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# First Nation & Municipal: Collaborative Land Use

## PLANNING GUIDE

# Welcome & Preface

The First Nation and Municipal: *Collaborative Land Use Planning Guide* has been developed by the First Nation-Municipal Community Economic Development Initiative (CEDI) to build shared understanding of the relationships between neighbouring communities and the laws, policies, and planning practices that influence how First Nations, municipalities, and other governments plan for and manage land. The emphasis throughout is on collaboration—recognizing that effective land use planning increasingly requires coordinated approaches across jurisdictions and meaningful engagement between governments.

Rather than serving as a step-by-step manual, this guide is intended as a starting point and learning resource that supports both First Nations and municipalities in exploring collaborative land use planning. The material provides introductory insights on key and interconnected topics with the aim of strengthening foundational literacy, encouraging discussion, and offering context for practitioners working toward shared land use planning outcomes. Readers are encouraged to move through the content as needed—to reflect, reference, and connect concepts in support of community-based planning across jurisdictions.

The First Nation - Municipal Community Economic Development Initiative (CEDI) program is a joint initiative of Cando (Council for the Advancement of Native Development Officers) and the Federation of Canadian Municipalities (FCM). Since 2013, CEDI supports First Nation – Municipal partnerships to strengthen government-to-government relationships and to develop capacity and implement long-term joint planning and community economic development and land use projects.

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## What is Land Use Planning?

The goal of land use planning is to provide a meaningful way to honour the connection we share with the land while also supporting economic and community development. It strives to balance environmental, social, cultural, and economic needs, offering a clear and resilient path for future growth.

While the overarching goals of land use planning are similar, its application and significance can differ substantially for First Nations and municipalities due to jurisdictional frameworks, historical governance structures, and community needs. For First Nations, it serves as a powerful mechanism to affirm control over traditional territories, preserve environmental and cultural heritage, and shape a future that reflects each Nation's unique identities and aspirations. For municipalities, land use planning ensures well-managed development that fosters vibrant, resilient communities while respecting the environment.

## What is Collaborative Land Use Planning?

A collaborative land use planning approach is built upon ongoing dialogue between neighbouring governments and collective problem-solving to address regional challenges and coordinate economic opportunities (tourism, renewable energy, agriculture, housing, to name a few).

By pooling resources including funding and technical expertise, collaborative planning helps to ensure that initiatives are well-supported and effectively respond to the unique needs of each community while creating a shared path going forward.

Collaborative land use planning offers benefits to both partners. For First Nations, it can be an effective tool affirming ancestral rights and responsibilities to land stewardship while also integrating cultural practices into the management of regional lands.

For municipalities, it serves as an opportunity to incorporate Indigenous perspectives into development frameworks as well as align the municipality's growth with the plans, goals, and ambitions of First Nations communities whose territory they exist in.

Ideally, a collaborative partnership fosters reconciliation by uniting First Nations and municipalities to craft balanced strategies for regional development. It allows both communities to share resources, address common priorities, and unlock potential for innovative solutions to the unique


*Figure 1: Collaborative Land Use Planning Process with Guiding Questions*

challenges that each development project presents. By promoting inclusive decision-making and honouring First Nations' knowledge, collaborative planning strengthens trust and ensures sustainable and equitable outcomes that respect the land and the diverse communities that inhabit it.

Land Use Planning (Figure 1 above) typically involves setting community goals, assessing natural and cultural resources, and creating guidelines for activities such as housing, infrastructure, conservation, and economic development. A community-based approach helps to ensure that decisions are guided by the collective voices of the community. By blending traditional practices with modern planning methods, communities create plans that reflect their distinct perspectives and long-term aspirations and provide technical solutions to lands-related matters.

## Land Tenure

Land tenure refers to the legal, customary, or traditional rights that individuals, groups, or communities have in relation to land. It determines who can use land, for how long, for what purposes, and under what conditions. Land tenure systems vary widely and may include private ownership, communal or collective ownership, leasehold interests, customary tenure, or government-controlled lands.

Understanding land tenure is foundational to land use planning and lands management because it shapes how land can be developed, protected, accessed, or transferred. For municipalities, land tenure is typically based on fee simple ownership governed by provincial legislation, where individuals, corporations, or governments hold title to land and exercise rights subject to zoning, bylaws, and other regulatory controls. Municipal planning decisions—such as land use designations, infrastructure investments, and development approvals—are closely tied to these tenure arrangements.

In contrast, many Indigenous land tenure systems are rooted in collective or customary rights that emphasize stewardship, shared responsibility, and long-term relationships with the land rather than individual ownership. These systems reflect Indigenous laws, values, and governance structures, including traditional and hereditary approaches to land management. Understanding these differences is critical for collaborative land use planning, as tenure systems influence authority, decision-making, and responsibilities across jurisdictions.

