

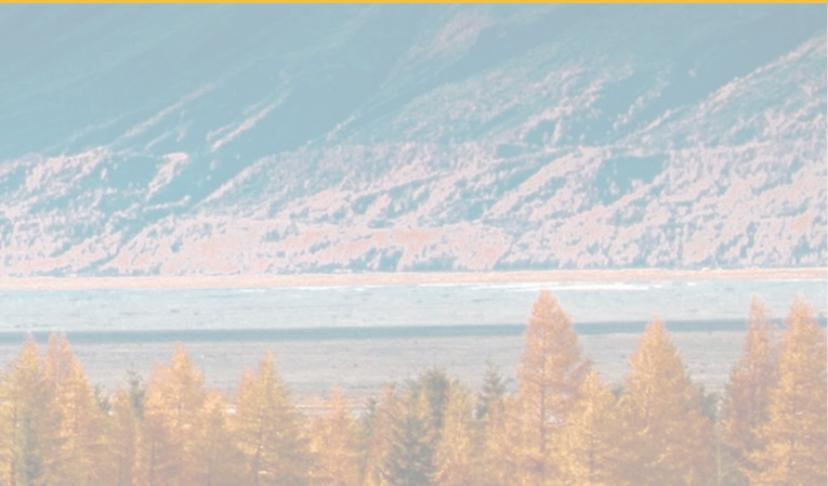
Protecting Environment & Cultural Resources under the Framework Agreement



FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE



Training, Mentorship &
Professional Development

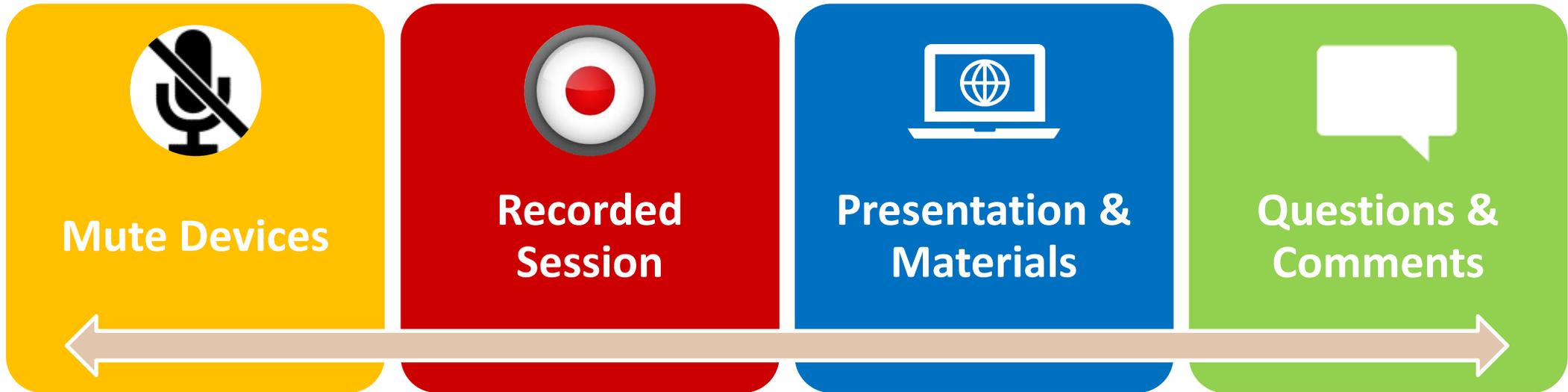


TMPD Virtual Workshop

July 8, 2021 - 9:00 AM PDT / 12:00 PM EDT

WELCOME





AGENDA & OBJECTIVES

9:00 AM

Welcoming & Overview

9:05 AM

Environmental Assessment and the Framework Agreement

- RC presentation by Jennifer Predie

9:45 AM

Cultural Resources & Local Knowledge Systems

- RC presentation by Stephanie Recollet & Leeanna Rhodes

Break

10:30 AM

Community Panel Presentations

- **Tzeachten First Nation** – Deanna Honeyman
- **Membertou First Nation** – Jason Googoo

Break

11:10 AM

Virtual Networking Exercise

- Breakout Room Discussions

11:50 AM

Review & Summary

12:00 PM

Close of Workshop

Environmental Assessment and the Framework Agreement

RC Presentation by:
Jennifer Predie – Manager, Land Code
Governance



Presentation Overview

1. What is an Environmental Assessment?
2. Framework Agreement Requirements for Environmental Assessments
3. Individual Agreement Requirements for Interim Environmental Assessment Process
4. Federal Environmental Assessment Legislation
 - a) Canadian Environmental Assessment Act (1992)
 - b) Canadian Environmental Assessment Act 2012
 - c) Impact Assessment Act
5. Developing an Environmental Assessment Process – Guidance Document
6. Federal Impact Assessments and Land Code First Nation Environmental Assessment Processes



What is an EA?

EA = Environmental Assessment



Predicts the potential environmental, social and cultural effects of a project before the project occurs.



Proposes mitigation measures to reduce or eliminate the predicted effects.



Includes public consultation.



A tool used for decision making by the First Nation.

Other acronyms of note for this presentation:

CEAA – Canadian Environmental Assessment Act (either (1992) or 2012)

IAA – Impact Assessment Act (not to be confused with IA – Individual Agreement)

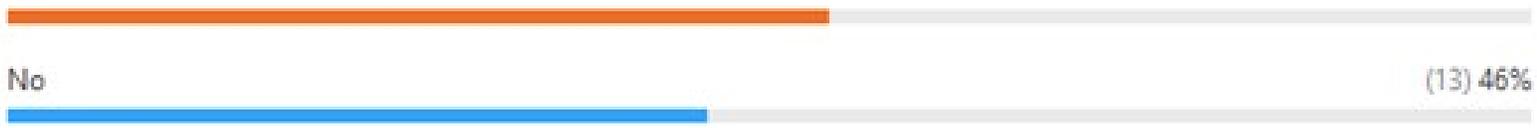
And, of course,

FA – Framework Agreement on First Nations Land Management

Poll Questions

1. Has your First Nation completed an Environmental Assessment (EA)?

Yes (15) 54%



No (13) 46%

2. Has your First Nation developed an Interim EA process or EA Law?

Yes (4) 14%



No (20) 71%

Draft (4) 14%

3. If so, do you use forms and templates to assist with your EA process?

Yes (5) 18%



No (23) 82%

Framework Agreement Requirements for EA

Paraphrased from Section 23, 25 & 27 of the FA:

- A First Nation should have an **Environmental Assessment regime, implemented through law**
- Best efforts to **develop an EA process within one year**
- The **Individual Agreement addresses** how to conduct an EA until the FN develops an EA process (**Interim EA Process**) – which must be **“consistent” with CEAA**
- First Nation EA process is **triggered** when the First Nation is **approving, regulating, funding or undertaking** a project on reserve, and must occur **as early as possible** and before an irrevocable decision is made
- Best efforts to **use the First Nation’s EA process where an EA is also required under CEAA**
- **Harmonization** of EA processes with **provinces/territories** where they agree to participate

NOTE: future amendments to the FA are considering removing all references to CEAA and requirements for consistency with CEAA

Annex “F” of the First Nation’s Individual Agreement with Canada contains the First Nation’s Interim EA Process:

- The First Nation shall conduct an assessment process in respect of every project on First Nation Land **consistent** with:
 - a) CEAA (1992), or
 - b) CEAA 2012*
- The First Nation is not required to conduct an additional environmental assessment if the First Nation decides to adopt an environmental assessment that Canada conducts in respect of that project.

*can also be assumed an EA process consistent with IAA would also be suitable.

Individual Agreement – When is an EA required under the Interim EA Process?

Annex “F” of the First Nation’s Individual Agreement with Canada contains the First Nation’s Interim EA Process

CEAA (1992)

If the First Nation is considering the **approval, regulation, funding or undertaking** of a project on First Nation Land that is NOT described in the **exclusion list**, an EA consistent with that of CEAA (1992) is required.

The First Nation must not take any action that would allow the project to proceed without making a determination that that **the project is not likely to cause significant adverse environmental effects, or that those adverse effects are justified in the circumstances.**

(3 levels of assessment for non-excluded projects)

CEAA 2012

For “**designated projects**”, an EA consistent with that of CEAA 2012 must be conducted.

For a “**project**”, the First Nation cannot take any action that would allow the project to proceed without making a determination that **the project is not likely to cause significant adverse environmental effects, or that those adverse effects are justified in the circumstances.**

(the only exclusions are for national emergencies or emergencies)

IAA

(implied)

For “**project list**” projects (i.e. designated project), an IA consistent with that of IAA must be conducted.

For a “**project**”, that is not on the ‘**Designated Classes of Projects Order**’ (i.e., excluded), the First Nation cannot take any action that would allow the project to proceed or provide financial assistance without making a determination that **the project is not likely to cause significant adverse environmental effects, or that those adverse effects are justified in the circumstances.**

The FN is not required to conduct an EA if they decide to **adopt an EA conducted by Canada in respect of a project.**

NOTE for CEAA 2012 and IAA:

Designated projects and **project list** projects are large scale, high risk activities that require a high-level environmental assessment (not likely to see these types of projects occurring entirely on reserve).

Projects are any physical activity occurring on federal land (i.e., reserve land)

NOTE for CEAA (1992) and IAA:

The **Exclusion List** and **Designated Classes of Projects Order** contain a list of small-scale, low risk projects that have been determined to only cause insignificant environmental effects.

CEAA (1992) EA Process Overview

CEAA (1992)

trigger list projects (federal funding, federal land, federal proponent, law list)

Exclusion List

List of projects that have been determined to result in only insignificant environmental effects
(NO EA REQUIRED)

- maintenance or repair of a physical work
- building with a footprint of less than 100m² (not within 30m of a waterbody or releasing pollutants)
- Wildlife fencing (not near waterbodies)
- Temporary field camps for less than 200 person-days (not near a waterbody or releasing pollutants)
- Low voltage power lines alongside a road or railway with no supports in a waterbody
- Oil, gas, sewer, telecommunication lines alongside or underneath a road (not near a waterbody or releasing pollutants)
- Road widening by not more than 1 lane, with some restrictions

Screening

Factors to consider in the EA:

- Environmental effects (incl. accidents and malfunctions, and cumulative effects)
- Impacts to Species at Risk, fish and fish habitat, migratory birds
- Significance of environmental effects
- Public comments
- Mitigation
- Anything else required by <the First Nation>

Comprehensive Study or Mediation/Panel Review

A more detailed EA for projects included on the **Comprehensive Study List** (projects that are likely to cause adverse environmental effect(s) after mitigation or ones that have a high level of public concern may be referred to a Mediator or Review Panel for further review and consideration)

Factors to Consider in the EA:

- all factors in the Screening Level EA plus:
- Purpose of the project
- Alternatives to the project
- Need for follow-up programs
- Capacity of renewable resources affected by the project to meet current and future needs

EA Decision Statement (for all levels of EA)

