain a relationship based on trust and respect between Métis and non-status Indian people and the Government of Canada. This is achieved by: maintaining political relations with their representative organizations; acting as the point of contact within the federal government; acting as an advocate of their issues within Cabinet; entering into contribution agreements to help to build organizational and institutional capacity; and, building stronger linkages with provincial governments. In order to achieve these objectives, the Program supports work with Métis, non-status Indian and off-reserve Indigenous organizations towards:
 - achieving practical ways of improving Métis and non-status Indians socio-economic conditions,
 - increasing self-reliance, and
 - reducing dependency.

Status: Formal call out closed for this fiscal (re-opens Feb/Mar 2024). Late applications may be considered pending availability of funds.

Contact: Erik Anderson
Email: erik.anderson@rcaanc-cirnac.gc.ca
Sector/Branch: Policy and Strategic Direction / Indigenous and External Relations Branch / Indigenous Relations and Policy Directorate

- **Supporting Indigenous Women and 2SLGBTQIA+ Organizations**: Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) is working with Indigenous women's and 2SLGBTQI+ organizations to:
 - develop and support relationships based on trust and respect
 - create opportunities to empower and engage Indigenous women's and 2SLGBTQI + organizations in decision-making processes that impact their lives

This program will provide contribution funding for projects that:

- increase the ability of Indigenous women's and 2SLGBTQI + organizations to engage at the grassroots level
- advance grassroots voices and the priorities of Indigenous women and 2SLGBTQI + people within all levels of government
- support real and meaningful systemic change in Canada

Status: The first call for proposals closed on February 11, 2022. A new call for proposals is proposed for Winter 2024.

Contact: Cherill Baynham
Email: femmesautochtones-indigeneswomen@rcaanc-cirnac.gc.ca
Sector/Branch: Policy and Strategic Direction / Indigenous and External Relations Branch / Indigenous Relations and Policy Directorate

- **Federal Initiative on Consultation**: To ensure Indigenous peoples have consultation and engagement capacity and are meaningfully participating in consultation and engagement activities.

Status: Fully subscribed.

Contact: Kirsten Miller
Email: kirsten.miller@rcaanc-cirnac.gc.ca
Sector/Branch: Implementation Sector / Consultation and Accommodation Unit Directorate

A comprehensive list of programs, services, and initiatives provided by CIRNAC for Indigenous and northern communities and organizations and be found [here](#).

5. Outline any additional responsibilities, information or knowledge and any partners or collaborations that have not been specified, above.

CIRNAC is developing guidance for federal officials on the following matters arising in consultation and engagement processes, and departments or agencies may contact CIRNAC for more detailed information:

Self-Identifying Indigenous Collectives: There has been a rise in self-identifying Indigenous collectives, from within Canada and abroad, who assert Section 35 rights in specific regions within Canada.

- A variety of colonial factors have contributed to these scenarios such as the imposition of *Indian Act* electoral systems, and the definition of interprovincial and international boundaries. In some instances these Indigenous collectives may be owed a duty to consult depending on factors such as the strength of their claim and evidence that the leadership actually represents an Indigenous group that potentially holds Section 35 rights. In situations where Canada is of the view that there is no legal duty to consult, Canada may nevertheless engage with Indigenous groups to support relationship building and foster learning about the group and who they represent. In such case, it is important to convey that consultation is not a rights recognition process.

Accommodation: Accommodation measures seek to reduce, avoid or eliminate the potential impacts of a project on Indigenous people's rights. The principle of accommodation does not apply to engagement. Nevertheless, when engaging, there may be cases in which Canada assesses the circumstances and decides to provide benefits to the relevant groups to support reconciliation.

Assessing Impacts on Rights: During this process, it is important to consider and assess the cumulative impacts of the potential Project on the exercise of Section 35 rights. Recent court decisions have shown the cumulative effects of major projects can impact Indigenous people and their treaty rights.

Information relative to Canada's relationships with Indigenous people: This may include modern treaties or self-government agreements, and Recognition of Indigenous Rights and Self-Determination tables (RIRSD) in the project area.

PART 2 – To contribute to the design of the regional assessment process and development of the terms of reference, please provide information or advice in relation to the items below.