On reserve lands, tenure is primarily governed by the *Indian Act*, under which reserve lands are held collectively by the Crown for the use and benefit of First Nations, limiting individual ownership and constraining local decision-making. Under the Framework Agreement on *First Nation Land Management Act* (FAFNLMA), First Nations may develop a Land Code, which is a legal instrument that enables greater self-governance over land tenure, land use, and land management decisions. This shift has important implications for how First Nations plan, manage, and collaborate with neighbouring municipalities and other governments. More on this is discussed later in the guide.

## Foundational Concepts & Laws

To better understand land use planning in the context of First Nations and Municipalities, one must first understand the relationship between the Crown and First Nations in Canada as a complex and evolving story, deeply shaped by history, treaties, and shifting legal frameworks. Initially built on trade and military alliances, early relations gave way to colonial expansion, resulting in land dispossession, the *Indian Act* of 1876, and the devastating legacy of residential schools. While treaties —both historical and modern—define rights and responsibilities, many remain points of contention. Today, many First Nations seek to confront these past injustices and restore sovereignty, and increasingly provincial and federal governments attempt to build meaningful government-to-government relationships.

### WHAT IS THE *INDIAN ACT*?

The relationship between the Crown and First Nations under the *Indian Act* is deeply rooted in Canada's colonial history. Enacted in 1876, the *Indian Act* was designed to regulate many aspects of First Nations' way of life, including governance, land, education, and identity. Its framework is inherently paternalistic, aiming to assimilate First Nation peoples into settler society, undermining cultures, rights, and self-determination.

The *Indian Act* grants the Crown authority over critical aspects of First Nations' way of life, such as determining Indian status, managing reserve lands, and overseeing band governance. This has significantly limited the autonomy of First Nations while imposing restrictions on land rights, cultural practices, political systems, and economic development. At the same time, the *Indian Act* also places requirements on the Crown to provide services such as education and healthcare. More information on the *Indian Act* is provided in the Federal Land Use Planning Law and Policy section later in this guide.

**Constitution Act**
**Section 35**
"Duty to Consult"

**LINK**

### WHAT IS THE DUTY TO CONSULT?

In Canada, the Duty to Consult is a legal responsibility that requires the Crown to engage with Indigenouscommunities (which includes First Nations) whenever decisions or actions could affect Indigenous rights, lands, or resources. This obligation is grounded in *Section 35 of the Constitution Act*, 1982, and is meant to protect Indigenous rights, promote meaningful involvement, and support reconciliation. Under the Duty to Consult, consultations must be conducted in good faith, with the goal of addressing concerns and minimizing potential negative impacts.

### THE DUTY TO CONSULT: WHAT IS THE ROLE OF MUNICIPALITIES?

Under the Honour of the Crown, the federal, provincial, and territorial governments representing the Crown have a Duty to Consult with First Nations before enacting laws, policies, programs, or projects that may affect First Nations' rights and take measures to accommodate them.[1] Since municipalities are not representatives of the Crown, whether municipalities owe a Duty to Consult remains an open question of law currently. Municipalities exercise delegated authority on behalf of the province or territory, but the Crown cannot delegate the Duty to Consult.

While the courts have generally confirmed that municipalities do not hold a constitutional Duty to Consult, the picture is far from simple. Municipal decisions on land use, infrastructure, and resource management often have significant implications for Indigenous rights and interests. In these cases, municipalities should provide opportunities for Indigenous participation and ensure that relevant concerns are communicated back to the Crown. The Crown, meanwhile, retains ultimate responsibility for ensuring that the consultation process satisfies constitutional requirements. [1]

This creates a murky zone of shared responsibility, where municipalities play a crucial procedural and relational role, even though the legal duty remains with the Crown. Many municipalities have responded by developing their own Indigenous engagement policies, partnership frameworks, and capacity-building initiatives, recognizing that meaningful consultation goes beyond legal compliance — it reflects a broader commitment to reconciliation and good governance at the local level.

## RESPONSIBILITY TO CONSULT AND COLLABORATIVE PLANNING

If First Nations and municipalities are walking the path of collaborative land use planning, there will be plenty of opportunity for discussion and sharing of values. If these discussions are pursued in good faith and with an eye to respecting each other's rights and the collective responsibility to care for the land and future generations, the spirit of the Duty to Consult will be fulfilled even if the legal duty does not apply. Despite the nuances around a municipality's legal obligation to follow Duty to Consult, the CEDI Stronger Together approach encourages and invites municipalities to act as good partners and lead efforts to engage and partner with First Nations on matters of mutual interest.