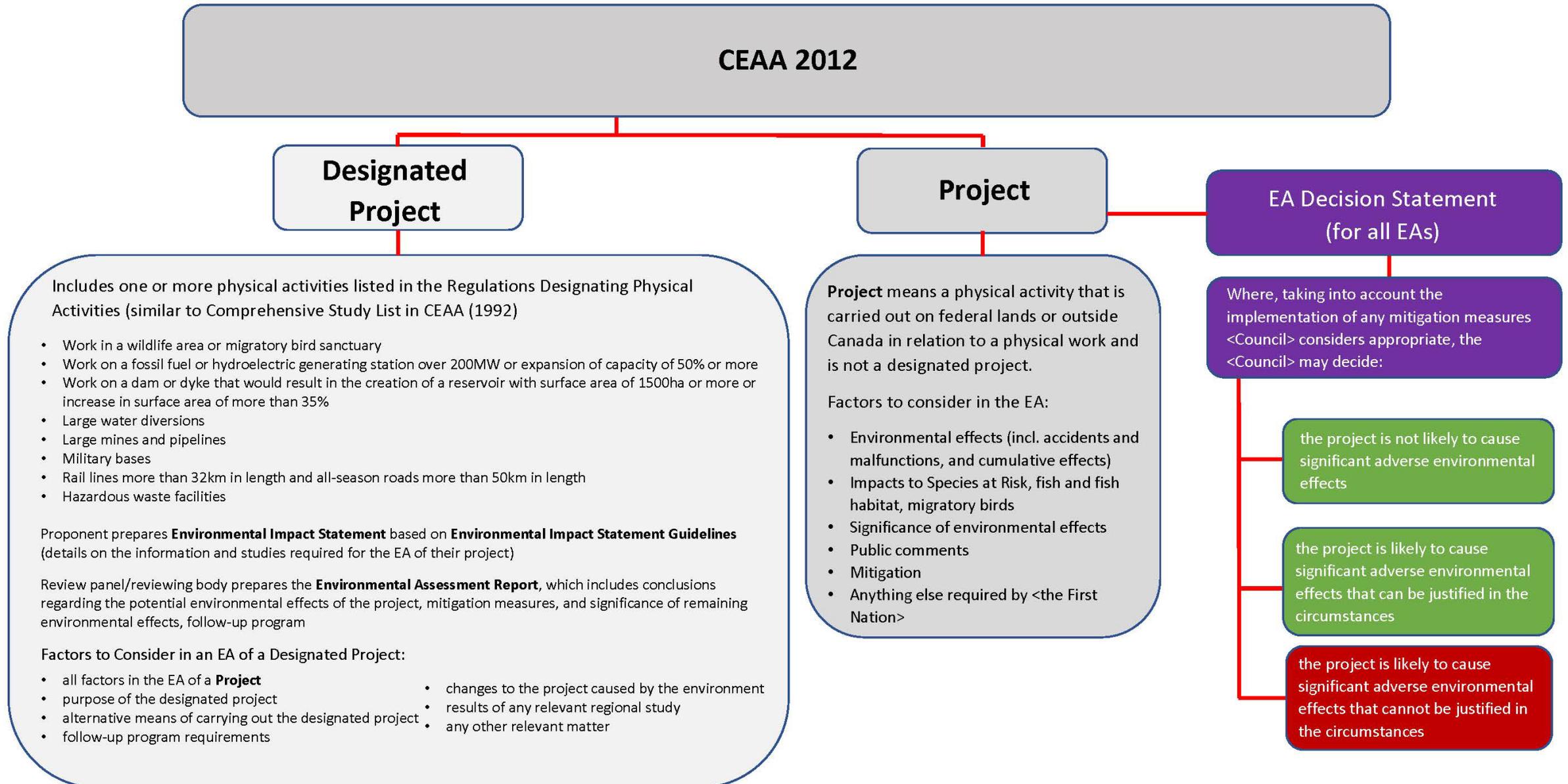
Where, taking into account the implementation of any mitigation measures <Council> considers appropriate, the <Council> may decide:

the project is not likely to cause significant adverse environmental effects

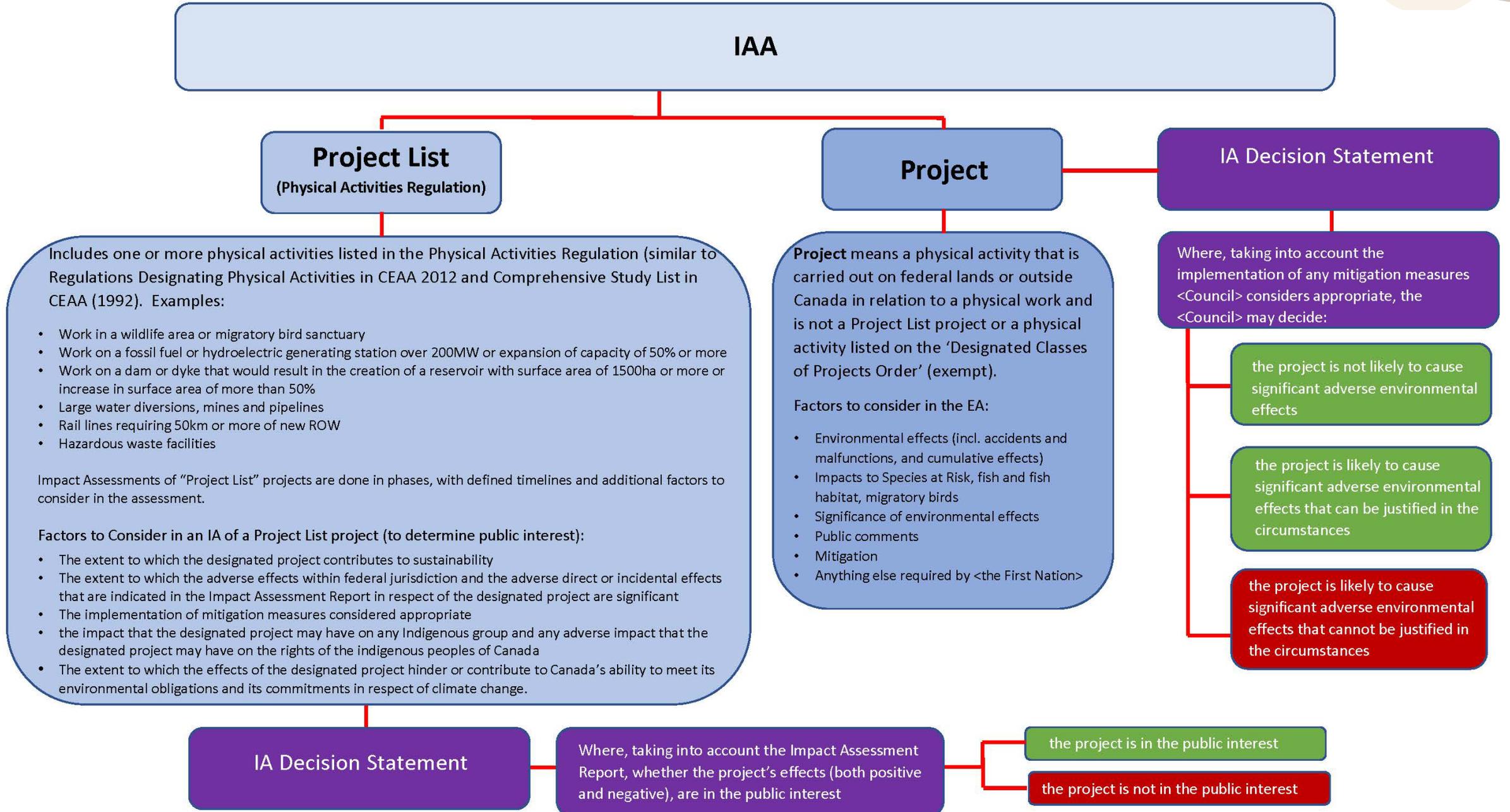
the project is likely to cause significant adverse environmental effects that can be justified in the circumstances

the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances

CEAA 2012 EA Process Overview



IAA EA Process Overview



Comparison of Key Aspects of CEAA (1992), CEAA 2012 and IAA

| | CEAA (1992) for non-excluded projects | CEAA 2012 | IAA |
|--|--|---|--|
| Levels of Assessment | Screening | - | - |
| | Comprehensive Study | Designated Project – Standard EA | Project List - IA |
| | Panel Review or Mediation | Designated Project – Review Panel | Project List – Review Panel |
| | | Project (on federal land) | Project (on federal land) unless excluded |
| Guidelines/ Factors to Consider in the Assessment | Generic guidelines for each level of assessment, considers effects to all aspects of the environment: land, water, air, organic and inorganic matter; all living organisms; and interacting natural systems. | Designated Projects: Project-specific guidelines, limited to effects on fish and fish habitat, aquatic species at risk, migratory birds, federal lands and aboriginal peoples (Duty to Consult) | Project List: More involvement during the planning stages of the project, project-specific guidelines/factors to consider in the assessment, mandatory consideration of Indigenous knowledge |
| | | Project: same as CEAA (1992) | Project: same as CEAA (1992) |
| EA Decision | Significance of environmental effects, justification | Significance of environmental effects, justification | Project List: whether effects (positive or negative) are in the public interest |
| | | | Projects: Significance of environmental effects, justification |

Developing an EA Process – Guidance Document

RC is currently developing a guidance document to assist First Nations:

- In determining how to conduct an EA
- Suggesting chronological general steps to follow for an EA process (10 steps suggested for an EA)
- Providing examples and sample forms for:
 - Project descriptions
 - Recommended information requirements/factors to be assessed for simple/screening level environmental assessments and detailed environmental assessments
 - Links to copies of CEAA (1992), CEAA 2012, IAA and their associated regulations
 - Links to sample EA laws developed by other First Nations





1

Project Initiation

Proponent submits a project description to First Nation.

2

Is an EA Required?

First Nation determines if an Environmental Assessment (EA) is required. To determine if an EA is required, the First Nation may want to consider developing:

- A list of projects or project types that may result in adverse environmental effects and will require an EA (similar to the 'designated project list').
- A list of projects or project types that are unlikely to result in adverse environmental effects and will not require an EA (similar to the 'exclusion list').



3

Proponent Notification

First Nation notifies proponent:

- No EA is required and they can proceed with their project.
- An EA is required and they cannot proceed with their project until an EA has been completed.

4

Community Consultation

First Nation posts public notice advising membership that a potential project on-reserve is undergoing an EA and Council will be required to make an EA decision (include project description in the notice).

5

EA Criteria

First Nation provides the proponent with the EA criteria (factors to be considered in the EA Report). When determining the factors, the First Nation should determine the level of assessment required).



6

Proponent Prepares EA Report

Proponent conducts EA studies based on the First Nation's EA criteria (proponent may need to contract an environmental specialist to complete the EA) and submits the EA report to the First Nation for review.

7

Review of EA Report

First Nation reviews EA report. If necessary, the First Nation may want to request assistance from an environmental specialist for this review.

Request for Additional Information

- If additional information or studies are required, the First Nation should notify the proponent and provide them with a list of the outstanding information. The proponent is responsible for gathering that information and updating the EA Report, as appropriate.





8

Community Consultation on EA Report

First Nation posts a copy of the EA Report for community review in the same manner as was done in Step 5. If significant concerns are received, the First Nation may want to direct the proponent to conduct community meetings to discuss those concerns. A summary of the results of the community consultation should be included with the EA Report for consideration by Council when making their EA decision.

9

EA Decision

Based on the EA Report and after considering the results of community consultation and any other recommendations from the First Nation's committees or departments, the Council of the First Nation makes an EA decision:

- Is the project likely to result in significant adverse environmental effects, taking into account mitigation measures? If so, are those effects justified under the circumstances?



Notice of EA Decision

First Nation advises the proponent and posts a public notice to the community of the EA decision:

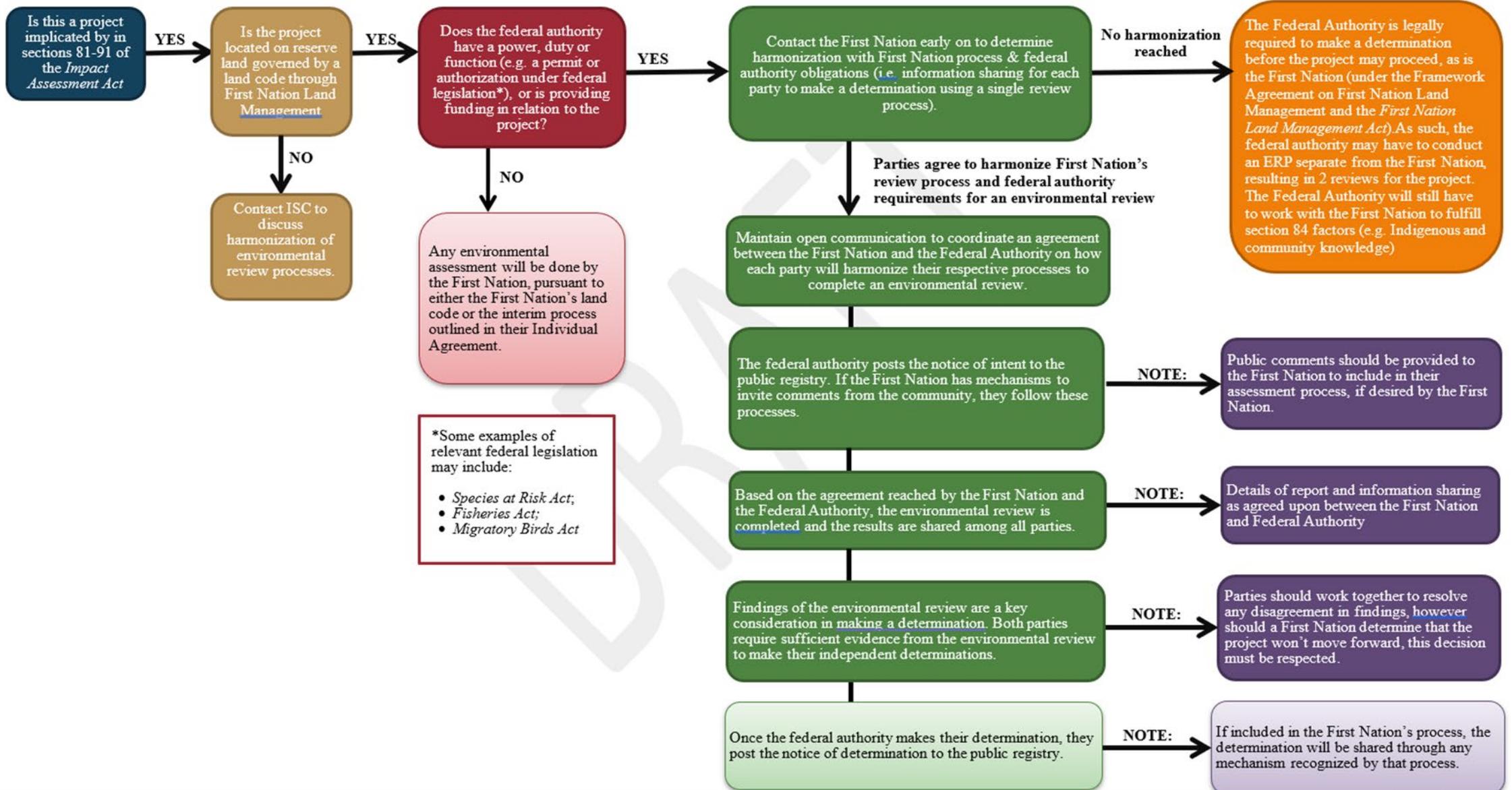
- a) Council has determined that the project, taking into account mitigation measures, is not likely to result in significant adverse environmental effects. The proponent may proceed with the project as planned, provided they obtain any necessary permits, approvals, authorizations, etc. prior to commencing work.
- b) Council has determined that the project, taking into account mitigation measures, is likely to result in significant adverse environmental effects, but those effects are justified under the circumstances. The proponent may proceed with the project as planned, provided they obtain any necessary permits, approvals, authorizations, etc. prior to commencing work.
- c) Council has determined that the project, taking into account mitigation measures, is likely to result in significant adverse environmental effects and those effects are not justified under the circumstances. The proponent may not proceed with the project as planned.

10

Conduct any follow-up monitoring and reporting as necessary while project proceeds

Federal Impact Assessments & Land Code First Nation Processes

Draft Guidance for Federal Authorities: Working with First Nation Land Management Communities on Determinations under S.81-91 of the *Impact Assessment Act*



Poll Questions

1. Has anyone dealt with an Environmental Assessment (EA) under Land Code which also involves harmonization with other governments?



2. Have you been successful with your EA process in your Lands Office?



Consider developing your own EA process, through law, sooner rather than later.

- Once a FN enacts their own EA law, the Interim EA process assigned by Canada in the Individual Agreement no longer applies.
- This effectively removes the federally imposed Interim EA process outlined in the IA and replaces it with the First Nation's own process!



Cultural Resources & Local Knowledge Systems

How local knowledge systems are supporting, informing decision making and strategic visioning under a Land Code.

RC Presentation by:
Stephanie Recollet - Waste Management Specialist
Leeanna Rhodes - GIS Specialist



Presentation Overview

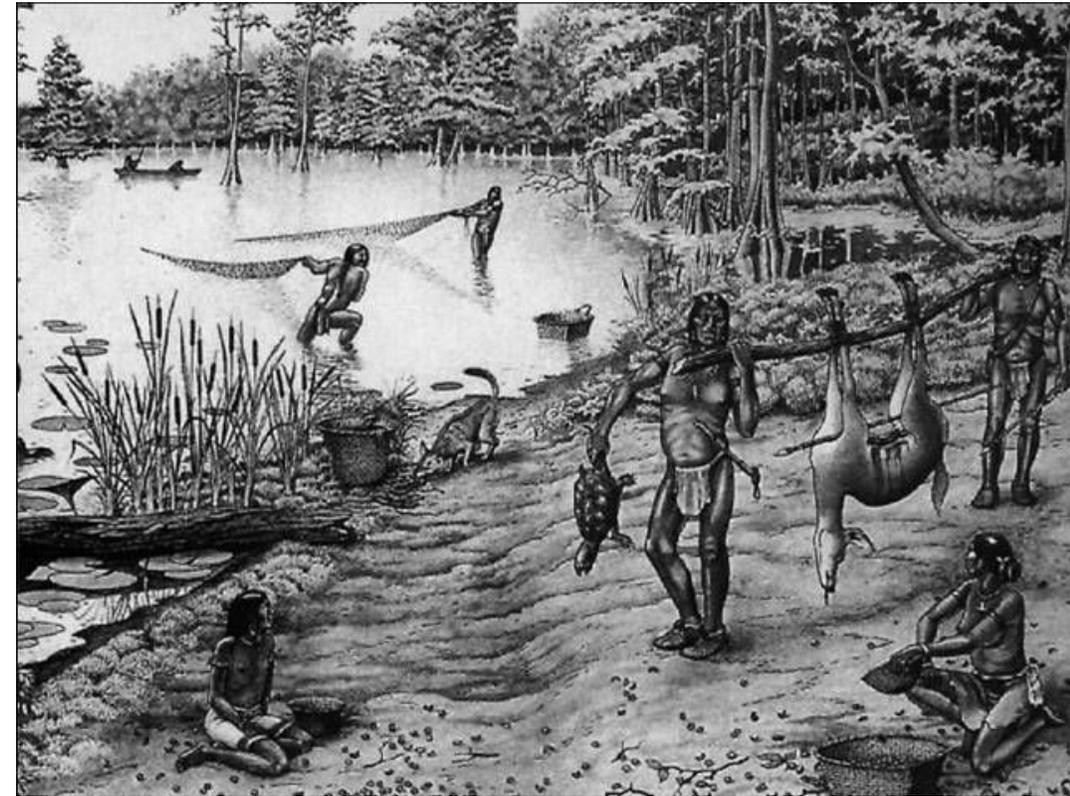
1. What are Cultural Resources?
2. Why is preservation and revitalization so important?
3. What are some processes that protect these cultural resources
4. Impacts of Climate Change and Invasive Species
5. How local knowledge systems are supporting and informing decision making and strategic visioning.

What are Cultural Resources?



Traditional Ecological Knowledge (TEK) reflects unique Relationship with our land

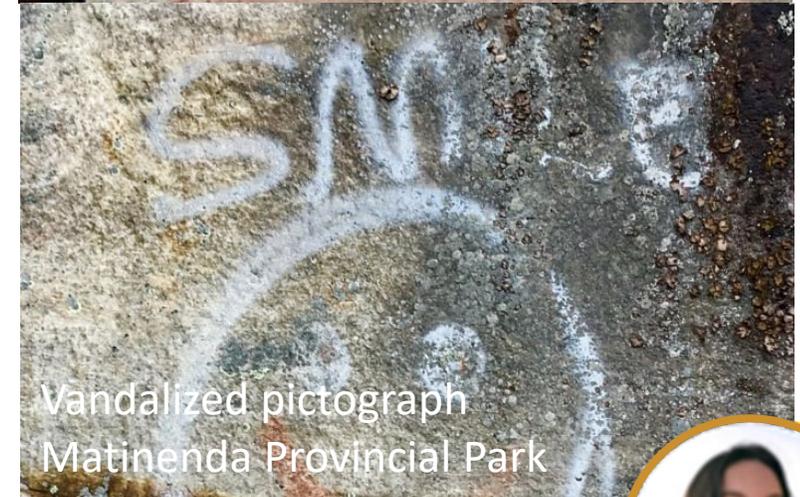
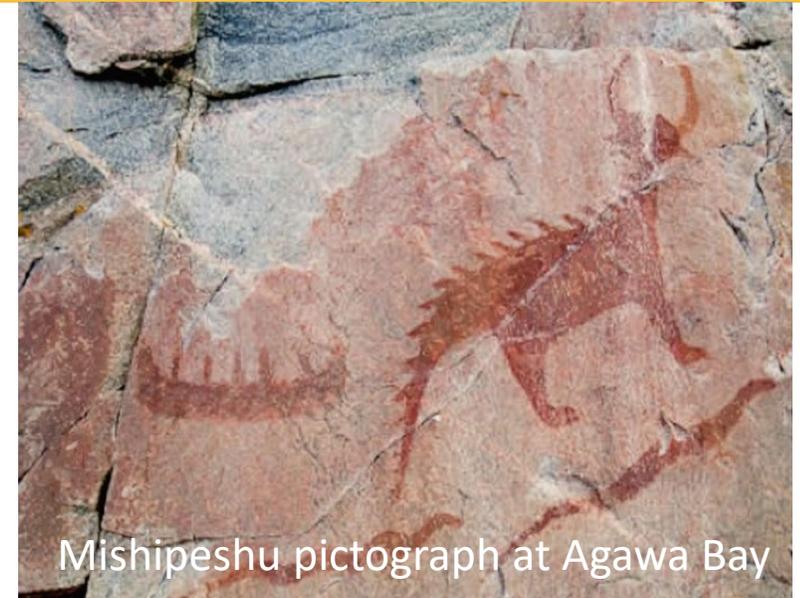
- Traditional Knowledge is ongoing and current
- Biological, historical to economic perspectives
- Cultural Advisors and knowledge holders
- Hunting, fishing, trapping and material gathering
- Creation Stories
- Legends, Songs and Prayers
- Tribal Values, Customs and Traditions
- Rock Formations, petroglyphs and ceremonial sites
- Geographic Location where we were placed



Why is Preservation and Revitalization so Important?

REVITALIZATION & PRESERVATION

- Healing from the Intentional Erasure of Indigenous Knowledges and Identities
- Recording Elder's knowledge before it is lost
- Land knowledge & Cultural Identity are closely related
- Oral Histories are very site-specific
- Transmission of Culture happens by 'doing' (Verb-based languages)
- Protect sites & resources from vandalism, theft, exploitation, misuse, appropriation and over-harvesting



Developing Cultural Protection & Heritage Laws

Cultural Heritage Protection Law may include (non-exhaustive):

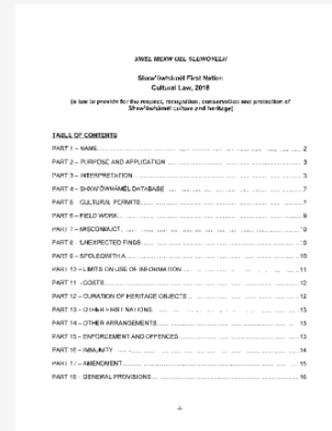
- Defines what is a 'Cultural Heritage Resource' for your community. Unique to each FN
- Designations – processes to designate a cultural site or resource that is afforded protections
- Assessments – Triggers, Process
- Cultural permit – Application, reviews & approvals
- Permits for Academic Research & Heritage Investigation
- Field work inspections and/or FN monitoring
- Permit for alterations
- Misconduct/ offences & their associated remedies ex. revoke permit, stop work order
- Chance Finds Procedures
- Curation of Artifacts and Cultural Objects
- Requiring FN technicians, Training & Capacity Development and sets rates

From the Resource Centre Website:

Cultural Heritage Resource Laws

A collection of laws for resource and knowledge sharing purposes only, please contact the First Nation directly to confirm their active Laws

Shxwowhamel Cultural Law 2018



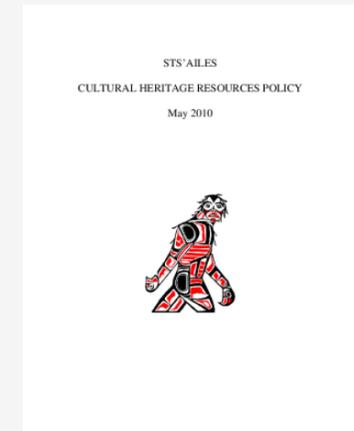
SHXWOWHAMEL SLEWOWHEM!
Shxw'owhamel First Nation
Cultural Law, 2018
(a law to provide for the research, recognition, conservation and protection of
Shxw'owhamel culture and heritage)

