

Land Development Under the Framework Agreement

The background features a stylized landscape illustration. In the upper right, a white bird with spread wings flies across a blue sky. Below it, blue mountains rise against a dark blue background. In the middle ground, there is a dense forest of green coniferous trees. In the foreground, rolling green hills are shown. On the left side of the hills, a brown bison stands facing right. To the right of the bison, several tall, thin wooden poles or totem-like structures are planted in the ground. A single, smaller tree stands on the right side of the foreground hills.

Presented to

BC Links to Learning

December 2-4, 2024



Training, Mentorship &
Professional Development

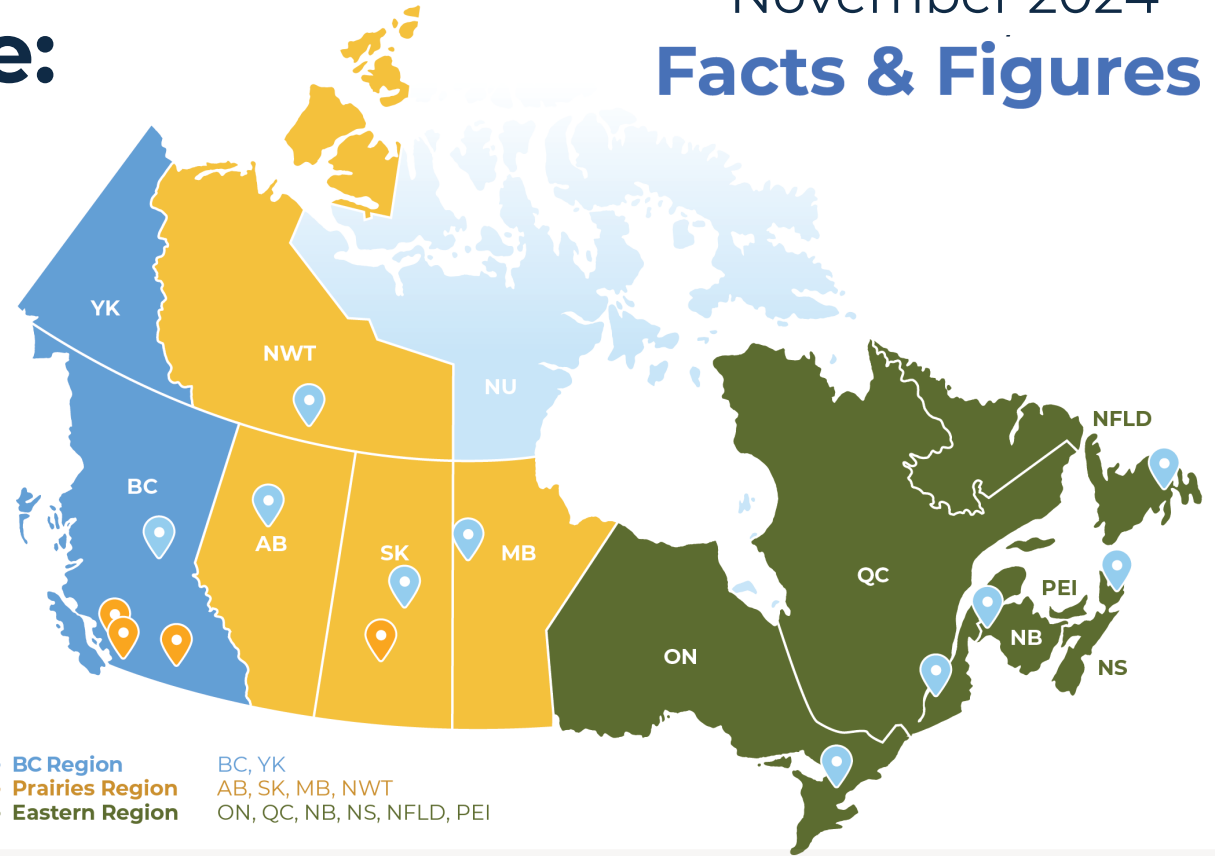


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This Session will Explore:

- Background on the Framework Agreement
- Land Use Planning under Land Code & The Importance of Having a Land Use Plan
- Understanding Land Development
- The Development Process

November 2024
Facts & Figures



122

Operational First Nations

have established land codes through the *Framework Agreement*

213

Signatory First Nations

across Canada are in various stages of land code development and implementation

10

Provinces / Territories

are home to operational First Nations

4

First Nations

have moved on to full self-government or treaty after ratifying their land codes

1,200,000+

Acres of First Nation Land

have been removed from the colonial *Indian Act* lands system

1 in 3

First Nations

in Canada are a signatory to the Framework Agreement or have expressed formal interest to become a signatory

Background:

The Framework Agreement

History of the Framework Agreement

WHAT IS THE FRAMEWORK AGREEMENT?

A historic, government-to-government agreement developed and advocated for by First Nations leaders to opt out of the 44 lands-related sections of the *Indian Act* and to recognize First Nations' inherent right to govern their reserve lands.



WHEN WAS IT SIGNED?

February 12, 1996 between the original 13 First Nations and Canada's Minister of Indian Affairs and Northern Development.

PURPOSE OF THE FRAMEWORK AGREEMENT

To enable First Nations to resume and exercise governance over their reserve lands, natural resources and environment for the use and benefit of their members without Government interference by replacing the land provisions of the *Indian Act* with First Nation-made laws.

ORIGINAL SIGNATORIES TO THE FRAMEWORK AGREEMENT

ONTARIO

Chippewas of Georgina Island
Chippewas of Rama
Mississaugas of Scugog
Nipissing

MANITOBA

Opaskwayak Cree

SASKATCHEWAN

Cowessess
Muskoday

ALBERTA

Siksika

BRITISH COLUMBIA

Lheidli T'enneh
Musqueam
N'Quatqua
Squamish
Westbank



Framework Agreement Process and Land Code Development Phase



Land Codes and Law-Making Powers

A Land Code is:

- the basic land law of the First Nation, replacing the lands related provisions of the *Indian Act*
- drafted and ratified by the First Nation
- contains, among other things, the general rules and procedures for:
 - the use and occupancy of reserve lands by First Nation members and others
 - developing and enacting First Nation Land Laws

Development-related Law-making Powers of a Land Code First Nation include:

- Zoning Law, Development Control Law
- Land Use Plan, Community Design Guidelines
- Environmental Assessment, Natural Heritage Requirements



Land Use Planning Under Land Code:

*The Importance of having a
Plan*

Land Use Planning under the Framework Agreement: *Moving Away from the Indian Act*

Interconnections of Land,
Identity & Governance

Fractured, Under-Capacity,
Under-Funded Communities

Exercising Self-Government
through Land Code

Pre-contact: Indigenous Self-Government

Indigenous peoples governed themselves in relationship with the land since time immemorial

Indigenous Political Economy & Trade

Indigenous Laws (e.g. take only what you need)