## WHAT ARE TREATIES?

The treaties between the Crown (represented by the federal government of Canada) and First Nations are legally binding agreements that outline the terms of land use, resource management, governance, and mutual responsibilities. Between 1701 and 1871, several key treaties shaped early relationships between Indigenous Nations and colonial powers in what is now Canada. The Great Peace of Montreal (1701) brought lasting peace between the French and 39 First Nations, ending decades of conflict. Later, the Peace and Friendship Treaties (1725–1779) were signed between the British and Mi'kmaq, Maliseet, and other Atlantic Nations to promote peaceful coexistence and trade—not land surrender. These early treaties focused on diplomacy and alliance-building. They laid the groundwork for future agreements and influenced the legal recognition of Indigenous rights before the start of the Numbered Treaties in 1871. These treaties, signed between 1701 and 1923, were intended to establish peaceful relations and define the rights and obligations between Indigenous Peoples and the Crown. They covered various aspects such as land transfer, hunting and fishing rights, financial compensation, education, and provisions for healthcare and infrastructure. [7, 9]

**The Treaty Map**
Yellowhead Institute

**LINK**

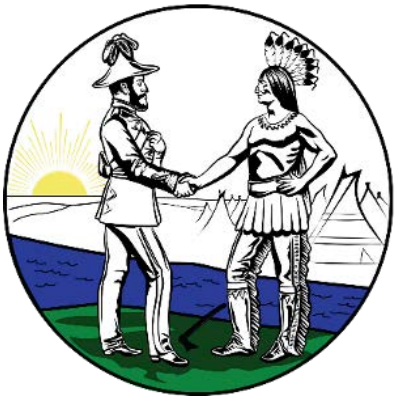
The Numbered Treaties (1871–1921) span much of Canada's western provinces, northern Ontario, and parts of the Northwest Territories. In exchange for millions of square kilometers of Indigenous land, the federal government committed to providing annuities (annual monetary payments), designated reserve lands for exclusive First Nation use, farming equipment and supplies to support agricultural development, hunting and fishing rights, and access to education and medical care. However, many Indigenous Nations assert that these promises were inadequately fulfilled or outright broken, leading to ongoing disputes over land rights, resource development, and the government's failure to uphold its obligations.

Modern treaties, beginning in 1975, address areas not covered by historical treaties and aim to resolve outstanding land claims. These agreements, such as the James Bay and Northern Quebec Agreement (1975) and the Nisga'a Treaty (2000), grant First Nations rights to land ownership, self-governance, and economic benefits, including revenue-sharing from natural resources, infrastructure funding, and provisions for environmental stewardship. Many modern treaties also explicitly recognize First Nation sovereignty and jurisdiction over reserve lands, cultural preservation, and language revitalization. [7, 9, 13]

## TREATIES AND INHERENT RIGHTS

There are two broad types of treaties between First Nations and the Crown — historic treaties and modern treaties. In modern treaties, also called comprehensive treaties, the rights and interests between the Crown and First Nations are clearly expressed, making the path relatively straightforward. Building on the examples shared above, examples of these modern treaties include the Comprehensive Land and Self-Government Agreements with the Nisga'a in western BC mentioned above and with the Eeyou Istchee in northern Quebec. The Eeyou Istchee and the municipalities in that territory are jointly managing land use on shared lands. A first of its kind in Canada, the new regional government accords the First Nation and the municipality an equal position on the council. As named above, historic treaties include the Peace and Friendship Treaties in the Maritimes, the pre-Confederation treaties in Ontario, the Numbered Treaties across the prairies, and the Douglas Treaties on Vancouver Island. Each of these treaties is different. Some, such as the Peace and Friendship Treaties, do not address land rights at all. Others, such as the pre-Confederation, numbered and Douglas treaties clearly address land rights, but there are lingering questions about the validity and interpretation of these treaties generating uncertainty between the parties. Treaties do not only apply to the First Nations; they apply to everyone in the treaty territory and thus both First Nations and municipalities have rights and obligations under the treaty. [7]

It is important to note that First Nations hold inherent Treaty Rights, to land that may influence land use beyond reserve boundaries. When working collaboratively, First Nations and municipalities are encouraged to carefully consider what authority and responsibilities they each have over the territory under discussion. If land use planning is taking place in a treaty territory, First Nations and municipalities are encouraged to engage in frank and respectful conversation about the implications of the treaties. [7]



*The Confederacy of Treaty Six First Nations* [18]

## MODERN TREATIES

Modern treaties, also referred to as comprehensive land claim agreements, are negotiated agreements between First Nations and the federal and provincial or territorial governments in areas where no historic treaties exist. These agreements are designed to resolve outstanding issues related to Indigenous rights and title by formally recognizing land ownership, governance authority, and resource management rights. Modern treaties provide a legal foundation for Indigenous self-determination and often include financial compensation, land transfers, and shared decision-making over natural resources. They are considered a key part of Canada's efforts toward reconciliation and the establishment of respectful, Nation-to-Nation relationships. Notable examples include the Nisga'a Final Agreement and the Nunavut Land Claims Agreement. [17, 7, 16]

## THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)

The result of over 25 years of negotiation, UNDRIP is a non-binding international agreement adopted by the United Nations in 2007 as "the minimum standards for the survival, dignity and well-being of Indigenous peoples".[4] Included are rights to self-determination, self-government of internal and local affairs, to not be forcibly removed from their lands, and the recognition, observation, enforcement of treaties, agreements and constructive arrangements. Of particular note in the context of land use planning are the rights of Indigenous peoples to participate in decision making that affects their rights through their own decision-making institutions and obligation on governments to "consult and cooperate, in good faith, with Indigenous peoples ... to obtain their free, prior and informed consent before adopting and implementing legislation or administrative measures that might affect them". [4]

First Nations also hold rights to their traditional lands and waters; the right to maintain and strengthen their spiritual relationship with the land and waters and uphold their responsibilities to future generations in this regard; the right to environmental protection of their lands; the right to keep their territories free of hazardous waste without their free, prior, and informed consent (FPIC); and the right to determine and develop priorities and strategies for development and use of their lands, as well as the requirement for the Crown to obtain the free prior and consent for any project that affects First Nations' lands. Canada has committed to implementing the declaration without objection. [4]

**LINKS**

**Nisga'a Final Agreement**

**Nunavut Land Claims Agreement**

**United Nations Declaration on the rights of indigenous peoples**

## FREE, PRIOR, INFORMED, CONSENT (FPIC)

Free, Prior, and Informed Consent (FPIC) is a fundamental principle in international human rights law, particularly regarding Indigenous peoples. It ensures Indigenous communities have the right to give or withhold consent to projects affecting their lands, resources, or rights. "Free" means the process is voluntary, without coercion; "Prior" ensures engagement occurs early enough to influence decisions; "Informed" emphasizes access to all relevant information. FPIC is enshrined in instruments like the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). It is crucial for protecting Indigenous sovereignty, fostering equitable development, and mitigating conflicts arising from resource exploitation or development projects. [5]

## First Nation Land Use Planning

Land use planning on First Nation reserve lands is a process that helps communities manage growth, protect the environment, and support economic development while respecting cultural traditions.

While effective planning provides benefits such as improved decision-making and resource management, challenges do exist including complex jurisdictional frameworks and the need to balance traditional knowledge with modern development pressures as well as limited training opportunities for lands staff.

Understanding the legal framework governing land use planning is essential for First Nations seeking to navigate these challenges. Land use planning law for First Nations defines the rights, responsibilities, and processes involved in managing reserve lands and seeks to provide clarity when addressing jurisdictional complexities by upholding Indigenous self-governance models and effectively responding to community priorities.

### FIRST NATION LAND USE PLANNING AND LAW DEVELOPMENT

First Nations exercise authority over land use planning and law development through different legal and governance frameworks. Some First Nations operate under the *Indian Act*, while others have adopted the Framework Agreement on First Nation Land Management and developed their own Land Codes.

Under a Land Code, a First Nation manages its reserve lands and resources directly, enacting Land Laws to guide development, environmental protection, and community well-being. These laws are established through the Nation's governance systems and reflect its cultural, environmental, and economic priorities.

Under the *Indian Act*, First Nations may pass by-laws under sections 81–83 to regulate land use, health, and safety. These by-laws require ministerial review or approval and function within a federally defined system. Land management in this framework often involves collaboration with Indigenous Services Canada to administer surveys, leases, and other land transactions.

Both systems enable communities to plan for growth, regulate development, and protect their lands and resources, but they differ in how authority is exercised and how land interests are created and maintained. These differences are most evident when considering the structure of land tenure, which defines the relationships between people and land—who can occupy or use it, for what purpose, and under what conditions. On reserve lands, tenure can take the form of band-held lands, individual holdings (such as Certificates of Possession), customary holdings, or leases and permits for specific uses.

Whether a First Nation is operating under Land Code or the *Indian Act*, striking a balance between economic growth and environmental or cultural preservation can be difficult. Planning and regulatory frameworks must be flexible yet strong enough to prevent exploitation from bad actors. Additionally, external governments and industries may resist First Nation-led regulations, complicating jurisdictional authority. Despite these challenges, well-crafted laws and regulatory processes empower First Nations to assert their jurisdictional authority and ensure that land development projects benefit their people not only for the life of the project but also in preserving their land and traditions for future generations.

## TRADITIONAL LAND USE PLANNING

The result of over 25 years of negotiation, UNDRIP is a non-binding international agreement adopted by the United Nations in 2007 as "the minimum standards for the survival, dignity and well-being of Indigenous peoples".[4] Included are rights to self-determination, self-government of internal and local affairs, to not be forcibly removed from their lands, and the recognition, observation, enforcement of treaties, agreements and constructive arrangements. Of particular note in the context of land use planning are the rights of Indigenous peoples to participate in decision making that affects their rights through their own decision-making institutions and obligation on governments to "consult and cooperate, in good faith, with Indigenous peoples ... to obtain their free, prior and informed consent before adopting and implementing legislation or administrative measures that might affect them". [4]

**GATHER**

Gathering Traditional Knowledge and scientific data for cultural and ecosystem planning and design. Meeting with elders and knowledge holders and elected leaders.