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St at imc Cultural Heritage Policy

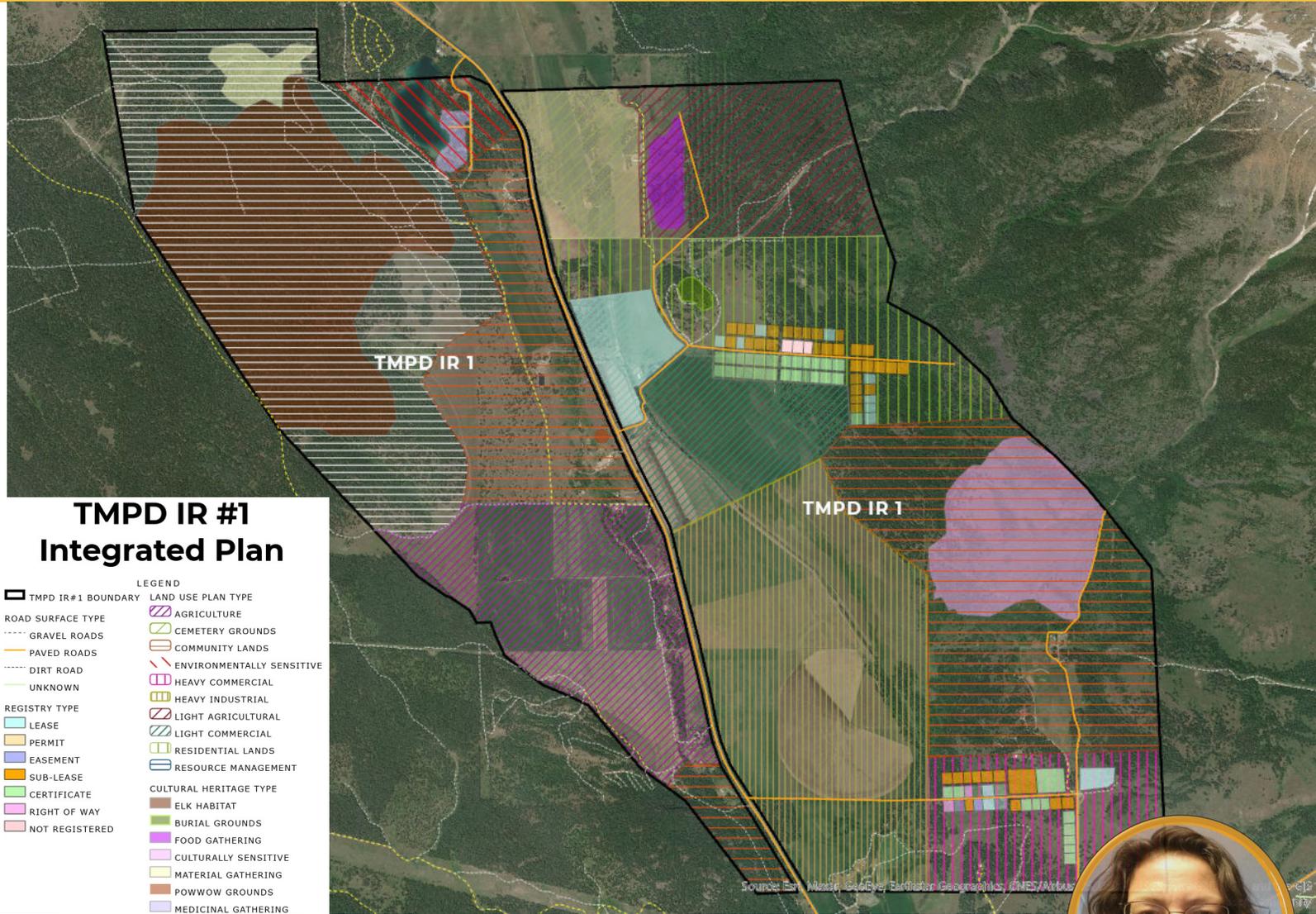


Sts ailes Cultural Heritage Resources Policy 2010



Cultural Area Designations

- Protection Areas
- Traditional Use Areas ex. harvesting areas
- Cultural Sites
- Placenames
- Wildlife Sanctuary – migration corridors, wintering spots, spawning areas etc.



Cultural Considerations in the Development Process

FNs can require Cultural Impact Assessments as part of their Environmental Assessment Laws, Subdivision Development Laws, etc.

To determine if Cultural Heritage Resources are present and how the development may affect them

Cultural Impact Assessment

Archaeological Assessment

- Investigation of known sites & Sites of high potential

Traditional Use Study

- Overview of the history & traditional uses of the development area

If significant cultural heritage resources are identified in the course of conducting an AIA:

- Managing unavoidable adverse impacts
- unanticipated impacts,
- identify possible mitigation alternatives



In Practice:

Henvey Inlet, Shawanaga and Magnetawan created laws for the development of a wind farm and transmission lines which included Chance Find Procedures

I.2 (1) Should any previously undocumented archaeological resources be discovered at any time in the course of pre-constructing, constructing, operating or decommissioning the T-Line, HIW shall:
(a) cease all alteration of the area in which the archaeological resources were discovered immediately;
(b) notify Council...



Poll Questions

1. Have you been successful with protecting Cultural Heritage Resources in the face of development and land use activities?

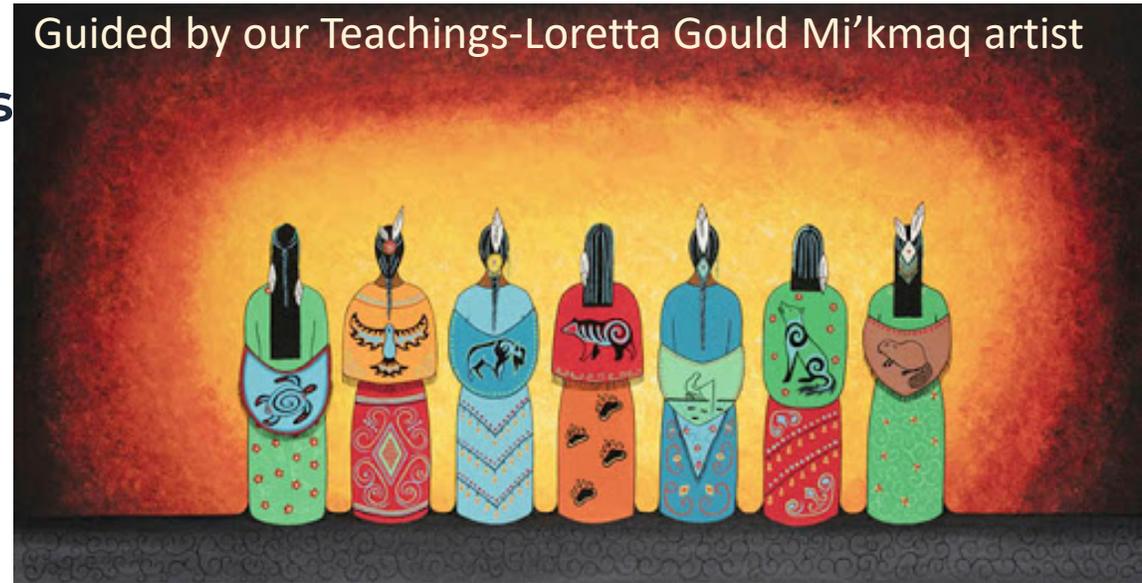


Suggestions to Protect these Resources

TRADITIONAL ECOLOGICAL KNOWLEDGE

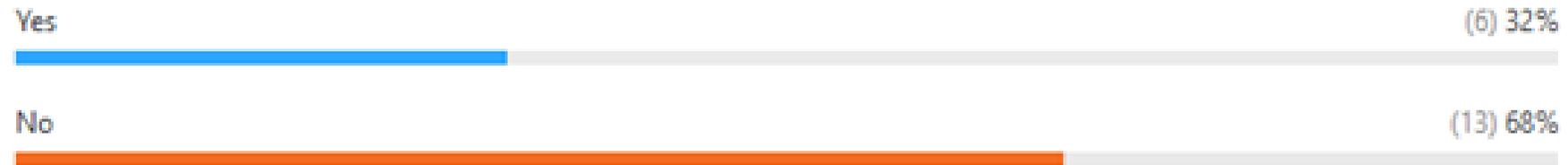
- Gift of Knowledge
- Documenting Land-use and occupancy studies
- Protocols to collecting knowledge respectfully
- TEK Research manual
- Cultural Contact List
- Interviews
- Surveys
- Database
- OCAP – Ownership, Control, Access and Possession
- Data Access Agreements
- Nondisclosure Agreements / Confidentiality Agreements

Guided by our Teachings-Loretta Gould Mi'kmaq artist



Poll Question

1. Has anyone developed their own TEK guidelines, tool, strategies or processes to collect their community data?

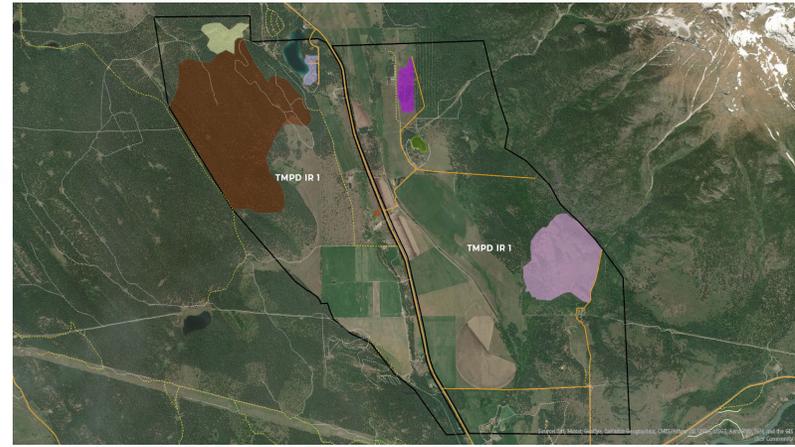


Processes to Protect these Resources



MAPPING

- Consider LIVE MAPPING-Conduct Oral History discussions as a group while documenting the locations with GIS on a large screen
- Together with the Knowledge Holders, transcribe, edit, and catalogue all the valuable site locations.
- Potential Harvest studies, requires specific questionnaires to get precise results



Archeological Assessment



Archeological Work may be triggered by:

- The Development Process
- Environmental Site Assessment
- Recovery work – Residential schools
- Chance Finds
- Special Interest/ Academia



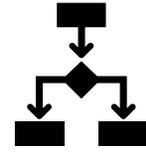
Sources of Archeological Information:

- Elders, Local Land Users, Knowledge holders
- Internal experts – Lands Department
- Ministry Databases, Archives, Museums, private collections
- External specialists: Historians, Archeologists, Academic Departments



Regulatory Instruments that FNs can develop:

- Chance Finds Procedures
- Stop Work Order
- Environmental Assessment Law
- Development & Permitting Law
- Cultural Resources Preservation Law
- Archeological Assessment Law

