

Nlaka’pamux Nation Tribal Council
Resource and Land Use Decision-Making Policy and Process



This resource and land use decision-making policy and process is based upon and guided by the principles of the *Nlaka’pamux Nation Resolution on Natural Resources and the Principles of their Management*. This means we accept that inherent in our title and rights is a responsibility to protect, manage and conserve our territory, as well as care for its land and resources for future generations.

The Nlaka’pamux have used and occupied our Territory since time immemorial, throughout which we have held Title and Rights. Our Territory has always provided, and continues to provide, the land, air, water, fish, animals, plants, and other resources fundamental to our culture, way of life, and economy. From generation to generation, we have always been organized as one Nation, made up of many communities who work together to make decisions about the use of the lands and resources throughout our Territory. Our largest communities, each of which are made up of a number of smaller communities, include: Spo’zem, Tuckkwiowhum, Kimu’s, Nlaqla’kitin, Skapa, Lkamtel’n, Nte’qem and Sletz.

Our strength as a people and as a Nation has always been in our unity. The division amongst our People and Nation, such as that caused by the *Indian Act*, has only served to benefited others. Decision- making based on collaboration and consensus strengthens our Nation.

The Nlaka’pamux Nation Tribal Council (NNTC) is a governing entity of the Nlaka’pamux People that carries with it a responsibility to protect and advance Nlaka’pamux Title and Rights, and to apply Nlaka’pamux laws on the land through decisions regarding Nlaka’pamux lands and

resources. These decisions are guided by certain principles, standards, and protocols that have been passed on by generation to generation of Nlaka’pamux People.

Since the establishment of the NNTC, we have worked to uphold these principles, standards, and protocols in all of our work, this decision-making policy is another expression of that work.

This policy identifies elements of the distinct Nlaka’pamux worldview through which we approach decisions about lands and resources, our guiding principles and standards, as well as our decision-making structures. This policy is being shared to inform and enlighten those who live throughout Nlaka’pamux Territory about the NNTC’s decision-making processes, their expectations for how individuals, companies and the Crown will conduct work, as well as some elements of our future vision for our Territory. We invite those who wish to use the lands and resources of our Territory, including proponents of projects and the Crown, to familiarize themselves with this policy, meet and talk to us about, and begin a dialogue about how to coordinate with respect to potential land and resource decisions.

Nlaka’pamux Territory

NNTC applies this policy throughout Nlaka’pamux Territory. A map of our Territory is attached.

Principles

Our land and resource decisions are guided by the following principles:

1. Nlaka’pamux Title and Rights are held by all Nlaka’pamux People

- Nlaka’pamux Title and Rights are collectively held by all members of the Nlaka’pamux Nation and are a trust the current generation holds for past, present, and future generations of our People.

2. All NNTC communities have a say in how Nlaka’pamux lands and resources are used

- Our communities must act together in a mutually beneficial and respectful manner in exercising Nlaka’pamux jurisdiction over our lands and resources.
- Individual communities are at times best able to manage certain lands and resources with which they are most intimately connected, and a such should play a lead role through the NNTC in decision-making about those lands and resources

3. Nlaka’pamux Title and Rights should be respected and recognized by the Crown and third party proponents, and a goal through our decision-making is to advance reconciliation

- Ensuring the protection and advancement of our title and rights is a core element of how we make decisions regarding the future of our lands and resources
 - When engaging with the Crown and proponents we always strive to find creative and collaborative ways that will ensure protection and advancement of our Title and Rights, while also advancing reconciliation of our prior occupation with the assertion of sovereignty by the Crown
 - Efforts at consultation and accommodation must reflect the overarching and fundamental goal of reconciliation. It must contribute and help to ensure a future rooted in respect, recognition, and mutuality that reflects the Nlaka’pamux as the First People of our Territory.
 - Nlaka’pamux Title has an inescapable economic component.
- 4. Nlaka’pamux Laws, Teachings, Worldview, Values, and Culture guides our land and resource decision-making**
- Decision making is an exercise of Nlaka’pamux jurisdiction.
 - Our customary Nlaka’pamux laws, teachings, worldview, values, and culture guide our decision-making about the use of lands and resources within our Territory.
 - Our customary laws are expressed through our oral traditions passed down to us from generation to generation, as well as in our distinct worldview and culture and the values that we uphold.
 - One aspect of our teachings is that we must uphold high standards that ensure the lands, air, water, and environment that sustains us are protected in a manner that it is to the benefit of the generations that come to us. As such, our decision-making relies on high standards of information gathering, information analysis, and transparency.
 - Our worldview recognizes the interdependence and interconnection of all things in creation, and that no proposed use of lands and resources can be considered in isolation from consideration of past, present, and potential future uses. As such, our decision-making relies on systematic consideration of the cumulative relationship and impacts between uses of our lands and resources.

Categories of Information

Our process for decision-making about the use of our lands and resources ensures that Nlaka’pamux title and rights are respected and protected, comprehensive assessment of social, cultural, environmental, economic, and spiritual impacts and benefits takes place, and the NNTC can make properly informed decisions about whether or not a proposed use of our lands and resources should be allowed, and on what terms.

A major focus of NNTC's decision-making process is to ensure that all decisions are properly informed by three categories of information:

Nlak'pamux Use and Occupation – Information that outlines in sufficient detail how the Nlaka'pamux have used and occupied the land. This information is essential to ensure that Nlaka'pamux Title, Rights, culture, way of life, and values are respected in decision-making. Through the Process, this information will be gathered under the direction of the NNTC, in a manner consistent with Nlaka'pamux protocols.