Indigenous Resource Management

Critical support to many early European settlements



1876 - Imposition of the *Indian Act*

Attempted destruction of Traditional
Governance & Planning

Uncoordinated approach to development

Inadequate infrastructure

Environmental damage & contamination

Lack of design standards, codes, and
enforcement

Decision-makers unaccountable to
community

Development not always aligning with
community vision and objectives

Benefits and revenues from land
development flow out of community



1996 – Framework Agreement on First Nation Land Management

Resurgence of Good Governance, Law-making &
Planning

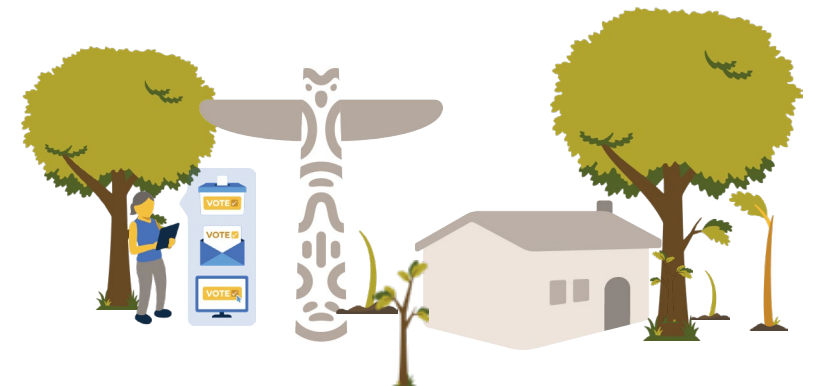
Decision-makers accountable to community

Coordinated approach to long-term land use
planning, land development,
environment, infrastructure & housing planning

Strong Environmental Protections and Enforcement

Clear decision-making processes, standards, rules

Benefits of development flow to community and
advance community planning objectives



What is Land Use Planning?

Land Use Planning (LUP) is about deciding how land should be used in the future and managing how it's being used now. The goal is to ensure that land is used and protected in the best possible way, considering political, social, cultural, environmental, and economic factors.

Land Use Plans:

- Provide a shared vision and path for the future
- Proactively manage growth and support environmental stewardship
- Assist in improving communities (i.e., quality of life)
- Consider how development and the natural environment interact

Core Elements: Development Planning

Land Use Planning Process

- The process to develop a Land Use Plan is an important journey
- LUPs should be designed to work with other community plans, existing studies, strategies and laws



Community Engagement

- Opportunities to educate and engage in mutual learning with community members and staff
- Core component of developing a LUP



Laws & Policies

- A LUP will need supporting laws to be enforced
- LUP Policies can support existing First Nation laws



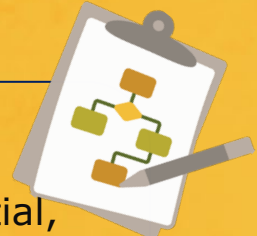
Zoning, Setbacks & Buffers

- Land Code or LUP should also detail how zoning amendments can occur (Community Vote, Chief and Council, Lands Committee Vote)
- The LUP can provide guidance for setback and buffer zones, note that a Zoning Law would be necessary for enforcement



Community Design Guidelines

- Provide direction as to how buildings (residential, condo, commercial and industrial) should be designed in order to maintain a specific “look and feel” of the community
- Not enforceable without a law dealing with Community Design Law



Zoning Law

- A zoning law controls the use of land on First Nation lands and takes direction from the First Nation Land Code and the First Nation Land Use Plan.
- This law divides the First Nation lands into zones and establishes rules and regulations about:
 - How land may be used in each zone
 - Where buildings and other structures may be located on a parcel of land
 - The types of buildings that are permitted and how they may be used
 - Parcel sizes and densities
- The zoning law prevents incompatible or inappropriate land use and can prevent development specific areas.



Documents for Land Management & Development

- Application for Commercial Land
 - Lease Agreements for residential and commercial
 - Amending Agreements
 - Stop Work Order
 - Grant of Entitlement
 - Building Code
- Permits:
 - Tree cutting
 - Dumping/Disposal
 - Shoreline Work
 - Entering Reserve Lands
 - Extraction (sand, gravel, rock, backfill)

Discussion Questions

- Do you have other permits, plans, policy, laws associated with development?
- What one(s) do you rely most heavily on?
- How do you inform proponents of project requirements (internal & external)?
- Does your First Nation's Land Use Plan lay out the development process?

Understanding Land Development:

Identifying Project Risks & Potential Impacts

What is Land Development?

Changing, converting or restoring landforms



- Landscaping
- Clearing vegetation
- Tree removal
- Grading & filling
- Gravel quarries
- Mining & resources
- Habitat restoration

Installing and maintaining infrastructure or other public works



- Water supply
- Sewer
- Treatment plants
- Transfer station
- Stormwater
- Irrigation canals
- Pipelines

Construction, alteration, renovation, demolition of physical structures.