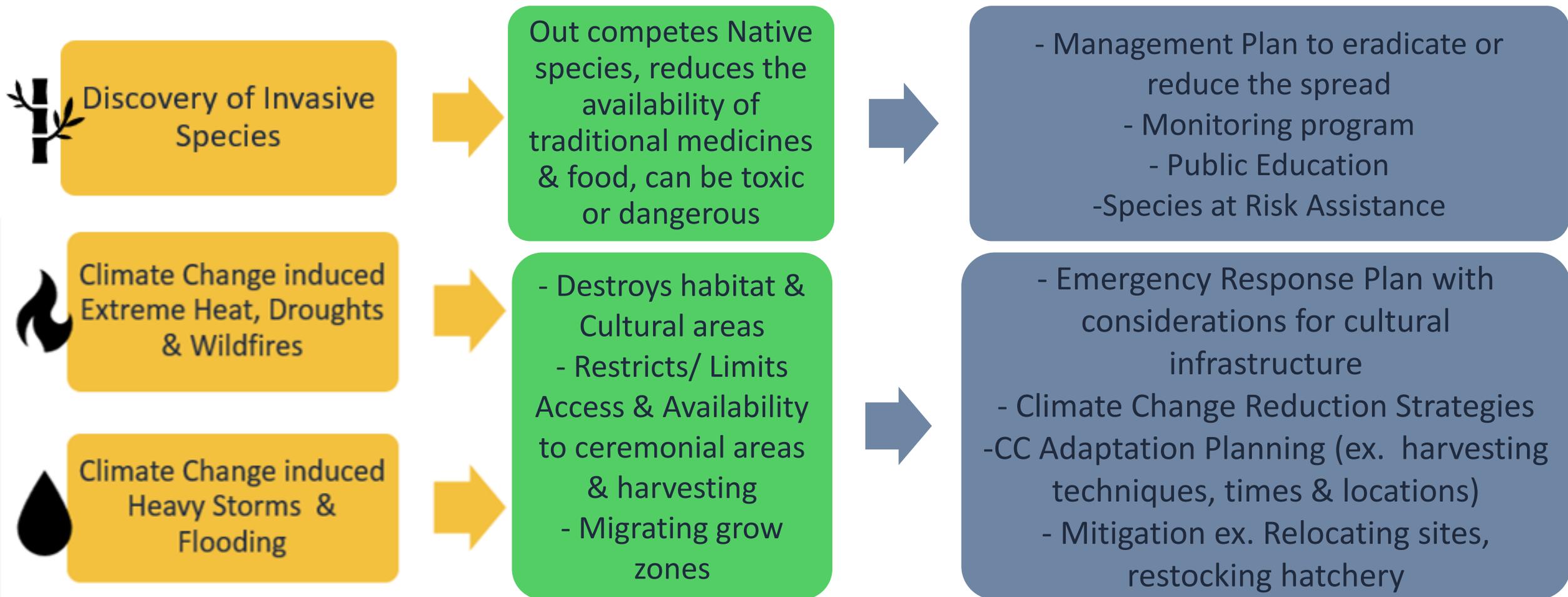


Community Decision-making:

- Recovery
- Ceremony
- Heritage Site Designation (No development area)
- Mitigation ex. Relocate with a commemorative plaque/statue
- Repatriation



Managing the Impacts of Invasive Species & Climate Change on Cultural Resources



Western scientific Management Strategies are sometimes at odds with Local Indigenous knowledge.



Poll Questions

1. Has your community implemented mitigation strategies for Species-at-Risk?



2. Is it challenging to maintain the confidential nature of certain data, such as species-at-risk in the context of development and land-use planning?



3. Has your community benefited from the development of partnerships with organizations, such as academia, conservation groups or other research institutions?



How local knowledge systems are supporting and informing decision making and strategic visioning



Determine & Protect FN Interests on Territories



Development & Permitting



Negotiate protective measures



Comprehensive Community Planning



Land use planning



Environmental Management



Natural Resource Management



Identify Priorities & Focusing Resources



Poll Questions

1. Has anyone used GIS to collect, store and access Traditional Knowledge?



Universal Database Template



| A | B | C | D | E | F | G | H | |
|---|--|---|--|---|--|---|---|--|
| LINK_ID | TK_ID | MAP_ID | MAP_NAME | KNOWLEDGE_HOLDER | PROJECT_NAME | FAMILY_NAME | GEOGRAPHIC_NAME | |
| This column will also be used in conjunction with linking to a GIS Layer and the transcript data collection page used for each interview. | Where this is not a mapped item use a mix of numbers and letters | Naming your maps for each project is beneficial for future reference and for recording each site. | NTS, BCGS or topographic map name. For name look to bottom, or bottom right of each map. To order or download maps for project go to geogratis.ca search National Topographic System (NTS) | Person giving the information, you may use first and last, first middle and last if more than one person share the name. | Could be specific company interested in the area for research, could be funder's name, could be project code with the community. | Refers to family owned sites, such as fishing, ceremonial, gathering sites known to community. | Creek, Lake, City, Mountain Range, River names etc. | |
| I | J | K | L | M | N | O | P | Q |
| PLACENAME | PRONUNCIATION | TRANSLATION | TUS_TYPE | TUS_CODE | TU_SEASON | GUIDE_OUTFIT_N | TRAPLINE_NUM | INTERVIEW_TYPE |
| Placename in your language that this site is known for. Make sure your font has been used for this column. | Best way to pronounce the name, using english language | Description of what the placename refers to. E.g. Lost Dog Lake | Hunting (H), Fishing (F), Ceremonial (Ce), Gathering (G), Camping (Camp), Navigational (Nav) and Story Telling (ST) | H_animal, H_technique, H_camp F_fishname, F_technique, F_spot Ceremony_name, type, technique G_what, G_technique, G_camp etc Camp_gathering, Hunting, Social, Navigate, ST_ | Winter, Spring, Summer, Fall | Ask if they have one for this area. | Ask if they have one for this area | This could be face to face, community engagement, video, voice recordings. |
| R | S | T | U | V | W | X | Y | Z |
| CONSULTANT_CO | INTERVIEWER_N | INTERVIEW_DAT | AOI | X_COORD | Y_COORDINATE | HYPERLINK_VIDE | HYPERLINK_REC | HYPERLINK_PHOTOS |
| Company contracted for study. | Interviewer's name, company contracted for study. | Date of interview | Textual description of the area in question | If using a GPS or found on a MAP | If using a GPS or found on a MAP | This refers to the directory on Lands Management system. This could be interview video, video of Drone recording or video of ceremony | This refers to the directory on Lands Management system. This could be interview voice recording. | This refers to the directory on Lands Management system. This could be photos of any sort, to go with TUS, StoryTelling, paintings, hyroglyphs or landscape. |