**SHARING OUR VALUES**

Indigenous values framework that articulates eco-cultural values and their inter-relationships across time and landscapes.

**MEETING**

Ongoing community engagement with families, land users and land organizations. Focused on incorporating TK, story, and interview information to develop draft versions of the LUP.

**CREATING OUR STORY**

Creating a shared vision for First Nations that spans across time and land.

**UPHOLDING OUR AGREEMENTS**

Taking action to uphold the vision and mission identified in the Land Use Plan to protect land and water for future generations.

***Adapted from "How We Walk with the Land and Water", https://www.howwewalk.org/our-promise***

Traditional land use planning supports collaboration by creating shared frameworks for land and resource management between Indigenous and non-Indigenous governments.

This collaborative approach helps to align priorities, respect cultural knowledge, and promote long-term development. Above an example of a First Nation-led Land Use Planning process has been outlined. This process was adapted from the "How We Walk With the Land & Water" efforts led by Carcross/Tagish First Nation and Kwanlin Dün Nation in the Yukon and is a great example of using Land Use Planning as a tool to effectively protect the land and water for future generations. [6]

### Other collaborative planning examples include:

- Saskatoon Tribal Council, Métis Nation–Saskatchewan and City of Saskatoon
  - The City of Saskatoon partnered with the Saskatoon Tribal Council and the Metis Nation of Saskatchewan to integrate Indigenous perspectives into municipal planning processes with the aim of advancing reconciliation in urban development projects.
  - ***LINK: Local Métis and First Nations Milestones - Saskatoon's Shared History***

- Pathways to Collaboration
  - Pathways to Collaboration is a joint initiative of the Union of BC Municipalities (UBCM), the Province of British Columbia, and the First Nations Summit with funding from the Indigenous Business & Investment Council (IBIC). The project aims to showcase the growing number of successful economic development collaborations and partnerships between First Nations and local governments, while highlighting lessons learned and key steps to success.
  - ***LINK: Pathways to Collaboration First Nation Case Studies***

## First Nations Lands Management Regimes

The approach a First Nation uses to manage its reserve lands depends on the legal regime under which it operates. While many communities continue to manage lands under the *Indian Act*, others have moved to modern treaties or to the *Framework Agreement on First Nation Land Management Act* (FAFNLMA). In these cases, key land-related provisions of the *Indian Act* no longer apply.

In addition, some First Nations exercise authority through modern treaties that establish constitutionally protected governance arrangements. Under these agreements, land title, tenure, and interests are defined differently than under the *Indian Act*, and land-use decision-making processes are set out in the treaty itself. These differing legal frameworks mean that land ownership (title), landholdings (tenure), and third-party interests (such as leases or permits) may be administered through distinct rules, approval mechanisms, and legal authorities depending on the regime in place.

### *FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT ACT* (FAFNLMA)

More than 115 First Nations currently manage their lands under the authority of the *Framework Agreement on First Nation Land Management Act* (FAFNLMA). The Framework Agreement recognizes a First Nation's ability to independently govern its reserve lands by opting out of the 44 land-related sections of the *Indian Act*. This historic government-to-government agreement was originally signed by 13 First Nations and the Government of Canada in 1996 and implemented through the First Nations Land Management Act (1999).

In December 2022, the First Nations Land Management Act was repealed and replaced by the *Framework Agreement on First Nation Land Management Act* (FAFNLMA). Under this regime, each signatory First Nation assumes full authority for administering reserve lands, natural resources, and environmental matters once its Land Code is ratified. Signing the Framework Agreement is an initial step—formal authority only comes into effect after the community votes in support of its Land Code through a ratification process.

A Land Code is a community-developed legal document that replaces specific sections of the *Indian Act* related to land management. The Land Code provides the governance framework through which a First Nation creates and enforces its own land laws, policies, and decision-making processes, including accountability and enforcement mechanisms.

### *INDIAN ACT*: RESERVE LAND AND ENVIRONMENT MANAGEMENT PROGRAM (RLEMP)

A majority of First Nations manage their reserve lands, resources, and environmental responsibilities under the *Indian Act*. In this model, the federal government, through the Minister of Indigenous Services Canada (ISC), retains authority over most land-related decisions, including leases, permits, land transactions, and certain environmental approvals. Communities may carry out day-to-day administrative work, but the *Indian Act* sets out the legal requirements and approval processes.

