



## ***GNWT Seeks Feedback on Development of New “made-in-North” Mineral Resources Act***

By [Richard Butler](#), Partner, [Joanna Vince](#), Senior Associate and Raeya Jackiw, Student-at-Law.  
© Willms & Shier Environmental Lawyers LLP.

August 23, 2017

The Government of the North West Territories (“GNWT”) is formally engaging with interested stakeholders, Indigenous governments and people, and members of the public about the development of the territory’s first *Mineral Resources Act*.

Historically, mining has been federally regulated in the NWT. In 2014, the *Northwest Territories Devolution Agreement* transferred responsibility over public lands, and by extension the mining sector, from the federal government to the GNWT.<sup>1</sup>

With its new authority, the GNWT is crafting a “made-in-the-North” *Mineral Resources Act*. This *Act* will replace the NWT’s existing *Mining Regulations*,<sup>2</sup> which regulate some administrative elements of mineral extraction, but which do not address environmental monitoring, the allocation of socioeconomic benefits from resource extraction, or the relationship between the mining sector and the Indigenous peoples of the NWT.<sup>3</sup> Currently the NWT is the only jurisdiction in Canada that does not have a stand-alone mineral resources statute, with the exception of Nunavut.

The GNWT intends to tailor the proposed *Act* to the unique environmental, economic, and social challenges of mining in the North. According to GNWT, the legislative framework is intended to promote regulatory certainty and enable benefits of mineral extraction to flow to Northern communities.<sup>4</sup>

The GNWT Ministry of Industry, Tourism and Investment (“ITI”) released a [discussion paper](#) that flags several questions for debate and comment. The paper acknowledges the environmental and social legacies of mining in the North and seeks input on how the new *Act* can and should prevent negative impacts. The paper seeks public and industry input on several topics, including how the proposed *Act* might:

- ♦ **Provide a clear and efficient regulatory process** for obtaining land access, exploration rights, prospecting permits, and mineral tenures;<sup>5</sup>
- ♦ **Protect the environment** by regulating environmental monitoring and data collection, ensuring environmental compliance through inspections, and governing the rehabilitation of mining sites;<sup>6</sup>

---

<sup>1</sup> Discussion Paper pg. 1; *Northwest Territories Devolution Act*, SC. 2014, c 2, s 51(1).

<sup>2</sup> Northwest Territories Mining Regulations, SOR/2014-68.

<sup>3</sup> Discussion Paper pg. 15-16.

<sup>4</sup> Discussion Paper pg. 10-11.

<sup>5</sup> Discussion Paper pg. 20-27.

- ♦ **Promote respect for the rights of Indigenous peoples** by defining the roles and responsibilities of mining proponents, the GNWT, Indigenous governments and communities in Indigenous consultation and engagement processes related to mining projects;<sup>7</sup> and
- ♦ **Provide benefits to Northern communities and Indigenous peoples** by creating standards and providing oversight for the negotiation of and compliance with socio-economic agreements and Impact Benefit Agreements (“IBA”). Notably the discussion paper suggests limiting the confidentiality of IBAs,<sup>8</sup> which could have mixed consequences for Indigenous communities (see our earlier articles on mandatory disclosure of payments made to Indigenous communities from resource extraction companies from [February](#) and [November](#) of 2014).

Interested individuals, communities, Indigenous groups, industry proponents and organizations are invited to [comment](#) on these topics and others until December 1, 2017. The GNWT plans to incorporate any feedback received into a proposal for the NWT Legislative Assembly by winter 2018.<sup>9</sup>

[Richard Butler](#), is a partner at Willms & Shier Environmental Lawyers LLP in Toronto. Richard may be reached at 416-862-4837 or by e-mail at [rbutler@willmsshier.com](mailto:rbutler@willmsshier.com).

[Joanna Vince](#), is a senior associate lawyer at Willms & Shier Environmental Lawyers LLP in Toronto. Joanna may be reached at 416-862-4830 or by e-mail at [jvince@willmsshier.com](mailto:jvince@willmsshier.com).

*The information and comments herein are for the general information of the reader only and do not constitute legal advice or opinion. The reader should seek specific legal advice for particular applications of the law to specific situations.*

Document #: 1246574

---

<sup>6</sup> Discussion Paper pg. 11 and 29-31.

<sup>7</sup> Discussion Paper pg. 11 and 32.

<sup>8</sup> Discussion Paper pg. 11 and 34.

<sup>9</sup> Discussion Paper pg. 38.