This information might relate to:

- Traditional Nlaka'pamux interests and uses in the area potentially affected by a proposed project.
- Contemporary Nlaka'pamux interests and uses in the area potentially affected by proposed project.
- Areas of particular significance and importance in the area potentially affected by the proposed project.
- Interests and uses of the communities most potentially directly affected by a proposed project.
- Uses and activities of particular significance and importance in the area potentially affected by the proposed project

Strategic Long-Term Situating of Project – Information that outlines in sufficient detail the long-term vision of the project, and how it relates to future plans the proponent may have, possible future visions for how the site or surrounding areas may be used, and how this project may relate to past, present, and future developments.

This information may involve the completion of a cumulative impacts analysis and assessment.

Impacts and Benefits Analysis – A systematic analysis of impacts and benefits of the proposed project, including in relation to Nlaka'pamux Title, Rights, culture, way of life, and values. This often requires and involves a full technical analysis of the project in all of its dimensions. It also includes consideration of the environmental and economic impacts as well as benefits.

This information may include consideration of:

- Potential social, cultural, environmental, economic, and spiritual impacts of a proposed project.
- Potential alternatives to the proposed project or specific features of the proposed project.
- Potential economic benefits from the proposed project including through resource revenue sharing and impact and benefit agreements with third parties.

Process

The five steps of the NNTC's decision-making process are the following:

Step 1 – Receipt of Application

Any proposed use of lands and resources in Nlaka'pamux Territory should be submitted as an application to the NNTC. The application should include:

- All current information about the proposed use of lands and resources
- Copies of any and all information that has been gathered to date about the proposal
- Information concerning any communications to date regarding the proposed use, as applicable, with the NNTC, Nlaka'pamux communities, other governments (including the Crown), and third parties
- Based on the nature of the application, an application fee is levied on the proponent to fund the required NNTC review

It should be noted that engagement with the NNTC should begin long before the submission of an application. Engagement begins at a preliminary stage when all alternatives are being considered. Early engagement is mutually beneficial. All governments and industry are strongly encouraged to contact, meet with, and discuss their ideas and aspirations for Nlaka'pamux Territory long before submitting an application to the NNTC. The purposes of such interaction can include learning about the NNTC decision-making process and how it might apply to particular applications, building relationships, and exploring the development of models of interaction and engagement going forward. For the Crown, it is also an opportunity to begin to consider how its own processes might interact with the NNTC's decision-making process. The legal obligation to begin consultation at the earliest stage must be met. The honour of the Crown is at stake.

In some instances, depending on the nature, scale, and scope of the application, process agreements will be entered into with the Crown and/or proponents outlining how aspects of the process will be advanced. These typically include details of the funding for the process, and timelines and actions to be taken by the parties.

Step 2 - NNTC Preliminary Assessment

Upon receiving an application, the NNTC will complete a preliminary assessment that has the following objectives.

- To identify the information that will be required to be gathered, as related to the three categories of information outlined above

- To identify any immediately obvious “red-flags” based on the materials already submitted
- To inform the Crown and proponents of the details of the process the NNTC will be following and the requirements of that process.

The preliminary assessment forms a basic foundation for the next steps in the process, as it will outline the scale and scope of work to be done prior to the NNTC being in a position to make a decision. The length of time that it will take to complete the preliminary assessment will vary depending on a number of factors, including:

-the nature of the information provided in the application

-the discussions, arrangements, and understandings that may have been reached prior to the preliminary assessment

-the nature and location of the proposed use

It is the goal of the NNTC to complete preliminary assessments in a timely and efficient manner.

When a preliminary assessment is completed the findings will be shared with the Crown and/or proponents. It should be noted that in some instances the NNTC may decide at the preliminary assessment stage that an application is not suitable to proceed.

Step 3 – Information Gathering

Based on the preliminary assessment, the NNTC works to gather the information that is required in the three categories: Nlaka’pamux Use and Occupation, Long-term siting, and impacts and benefits analysis. The nature, scale and scope of the information to be gathered, and the length of time it will take, can vary widely from very short to very long. In some instances, this information gathering requires somewhat detailed discussions with the Crown and proponents, in order to ensure the design of studies are appropriate, and the Nlaka’pamux have the appropriate technical teams in place. As well, in some instances where Nlaka’pamux Use and Occupation Information is being gathered specific cultural protocols must be followed. Certain circumstances may necessitate that community-wide meetings and engagement take place during this step.

Step 4 – Consultation and Negotiation

Based on the results of the preliminary assessment and information gathered, consultation and negotiations with the Crown and/or the proponent will proceed. These discussions may include consideration of the information gathered, examination of possible decisions and outcomes, accommodation measures, and negotiation of agreements for compensation, economic measures, restitution measures, environmental management and mitigation, future decision-making etc. In some instances, these discussions may begin while information gathering is still underway.

Step 5 – Decision

The NNTC will render its decision with respect to the application. If the application is rejected, the NNTC will outline its reasons and basis for that rejection. If the application is approved, the NNTC will outline the requirements and conditions for proceeding.

Structure

All of our member communities work in a collaborative manner to arrive at the best decision depending on the circumstances. In this model, Nation and community interests, needs, and values guide the decisions.

Final decisions are made by the collective NNTC leadership (the Chiefs' Council), based on the input, guidance and support of the Nlaka'pamux People in the various communities.

When a decision is of particular significance to a community, that community's views and interests will be given a specific role in how the decisions are made. Through this, collective interests, including Title and Rights interests, are protected while those communities with particular interests are respected.

The decisions of the NNTC leadership are supported through analysis and support by technical staff and consultants. The technical analysis is done in an integrated manner in which additional experts are brought in as needed. The technical teams work closely with the communities to gather necessary information and assess and analyse issues.