The *Indian Act* also provides a pathway for the delegation of certain authorities through programs such as the Reserve Land and Environment Management Program (RLEMP). Delivered jointly by ISC and the National Aboriginal Lands Managers Association (NALMA), RLEMP enables participating

First Nations to assume increased responsibility for land management while still operating under the Indian Act.

RLEMP does not replace the Indian Act, but offers a structured, incremental approach to building capacity, establishing local land management systems, and supporting professional training for lands managers and technicians. Through this pathway, First Nations continue to exercise meaningful land governance functions while working within the federal framework that maintains certain authorities and approvals.

## Federal Land Use Planning Law and Policy for First Nations' Land

Section 91(24) of the Constitution assigns the federal government responsibility for "Indians and lands reserved for Indians," federal law plays a direct role in First Nations land use planning. Under federal law, First Nations generally hold two forms of authority over land use: 1) Statutory and 2) Treaty or Inherent Rights. For example, First Nation Band Councils established under the *Indian Act* hold statutory powers to manage land use on reserve. First Nations may also hold either Treaty or Inherent Rights to manage lands within their treaty or historic boundaries. This section reviews statutory powers and Treaty and Inherent Rights to land and land use decision making authority.[7]

### *INDIAN ACT*

The *Indian Act*, first adopted in 1876, outlines the authority held by 'First Nation Indian Bands' to manage reserve lands. Reserves were established under the *Indian Act* and are land held by the federal government on behalf of the Crown for the use and benefit of 'First Nation Indian Bands'. Section81(1) of the *Indian Act* sets out the by-law making authority of the Band Council, which includes some land use related powers, including zoning by-laws, environmental protection, and the construction and maintenance of watercourses, roads, bridges, ditches, fences, and other local works. These by-laws apply only on reserve.

As an economic development strategy, First Nations may designate reserve lands for lease or another interest in the land to others. The First Nation retains title in the land. For example, land was designated for a lease to a petrochemical plant at Aamjiwnaang First Nation at Sarnia, Ontario, and a 99-year lease for condos on Tsleil-Waututh First Nation at Vancouver, BC generating significant revenue for the reserve and supporting the local economy.

### CERTIFICATES OF POSSESSION (CP)

Certificates of Possession are allotments of land granted to individuals on reserve by the First Nation Council. They are used to provide some private property rights in reserve lands and can also serve to stimulate economic development. CPs are used in varying degrees across the country and not all First Nations issue them. The limitations on the authority of First Nation Councils to determine land use generally, and on CP lands specifically, can make it challenging for a First Nation Council to manage or direct use of the CP lands. For example, prohibiting the dumping of waste on the CP lands if the land is being leased for that use by the CP holder.

## TREATY LAND ENTITLEMENT AND SPECIFIC CLAIMS

The Treaty Land Entitlement (TLE) and Specific Claims are specific processes established to ensure First Nations receive all lands to which they are entitled under treaties and other agreements. These are all lengthy processes, as they require research, review, and approval of the claim, negotiation of a settlement or a hearing of the evidence and decision, selection of lands from federal or provincial crown lands or purchase from a willing seller, environmental assessment of the lands, etc. Once a TLE or Specific Claim agreement has been negotiated, land is transferred via the Addition to Reserve (ATR) processes. [8]

## ADDITIONS TO RESERVES

Additions to Reserves (ATR) refer to the process by which First Nations are able to add land to existing reserves or creates new reserve lands. This can occur for various reasons, such as addressing historical survey errors, fulfilling treaty commitments (e.g., Specific Claims, Treaty Land Entitlement (TLE), etc.), incorporating land purchased by First Nations, or accommodating population growth. ATR lands are crucial for expanding First Nations' land bases in order to support development of affordable housing, driving economic development, and meeting the community's broader infrastructure needs. However, with the acquisition of new lands comes the need for effective land use planning which is tasked with balancing short-term needs with long-term community resiliency and well-being. [10]

While the benefits are many, the ATR process has historically been slow-moving with timelines ranging from 2 to 20 years based on the complexity of each file (based on a 2024 Assembly of First Nations survey [19]). Factors influencing this timeline include the complexity of the land transfer, the involvement of multiple levels of government (including municipal governments), and the need for environmental assessments and land surveys. For instance, a 2012 report by the Standing Senate Committee on Aboriginal Peoples noted that, although two years was cited in documents as being ideal for an ATR, five years or more appears to be the norm for the completion of an addition to reserve. In response to this, various First Nations-led organizations have expressed the need for a more efficient ATR process, emphasizing the importance of timely land transfers to support housing, economic development, and community well-being and safety. [10]

