



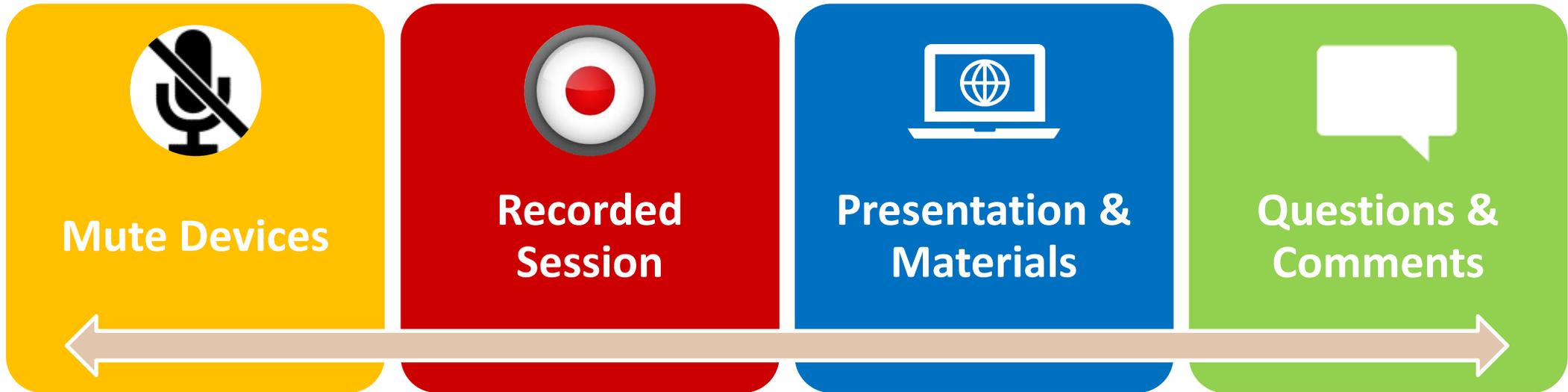
# Land Development Procedures, Public Works & Infrastructure under Land Code

TMPD Virtual Workshop

June 10, 2021 - 9:00 AM PDT / 12:00 PM EDT

# WELCOME





# AGENDA & OBJECTIVES

9:05 AM

## Introduction to Land Development Procedures under Framework Agreement

- RC presentation by Stephen McGlenn

9:15 AM

## Community Perspectives Panel

- **Nipissing First Nation** – Cathy McLeod & Steve Doucette
- **Westbank First Nation** – Joe Mocilac & Krista Derrickson
- **Kitsumkalum First Nation** – Margaret De Grace

10:20 AM

*Body Break*

10:30 AM

## Virtual Networking Exercise

- Scenario discussions provide opportunity for knowledge sharing experiences
- Round table discussion and interactive poll

11:35 AM

## Assessing Land Development - Identifying Project Risks & Impacts

- RC presentation led by Stephen McGlenn

11:55 AM

Summary

12:00 PM

Close of Workshop

# Introduction to Land Development Procedures under the Framework Agreement



**Stephen McGlenn**

Specialist, Land Use Planning & Curriculum Delivery

# Sustainable Development in an era of Self-Government

Good governance and decision-making is essential for sustainable development!

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

External colonial control, land dispossession and reserve creation

First Nations Resurgence & Leading the Way

## Pre-contact/time immemorial: Indigenous Self-Government

## 1867 - Imposition of the *Indian Act*

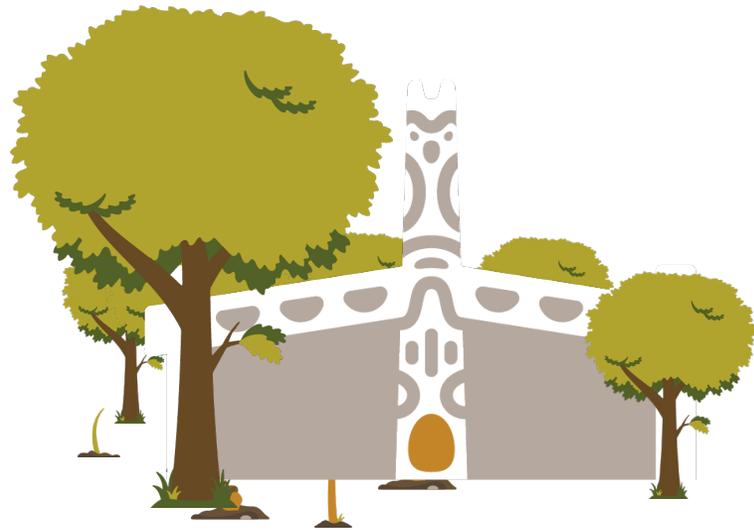
## 1996 – Framework Agreement on First Nation Land Management

Indigenous Political Economy & Trade

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

Indigenous Resource Management

Critical support to many early European settlements



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



Resurgence of Good Governance, Law-making & Planning

Decision-makers accountable to community, not ISC

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

Strong Environment & Land Protections, Enforcement

Clear decision-making processes, standards, rules & procedures

Benefits of development flow to community and advance community planning objectives



# WHAT IS LAND DEVELOPMENT?

**Land Development** refers to anyone making alterations to the landscape for a certain kind of land-use (e.g. residential, commercial, industrial, community use, cultural), often to pursue economic and/or community planning objectives.

**Land Development Procedures** are the customized guidelines for each community on how to implement their development-related Laws. Land Development Procedures clarify the processes that all proponents (including the First Nation itself) must follow for any proposed development on First Nation Lands.

## 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
- Licence
- 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 UNDER THE FA



Land Codes contain a uniform set of rules and procedures for the management of the reserve.

Development related Law-making powers of a First Nation with a Land Code in place:

**laws on the regulation, control and prohibition of zoning, land use, subdivision control, and land development**

**laws on environmental assessment and protection**

**laws on the provision of local services in relation to First Nation Land and the imposition of equitable user charges**

## Laws that regulate Land Development

Zoning Laws  
Development Laws  
Environmental Laws  
Community Quality Laws

## Plans that guide Land Development

Community Plans  
Land Use Plans  
Environmental  
Management Plans

## Policies, Procedures and Tools to guide Development

Land Development Procedures Manual  
Site Application Package  
Checklists & Guides  
Fee Schedules  
Invoicing  
Contracts

## Pros and Cons of referencing the Municipal/Local Gov't Land Development Model

# POTENTIAL LAND DEVELOPMENT ADMINISTRATION MODEL



## Stages in Development

	Administrative Task	Function of Lands Department:	Possible Decision Required	Example Authority
Concept Screening	Proponent Submits " <a href="#">Development Application Form</a> " (requirements established in Law)	Review, Screening, Briefing, Planning	Initial or Conceptual Approval in Principle	Lands Manager
Project Assessment	Project Proponent Submits Required Technical Information, Plans, Drawings, Studies & Assessments (see slides 26 - 33 below)	Technical Review & Requesting Project Revisions	Approval of Environmental Assessment	Lands Advisory Committee (LAC)
Acquiring an Interest	Proponent acquires interest in the land through a registered legal instrument (e.g., Lease, Sub-lease)	Ensure Land Code compliance, register interest in FNLRS	Approval of Interest per Land Code requirements	Clerk, Council, Community
Authorizations & Construction	First Nation issues requested authorizations (clearing, filling, development, business permit, etc.), construction begins	Review application w/LAC	Approval of Development Permit	Council
Compliance Monitoring	First Nation conducts regular compliance monitoring to ensure project impacts are prevented and mitigated	Conduct compliance monitoring, report	Enforcement decisions	Lands Officer
Occupancy	First Nation issues final occupancy permit	Inspections, Issue Occupancy Permit	Regular inspections, business licence renewal	Lands Officer

# PRINCIPLES OF LAND-USE & INFRASTRUCTURE PLANNING

## Land Use/Land Relationship Plan

Policies & Principles to Guide Development, e.g. "Smart Growth"

Environmental Carrying Capacity/Climate Change/Indigenous Knowledge

Population Growth & Demographics

Community Needs & Future Land Uses

**Planning Objectives**

### Technical Review & Analysis

- Land and Resource Management
- Professional Planners
- Environmental Professionals
- Engineers (civil, geotechnical, etc.)
- Legal
- Professional Land Surveyors

Land Code: Community-Driven Planning & Decision-Making



### Community Infrastructure Strategy

Water, Wastewater, Solid Waste, Utilities, Transportation, Parks, Cultural Areas, Flood Mitigation & Green Infrastructure, Public Works, etc.

**Planning Implementation & Law-Making**

Capacity Development

Integration

Project Proceeds or Applicant Re-Submits

**Development Procedures Manual**

Proponent/  
Applicant

Submission of  
Permit Application

### Subdivision, Development & Servicing Law

Authority for Development Permitting:

- Application Requirements
- Building Code & General Engineering Requirements
- General Requirements for Environmental & Heritage Assessments (if required)
- Input/Direction from Registered Professionals
- Review & Input from Advisory Committees, Staff, neighboring governments, etc

Note: Input, review and/or authorizations from Federal/Provincial agencies, neighboring governments, etc., may also be required, depending on the development

**Decision/Authorization**

### Development Review Procedures



Authority  
Chief & Council or Delegated Authority

Review & Recommend  
Advisory Committee /Authority

Analysis & Report  
Lands Department

# LONG-TERM PLANNING

# AND CLIMATE CHANGE



GOVERNANCE

COMMUNITY HEALTH, GENDER EQUITY

ENERGY & FOOD SECURITY

FINANCES & REVENUE

DEMAND FOR LAND, SERVICES & INFRASTRUCTURE

POPULATION GROWTH & THE ECONOMY

PUBLIC WORKS & INFRASTRUCTURE

LANGUAGE, CULTURE, TRADITIONAL USES AND KNOWLEDGE

ENVIRONMENTAL HEALTH & ECOSYSTEM FUNCTION ("LIVING CULTURAL LANDSCAPES")

AVAILABLE LANDS & PROTECTED LANDS

Community-driven

Capacity

Coordination & Integration

Cross-Departmental, Whole-of-Organization

Clear Communication

Confidence & Leadership

Consensus, Consent & Trust

Data Management Demands Increase

Technical Capacities Increase

Procedures established

Decisions are consistent

Trust is built



**Community changes over time**





## Interconnections of Land, Health, Identity & Stewardship

"For First Nations, the environment is vital in determining health and well-being. Our environment includes the land, air, water, food, housing and other resources that need to be cared for and considered to sustain healthy children, families and communities."

[-First Nations Health Authority](#)

## Indigenous Ecosystem-based Management

"...asking first what needs to be sustained on the land to look after the needs of species and ecosystems, then planning human activities within these ecological limits so that they can be sustainable over the short and long term. An ecosystem-based approach recognizes that ecological integrity and First Nations' cultural integrity are inextricably linked."

[-West Coast Environmental Law](#)

## Community Monitoring

Many First Nations hire and train community members to assist in monitoring land development activities, to ensure compliance with permit conditions and to relay information between the Lands Department and the developer.

## Culturally Relevant Indicators – measuring how development is changing community life

- Population Wellbeing
- Environmental Health & Cumulative Effects
- Effective Institutions
- Appropriate Relationships



