

Ontario's Indigenous land claim consultation process

Indigenous land claim negotiations are led by the Ministry of Indigenous Affairs (IAO) for Ontario.

More broadly, when Ontario negotiates agreements to transfer lands or interests in land to Canada or to an entity created by an Indigenous community, for the benefit of an Indigenous community, Ontario will engage in the following consultation processes:

1. Duty to Consult pursuant to Section 35 of the Constitution Act, 1982

- Refers to the Crown's constitutional obligation to consult an Indigenous community when it has knowledge of an established or credibly asserted Aboriginal or treaty right and contemplates actions that may adversely affect that right.
- Ontario may have a constitutional duty to consult Indigenous communities if a proposed land claim settlement could have an adverse effect on credibly asserted or established Aboriginal or treaty rights.

2. Public consultation

- When settling land claims, Ontario consults with members of the general public, stakeholders (such as municipalities, corporations and agencies) and Indigenous communities whose rights may not be affected, to address public and private interests affected by a claim.
- Reasons may include addressing land-based interests (such as leases, licences or permits), increasing understanding of the land claim, the proposed agreement, as well as supporting good relationships among the government, Indigenous communities and stakeholders.

Public and Indigenous consultation is an ongoing process in which:

- Information about the land claim and the negotiation process is shared with the public, stakeholders and affected Indigenous communities while respecting the confidentiality of the negotiating table.
- Information about the current uses of land is collected, and users' interests and concerns are discussed.
- Viable options and solutions are developed and negotiated.

Current consultation process

Consultation processes in the Indigenous land claim context help identify and address potential impacts of a proposed agreement. The goal of consultation is to address or mitigate these impacts, and achieve broad public support and understanding so an agreement can be effectively and efficiently implemented.

Consultation occurs at key milestones during negotiations, such as:

- Identification of initial land interests, resulting in Areas of Interest.
- Refinement of Areas of Interest after consultations, resulting in Candidate Lands.
- Refinement of Candidate Lands after additional consultations, resulting in Proposed Settlement Lands.

Consultation activities

The specific type and scope of each land claim determines the public engagement and consultation process required for each negotiation.

Based on potential impacts, issues and interests, Ontario's negotiating team uses a range of public consultation and engagement methods, such as:

- Providing newsletters, mail-outs, fact sheets, media interviews
- Sending out electronic communications
- Holding public meetings, open houses, workshops, community gatherings
- Advisory committees to the negotiator (including representatives of the interested public)
- A formal table outside of the negotiation where interested parties directly discuss matters with the claimant Indigenous community and Ontario (and Canada where appropriate).

Following completion of consultations and final negotiations among IAO, the claimant Indigenous community and the Government of Canada (where appropriate), a settlement agreement is prepared for ratification.

Consultation record-keeping

To ensure transparency, Ontario's negotiating teams keep a record of all consultation activities (such as, public open houses, newspaper ads, correspondence and more), maintain proper electronic filing of documents and protect personal information privacy where applicable.

Consultation records include all concerns raised during Indigenous and public consultations as well as noting how those concerns were mitigated and/or accommodated.

Read more about:

- [Land claims](#)
- [The land claim negotiation process](#)
- [Current land claims in Ontario](#)