



STATEMENT OF CONSISTENCY

Bill 15: Northwest Territories Indigenous-Led Conservation Fund Establishment Act

Sponsoring Minister: The Honourable Jay Macdonald, Minister of Environment and Climate Change

Explanatory Note

Subsection 6(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* (“*UNDRIP Implementation Act*”) requires the Government of the Northwest Territories (“GNWT”), in collaboration and cooperation with Indigenous peoples, to take all reasonable measures to ensure the laws of the Northwest Territories (“NWT”) are consistent with the Declaration set out in the Schedule of the *UNDRIP Implementation Act*.

Subsection 8(1) of the *UNDRIP Implementation Act* requires the Attorney General to prepare a Statement of Consistency on behalf of the sponsoring Minister of a bill, indicating whether or not the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. The sponsoring Minister must table the Statement of Consistency before the second reading of the bill in the Legislative Assembly.

A Statement of Consistency is not required if an exception under subsection 8(3) of the *UNDRIP Implementation Act* applies.

A Statement of Consistency provides legal information to the Legislative Assembly about the bill’s potential impacts on rights of Indigenous peoples set out in the Declaration and the potential impacts on rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. It is not intended to be a comprehensive overview of all conceivable inconsistencies with Indigenous and Aboriginal rights. A bill may see several amendments between second reading and its ultimate passage by the Legislative Assembly. Additional considerations relevant to the consistency of a bill with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982* may arise through that process. A Statement of Consistency will not reflect an analysis of those changes.

Background

In December 2022, the Prime Minister of Canada announced \$800 million to support up to four Indigenous-led conservation initiatives in Canada through investment via a model called Project Finance for Permanence (“PFP”). That model brings together partners from



Indigenous Governments and communities, other levels of government and charitable and private donors to leverage public and private investment to support large-scale, long-term Indigenous-led conservation. One of those four PFP initiatives is located in the NWT, and entitled the *Northwest Territories Project for Finance Permanence* (“NWT PFP”)

The GNWT has been negotiating a PFP Agreement for the NWT PFP (“Agreement”). The Agreement will not be a treaty within the definition of section 35 of the *Constitution Act, 1982*. The partners to the Agreement have recommended to the Legislative Assembly that the entity referred to in the Agreement as the Our Land for the Future Trust be established as a not-for-profit body corporate under territorial legislation to carry out the functions of that entity as described in the Agreement and set out below.

Purpose

The purpose of this Bill is to establish a not-for-profit body corporate

- (a) to hold, invest and manage funds contributed to the Our Land for the Future Trust in accordance with sections 5.3 to 5.6 of the Agreement;
- (b) to disburse funds to eligible Indigenous partners to carry out core activities in accordance with the Agreement; and
- (c) to support the partners in achieving the purpose, vision and objectives of the Agreement.

Application

This Bill applies to the partners to the Agreement, namely 22 Indigenous Governments or Organizations, the GNWT, the Government of Canada and 3 charitable and private donors. There are provisions in the Agreement for admitting more Indigenous partners. Since conservation is a major purpose, vision and objective of the Agreement, lands, waters and resources set out in land, resources or self-government agreements in the NWT are implicated.

Impacts on Rights under the Declaration and Section 35 Aboriginal and Treaty Rights

This Bill does not negatively impact rights under the Declaration, such as the right to self-determination and self-government, rights respecting lands, territories or resources, or environmental, economic, health, cultural, religious, language or other rights, nor does it impact Aboriginal and treaty rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

Notably, this Bill may support or implement aspects of the Declaration, such as:



- **Right to Conservation and Protection of the Environment, Article 29:** The purpose of this Bill is to establish the Our Land for the Future Trust as a legal entity to manage PFP funds. This is necessary to enable Canada to make available PFP funding for the NWT. The funds will be used for Indigenous-led conservation initiatives in the NWT.
- **Right to Determine and Develop Priorities and Strategies, Article 32:** Through the structures that will govern the Our Land for the Future Trust under the Agreement, including the Partners Table, Indigenous peoples will be able to determine and develop priorities and strategies for development and use of their lands and territories through their own representative institutions.
- **Right to Recognition, Observance and Enforcement of Agreements, Article 37; Obligation for States to take legislative measures where appropriate, Article 38; Right to access financial assistance from States, Article 39:** The Act will establish as a legal entity the Our Land for the Future Trust, described in the Agreement. This will enable the Government of Canada to provide PFP funding under the Agreement.

UNDRIP Statement of Consistency

The Attorney General has examined the Bill for any inconsistencies pursuant to the obligation under subsection 8(1) of the *UNDRIP Implementation Act*. This review involved consideration of the context in which the Bill was created, as well as the text of the Bill.

In reviewing the Bill, the Attorney General is of the opinion that the Bill is consistent with the Declaration and section 35 of the *Constitution Act, 1982*.