



THE FEASIBILITY ASSESSMENT OF THE POTENTIAL FOR NATIONAL PARK RESERVE LANDS ON BOWEN ISLAND

Aboriginal Consultation

Parks Canada's Approach to Consultations with Aboriginal Groups



Why consult with Aboriginal groups?

Canada's relationship with Aboriginal peoples has been set out and defined by *The Constitution Act, 1982*, legal statutes, and courts of law. Because of this relationship, Parks Canada considers Aboriginal peoples not as stakeholders but as unique partners. This has been demonstrated many times by the fact that over half of our national parkland is protected

through arrangements with surrounding Aboriginal groups. We cannot meet our goals without this collaboration.

Parks Canada needs to consult, **and has a legal duty to consult**, in situations where it is possible that assertions of Aboriginal rights might be valid. The Supreme Court of Canada ruled in *Taku River* and *Haida* that this duty exists where government has real or constructive knowledge of the potential existence of Aboriginal rights or title and contemplates conduct that might adversely affect such rights or title. Establishment of a new national park reserve might adversely affect such rights or title, therefore Parks Canada will consult with Aboriginal groups in regards to the Bowen Island feasibility assessment.

Which Aboriginal groups will Parks Canada consult with on the Bowen Island feasibility assessment?

Parks Canada will consult directly with the Squamish First Nation and the Hul'qumi'num Treaty Group, as both of these Aboriginal groups are currently involved in the British Columbia Treaty Process and have identified the Bowen Island area for purposes of treaty negotiations. Parks Canada may also consult with other Aboriginal groups that express a historical relationship to the Bowen Island area.



Bowen Island Public Library © Parks Canada/D.Kennedy

How will consultations with Aboriginal groups be different?

In some ways, our consultations with Aboriginal groups are similar to our consultations with the general public. In both cases, we seek to develop a clear understanding of the interests people have in the lands under evaluation for a national park reserve, share information about what it would mean to have these lands become a national park reserve, and identify the many attributes and possible limitations these lands have for national park purposes.

When we consult directly with Aboriginal groups about their interests in these lands, and specifically about any Aboriginal rights they claim in the area, we seek to understand the nature of their claimed rights and how their activities might be impacted should the lands become a national park reserve. This level of information and exchange, the building of understanding about how Aboriginal groups use the area and exercise any potential rights they may have, is above and beyond our consultations with the general public as this flows from the government of Canada's, that is the Crown's, honour. The *Haida* and *Taku River* decisions stated that the Crown must use "honourable processes" in an attempt to achieve reconciliation with Aboriginal peoples and their existing Aboriginal rights, as mandated by *The Constitution Act, 1982*. In recognition of the special relationship between the Crown and Aboriginal peoples, the Crown has an obligation to conduct its activities with honour and engage in meaningful consultation with Aboriginal peoples.

In order to establish the best possible consultation process, we rely on the guidance the courts have given us with respect to appropriate consultation practices, our own experience in consulting with Aboriginal groups, and the ideas the respective Aboriginal group brings to the discussion. We also rely on the government of Canada's

The following elements are generally considered to be needed to ensure a consultation process meets the standard of the day:

- notice is to be provided of our intent to consult;
- information will be provided to the Aboriginal group to allow for proper consideration of the proposal;
- a reasonable amount of time will be provided for their views to be prepared;
- an opportunity to present and explain their views on the matter will be provided;
- their views will be given a full and fair consideration;
- the outcome of the process will be communicated to the Aboriginal groups.

Aboriginal Consultation and Accommodation - Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult (February 2008) and Parks Canada's *Handbook for Parks Canada Employees on Consulting with Aboriginal Peoples (2006)*. We will meet with the Aboriginal group to be consulted and work with them to develop a consultation process that both meets the standards of the day as well as being tailored to address their unique requirements.

Some form of accommodation might be required at the end of the process. Although the legal duty to consult does not include a duty to agree on a resolution, nor does it give the Aboriginal groups a veto, the consultation might uncover issues or concerns that PCA may attempt to accommodate, to the extent possible.

As we work with the Aboriginal groups to carry out consultations, we look forward to the shared learning that will occur and the relationships we will build together. Should there be a national park reserve on these lands one day, our initial efforts at consultation will build a strong foundation of mutual respect that will serve us all well in the future.

If you have further questions about our consultations with Aboriginal groups, please contact:

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