## URBAN RESERVES

Urban reserves are lands within or adjacent to cities which First Nations have acquired, either through TLE processes, purchased land (fee simple), or agreements with governments. Urban reserves create economic opportunities by supporting First Nation-owned businesses, generating employment, and contributing to local economies through taxation agreements with municipalities. They can also provide housing and social services for Indigenous populations in urban settings. Urban reserves involve key considerations, including negotiating jurisdiction over services like policing, utilities, and infrastructure. There can also be social and cultural adjustments as communities balance economic development with maintaining traditions. Some examples include the Muskeg Lake Cree Nation's urban reserve in Saskatoon, established in 1988, which includes the McKnight Commercial Centre, home to various businesses. Another example is the Long Plain First Nation's Madison Reserve in Winnipeg, which features office buildings, retail spaces, and community services that benefit both Indigenous and non-Indigenous communities. Currently, there are over 120+ Urban Reserves across in Canada. [11]

It is important to note that Urban Reserves and ATR processes are entirely separate. With ATRs being the legal process through which lands are added to a First Nation's reserve and become subject to federal reserve land status under the *Indian Act* or a Land Code. Urban reserves are a type of reserve land, often created through the ATR process, located within or near municipalities.

**Did you know that there are eight (8) Urban Reserves in Saskatoon?**
In support of these relationships, the City of Saskatoon has published a FAQ document that can be found here

**URBAN RESERVE FAQ LINK**

## Municipal Land Use Planning

### MUNICIPAL LAND USE PLANNING LAW AND POLICY

Municipalities are legal structures created by the province or territory to act on their behalf on local issues. As such, the authority of a municipality is limited to what is described in the provincial or territorial law that creates the municipality.

### MUNICIPAL ACTS

Every province and territory have a law that creates municipalities and gives them power to act on behalf of the province or territory on local issues, for example the Nova Scotia *Municipal Government Act*, Quebec *Municipal Powers Act*, the Yukon *Municipal Act*, or the BC *Community Charter*. These laws usually include powers related to land use, such as, authority to create official land use plans, adopt zoning or other land use bylaws, and manage local public works such as bridges, municipal roads and water infrastructure.

Provinces and territories may also have passed legislation specific to large cities that may affect land use planning, for example, the *City of Winnipeg Charter* which, among other things, provides the city council with authority to manage flood waters within city boundaries. The regulations issued under these laws provide additional details on the operation of the legislation, for example there may be regulations on subdivision of land. A review of the founding laws for municipalities will provide important information on the legal capacity of municipalities to develop land use plans, including the process for public engagement and the process to appeal land use decisions.[7, 17]

### MUNICIPAL PLANNING ACTS

In addition to land use related powers under general legislation, some provinces and territories have specific land use planning laws for municipalities. This includes the Northwest Territories *Community Planning and Development Act*, Ontario *Planning Act*, or the Newfoundland and Labrador *Urban and Rural Planning Act*. This legislation provides additional direction to the municipalities on the objectives, content, and processes for creating, amending, and appealing municipal land use plans. [17]

### OTHER PROVINCIAL OR TERRITORIAL LEGISLATION

Land use plans may also be affected by other provincial or territorial laws, for example to protect the environment and cultural heritage sites, for the construction of roads, or directing mining, forestry, or oil and gas development. There may be legislation affecting land use in a particular area; examples

include, the Ontario *Greenbelt Act*, which protects environmentally sensitive land from urban development, or the BC *Agricultural Land Commission Act*, which creates authority to designate land solely for agricultural purposes. Provinces and territories may also have regional, district, or intermunicipal land use plans which may take precedence over municipal land use plans, and which should be taken into consideration in the collaborative land use planning process. [7, 17]

### OFFICIAL PLANS / LAND USE PLANS

Every province and territory requires municipalities to adopt a land use plan for their jurisdiction. Some of these plans must be formally approved by the provincial or territorial government (e.g., Prince Edward Island, Yukon), while others, such as in Alberta, do not require this step. These official land use plans—such as Municipal Development Plans, Area Structure Plans (ASPs), and Area Redevelopment Plans—guide how land is developed and used. They designate areas for residential, commercial, industrial, and recreational use, and may also flag zones of "nonconforming use" where current land uses don't align with the plan, often due to historical patterns. [8]

Once adopted, these plans carry the force of law, and any amendments or appeals must follow a structured process. Understanding these processes is especially important in contexts where land use planning intersects with Indigenous interests. For example, when a First Nation seeks to convert land to reserve status through the Additions to Reserve (ATR) process or purchases fee simple land within a municipal boundary, there can be important implications for how the land is integrated into local planning frameworks. These situations underscore the need for early and ongoing collaboration between First Nations and municipalities to clarify timelines, explain planning requirements, and align expectations. Working together to understand and navigate each other's processes ensures smoother integration, supports mutual respect and jurisdictional clarity, and ultimately contributes to more coordinated, effective land use planning.[8]

## First Nation & Municipal Land Use Planning Resources

### TREATIES DATABASE MAPPING (YELLOWHEAD INSTITUTE)

The Yellowhead Treaty Map is an accessible introduction to Indigenous perspectives on treaties in Canada. It describes the context, negotiation process and terms of treaties – as well as the implications of failing to honour them.