- Homes, offices and industrial facilities, hospitals, schools
- Fences, swimming pools
- Decks, sheds, garages
- Lighting and signage

Subdividing, stratifying, dividing interests in lands or structures



- Lease
- Sub-lease
- Strata
- Permit
- Easements
- Rights-of-Way

Connecting to utilities and other services



- Electricity
- Renewable energy
- Internet
- Telephone
- Natural gas
- Drinking water
- Wastewater

Transportation infrastructure



- Roads
- Intersections
- Bridges
- Parking lots
- Sidewalks
- Public trails
- Airports

Land Development Procedures

Land Development Procedures help ensure due diligence. They also clarify the processes that all proponents (including the First Nation itself) must follow for any proposed development on reserve, and ensure that all land development proposals undergo proper assessment, review and approval before proceeding.

Land Development Procedures are a policy tool that is specific to the First Nation, and are based on their laws, plans, and policies. They can:

- Clarify how development happens (application requirements, steps, timelines, who makes decisions and how)
- Establish information requirements
- Identify impacts from the project and mitigation measures
- Require independent technical advice
- Identify timelines and standards for project approval
- Build trust in Lands Governance through transparent decision-making
- **Ensure compliance with Land Code, land use plans, First Nation laws, and other plans and policies.**

Land Development Procedures

Land Development Projects can permanently change a community, its landscape and the built environment.

Sustainable Development means identifying risks, liabilities and benefits of a project, from various perspectives.

