



Date: July 19, 2019

Arend Hoekstra Discusses Duty to Consult with Canadian Lawyer

Publish: 07/02/2019

Arend Hoekstra has been quoted in the article "Yukon Decision Informs Duty to Consult," published by *Canadian Lawyer*.

Writes Aidan Macnab: "An unresolved assertion of Aboriginal title does not fundamentally change the Crown's duty to consult and duty to consult does not provide for a veto, says a recent decision from the Yukon Supreme Court."

"In *Ross River Dena Council v. Yukon*, the court found that unless a claim of Aboriginal title is settled by treaty or through the courts, the claim does not fundamentally change the Crown's duty to consult," says Arend. "The court emphasized that the Crown's duty to consult does not mean the Aboriginal side has a veto and Hoekstra says this principle is best summed up by a quote from the 2017 SCC decision *Ktunaxa Nation v. British Columbia (Forests, Lands and Natural Resource Operations)*: 'The duty is to consult and, where warranted, accommodate. Section 35 guarantees a process, not a particular result.'"

The Cassels Brock alert titled "[Asserting Aboriginal Title Does Not Alter Crown's Duty to Consult](#)" co-written by Arend and Tom Isaac elaborates further on the potential implications of this decision.

[Read the full article in Canadian Lawyer here.](#)