# Community Perspectives Panel





**Cathy McLeod**  
Land Manager



**Steve Doucette**  
Public Work Manager



**Joe Mocilac**  
Director of  
Development Services



**Krista Derrickson**  
Manager of Utilities  
& Public Works



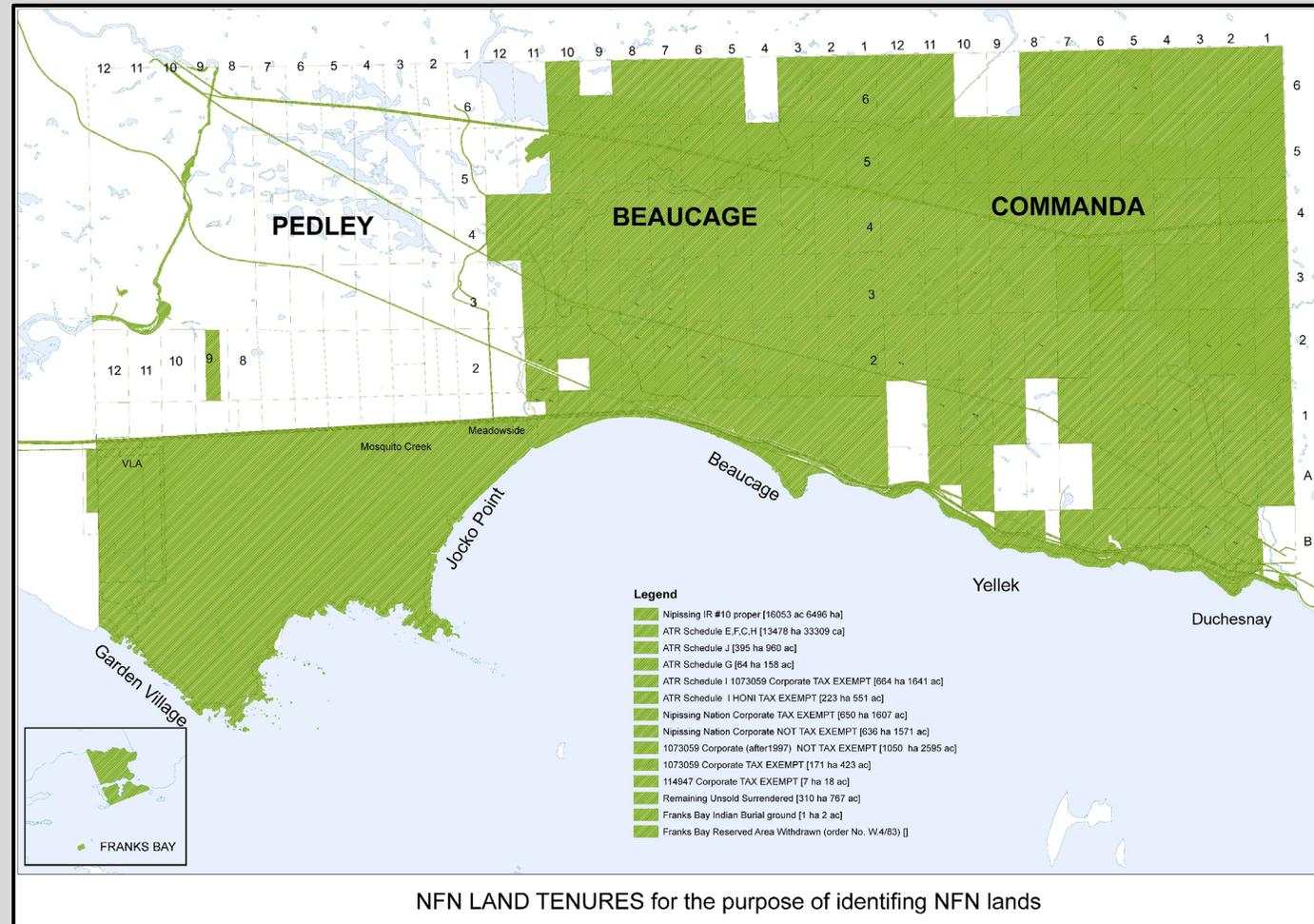
**Margaret De Grace**  
Land Planner

A sunset over a large body of water, likely a lake or bay. The sun is low on the horizon, creating a vibrant orange and yellow glow that reflects on the water. In the foreground, several buoys on poles are visible, silhouetted against the bright sky. The overall scene is peaceful and scenic.

# Nipissing First Nation

Presented June 10, 2021

# Nipissing First Nation (after lands returned under 1995 Specific Agreement )

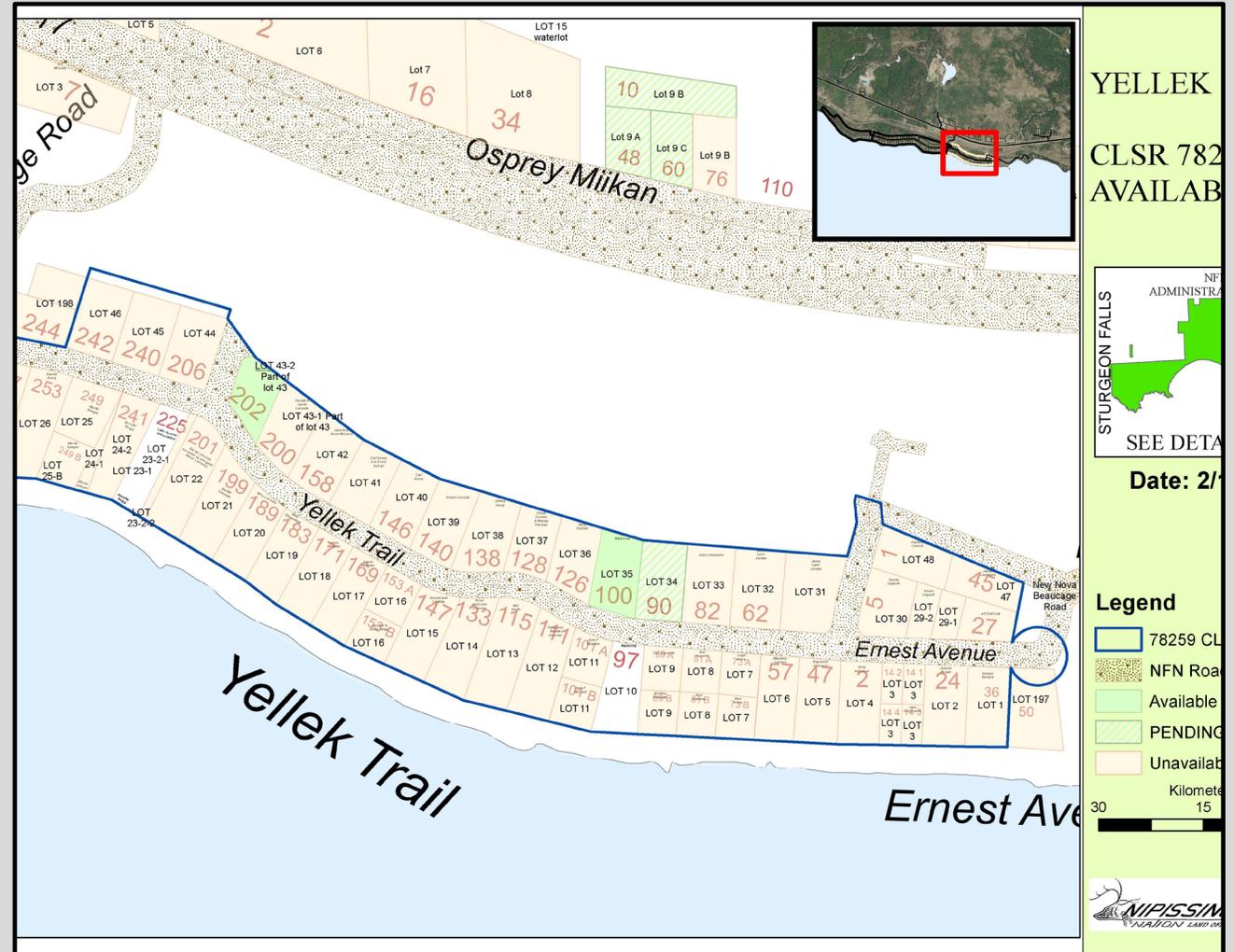


# Overview of presentation

- I will start with slides of pictures depicting the need for planning and zoning laws then talk briefly about our draft zoning law and proceed on to the issuance of interests in land.

# Subdivision Development

With all the land we have and the amount of building lots that were created over the last 10 years, we are now at a stage of requiring more residential areas.



YELLEK  
CLSR 782  
AVAILAB



Date: 2/1

**Legend**

- 78259 CL
- NFN Road
- Available
- PENDING
- Unavailab

Kilometre  
30  
15



# Protection of Archeological Sites

When planning a development of untouched land it is important to do an archeological assessment based on historical use and when necessary hire a qualified archeologist.



# Protection of Habitats

Need to do an assessment for habitats and species at risk



# Protection of Medicines

Need to protect areas that the people harvest medicines.

(PS – when I showed this to my sisters, one sister said “ever nice boat”. It is a basket!! HA!



# Designate Recreational Lands

Need to remember to have places for people to access the water, if you are blessed with your land abutting a water course, to swim and launch boats.

Or for a baseball field, hockey rink or park.



**Pierre Bourassa**

# Designate areas for Cultural Events

Need to ensure there is an area for cultural events like pow wows, ceremonies, traditional teachings, sweat lodge, etc.



# Set aside land for Cemetery

Nobody wants to think about this topic but it is important to have a place to lay people to rest. Nipissing has two main cemeteries and one requires expansion soon and possibly a new location.



Make sure industrial use land is in properly zoned area  
NFN quarry – rock extraction



# Purpose of Zoning Law

## Purpose of Law:

A zoning law controls the use of land on Nipissing First Nation lands and takes direction from the Nipissing First Nation Land Code and the Nipissing First Nation Capital Plan. This law divides Nipissing 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 sets out regulations for new development so that Nipissing First Nation can manage land in a way this supported by the membership and protects the community's interest.

The zoning law prevents incompatible or inappropriate land uses and it can prevent development in areas that the community does not wish to see developed.

While protecting the environment and heritage of the people of Nipissing, it also provides certainty for future economic development while ensuing new development meets the expectations of the community and that adjacent uses to new developments will be compatible.

The zoning law applies to all new development on Nipissing First Nation Lands.

All existing uses are to be grandfathered. If a use prior to the enactment of this law is not compliant after enactment there will be no penalty or pressure to have it changed unless the parcel is to be redeveloped. At such a time, the new regulations will be applied and enforced.

The zoning law regulates future development.

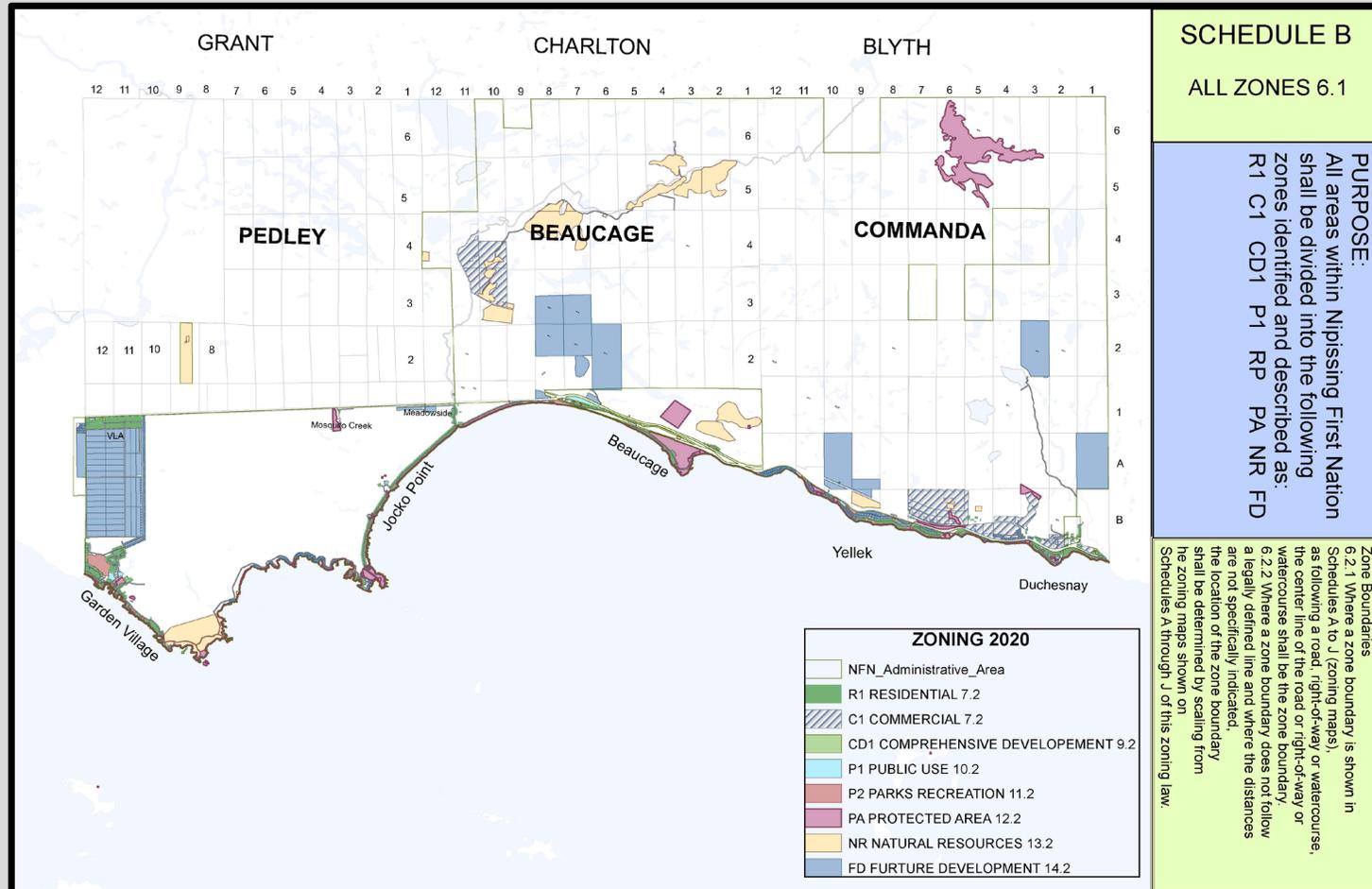
If a new development proposal conforms with the regulations in the zoning law, and all other applicable laws, then the development can proceed.

If a development proposal does not conform with the law, the developer, whomever, member or non-member must apply to Chief and Council for an amendment to the law that would bring the proposed development into line with the zoning law or alter the plan in such a way as it is in line with it and other applicable laws.