Environment & Climate Change

Legal Risks & Liabilities

Public Works & Infrastructure

Cultural Heritage

Financial & Economic

Community Perspectives

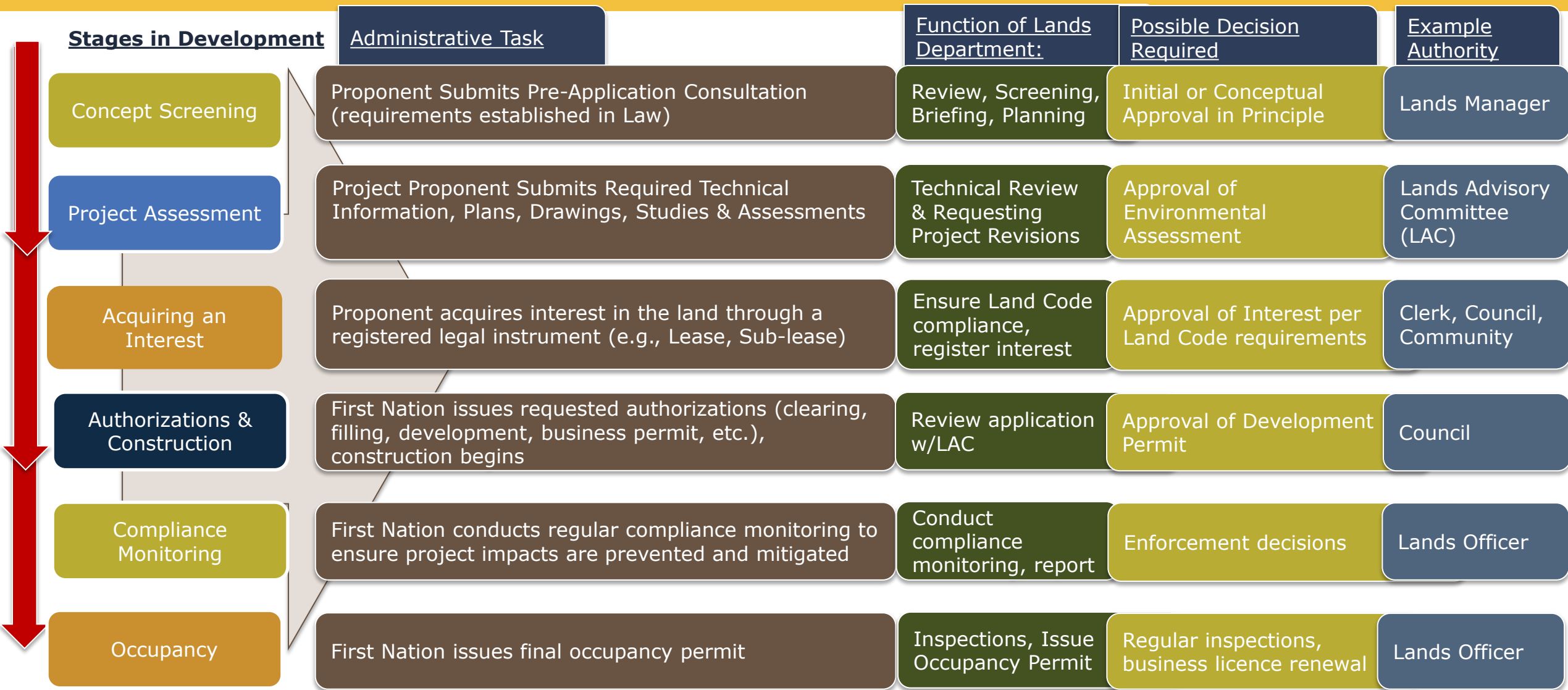
Community Health & Wellbeing

Informed, balanced, and sustainable **decisions** based on technical data, traditional knowledge and community wellbeing.

Understanding Land Development:

Process

EXAMPLE LAND DEVELOPMENT PROCESS



Concept Screening

Administrative Tools

- Pre-development Application & Screening
- Expression of Interest Form
- Site Development Application Form, Chart & Checklist
- Application Fee Schedule
- Invoice Template and Tracking

Laws, Plans & Policies

- Land Use Plan
- Subdivision, Development & Servicing Law
- Building Law
- Zoning Law
- Environmental Assessment Law & Process