Community Panel Presentations





Tzeachten First Nation



Deanna Honeyman
Lands & Property Taxation Manager



Membertou First Nation



Jason Googoo
Manager, Membertou Geomatics Solutions

Balancing Species at Risk Conservation and the Needs of a First Nation

Tzeachten First Nation

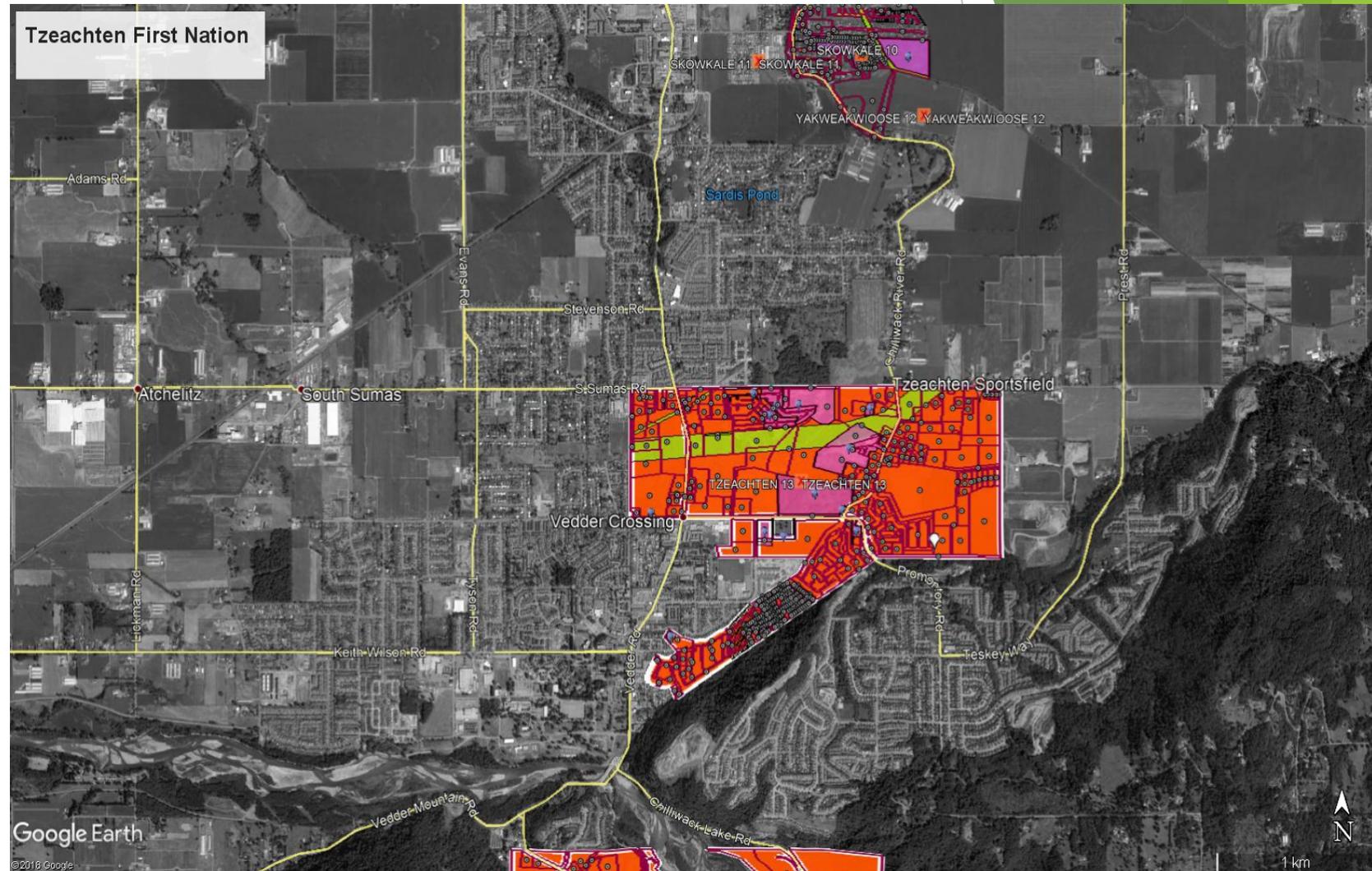
Presented by Deanna Honeyman

Lands Manager



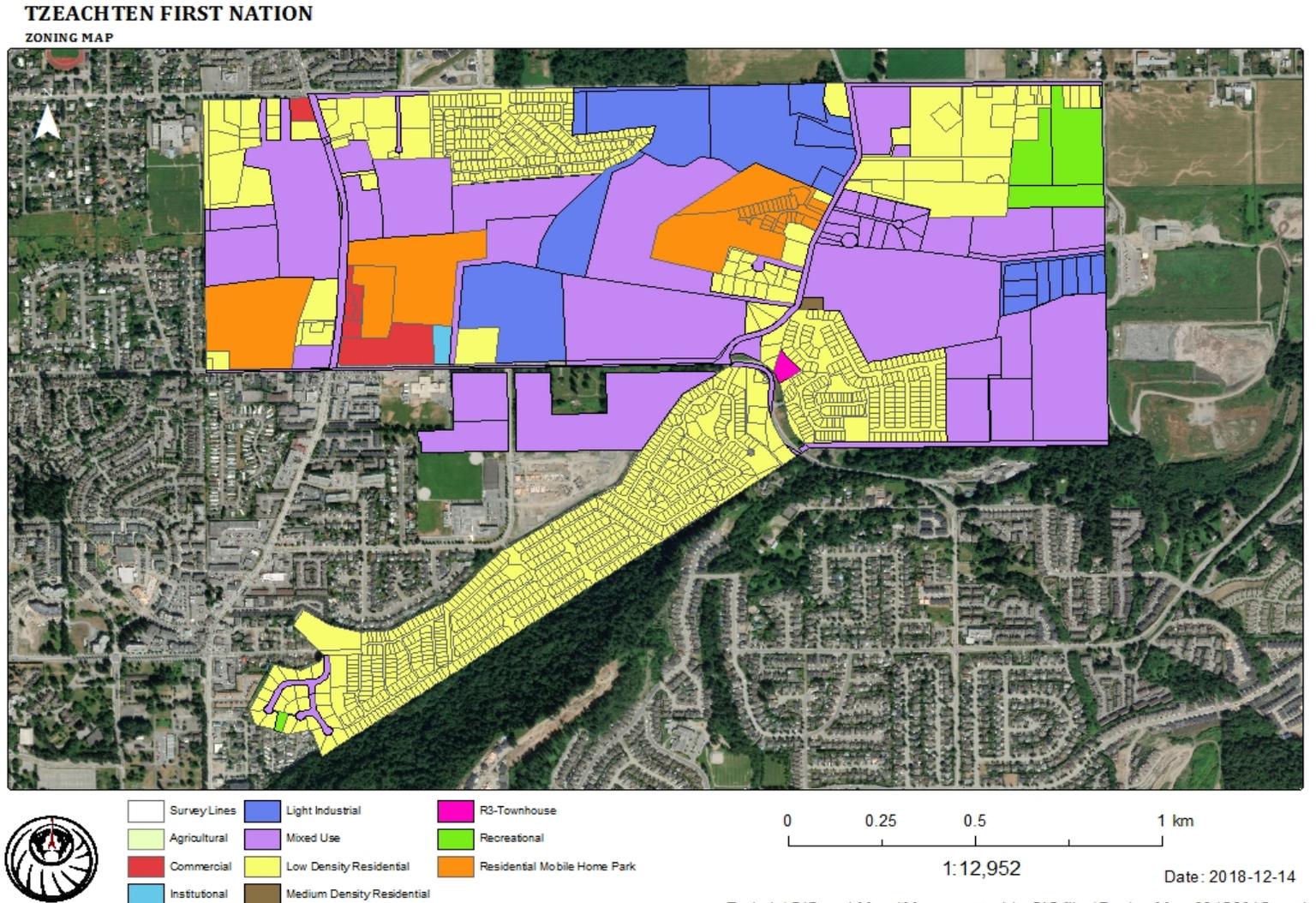
Regional Context

- Located in the Fraser Valley, BC
- Approximately 100 kms east of Vancouver, BC

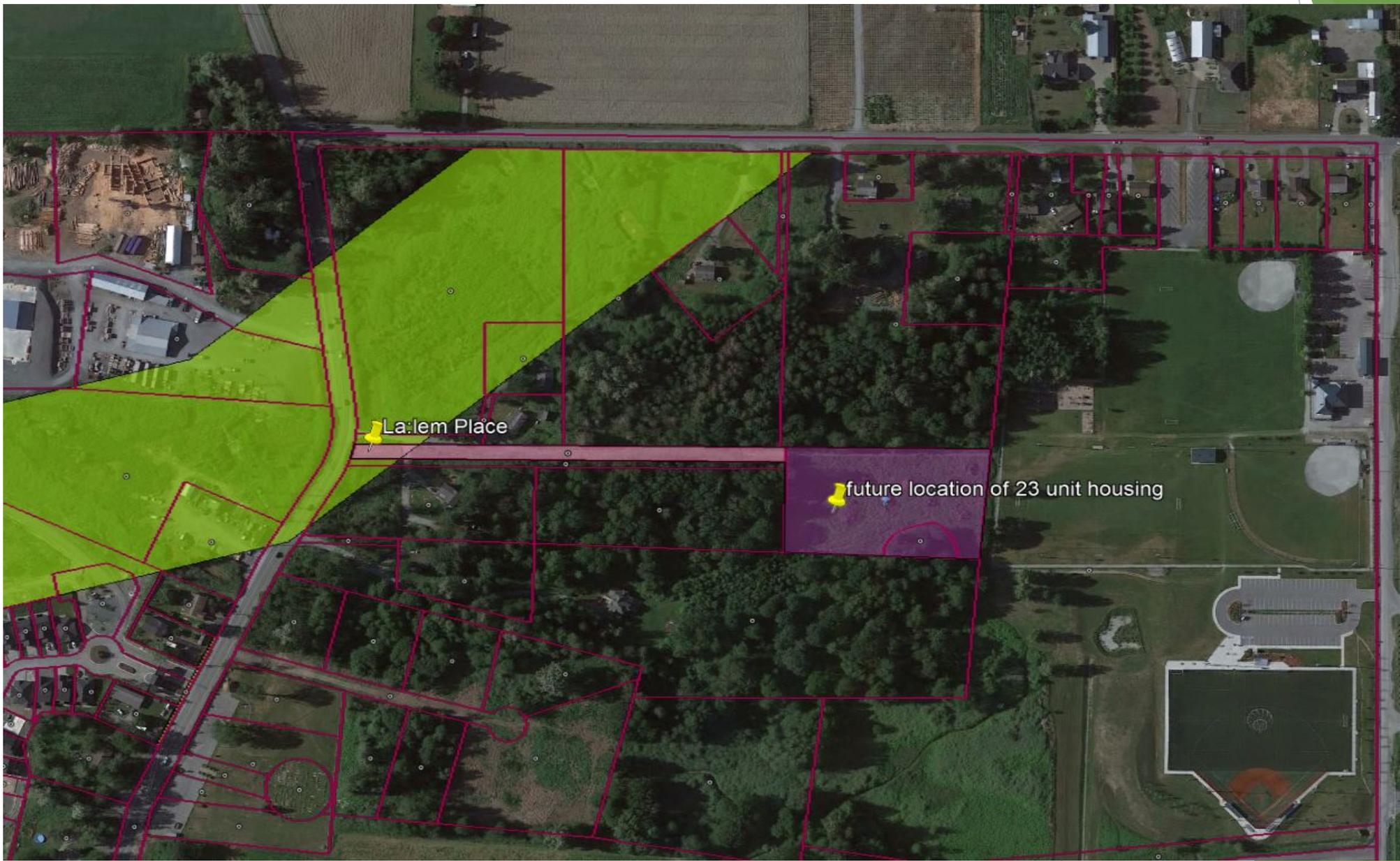


Tzeachten First Nation

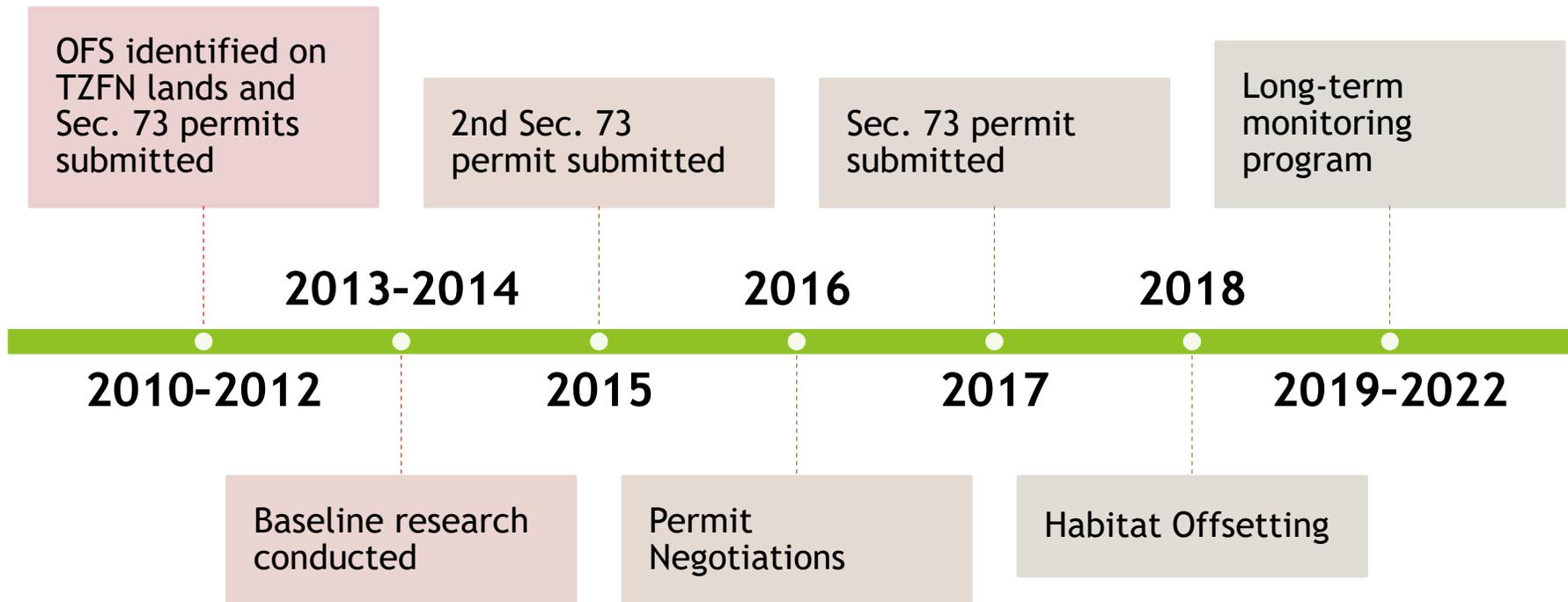
- Approximately 703 members
- 284 ha, 90% CP held
- ~300 members live on reserve
- 1500 tax folios (non-members living in leased developments)
- BC Hydro has transmission lines throughout reserve
- Kinder Morgan pipeline runs through the NE corner
- There is a need for housing for members



Site Context



Project Timeline



2010-2012

2010-CP Holder wants to develop land and an Environmental Assessment is conducted

Sec. 73 SARA permit submitted by the developer to salvage and relocate snails

Application is denied and project stalls

2012 - Tzeachten purchases lot from the member

2013-2014

2013 - Dillon Consulting retained to conduct habitat suitability mapping for SAR throughout Tzeachten's land base

Baseline research conducted by Dillon and Tzeachten Community members

3 live snails found on site

2014 - further studies focus solely on OFS and the provincially listed species, Pacific sideband

SARA Sec. 73 permit granted to neighbouring First Nation

Snail translocation discussions begin

2015-2016

2015 - August - Sec. 73 permit application submitted to ECCC with detailed mitigation and 5-year post-translocation monitoring program proposed

August - discussions and permitting put on hold by ECCC due to election

2016 - February - permit application is declined by ECCC

March - Final Recovery Strategy is released by ECCC for OFS identifying Critical Habitat on Tzeachten lands

2016

March - ECCC requires Sec.
11 Conservation Agreement

Extensive consultation
between Tzeachten, ECCC
and Dillon to negotiate terms
of the Agreement

What is a Section 11?

- ▶ Stewardship Intendance

- ▶ Conservation Agreements - Species at Risk

- ▶ *11(1) A competent minister, may after consultation with every other competent minister, and with the Canadian Endangered Species Conservation Council or any of its members if he or she considers it appropriate to do so, enter into a conservation agreement with any government in Canada, organization or person to benefit a species at risk or enhance its survival in the wild.*

- ▶ SARA (March 2019)

2017

- ▶ June - additional habitat mapping is completed
- ▶ August - 3rd Sec. 73 SARA permit is submitted to ECCC which has detailed habitat offsetting plan
- ▶ September - Signed agreement between Tzeachten, City of Chilliwack and Great Blue Heron Nature Reserve
- ▶ October - 4th submission of Sec 73 SARA permit
- ▶ November 2017 - Sec. 73 Permit granted





Snail Salvage and Translocation

Lot 20-7-2 Site Clearing Winter 2017



► Clearing was monitored to ensure excavator adhered to parcel boundaries and did not encroach on Conservation Area (Lot 356)

2018

- ▶ April - first spring following land clearing and start monitoring program
 - ▶ Despite zero snails being translocated into the Conservation Area, Tzeachten commits to 3 years of long-term monitoring
- ▶ November - off-site habitat restoration completed
 - ▶ 25 Big leaf Maple (BLM) and 3000 Stinging nettles planted
 - ▶ Stinging nettles were special ordered and grown in a green house just for this project
- ▶ Part of Section 11- to register Conservation Area and place covenant

Funding

HSP-Habitat Stewardship Program for Species at Risk-
Contribution between ECCC and Tzeachten First Nation
(TFN applied for) -restrictive funding

Non Program Funding-ECCC applied on behalf of TFN 2
years \$50,000/year

Permit issuing delay, hindered use of funding. If the
funding was not used ECCC would take back, particularly
HSP

Permit was covered by funding

Plant cost;

On reserve \$4,300

Off reserve \$8,300

Tzeachten First Nation had to pay clearing of Tzeachten
Lands

3 year Funding Agreement - total funds received
\$132,000 (\$22,000 contributed by Tzeachten)

Planting Crew

- ▶ Three staff (all women) from the Lands office
- ▶ One staff from Dillon Consulting
- ▶ Three people from Housing and Public works/Recreation
- ▶ Four University students from University of the Fraser Valley-each for a few hours which went towards academic credits