1. potential outcomes of the regional assessment;

CIRNAC would benefit from gaining a comprehensive understanding of Indigenous interests, concerns, and potential impacts from future regional development scenarios and plans. In addition, regional assessments can provide context to on-going treaty negotiations as the Government of Canada strives for reconciliation with all Indigenous peoples.

2. relevant geographic and temporal boundaries;

The [Aboriginal Treaty Rights and Information System](#) (ATRIS) is a web-based, geographic information system intended to help users identify the location of Indigenous groups, and to provide users with information pertaining to each Indigenous group's established and/or asserted Section 35 rights. CIRNAC can offer assistance in navigating, and engaging with the ATRIS system.

3. factors to be considered in the regional assessment and the scope of those factors;

Regional assessments should factor in any historic or modern treaties where an Indigenous group may have Aboriginal or treaty rights in the region. As the Government of Canada continues to negotiate modern treaties, it is important to factor in how a regional assessment may impact the negotiation process. Furthermore, regional assessments can review impacts on use of land for Indigenous groups; to asserted and established Section 35 rights, culture, harvesting, and other important activities and interests related to Indigenous identity, as well as inclusion of Indigenous knowledge.

Depending on the boundaries determined for the Regional Assessment in the Ring of Fire Area, CIRNAC can provide additional information on the following:

Recognition of Indigenous Rights and Self-Determination (RIRSD) Tables: Canada has RIRSD tables with the following Indigenous communities or Indigenous representative organizations located in or near the Ring of Fire region:

- Nishnawbe Aski Nation
- Biigtigong Nishnaabeg
- Netmizaaggamig Nishnaabeg
- Biinjitiwaabik Zaaging Anishinaabek
- Bingwi Neyaashi Anishinaabek
- Pays Plat First Nation
- Long Lake No. 58 First Nation
- Animbiigoo Zaagi'igan Anishinaabek
- Kiashke Zaaging Anishinaabek
- Whitesand First Nation
- Red Rock First Nation

Project Finance for Permanence (PFP): An agreement that includes all the actions, milestones, and funding required to realize conservation outcomes for the long term, using a funding model that combines resources from governments and charitable organizations, and supports Indigenous stewardship over large areas of protected land and water. CIRNAC supports Parks Canada during the negotiation of PFP mandates, and can provide information on the following Indigenous communities or Indigenous representative organizations located in or near the Ring of Fire region:

- Mushkegowuk Council (Omushkego PFP)

4. means of communication and engagement that would best facilitate participation of your department or agency in the regional assessment; and

The CIRNAC Major Project Management Office will coordinate participation of CIRNAC in this regional assessment. Future correspondence can be sent to the Lead and Alternate Contacts listed on this form.

5. input or advice on any other aspect of the regional assessment.

CIRNAC can provide requested input or advice as needed.

**Bruno Steinke, Senior Director,
Consultation and Accommodation Unit,
Implementation Sector, CIRNAC**
Name of Departmental / Agency Responder

Senior Director
Title of Responder

November 21, 2023
Date

Link List

Principles respecting the Government of Canada's relationship with Indigenous peoples
<https://www.justice.gc.ca/eng/csj-sjc/principles-principes.html>

Statement of Principles on the Federal Approach to Modern Treaty Implementation
<https://www.rcaanc-cirnac.gc.ca/eng/1436288286602/1539696550968>

Cabinet Directive on the Federal Approach to Modern Treaty Implementation
<https://www.rcaanc-cirnac.gc.ca/eng/1436450503766/1544714947616>

Canada's Collaborative Modern Treaty Implementation Policy
<https://www.rcaanc-cirnac.gc.ca/eng/1672771319009/1672771475448>

United Nations Declaration on the Rights of Indigenous Peoples Act
<https://laws-lois.justice.gc.ca/eng/acts/U-2.2/>

United Nations Declaration Act – Action Plan
<https://justice.gc.ca/eng/declaration/ap-pa/index.html>

Aboriginal and Treaty Rights Information System
https://sidait-atris.aadnc-aandc.gc.ca/atris_online/home-accueil.aspx

Aboriginal Consultation and Accommodation - Updated Guidelines for Federal Officials to Fulfil the Duty to Consult
<https://www.rcaanc-cirnac.gc.ca/eng/1100100014664/1609421824729>

Consultation Agreement between the Métis Nation of Ontario and the Government of Canada
<https://www.rcaanc-cirnac.gc.ca/eng/1638462563181/1638462589270>