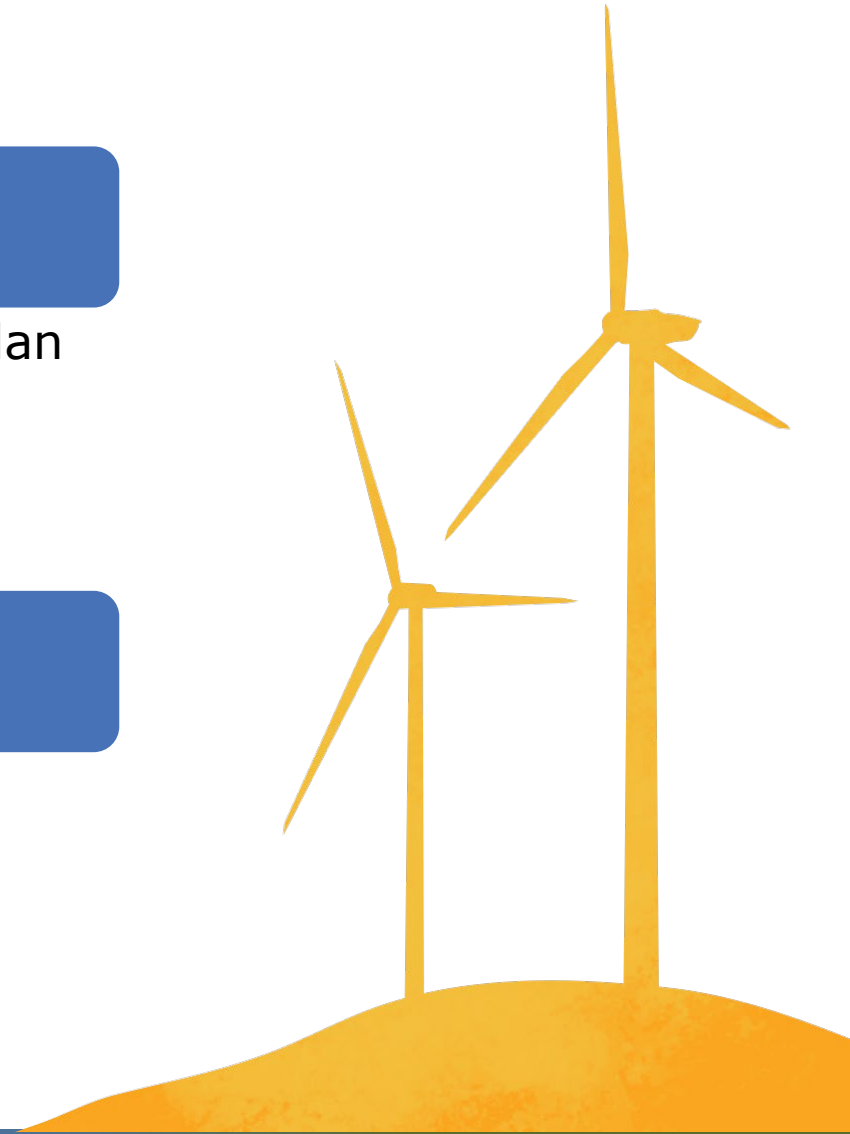
Project Assessment

Administrative Tools

- Environmental Assessment
- Cultural Heritage Assessment
- Geotechnical Assessment
- Flood Mapping Analysis
- Stormwater Management Plan
- Project Feasibility Study
- Servicing and Utilities Plan
- Site plan layout and design

Laws, Plans & Policies

- Environmental Management Plan
- Environmental Assessment Law
- Cultural Heritage Protection Law
- Soil Deposit, Transport and Removal Law



Acquiring an Interest

Administrative Tools

- Legal Land Surveys & Subdivisions
- Lease template
- Land Registry Forms
- First Nations Lands Registry System

Laws, Plans & Policies

- Land Document Registration Law
- Allotment Law
- Land Interests Law



Authorization & Construction

Administrative Tools

- Development Permit
- Soil & Fill Permit
- LUP Amendment/Zoning Variance
- Business Licences
- Security/Performance Bond
- Environmental Remediation Orders

Laws, Plans & Policies

- Zoning, Development and Building Laws
- Soil Transport, Deposit and Removal Law
- Environmental Laws

Compliance Monitoring

Administrative Tools

- Site Visits
- Development/Building Permit
- Accurate monitoring
- Security/Performance Bond
- Community Monitoring
- Stop-work Orders

Laws, Plans & Policies

- Zoning, Development Laws
- Building Codes
- Environmental Law
- Soil Transport, Deposit and Removal Law

Occupancy & Post-Development

Administrative Tools

- Final Inspections
- As-built Drawings
- Certificate of Substantial Completion
- Final Occupancy Permit
- Post-development Monitoring
- Decommission & Demolition if necessary

Laws, Plans & Policies

- Community Quality Law
- Ticketing & Enforcement Law
- Ongoing Monitoring processes



Post Development: Looking Ahead

- Completion of a development project can be the start of ongoing monitoring work and evaluation.
- Consider how land development will have a cumulative impact on your reserve lands.
- Land Use Plan as a “Living Document”:
 - Plan should be updated and reflect the lands as they change.
 - Community member’s priorities may also change as the landscape changes.
 - Decision making processes can be built-in to the LUP and adjusted as your First Nation’s administration (laws, policies, processes) changes.

Discussion Questions

- What has been your First Nation's approach to assessing pre-development or ongoing land development projects?
- How has your First Nation monitored completed development projects for success?
- What is the main reason for bottlenecks or slow downs in the process? How have you avoided these challenges?
- Do you have monitoring measures in place? What are they?

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RC NETWORKING

Wednesday
December
4th

15 Minute
Sessions

1-on-1
Opportunity

10:45am
until
12 pm



Thank You

Questions?



Training, Mentorship &
Professional Development