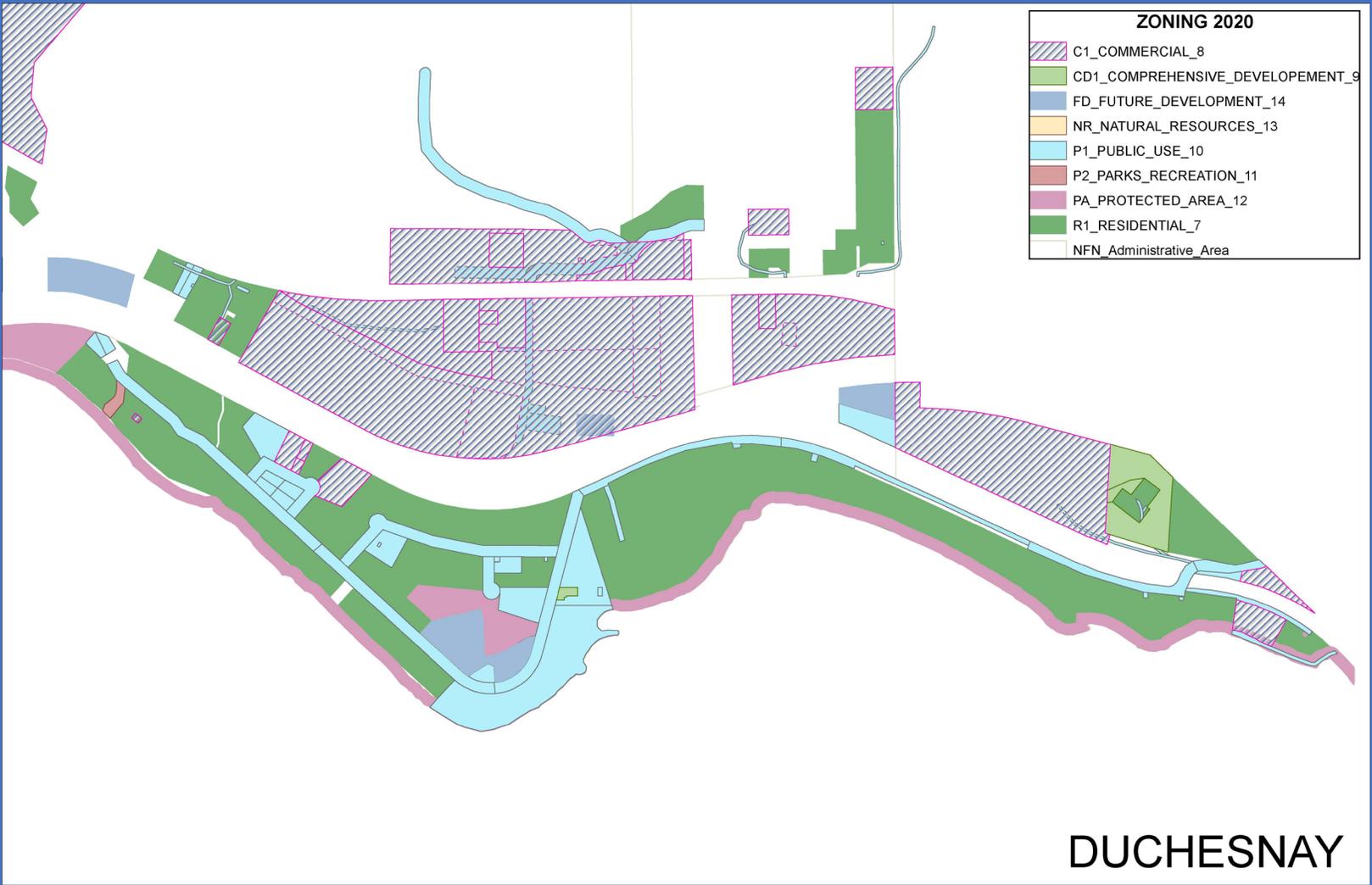
## We have 8 proposed zones for our Zoning Law

Zone	Description
R1	Residential
C1	Commercial
CD1	Comprehensive development zone
P1	Public use
P2	Recreation, parks and open space
PA	Protected Areas
NR	Natural Resource
FD	Future Development

This is an overview of all Nipissing Nation lands that have designated use within their zone:



# Close up of zoning within community



For clarity and ease of read, there will be a schedule of maps showing the location of each of the zones in the communities:

## 16 Zoning Maps – Schedules A-J

Schedule A – NFN Lands

Schedule B – All Zones

Schedule C – R1 Residential

Schedule D – C1 Commercial

Schedule E – CD1 Comprehensive Development

Schedule F – P1 Public Use

Schedule G – P2 Recreation, Parks and Open Space

Schedule H – EPA Protected Area

Schedule I – NR Natural Resource

Schedule J – FD Future Development

Closing the subject of zoning, do not ever try to make something fit in where it does not belong – you cannot fool people and the kids are smarter than you think!



# Land Law Development Procedure

- Law is drafted by the Land Office
- Brought to Land Law Committee for review and input
- Sent to legal counsel for review
- Translation of some content, where possible, into Nishnaabemwin
- Submitted to Chief and Council for review and their approval for enactment process to commence.
- Land Code drives the enactment process

Enactment procedure depends on requirements set out in the NFN Land Code:

- All laws require public consultation whether by way of a mailout/social media or a mailout/social media and public meeting;
- Some laws require 3 readings at a Council meeting open to the general membership before being signed into law;
- Some laws require a vote by the Membership

## Implementation of laws/approval process:

Before any improvement to vacant land an environmental assessment, species at risk and cultural/archeological sensitivity is required whether individual or NFN.

# Residential Allotments

- For residential land allotments the band member applicant must submit their house plans, estimates and proof of financing to the land office
- After meeting the criteria, the person will be able to select a lot in a residential area;
- Person has one year from date of signing application to build their home or risk losing improvements made.
- A person can request an extension if warranted. (ie: death in family)
- Once they complete their homes a Grant of Entitlement is issued;

# Commercial Allotments

- For Commercial allotments the proponent submits their business plans to the Economic Development Officer;
- The EDO calls a Business Licencing Committee meeting who reviews it to ensure it fits with NFN's mission, vision and values;
- A Notice goes out to the Membership giving 30 days to send in any concerns about the location or the business activity;
- A recommendation is submitted to Chief and Council for approval to issue business licence; Note: A Proponent can be asked to provide further information before Committee makes recommendation to Council.
- once approved, proponent applies for a commercial lot in an area suitable for the business activity and issued a 35 year Lease Agreement

# Permits

- Permits are issued for temporary land use activities such as sand and gravel extraction, and for land uses where a grant of entitlement nor a lease will ever be issued such as hunt camps (under review).
- Person applies for a Permit setting out proposed use.
- Permits range from one year to five years in length

# Monitoring Issuance of Interest

- All Applications are logged and diarized for follow up for a site inspection on the one year anniversary for compliance;
- For GOE's once the house is built a Grant of Entitlement is issued;
- For Permits – periodic site inspection conducted to ensure of compliance with conditions of permit such as keep the site environmentally sound, cleanliness, business activity is what was approved;
- Lease Agreements – annual inspection for environmental conditions and operating according to Business Licence.

# List of documents for land management:

- Application for Land
- Application for Commercial Land
- Lease Agreement – residential and commercial
- Amending agreements
- Permit for demolition & disposal
- Permit for fence
- Shoreline Work Permit
- Permit for new buildings (additions/garage)
- Stop Work Order
- Grant of Entitlement
- Letter Permit to cut trees
- Letter Permit to Enter Reserve Lands
- Extraction Permit – sand, gravel, rock, backfill

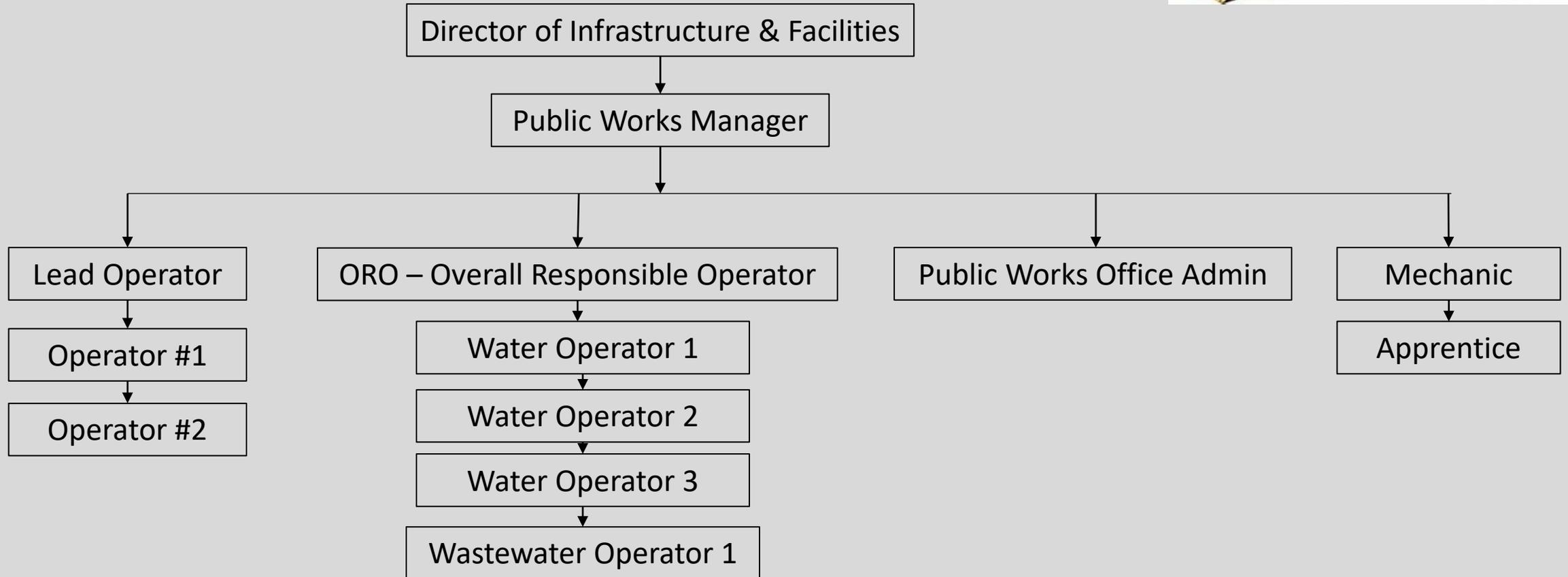
- The End of lands presentation. Now onto Public Works component. I introduce Steve Doucette, Public Works Manager of Nipissing Nation. Take it away Steve!



## What is the Public Works Department up to? (past/present/future)

- Future road development to expand our communities
- Expansion of our water treatment plant in Garden Village
- Future development of a water and wastewater treatment plant in our other larger communities
- Job creation due to expansion of services in our communities.





## **Public Works is funded by:**

- Ingenious Services Canada
- Ministry of Transportation of Ontario
- Health Canada





**Public Works roles and responsibilities for provide the following services to our First Nation.**

- Maintain Roads in the various communities ( Garden Village, VLA, Jocko Point, Beaucage, Yellek and Duchesnay)
  - Ditching & Culvert Installation
  - Road Grading
  - Sewer & Water Installation on new services
  - Road Signage
  - Weekly Garbage Pick-up and Bi-weekly Recycling Pick-up
  - Winter Maintenance of all roads
  - Emergency Repair of Roads and Water & Sewer Lines
- Provide Clean water to members in the various communities
- Water and Wastewater Plants located in Garden Village
- Maintenance Service for Public Works Fleet is taken care of on site. (MTO Certified Facility)



**Miigwech!**





# Introduction to Planning Land Use and Infrastructure at Westbank First Nation

2021

*Community. Leadership. Pride.*



# Overview of WFN

## History and Governance

### 2005 Self Government Agreement

1. Jurisdiction
2. Laws and law-making authority
3. Constitution
4. Non-members representation
5. Taxation
6. Land and Land Management





# Overview of WFN History and Governance

## Impacts of Self Government

- Increased accountability and transparency
- Political and financial stability
- Security of land tenure
- Increased property values
- Increased capital investment
- Improved standard of living



