



Government of the Northwest Territories Response to Motion 29-20(1): Municipal Block Land Transfer

Motion

NOW THEREFORE I MOVE, seconded by Member for Frame Lake, that the Government of the Northwest Territories complete the block transfer of land to communities within municipal and community boundaries without delay;

AND FURTHER, that the Government of the Northwest Territories remove requirements from communities that are impeding this transfer, such as the requirement for surveying, community zoning and by-law development for land that is under Government of the Northwest Territories authority;

AND FURTHERMORE, that the Government of the Northwest Territories remove internal impediments that are delaying the efficient transfer of lands within municipal and community boundaries,

AND FURTHERMORE, that the Government of the Northwest Territories provide public updates on the status of block land transfer to communities.

AND FURTHERMORE, that the Government of the Northwest Territories provide a comprehensive response to this motion within 120 days.

GNWT Response

The GNWT has existing legislation, policies, and procedures that provide the ability for the transfer of land in bulk within community boundaries to community governments. Legislation that governs aspects of the transfer of land include *the Commissioner's Land Act, Community Planning and Development Act, Cities, Towns and Villages Act, Hamlets Act, Land Titles Act, and The Constitution Act.*

Additionally, the Department of Environment and Climate Change (ECC) has policies that support and address the transfer of land to communities including the Land Pricing Policy and the Limitation of Land Sales Policy, which ECC recently and specifically amended to remove previous impediments to transferring land to communities within unsettled areas, as well as the cost of transferring land:

- Limitation of Land Sales Policy amendments provide a clear path for land transfers to community governments. Policy changes were made in 2023 to reduce previous barriers and specifically allow the GNWT to address current pressures for land access across the NWT, particularly land needs for communities, economic interests, and housing.

- Land Pricing Policy amendments similarly aimed to reduce previous barriers to transferring land, and now allows for the transfer of land for nominal value to community governments.

Process Guide and Community Land Transfer Assessment

In 2022, ECC finalized a Process Guide for the Transfer of Land to Communities, and the Department of Municipal and Community Affairs (MACA) is developing a Community Land Transfer Assessment Tool to support community governments in assessing their readiness to acquire and administer land. A key consideration in the bulk transfer of land process is the capacity and readiness of the community government to take on the administration of such lands. MACA's Assessment Tool is being designed to assist community governments in preparing for the associated authorities and responsibilities. It is important that the GNWT support community governments to be successful in greater roles in land administration before initiating the land transfer process.

In the 19th Assembly, ECC developed and shared its Process Guide and information on the bulk land transfer process with all tax-based community governments, as well as the Northwest Territories Association of Communities. ECC continues to make itself available to meet with community governments interested in initiating this process.

Perceived Impediments to Land Transfers

Survey requirements, community zoning and bylaw development, as well as consultation, may be seen as impediments to land transfers; however, these are necessary steps to make sure there are appropriate legal authorities, governance, and administration systems and practices in place to acquire and dispose of land, and for the land to be legally registered under the name of the community.

- Surveys are required to legally register a transfer in ownership of land under the *Land Titles Act*. The registration of a transfer provides legal clarity over land ownership, in the case of a legal land dispute. A transfer of ownership in fee simple title is the fullest bundle of land rights. A plan of survey is prepared by a licensed Canada Lands Surveyor and establishes the boundaries and legal descriptions of all parcels of land within the Land Titles system. A certificate of title can only be issued for a parcel that has been surveyed and for which a plan of survey has been registered.
- Land acquisition bylaws are required under the *Cities, Towns and Villages Act*, and are the legal decision-making mechanism through which a community government acquires land. Additionally, community governments are required to have land administration bylaws to administer and dispose of land their community boundaries. These bylaws ensure transparent, consistent, and effective processes are in place. Additionally, the *Community Planning and Development Act* requires community plans and/or community land use plans be in place to guide the development of the community. Once a community plan is adopted, are required to ensure compatible and appropriate uses within specified areas of the community.
- Consultation is a constitutional responsibility and the GNWT cannot circumvent this step. Consultation is specific to the parcel of land and relates to Aboriginal asserted rights in that area. The GNWT cannot transfer bulk lands to community governments until consultation and engagement has been completed with Indigenous governments and Indigenous organizations. It should be noted that there are ways to complete consultation more efficiently. For example, if Indigenous governments

communicate their support for a transfer, ECC can continue to streamline this requirement wherever and whenever possible.

Additionally, under current legislation establishing different forms of community governments, not all can legally hold land. For example, there are 9 First Nations with whom MACA has agreements to deliver municipal services that do not have the ability to hold land directly (referred to as designated authorities); they must acquire land through development corporations or societies who have the status of legal persons that can hold land. Of the remaining 24 community governments that have the ability to hold land, only Yellowknife has requested a bulk land transfer process. ECC has worked with the City of Yellowknife over the last several years on the completion of a Memorandum of Agreement (MOA) for the transfer process. ECC is prepared to finalize and initiate consultation with potentially impacted Indigenous governments and Indigenous organizations on the MOA. ECC has discussed with both Hay River and Inuvik the bulk land transfer process, but neither community has formally requested initiation.

The GNWT recognizes that the implementation of clear interdepartmental processes to increase the amount of land available for housing is key to meeting the commitments made in the GNWT's mandate, particularly to support housing development in communities. ECC is committed to the timely and efficient transfer of land to community governments and continues to work to streamline internal processes, in line with legislative requirements, where possible, to meet the priorities listed in the mandate. Additionally, ECC continues to accept and process individual applications for land transfers from community governments that are not interested in a bulk land transfer process at this time. In the 2023/2024 fiscal year there have been 35 parcels transferred to the Hamlet of Enterprise and the City of Yellowknife. There are currently 157 parcels at various stages for Municipal transfers to be completed.

Information on the status of community land transfers is publicly available through ATLAS, ECC's online land tenure mapping viewer, which depicts all active applications, as well as the final status (i.e. municipal/community land) once complete.