On reserve-Conservation Area Remediation Fall 2018



Plant delivery at Tzeachten Sports Field

Stinging Nettle





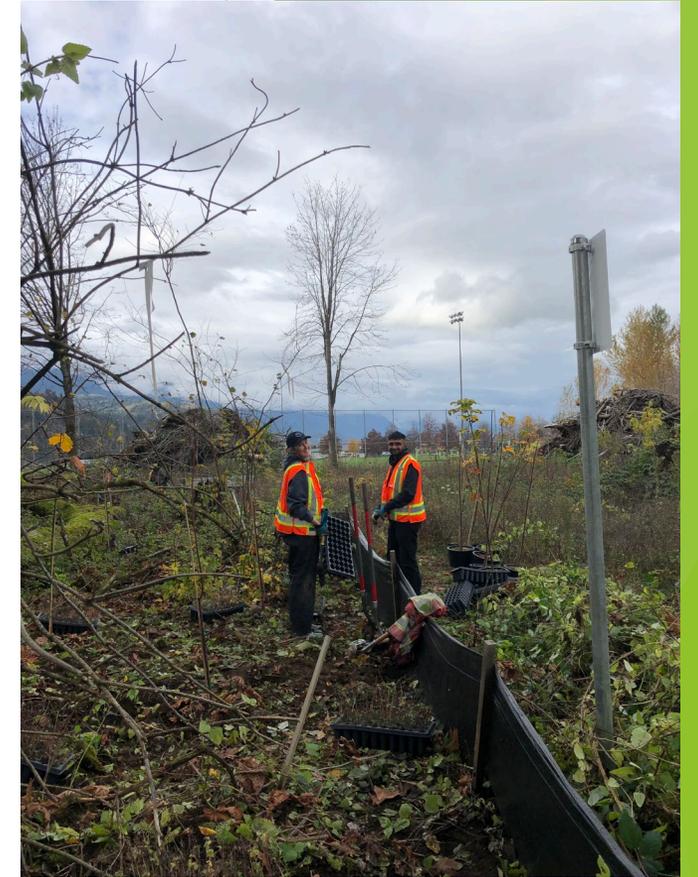
Conservation Area- Lot 356 Plan 107164 CLSR

- ▶ Silt fencing to protect Conservation Area, eventually there will be a fence to protect area with educational information

Big Leaf Maple



A few of the large BLM that were cleared were used as habitat in the conservation area



Mitigation-off reserve (GBHR)



Moving Forward

Tzeachten First Nation will continue to monitor both on and off reserve sites for three years as part of the permit requirement (completed March 2022)

- Include the abundance of OFS and plant growth

Educational signage, about OFS and its habitat, to be installed at both on and off reserve site

Fence around Conservation Area to protect from encroachment

More planting of Stinging Nettle at GBHR. Spring 2021 - Used a terraseeding process.

Project Success

After nearly a decade of ups and downs, Tzeachten stuck with it!

Community housing will be available in Summer of 2022

Conservation of a Schedule 1 Endangered Species which included the development of an on-site Conservation Area

Off-site enhancement work at GBHNR

Second year of monitoring completed!

Project takeaways

There is a fundamental need to balance species conservation and habitat protection on ALL lands

Meaningful consultation with First Nations needs to be improved and communities need to be engaged in future law-making processes

First Nation Communities with small land bases in BC are already at a disadvantage. Considerations of socio-economics would allow for a fairer application of SARA

Tzeachten Member Housing Development



Contact information

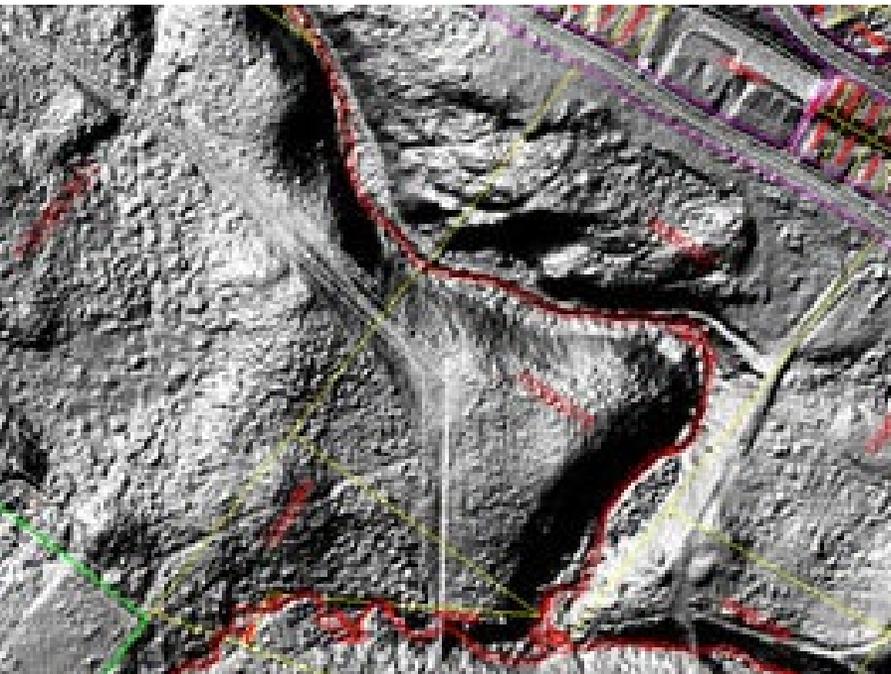
▶ Deanna Honeyman, Lands Manager

▶ Deanna@Tzeachten.ca

▶ Leah Kroeker, Lands Officer

▶ Leah@Tzeachten.ca





Membertou Geomatics Solutions

Manager: Jason Googoo

- MGS history
- Mi'kmaq Ecological Knowledge Study (MEKS) Protocol and Traditional Use Study
- When an MEKS is required in NS (3 clients)
- How is an MEKS is used in an EA (protection)
- Collecting and protecting MEKS (Consent forms and data centre)
- MEKS protocol
- Example of MEKS

welcoming the world!



Mi'kmaq Ecological Knowledge Studies (MEKS)

MEKS Overview TMPD Workshop

Jason Googoo
Membertou Geomatics Solutions
8-July-2021

Outline

- Introduction
- What is a MEKS
- What a MEKS is not!
- Who requests a MEKS
- MEKS Protocol
- Conducting a MEKS
 - Collecting and protecting MEKS data
- MEKS Examples
- MEKS Reactions
- Q&A

Introduction

Jason Googoo

Manager,

Membertou Geomatics Solutions

- MGS started in 2002
- ISO 9001 standard
- Geomatics industry
- MEKS since 2005
- Worked on every major project in NS for past 12 years

What is a MEKS

- **Mi'kmaq Ecological Knowledge**
- **Traditional Ecological Knowledge**
- **Indigenous Knowledge**

- All terms that refer to the collective body of knowledge regarding the natural world
- Derived from traditions, practices, and experiences
- Based on observations/patterns
- Knowledge can be passed on
- New knowledge can be discovered

What is a MEKS

- MEK, IK and TUS are the collective knowledge
- MEKS is a snapshot of the knowledge
 - Timeframe snapshot
 - Project extent snapshot
- MEKS, generally, valid for 5 years
- Includes historical research, project/site walk, GIS data collection and analysis and final report
- Included in the EA process or for consideration for potential project development or community consultation

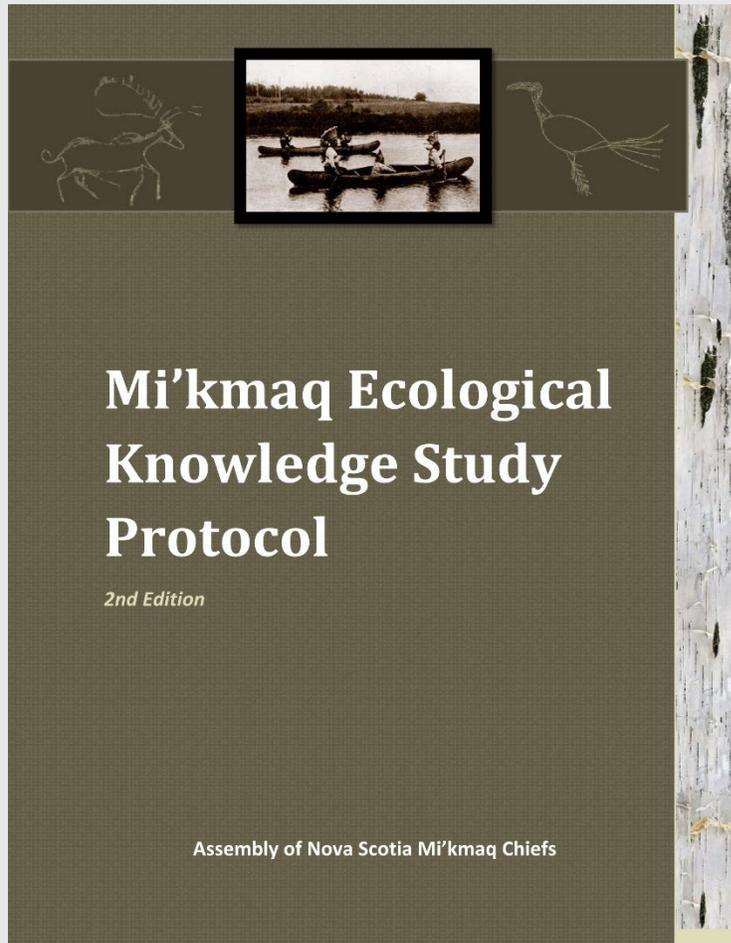
What a MEKS is not!

- NOT CONSULTATION
- Does not fulfil the duty to consult
- Is a snapshot of IK
 - At that particular time and particular place
- Is a sampling of IK
 - Portrays IK in relation to a particular project
 - Altering project plans can alter findings
- Not a comprehensive collection of IK

Who requests a MEKS

- MEKS requirement usually triggered from Government
- Large scale projects but can include any project
- Currently no legislation to make MEKS a factor during impact assessment of a project
- Federal Government is proposing Bill C-69 to make changes to the CEAA to factor in MEKS in EA decisions
- NS Gov't has been suggesting to proponents to complete an MEKS
- Gov, Industry and FN communities

MEKS Protocol



- Guide for consultants, Government, and proponents
- All MEKS must be reviewed by KMKNO
- Available at <https://mikmaqrights.com/consultation/meks-protocol/>

Conducting a MEKS

- Project Site defined
- Study Area boundary drawn
 - Paints a better picture of surrounding area
 - 5km radius around project site
- Field Map developed
- Target communities identified
- Interviewees contacted
- Elder/guide contacted
- Letters to communities/KMKNO sent
- Consent form developed

Conducting a MEKS

- Conduct interviews
 - New protocols developed (Covid19)
- Conduct site visit
- Conduct research
- Digitize and analyze interview/site data
- Develop a MEKS draft report
- Client review
- KMKNO protocol review
- Final report released

MEKS Examples

MEKS Examples:

Keltic Petrochemicals (Goldboro)

Maritime Link

COMFIT Wind Turbine Projects

NS Power – Mersey Dams Replacement

NSTIR (125 Twinning, Lantz, Aerotech, Sutherlands River)

Eastern Shore Islands Marine Protection – Area of Interest (TUS)