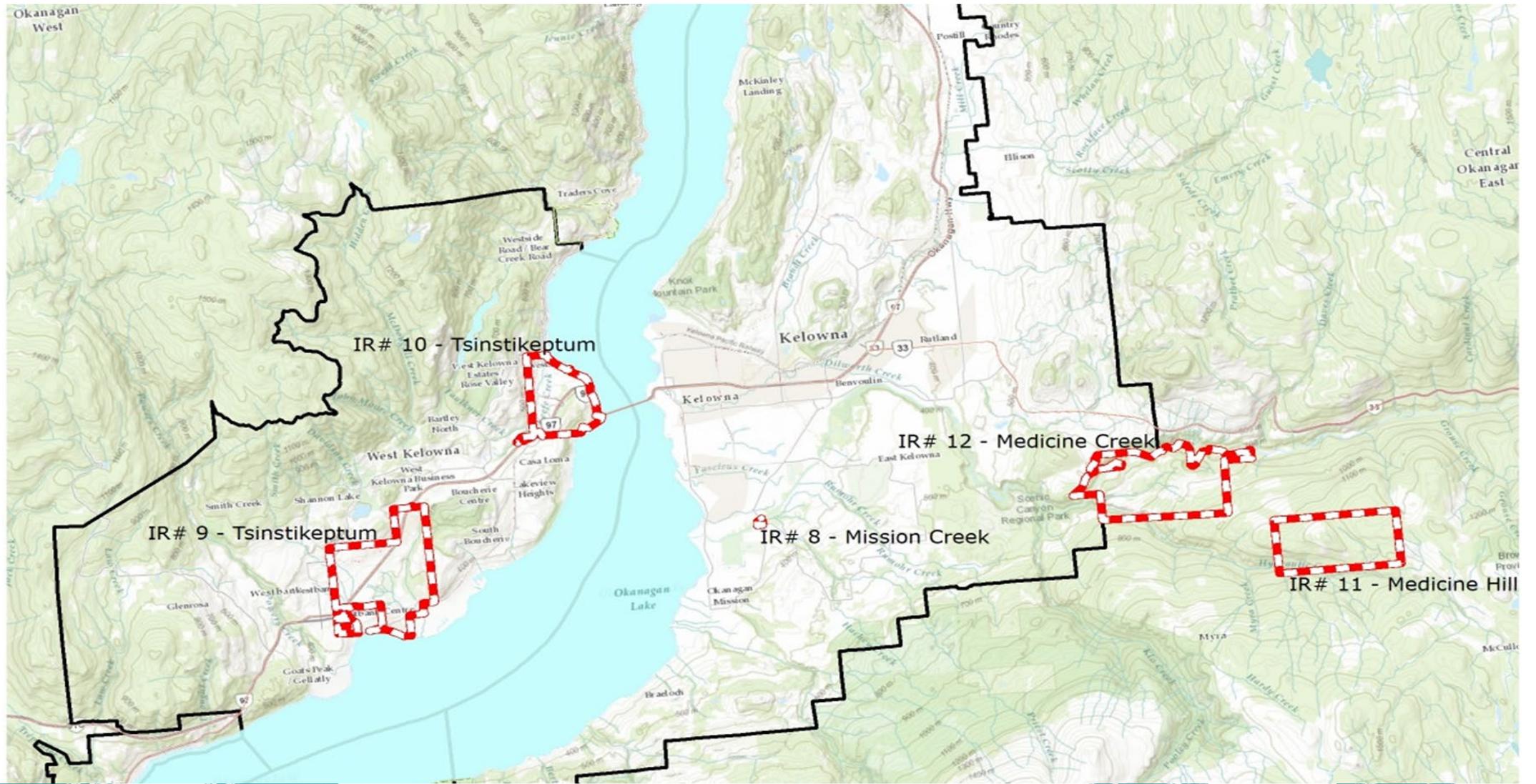


# Overview of WFN

## Location / Lands / Population

- Populated lands in Westbank
- Lands within and around the Kelowna boundary
- Lands within and around the Peachland boundary
- 3 acres in the Kootney region
- 5 Reserves with addition to reserve being added
- 5340 acres in reserve status

*way'xast sxəlxʔált*



way'xast sxalxřált



## Overview of WFN

### Location / Lands / Population

- ~ 855 WFN Members
- ~ 9000 residents on reserve
- 4300 residential units
- Government
  - Chief and 4 Councillors
  - 200+ employees
  - \$35+ Million annual budget

*lim læmt*

*lim læmt*



## Overview of WFN Location / Lands / Population

### Regional Participation

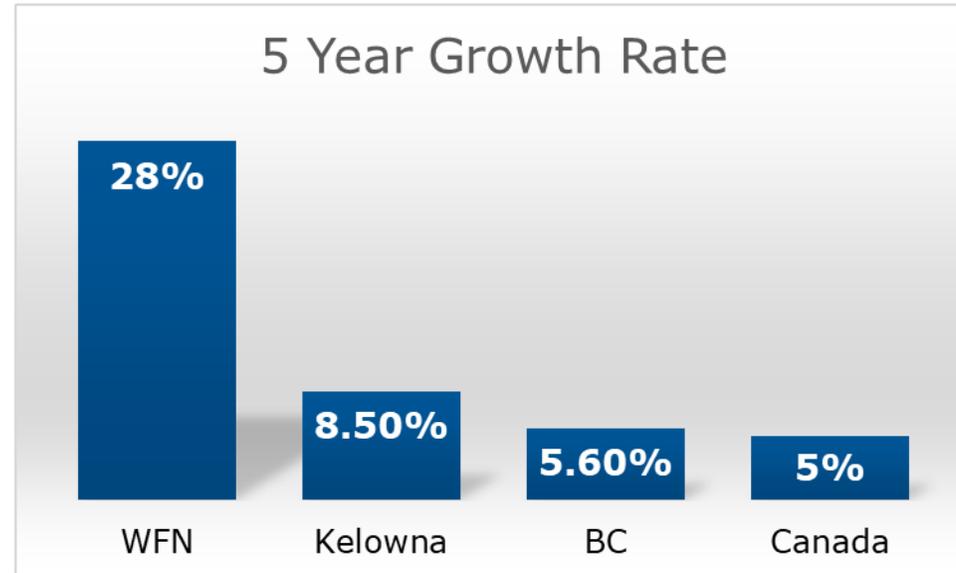
- WFN is a non voting member of the RDCO
- Staff actively participate in numerous intergovernmental initiatives
  - Emergency Operations Centre
  - Regional Air Quality Management Plan
  - STPCO
  - Regional Transit
  - Regional Growth Strategy
  - Several others
- WFN Regional Partnerships
  - Fire Protection
  - Law enforcement





## Overview of WFN Location / Lands / Population

- 28% Growth rate over the last 5 year
- 8.5% Kelowna
- 5.6% BC
- 5% Canada



way'xast sxəlxʔált



## Overview of WFN

### Location / Lands / Population

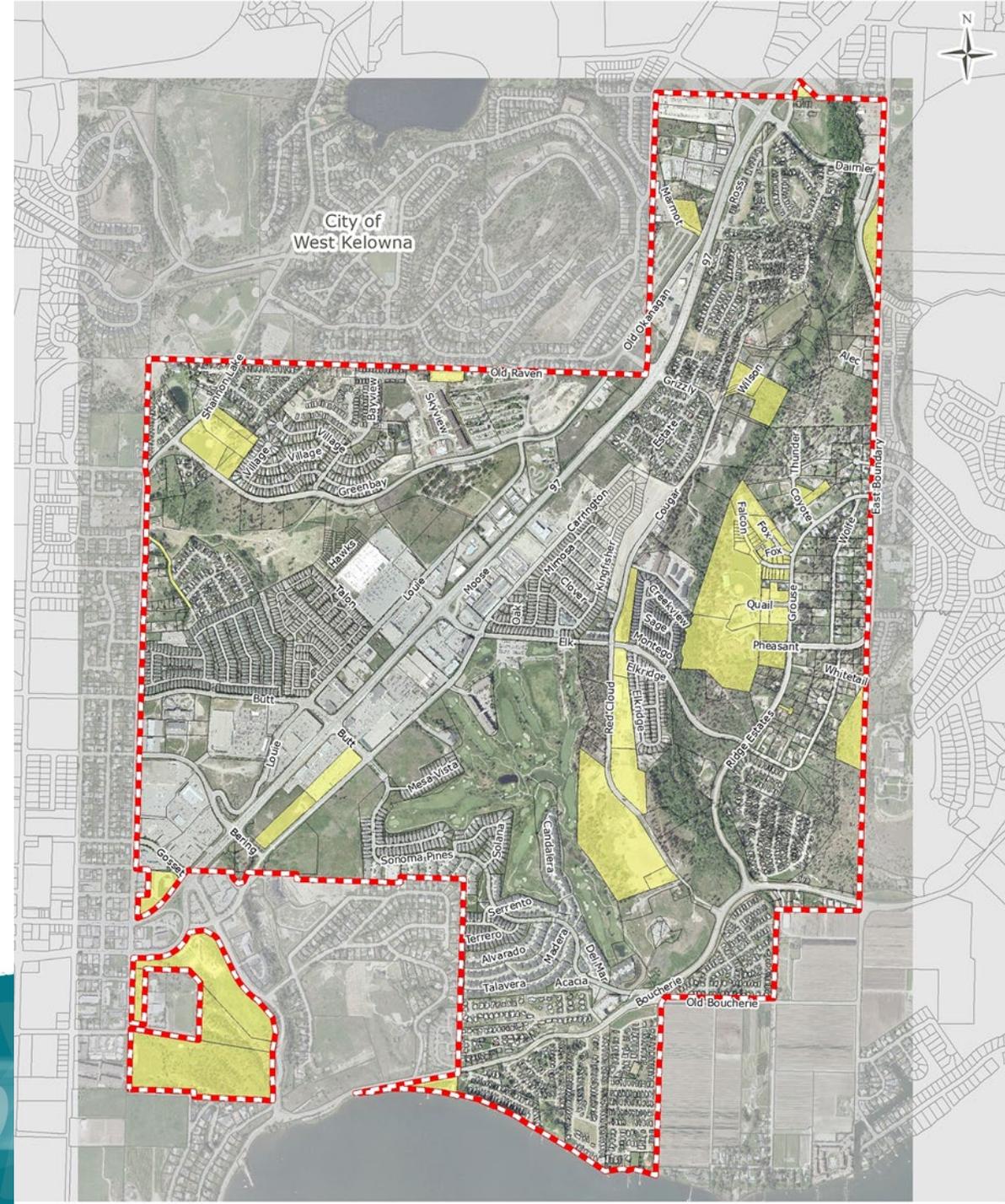
- 2 types of Land on reserve
  1. Certificate of Possession (CP)
  2. Community Land

*lim læmt*

*lim læmt*



# IR 9 Community Lands







## Overview of WFN Land Use Regulations (23 Laws and Regulations, plus BC or Federal)

- No. 2017 – WFN Advisory Council Law
- No. 2008-03 – WFN Residential Premises Law
- No. 2008-02 – WFN Notice Enforcement Law
- No. 2008-01 – WFN Dispute Adjudication Law
- No. 2007-01 – WFN Land Use Law
- No. 2006-03 – WFN Allotment Law
- No. 2006-02 – WFN Family Property Law
- No. 2005-23 – WFN Immunity and Indemnity Law
- No. 2005-20 – WFN Outdoors Events Law
- No. 2005-18 – WFN Sanitary Sewer Systems Law
- No. 2005-17 – WFN Business License Law
- No. 2005-16 – WFN Waterworks Law
- No. 2005-15 – WFN Subdivision, Development & Servicing Law
- No. 2005-14 – WFN Building Law
- No. 2005-13 – WFN Traffic and Parking Control Law
- No. 2005-11 – WFN Fire Protection Law
- No. 2005-09 – WFN Second-hand Dealers and Pawnbrokers Law
- No. 2010-04 – WFN Community Plan Law
- No. 2018 – WFN Freedom of Information & Protection of Privacy
- No. 2005-07 – WFN Unsightly Premises Law
- No. 2005-06 – WFN Garbage Collection Law
- WFN DCC Law
- WFN 2015 CCP

### MASTER PLANS (6)

Transportation

Sewer

Water

Storm

Parks and Trails

Active Transportation

way'xast sxəlxʔált



# Why do we Plan?

We plan so things are systematically connected together and become a balanced solution for Families/Communities.

We try to avoid the first come first serve approach, which does not look forward to the future generations beyond, that are yet to have a voice.

Everyone for themselves is not necessarily a good thing.

Land Use Planning decisions are long lasting decisions, what we see today or do today will be noticed and talked about in 50 years.

*"A plan without action is a dream, an action without a plan is a nightmare."*

ha t'i? k<sup>w</sup>

ha t'i? k<sup>w</sup>



# What is Land Use Planning?

The process by which communities attempt to manage change and development in the physical environment.

Planning is a matter of trying to decide which of many competing interests is more deserving, while also treating everyone in a fair and reasonable manner.

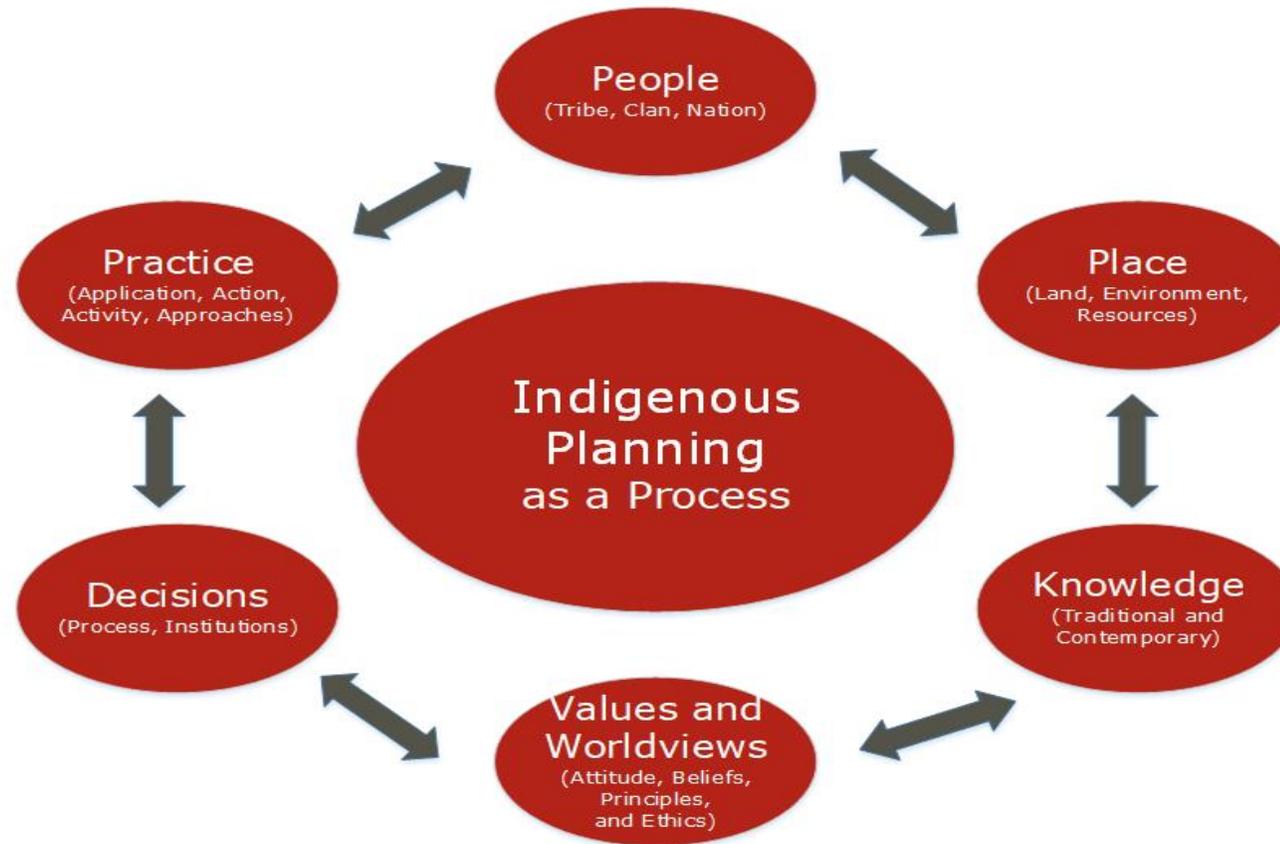
While we reinvest and revisit our planning guiding documents every 5 years we generally do not go back and make changes to what is already built.

*ha t'i? k<sup>w</sup>*

*ha t'i? k<sup>w</sup>*

# Planning has always been around us

Indigenous Planning as a Process



ha t'i? k<sup>w</sup>

ha t'i? k<sup>w</sup>



It is imperative to think carefully about land decisions as they connect to all our other assets, those who came before us planned and as such we must consider more than what is in front of us like:

- Roads
- Water
- Sewer
- Environment / Archeology
- Site lines
- Land uses of today and tomorrow

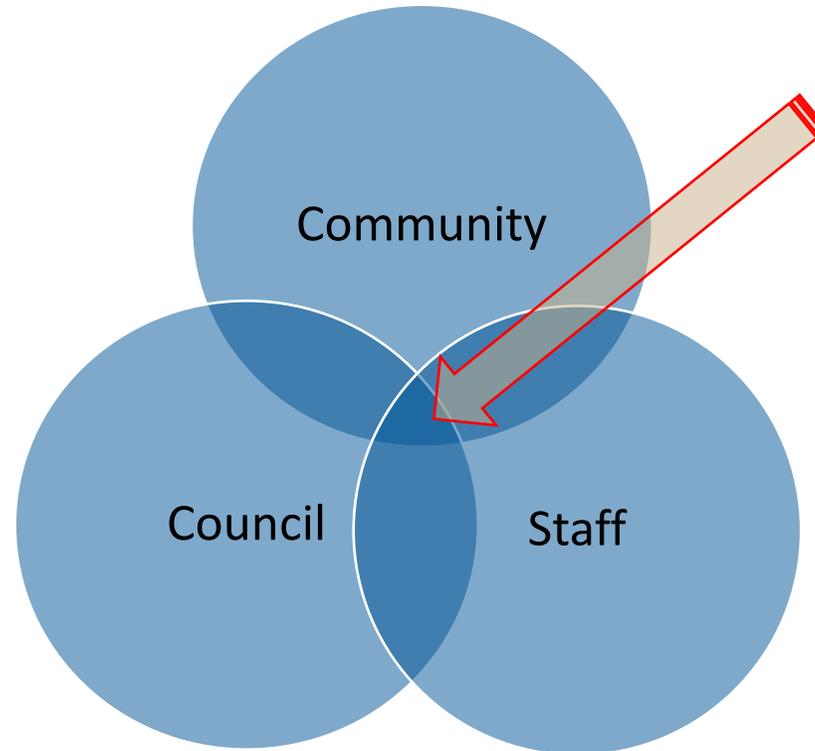
If we do not consider all the factors we can create weakness in our communities.

*tik<sup>wt</sup>*

*wist*

*wt*

# Who Plans?



When it all intersects everyone is happy



# The Benefits of Planning

*tik<sup>w</sup>t*

*wist*

*w<sup>t</sup>*



The land will help the community achieve its goals for the future.

- Housing for current and future families
- Accommodation for guests
- Sufficiency (water, garden/food, wood, and sustainability)
- Business Opportunities / Commercial Opportunities

Unique resources are protected for everyone's use:

- Water supply
- Recreation areas, streams, beaches, forests open/green spaces
- Agricultural area
- Archaeological/Environment Areas
- Gravel resources

*tik<sup>w</sup>t*

*wist*

*wist*

*tik<sup>w</sup>t*



# More benefits to planning:

- Safety
- Health
- Cost effective and efficient infrastructure (asset management)
- Certainty about future development
- Reduced conflicts in the Community
- Land is used for the greatest benefit of the majority
- Enhance and maintain property value for the future

*tik<sup>w</sup>t*

*wist*

*wist*

*tik<sup>w</sup>t*

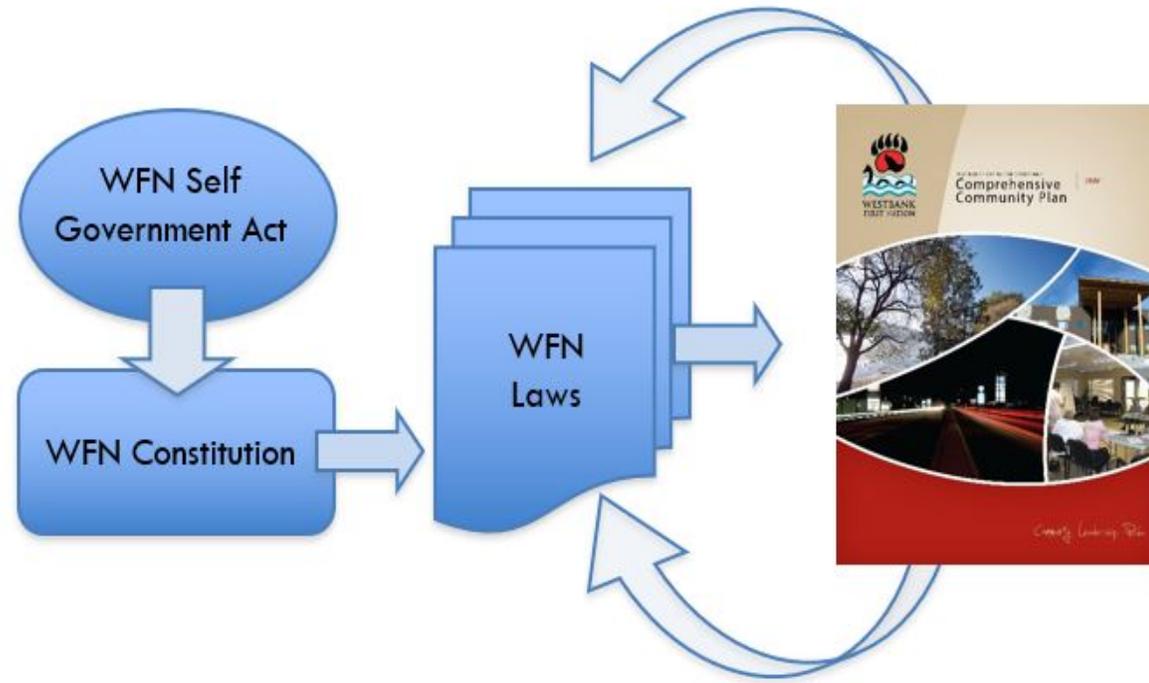


# The Regulatory Framework

*tik<sup>w</sup>t*

*wist*

*tik<sup>w</sup>t*

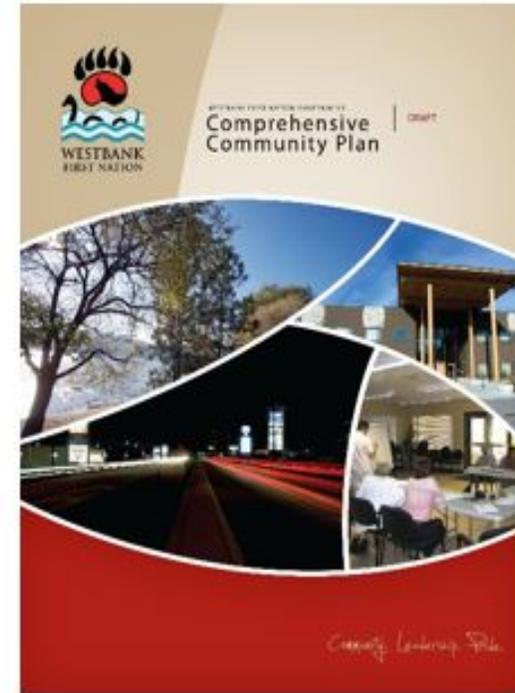
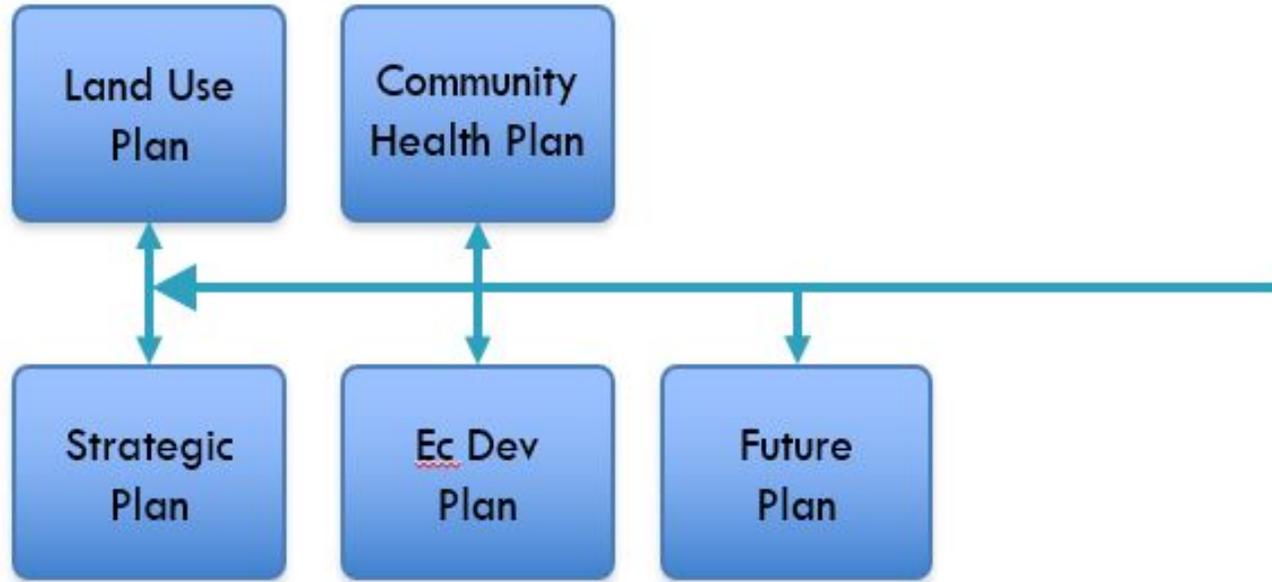


*ha t'i? k<sup>w</sup>*

*ha t'i? k<sup>w</sup>*



# What documents guide staff?



tik<sup>wt</sup>

wist



# Supporting Documents When Planning

- The WFN Constitution
- WFN's Comprehensive Community Plan
- WFN's Land Use Law (zoning)
- WFN's Subdivision, Development Servicing Law, plus the Water and Sewer Laws
- WFN's Building Law
- WFN's Residential Premises Law
- WFN's Land Registry Regulations; and
- Aboriginal Affairs and Northern Development Canada (AANDC) Land Registration System