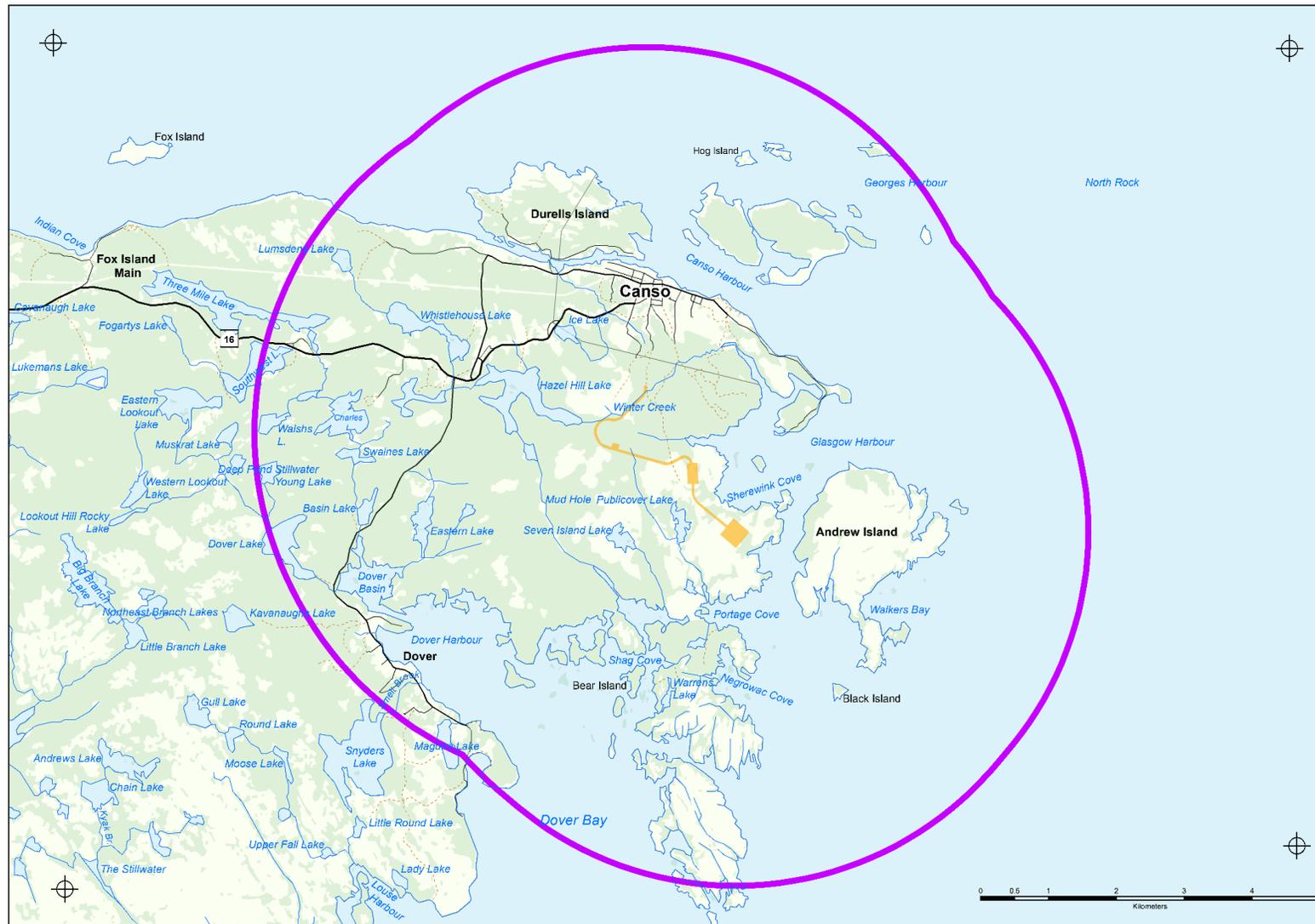
Alton Gas, Sydney Tarponds, Boat Harbour

Offshore – Shell, BP

Eskasoni Wind Farm Project

Membertou Climate Change MEKS

MEKS – Project Setup



Maritime Launch Services MEKS Canso, NS



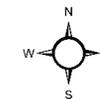
Legend

-  MEKS_Study_Area
-  MEKS_Project_Site

Disclaimer

This map was developed as a graphical representation of a proposed project.

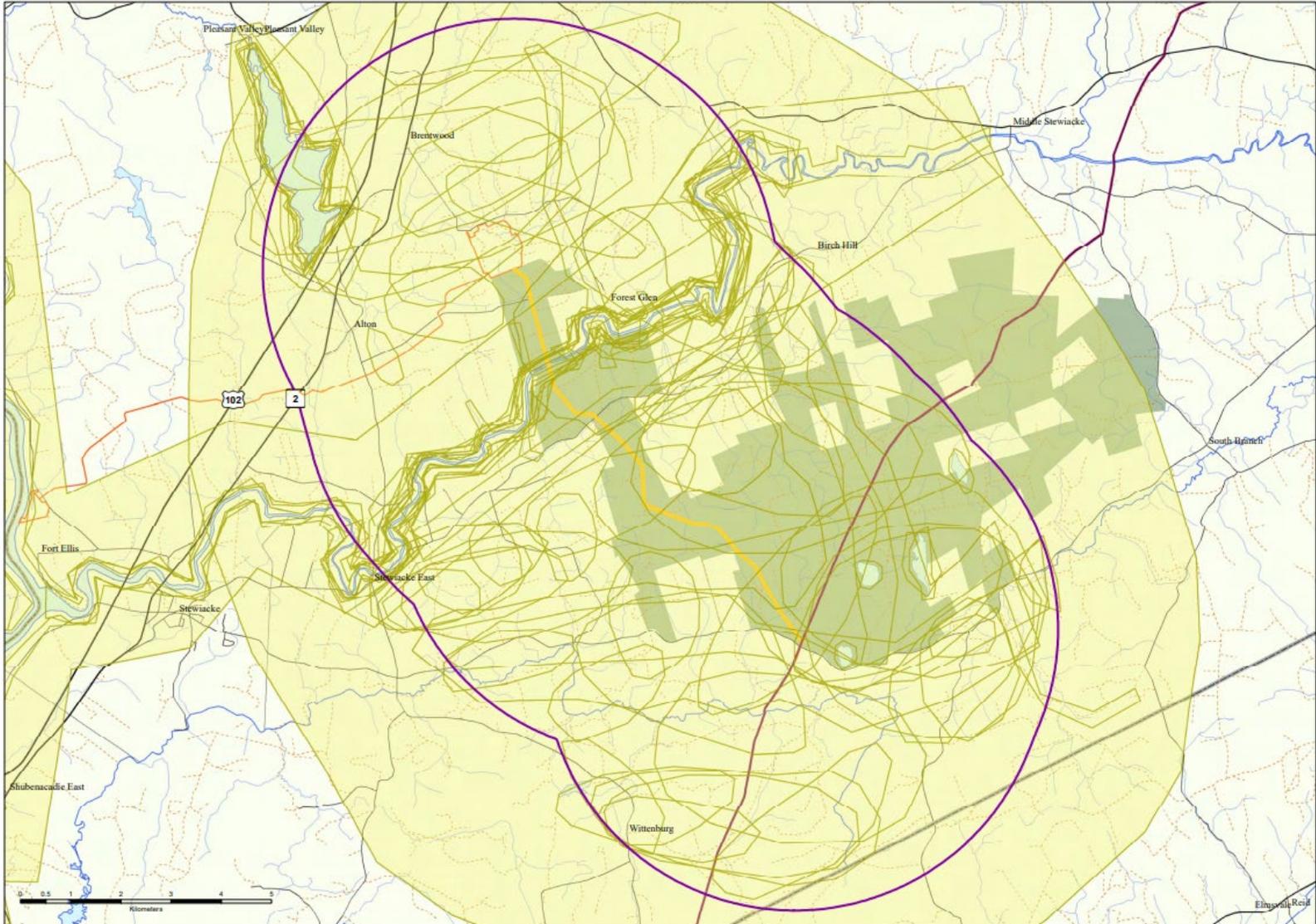
Features presented may not accurately represent actual topographical or proposed features.



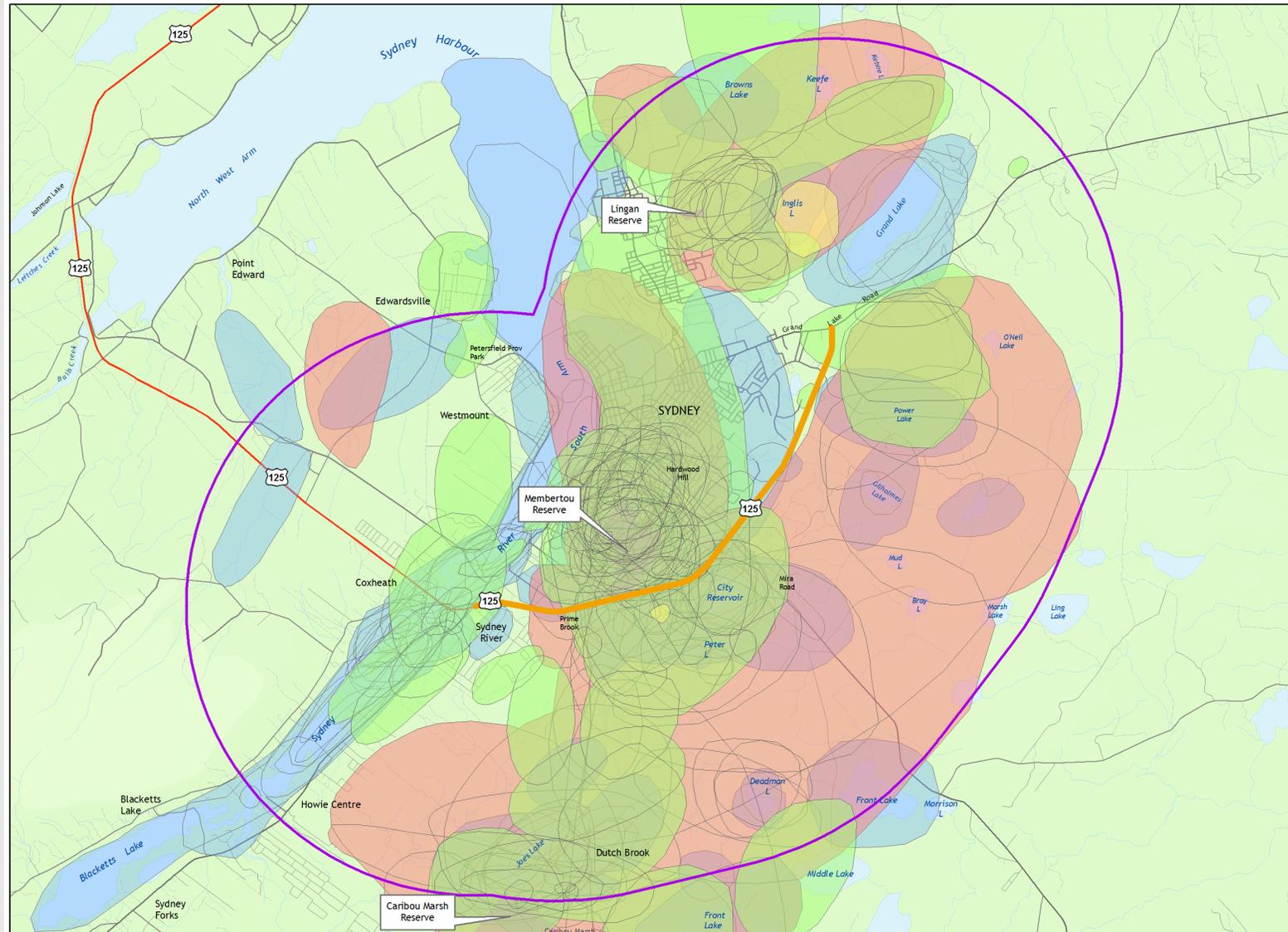
Datum: UTM NAD83 Zone 20
Scale: 1:1,100,000

Version: Proposal
27 March 2017

MEKS – Alton



MEKS – Highway 125



TIONS

MEKS - Reactions

- Maritime Link
 - Alter construction season
- Alton Gas
 - Largest amount of IK collected, to date
 - Striped Bass in Shubenacadie River
 - Mi'kmaq felt concerns were unheard
- Maritime Launch Services (Canso)
 - 8.1 – Archaeological site or artifact of Mi'kmaq origin
 - 10.1 – Engage with Mi'kmaq of NS

Questions?

Wela'lin

Thank You



Jason Googoo

Email: jasongoogoo@membertou.ca

Phone: (902)429-0212

www.membertougeomatics.com





Group Discussion





**Environmental
Assessment**

**Local
Knowledge
Systems**

**Cultural
Impact
Assessment**

Species at Risk

SUMMARY



Overview of the intent of the Environmental Assessment provisions of the Framework Agreement



Highlight First Nations efforts to develop and implement laws, including harmonization and partnerships in this area



How local knowledge systems are supporting and informing decision making and strategic visioning under a Land Code



| Sep 2021 | | | | | | |
|----------|----|----|----|----|----|----|
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| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | | |

AUG 12 Enforcement – Needs & Considerations

| Sep 2021 | | | | | | |
|----------|----|----|----|----|----|----|
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| 26 | 27 | 28 | 29 | 30 | | |

SEP 9 ATR & TLE – Joint Management Agreements (TULO)

| Oct 2021 | | | | | | |
|----------|----|----|----|----|----|----|
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| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | | | | | | |

OCT 7 Wills & Estates – Exploring Future Needs

| Nov 2021 | | | | | | |
|----------|----|----|----|----|----|----|
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| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | | | | |

NOV 4 RC Engagement Workshop: Operational Funding Formula for LC Governance

| Dec 2021 | | | | | | |
|----------|----|----|----|----|----|----|
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| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |

DEC 9 Decolonizing Land Governance under the FA



3 hour virtual workshops



presentation & group discussion

Registration opening soon!

www.labrc.com/events



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Angie Derrickson
TMPD Manager

c. 250-469-1675

e. aderrickson@labrc.com

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