*tik<sup>w</sup>t*

*wist*

*wist*

*tik<sup>w</sup>t*



# Development Services Tools

CCP	Vision, Policy, Objective(s)
Land Use / Zoning Law	Use, Density, Siting, Parking, etc.
Development Permit	Design Controls
<i>Supported by the SDS Law, Archaeology, Geotech reports, Infrastructure Master Plans, etc.</i>	
Building Permit	Building Code
Occupancy Permit	Completion

tik<sup>wt</sup>

wist

wt



# Development Process

*tik<sup>w</sup>t*

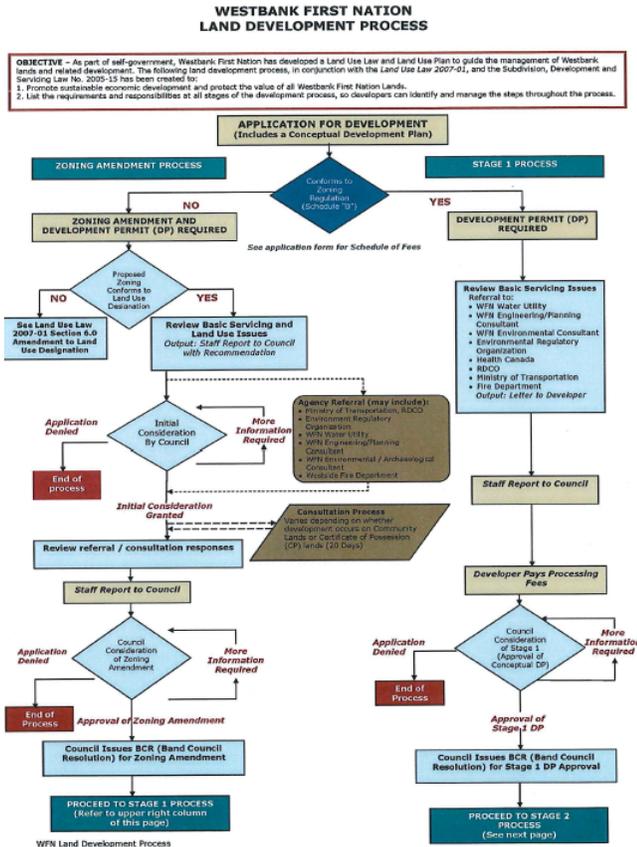
*wist*

*wist*

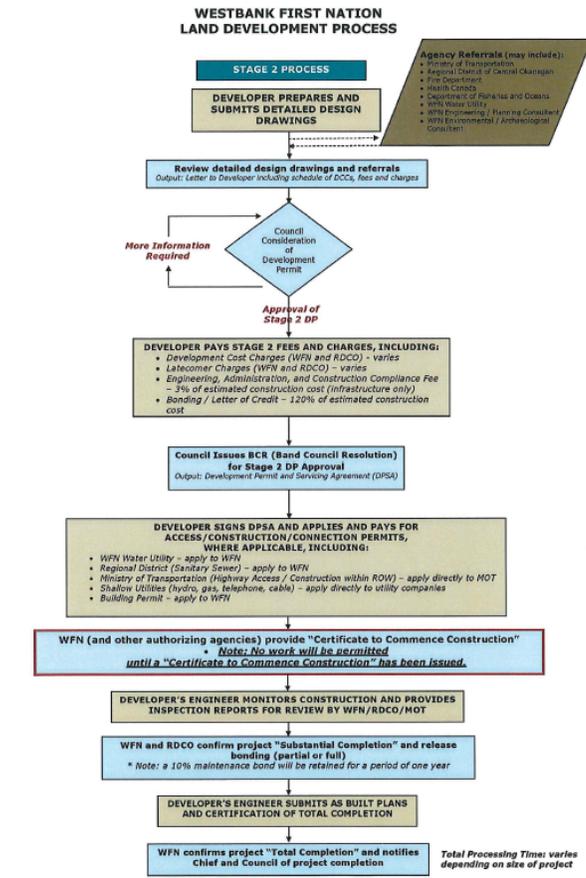
*tik<sup>w</sup>t*



# Development Permits



3.2.6. DEVELOPMENT FLOW CHART





# Development Process

## 4 – Stages if you include the pre application meeting

### Stage 1: Application for development

- Meet with the developer of the proposed project.
- Development proposal
- Environmental assessment report
- Archaeological overview assessment
- Traffic impact study
- Engineering brief
- Conceptual plans w/ specifications

*tik<sup>w</sup>t*

*wist*

*wist*

*tik<sup>w</sup>t*



# Development Process

## Stage 1 continued...

- WFN Development Services reviews the application
- WFN Development Services forwards necessary reports to appropriate reviewing agencies.
- If all requirements are met, WFN Development Services will forward the application to WFN Council.
- Developer pays Stage 1 fees and charges according to WFN Schedule of DCCs and Fees.
- WFN Development Services presents a WFN Resolution approving Stage 1.

*tik<sup>wt</sup>*

*wist*

*wt*



# Development Process

## Stage 2: Development Permit Approval

- Developer provides details designs and servicing flow calculations, which are then forwarded to reviewing agencies.
- If any and all deficiencies have been satisfied, a DPSA will be prepared. A letter and Schedule for Stage 2 DCCS and Fees is sent to the developer.
- WFN Resolution goes to WFN Council for approval. If it is approved and all charges/ fees are paid, a DPSA is executed.
- DPSA forwarded to the developer.

*tik<sup>wt</sup>*

*wist*

*wt*



# Development Process

## Stage 3: Construction

- Developer applies and pays for all necessary permits.
- Developer posts any required signs.
- WFN and other agencies provide a “Certificate to Commence Construction”
- Engineers and WFN inspectors monitor construction.

*tik<sup>wt</sup>*

*wist*

*wt*



# Development Process

## Stage 3 continued

- WFN & RDCO confirm project has “Substantial Completion” and release bonding, partial or full.
- Developer submits “as built”, which WFN & RDCO confirm, providing a “Substantial Completion and Construction Completion Certificate”
- Notification is given to WFN Council and the WFN Surveyor of Taxes

*tik<sup>wt</sup>*

*wist*

*wt*



# Development Process Things we have Learned

- We are a faster process now than under the land code.
- Projects are becoming larger and more complicated.
- We have added the creation of Neighborhood Plans into our Land Use plan to help further define possible development impacts to neighborhoods.
- Planning for future infrastructure takes time and can impact many property owners and families.
- Need to ensure development charges keep pace with increased construction costs.
- Not all developers are equal.
- We have limited lands and resources so we plan and approve accordingly.

*tik<sup>wt</sup>*

*wist*



# Sustainability and Public Works

Land use planning not only drives demand for services but also directly influences a community's ability to achieve sustainable service delivery. The following outlines the most significant ways that land use plans can impact sustainability.

- Location of Development, outlying properties can create high O&M costs, exceed system capacity, keep growth centralized.
- Density, the more dense the lower servicing and O&M costs
- Scale of Development
- Level of Service, water, sewer, sidewalks, paved roads
- Areas to protect, wetlands, aquifers, trees, arch, soils, animal corridors

*tik<sup>wt</sup>*

*wist*

*wt*



# Sustainability and Public Works

- As new development comes online you need to make sure you have:
  - The budgets to maintain it
  - The staff to maintain it
  - The knowledge to maintain it

*tik<sup>wt</sup>*

*wist*

*tik<sup>wt</sup>*



# Sustainability and Public Works

- What is Sustainable Service delivery?
- How does land use planning connect?
- Why manage your assets?

*tik<sup>w</sup>t*

*wist*

*w<sup>t</sup>*

# Sustainability



BC Asset Management

# Sustainability



*Disconnect between new development revenues and new development expenditures*



# Sustainability

- **Sustainable Service Delivery** ensures that current community **service** needs, and how those **services** are **delivered** (in a socially, economically and environmentally responsible manner), do not compromise the ability of future generations to meet their own needs.

*tik<sup>wt</sup>*

*wist*

*wt*



# Closing

- There is constant growth and learning opportunities in Land Development and the services required to make it all work.
- You have to stay up to date and flexible.

*tik<sup>wt</sup>*

*wist*

*wt*

# Development Review

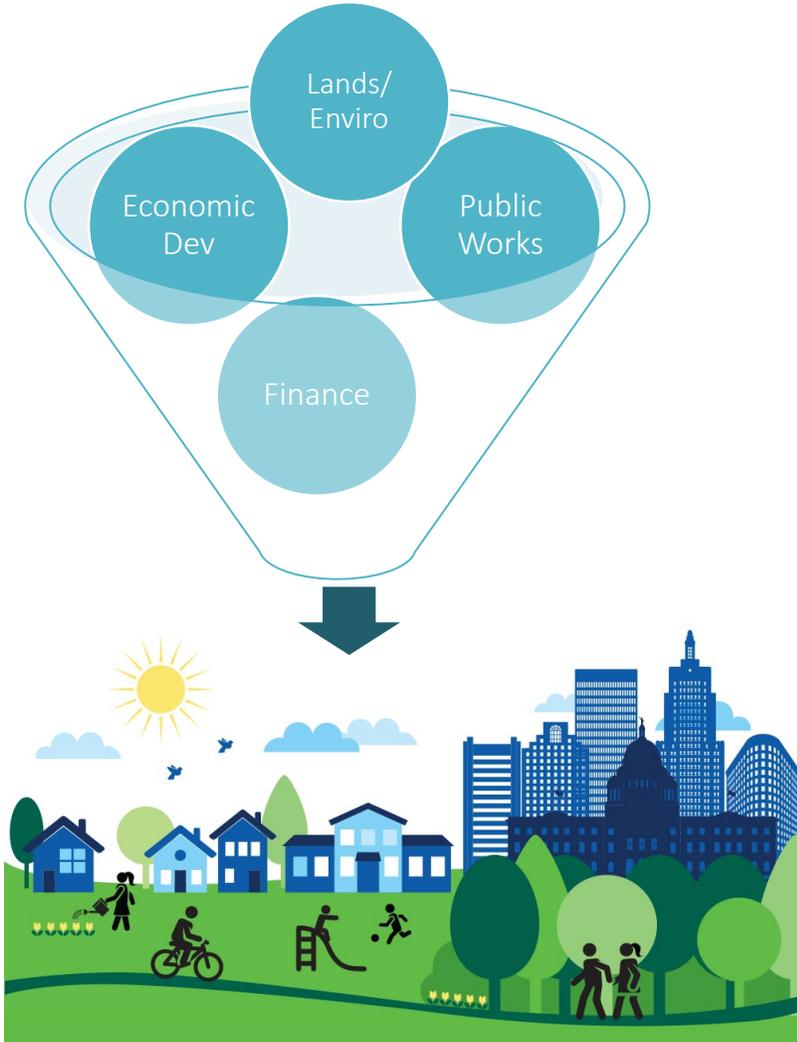
assessing projects in your community



# What is Development Review?

A procedure an organization can follow to assess and evaluate proposed projects in the community.

# How does it work?

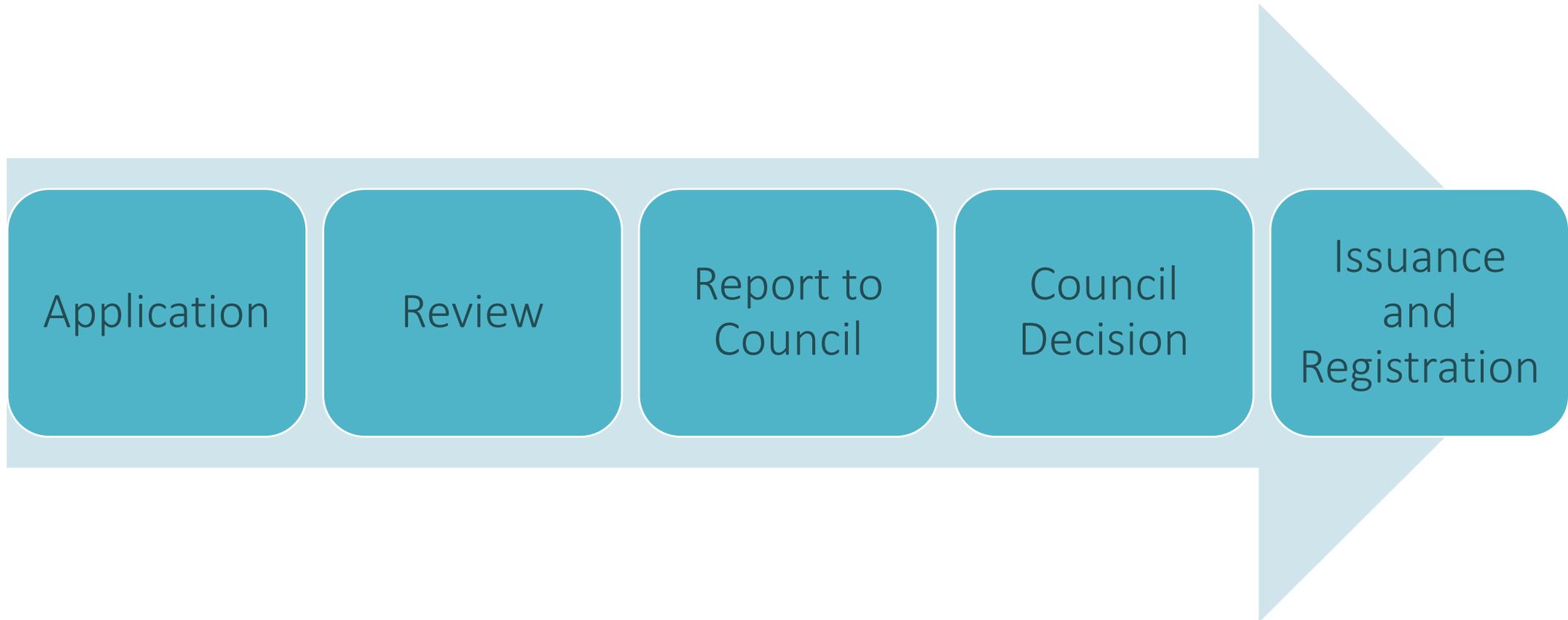


The procedure is coordinated by the Lands Department, but uses input from across the organization to ensure that the development is a “good community fit” .

# Why do it?

- creates a consistent and orderly development process
- promotes coordination and teamwork across the organization
- fosters a comprehensive evaluation and decision-making process
- promotes higher standard development

# What are the basic steps?

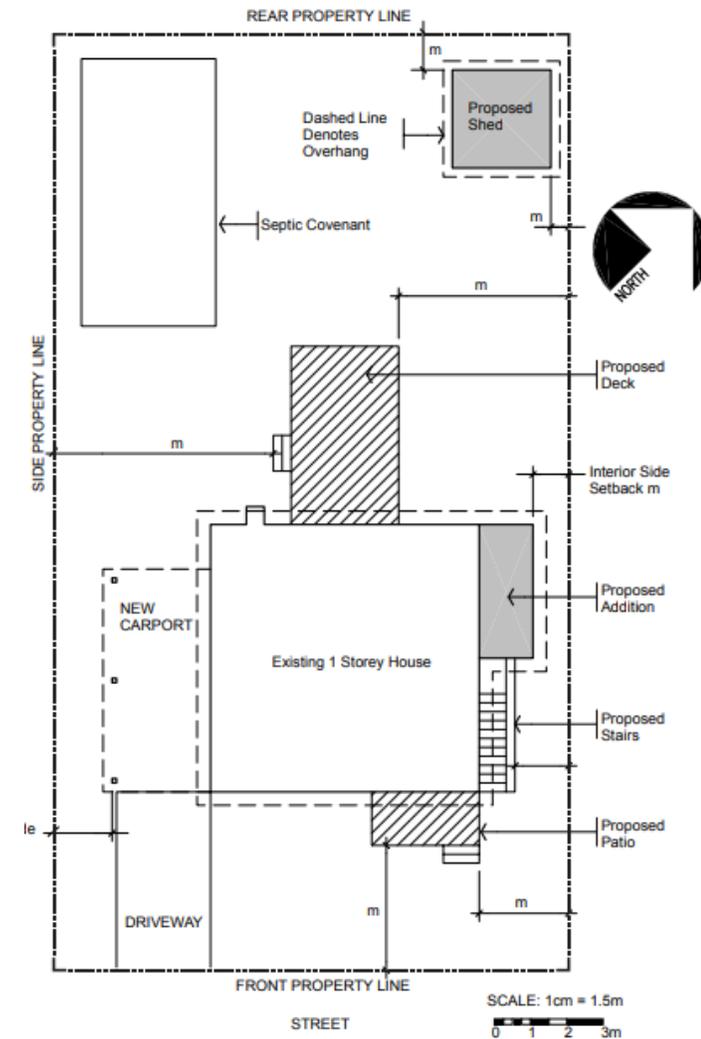
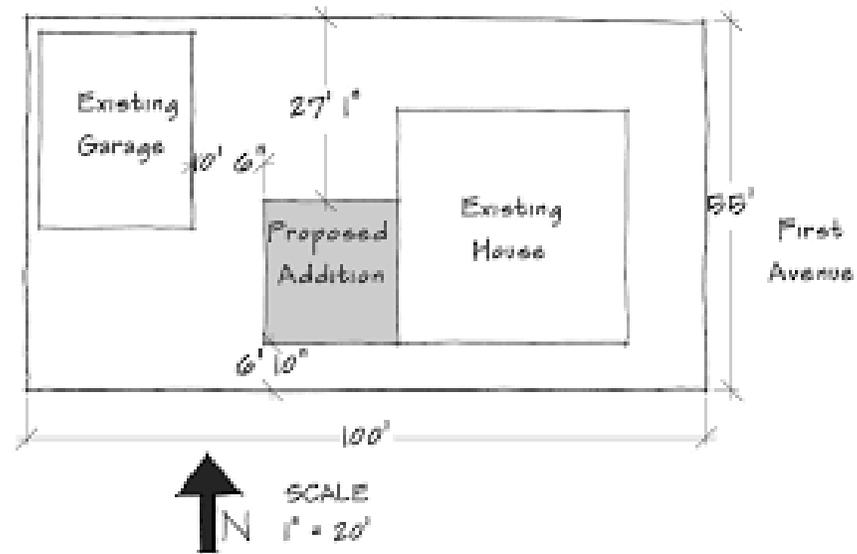


# APPLICATION



- Opportunity to discuss proposed project
- Applicant submits an application package, including a project description and site plan

# APPLICATION – Example Site Plan

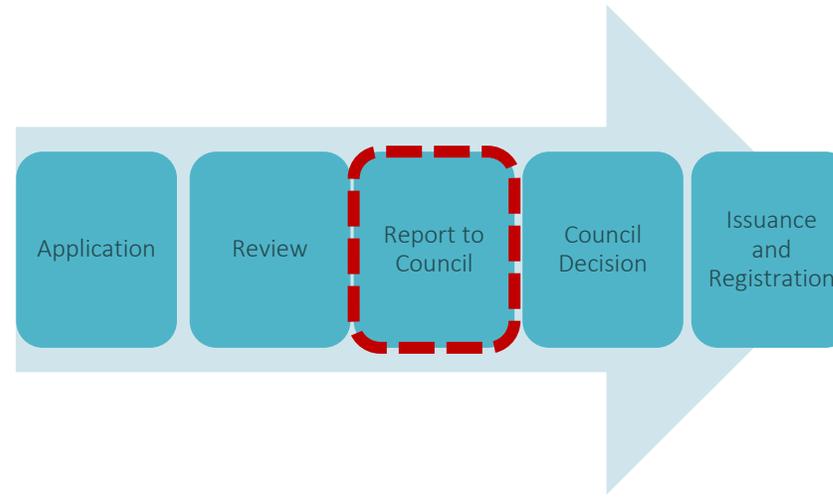


# REVIEW\*\*\*



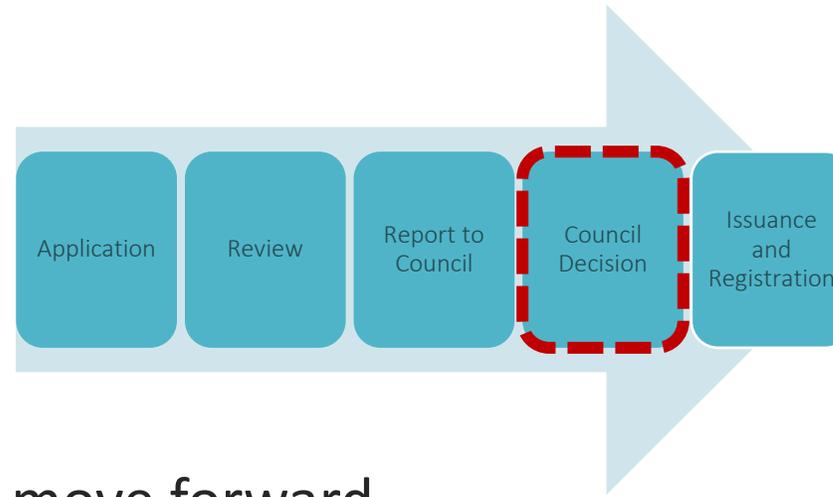
- Lands Review (Land Code, Land Use Plan, Comprehensive Community Plan)
- Internal Department Review (Public Works, Environment, Housing, Band Manager etc.)
- Lands Committee Review
- Technical Review? (utility companies, building, Northern Health)

# REPORT TO COUNCIL



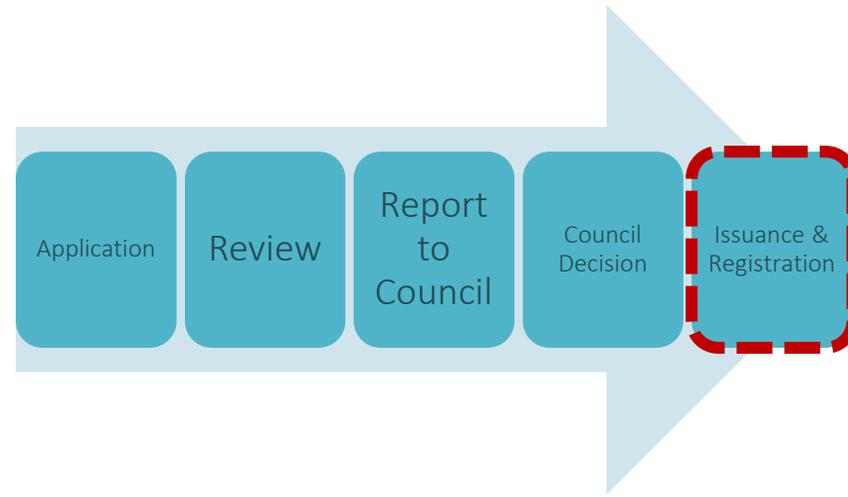
- Organize feedback from review stage into summary Report for Council.

# COUNCIL DECISION



- Council can approve the project to move forward, request more information, deny application.

# ISSUANCE AND REGISTRATION



- Permissions or Authorizations
- Land Registry Updates

# What are the issues in your community ?

Development is confusing! How do we make it easier?

How can drainage be addressed in new development?

I never know when development is happening! How can I be a part of it?

Thank you



# Body Break

We will start up at 10:30 AM PT



## Group Discussion

Successes, Challenges, Needs



### Scenario 1

Residential Subdivision,  
Cultural Centre &  
Walking Trails



### Scenario 2

Industrial Warehouse  
Park



### Scenario 3

Transmission Line for  
Electricity



### Scenario 4

Band Housing Project





## Round Table Highlights

Successes, Challenges, Needs



### Scenario 1

Residential Subdivision,  
Cultural Centre &  
Walking Trails



### Scenario 2

Industrial Warehouse  
Park



### Scenario 3

Transmission Line for  
Electricity



### Scenario 4

Band Housing Project



# Assessing Land Development: Identifying Project Risks & Impacts



**Stephen McGlenn**

Specialist, Land Use Planning & Curriculum Delivery





Adopting Land Development Procedures ensures due diligence and that land development proposals undergo proper assessment, review and approval *before* proceeding.

Land Development Procedures are based on a First Nations Laws, Plans and policies and help to:

- Clarify internally and externally **how development happens** (application requirements, steps, timelines, who makes decisions and how)
- Establish or summarize **information requirements**
- **Identify potential impacts** to the community if the project proceeds and related mitigation measures
- Require **independent technical advice** to determine if a project is in the community's interests
- Identify and provide **conditions for project approval**
- Develop **capacity** for facilitating land development
- Engage and build confidence and trust in Lands Governance through **community-driven decision-making**
- Ensure **compliance with Land Code**, Land Use Plans and other applicable Plans, Laws and policies.

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

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

Environment & Climate Change

Legal Risks & Liabilities

Cultural Heritage

Financial & Economic

Public Works & Infrastructure

Process, Planning & Engagement

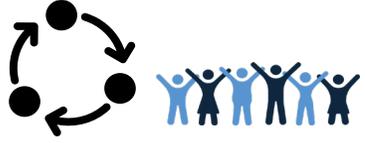
Community Health & Wellbeing



LAND DEVELOPMENT PROCEDURES

...making informed, sustainable development related decisions based on technical data, traditional knowledge and community consent.

# LAND DEVELOPMENT PROCEDURES MANUAL



Land Code: Community-Driven Planning & Decision-Making

Plans



Laws



Land Development Procedures Manual

Communication Collaboration Comprehension

- Administrative Tools**
- Definitions
  - Principles
  - Flow Charts
  - Fee Schedule
  - Permit Application Form & Checklist
  - LUP Amendment & Re-zoning Application Form
  - Zoning Variance Application Form
  - Sample Permit or Template

**Integrated Planning & Decision-making for Sustainable Development**



Consent

Roles and Responsibilities

- Legal & Financial
- Planning
- Environment
- Engineering
- Cultural Heritage
- Land Surveying
- Building
- Construction

Technical Expertise

Examples:

- [Leg'a:mel First Nation Development Procedures Manual](#)
- [Kitsumkalum Community Land Use Plan – Development Review Framework \(p. 72\)](#)
- [Westbank First Nation Development Applications and Process](#)

# POTENTIAL LAND DEVELOPMENT ADMINISTRATION SCENARIO



## Stages in Development

	Administrative Task	Function of Lands Department:	Possible Decision Required	Example Authority
Concept Screening	Proponent Submits " <a href="#">Development Application Form</a> " (requirements established in Law)	Review, Screening, Briefing, Planning	Initial or Conceptual Approval in Principle	Lands Manager
Project Assessment	Project Proponent Submits Required Technical Information, Plans, Drawings, Studies & Assessments (see slides 26 - 33 below)	Technical Review & Requesting Project Revisions	Approval of Environmental Assessment	Lands Advisory Committee (LAC)
Acquiring an Interest	Proponent acquires interest in the land through a registered legal instrument (e.g., Lease, Sub-lease)	Ensure Land Code compliance, register interest in FNLS	Approval of Interest per Land Code requirements	Clerk, Council, Community
Authorizations & Construction	First Nation issues requested authorizations (clearing, filling, development, business permit, etc.), construction begins	Review application w/LAC	Approval of Development Permit	Council
Compliance Monitoring	First Nation conducts regular compliance monitoring to ensure project impacts are prevented and mitigated	Conduct compliance monitoring, report	Enforcement decisions	Lands Officer
Occupancy	First Nation issues final occupancy permit	Inspections, Issue Occupancy Permit	Regular inspections, business licence renewal	Lands Officer



## Land Code Laws

Information & record-keeping requirements  
Authorities for issuing permits  
Enforcement tools



## Permits and other authorizations

Terms and conditions relevant to the development project, e.g.:

- **Access, Inspections and Monitoring**
- **Siting & Construction**
  - Development occurs within property boundaries
  - Development proceeds according to approved designs and schedule/phase
- **Archaeology/Cultural Heritage**
  - Development respects cultural heritage report, recommendations
  - Chance find procedures
- **Environment**
  - Erosion & Sediment Control
  - Frequency and type of monitoring (e.g. Semi-annual groundwater sampling)
  - Water/soil Sampling & Analysis

\*\*\*Communication and comprehension by all parties is key to implementing Laws, promoting compliance, and preventing the need to remedy issues in land development.\*\*\*

## Compliance Inspections

## Stop-work Order

## Fines

## Penalties

## Order to demolish, remove or repair structures

## Environmental Remediation Order

## Revocation of Permit

## COMMON LAND DEVELOPMENT CHALLENGES

## COMMON PRACTICES

### Unclear Application & Approval Processes

- What are the steps, stages and timelines for land development?
- What information is required?
- Who makes decisions and how?
- Lack of appeal processes

- **Develop a Land Development Procedures Manual and other communication tools**
- Host community and proponent workshops
- Triage easy, incomplete and complex applications, develop pathways for each type
- Delegated authority
- Develop dispute resolution and appeal processes

### Community Planning

- **Lack of community vision, cohesion and direction for land development**
- Unknown what developments are coming or multiple developments happening
- Busy, overwhelmed and reactive work, lack of work-planning
- Budgeting for land development application reviews

- **Complete and Adopt a Land Use Plan**
- Implement a Permit Tracking System, Decision-Tracking
- Develop weekly, quarterly and annual work plans
- Develop an Annual Planning & Budgeting Policy

### Development Process Challenges

- **Applicants bypass the Lands Development requirements**
- Planner Shopping – applicants shop until someone says yes to their project
- Project construction is different than the approved concepts
- Community is unaware of projects, no opportunity to provide input/consent
- Project varies from approved conceptual/final designs
- Lack of support, HR policies, harmful or toxic work environments/relationships

- **Collaborative workshops and planning teams – Comprehension & Support for Lands**
- Organizational Structure, job descriptions, roles & responsibilities, HR policy
- Checklists, flowcharts, forms and guidelines, visual learning tools
- Delegation of Authority, Law & Land Code Amendments
- Permits with clear, enforceable measures for remedying non-compliance
- Appeal Processes

### Cost Recovery & Funding

- **Nation-driven projects: Who pays for land development, infrastructure, assessments?**
- Costs for professional review
- Funding for infrastructure

- **Land Development Fee Schedule (incl. staff time, technical experts, and monitoring)**
- Development finance tools (e.g. Cost Recovery Models, Development Cost Charges, Community Amenity Contributions, Security Deposit/Performance Bonding)
- Land Use Plan & Infrastructure Plan to show coordinated approach to funders

### Capacity, Staffing & Enforcement

- **Lack of training and experience**
- Not enough staff or technical support
- Lack of regulatory requirements
- Monitoring, Enforcement & clean-up from project impacts

- **Training, RC Support (workshops, Direct Community Support)**
- Hiring new staff (e.g. Planner, Governance Officer, Regulatory Compliance Officer)
- Contracting Technical Expertise
- Law & Policy Development, Adopt & Implement an Environmental Management Plan
- Conduct regular compliance monitoring

# Assessing Land Development Applications

Land Development Procedures help to ensure due diligence is performed by a First Nation, and that land development proposals undergo proper assessment, review and approval *before* proceeding.

Projects need to be fully understood for their potential impacts, risks, liabilities and benefits for a community:

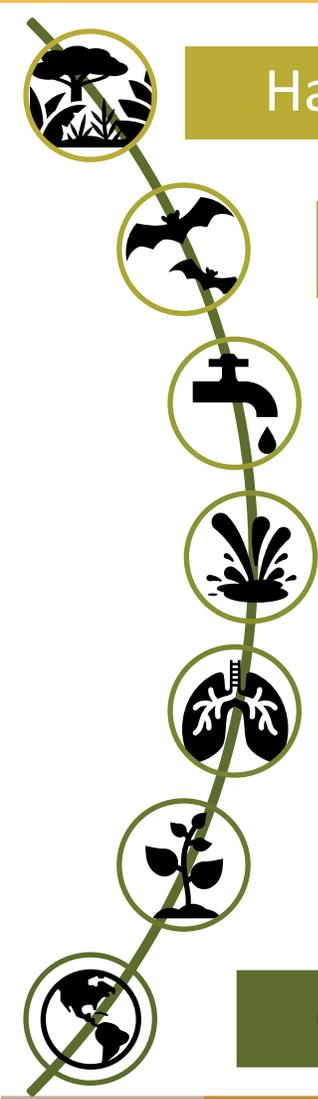
- Environment & Climate Change
- Legal Risks & Liabilities
- Cultural Heritage
- Process, Planning & Engagement
- Community Health & Well-being
- Financial & Economic
- Public Works & Infrastructure

For each of these areas, there may be specific Laws, Plans, processes, procedures, decisions and expertise to consider, depending on the development.



Community-  
based Decision  
Making

# DEVELOPMENT CONSIDERATIONS: ENVIRONMENT & CLIMATE CHANGE



**Habitat** (i.e., forest, wetland, aquatic ecosystem, connectivity)

**Wildlife** (i.e., species at risk, fisheries, birds)

**Water** (i.e., groundwater, surface water)

**Climate Change**

**Air Quality** (i.e., emissions, dust)

**Vegetation** (i.e., medicines, food)

**Cumulative Effects**

Environmental Protection (EP) Law

Species at Risk (SAR) Assessment

Environmental Assessment (EA) Law

Tools to Assess & Guide Development

Construction Environmental Mgmt. Plan

Stormwater Management Plan

Mapping (i.e., habitat, floodplains)



# DEVELOPMENT CONSIDERATIONS: LEGAL RISKS & LIABILITIES



## Land Interest



## Survey(s)



## FNLRS



## Insurance



## Indemnification



## Standards



- Identify the FN Lands
- When it comes to having an interest in the land, what are the legal considerations?
- What type of interest is being sought?
- activities and impacts would assess a project
- What authorizations are needed? First Nation, Provincial, Federal, etc.

- Identify FN Laws that apply
- Offences, Penalties and enforcement provisions
- What kind of information does the proponent need to provide
- Application & approvals required to before land development proceeding
- Indemnification to the First Nation

- Overall costs for legal services – cost recovery through fees, developer, DevCorp, member responsible for their costs as the proponent
- General timing or key points when legal is involved in the development process
- Areas of legal knowledge & types of legal expertise needed for navigating the land development

- In addition to any applicable fine or penalty, a Stop Work Order may be issued
- This could include an Order to remove any structures, works or installations carried out in violation to be removed within specified period of time
- May be registered in Court and enforced as a court order until the activity has been remedied



# DEVELOPMENT CONSIDERATIONS: CULTURAL HERITAGE



Ancestral Place Names



Archaeological Sites & Artifacts

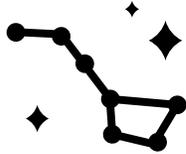
Pre-design & Site Selection

Site Assessment

Construction



Traditional & Cultural Uses



Oral History

- Conservation & Heritage Requirements
- Existing Traditional Use Studies (TUS) & Use & Occupancy Mapping (UOM)
- Avoidance or mitigation of known sites

- Undertake site-specific TUS & UOM with Elders, Land Users & Knowledge Holders
- Heritage Impact Assessment
- Archaeological Impact Assessment
- Mitigation of impacts

- First Nation Community Monitors present on-site
- Chance Finds Procedures
- Stop Work Procedures
- May trigger further Archaeological Assessment



Ancestral Remains



Ceremonial sites

First Nations can develop their own Laws & Procedures to Manage Cultural/Heritage Resources. Ex. Heritage Protection Laws, or as part of their Environmental Assessment Law, Development Permitting Law, Mapping & Data Management, etc.



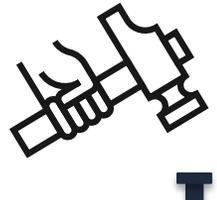
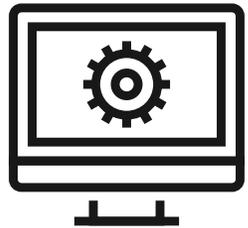
- Land Use Planning, LUP Amendments
  - Overall costs to consider when developing or amending a LUP
    - Ratification votes can cost up to \$10,000
    - LUP updates can take 6 months to complete
- Zoning, Re-zoning & Zoning Variances
  - LUP ideally should include Zoning for lands
  - Land Code or LUP should also detail how zoning amendments must occur
    - Community Vote, Chief and Council, Lands Committee Vote
- Setbacks & Buffer zones
  - The LUP should provide guidance to setback and buffer zones with the Zoning Laws being used for enforcement
- Conceptual Design
  - The LUP should provide direction as to what design of buildings (residential, condo, commercial and industrial) should look like in order to maintain a specific “look and feel” of the Community.
  - Final Design Approval
- **Community Engagement** - Opportunities to educate and engage in mutual learning with Community members and Lands Staff.



# DEVELOPMENT CONSIDERATIONS: COMMUNITY HEALTH & WELL-BEING



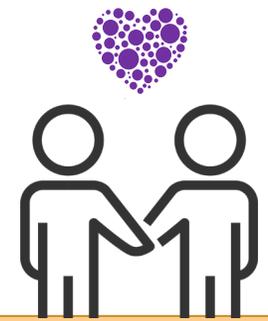
**HOUSING**



**Employment**



**HEALTH / Safety**



**Community Quality**





# LAND USE PLANNING REGULATORY TOOLS



REGULATION



COMPLIANCE



STANDARD



GUIDELINE



LAW



RULES



PROCEDURE



CONDUCT



AUTHORITY



CONSTRAINT





Land Valuation



Lease/Rent rates



Fees/Taxation  
(if applicable)



Opportunity Cost



Highest & Best Use



Project Feasibility



Staff time



- Costs considered when assessing land development for its financial & economic impacts (e.g. costs of conducting a land valuation, land appraisal, highest and best use study, estimating the total value of a land development project, negotiating a lease, etc.)
- Fee schedules, cost recovery, DCC's/CAC's and other development finance tools to (re)cover the costs of land development, infrastructure
- Studies, assessments, bonds, permitting etc.

- Project and asset management, lifecycle management
- General timing for conducting financial and economic risk assessments during land development
- Disciplines of knowledge, types of professional services & local knowledges needed for ensuring economic and financial risks are incorporated and addressed in land development

- Governance considerations vs. Land Office procedure
- Authority vs. Support
- Level of Activity on FN Lands



# DEVELOPMENT CONSIDERATIONS: PUBLIC WORKS & INFRASTRUCTURE



Drinking Water Systems	Sewage/ Septic	Solid Waste Management
Electricity	Utilities	Roads



- Needs Assessment
- Options Analysis
- Siting (Specific criteria ex. Setbacks)

- Land Survey
- Environmental Site Assessment:
- Hydrogeological
- Geotechnical
- Heritage Impacts

- Engineering Designs
- Management Plans for:
  - Leachate & Landfill gas
  - Surface runoff & stormwater
  - Discharges/ Effluent
- Contingency Plan/ emergency plan/ spill response / disaster management

- Inspections
  - Meeting Industry Standards
  - Permitting
- Environmental Compliance Approval ("ECA") under the *Environmental Protection Act*

- Site O&M
- Asset Management
- Environmental monitoring – surface & ground water, leachate, landfill gas
- Control Noise, dust, traffic,
- Inspections

- Closure Plan
- Decommissioning
- Final Cover/ Remediation
- Monitoring Plan: Surface water, ground water, effluent
- Natural Attenuation





Approaches to Development,  
Planning, managing  
Infrastructure and Public Works  
on First Nation Lands

Considerations for law  
development, policy,  
permitting and approval  
processes

First Nations shared their  
perspectives and approaches  
on land development

Provide feedback into  
RC Support & Resource  
Development

## Virtual Networking

- Knowledge Sharing
- Breakout Room
- Open Discussion
- Frequently Asked Questions



- JUL 8 Protecting Environment & Cultural Resources under the FA
- AUG 12 Enforcement – Needs & Considerations
- SEP 9 ATR & TLE – Joint Management Agreements (TULO)
- OCT 7 Wills & Estates – Exploring Future Needs
- NOV 4 *RC Engagement Workshop: Operational Funding Formula for LC Governance*
- DEC 9 Decolonizing Land Governance under the FA



3 hour virtual workshops



presentation & group discussion

**Registration opening soon!**

[www.labrc.com/events](http://www.labrc.com/events)

# LAB National Land Registry First Nation Focus Group

## *Special Interest Workshop Series*



- June 16**      **Workshop 1 – Future State Products & Services**
- July 9**      **Workshop 2 – Save the Date**
- Sept 15**      **Workshop 3 – Save the Date**

[www.labrc.com/events](http://www.labrc.com/events)



3 hour virtual workshops



engagement surveys, presentation & group discussion



**FIRST NATIONS  
LAND MANAGEMENT  
RESOURCE CENTRE**



**Training, Mentorship &  
Professional Development**

# THANK YOU

**Angie Derrickson**  
TMPD Manager

c. 250-469-1675

e. [aderrickson@labrc.com](mailto:aderrickson@labrc.com)

 LABRC.com

 ResourceCentre\_TMPD

 @FNL MRC