The Map depicts three eras of treaty-making: Pre-Confederation (1763-1867), Confederation-Era (1867-1921), and "Modern" Treaties (1975-Present). It also includes descriptions of the era of Indigenous diplomacy and an overview of non-treaty lands. The Treaty Map is a comprehensive overview of treaty in Canada.


***LINK: The Yellowhead Treaty Map***

## INDIGENOUS PEOPLES' COMMUNITY LAND USE PLANNING HANDBOOK IN BC (NAUT'SA MAWT TRIBAL COUNCIL)


The LUP Handbook describes a community-driven approach to LUP and emphasizes the importance of having a planning process driven by the unique culture and governance system of each First Nations community. It promotes an approach to LUP that is grounded in culture, the relationship to land, and traditional knowledge, Indigenous values, laws and protocols.

The LUP Handbook and the additional Toolkit and Resources documents provide a comprehensive overview of planning frameworks as well as a variety of planning tools for First Nations to consider.

***LINK: Indigenous Peoples' Community Land Use Planning Handbook in BC***

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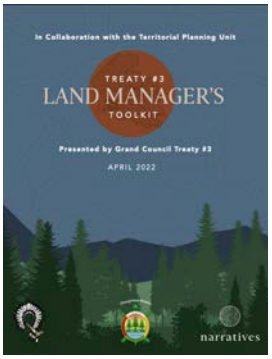
## GRAND COUNCIL TREATY #3: LAND MANAGER'S TOOLKIT (TERRITORIAL PLANNING UNIT, TPU)

The Land Manager's Toolkit was created to increase capacity and resources in Treaty #3 so communities can be equipped to understand and meaningfully participate in impact assessment and environmental assessment processes at the federal and provincial levels, according to principles contained within Manito Aki Inakonigaawin and Treaty #3 Nibi Declaration, with guidance from Anishinaabe Law.

***LINK: Land Manager's Toolkit via Territorial Planning Unit (TPU)***

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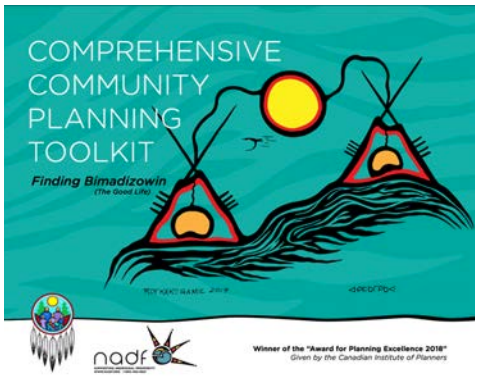



***LINK: Comprehensive Community Planning Toolkit***

## FINDING BIMADIZOWIN (THE GOOD LIFE): COMPREHENSIVE COMMUNITY PLANNING TOOLKIT

**(Nishnawbe Aski Development Fund, NADF)**

This toolkit was created to support First Nation communities in northern Ontario in their efforts to build a better future through Comprehensive Community Planning (CCP). The toolkit is specifically written for coordinators, project managers, and community planners and their partners. Much of the material will be helpful for band managers, staff, and Councillors who are trying to scope out and initiate a CCP.

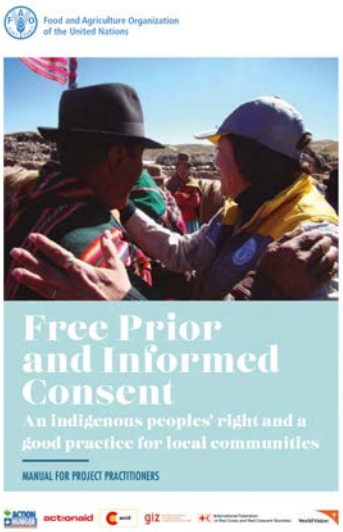
Many of the tools and the phase-by-phase process provided can be applied to other planning projects and to other communities, particularly First Nations across Canada.

### FREE PRIOR AND INFORMED CONSENT (FPIC) - MANUAL FOR PROJECT PRACTITIONERS (FOOD & AGRICULTURAL ORGANIZATION, FAO)

The Free, Prior and Informed Consent (FPIC) Manual is designed as a tool for project practitioners for a broad range of projects and programmes of any development organization, by providing information about the right to FPIC and how it can be implemented in six steps.

The FPIC manual was jointly prepared by The Food and Agriculture Organization of the United Nations (FAO) and various other organizations who provide support to developing countries.

***LINK:*** ***Manual for Project Practitioners***

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## First Nations Lands Management Support Organizations

### FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

Under the Framework Agreement (FAFNLMA), each signatory First Nation assumes full authority to administer and make laws over its reserve lands, natural resources, and environment once its Land Code is ratified. To support this transition, the First Nations Land Management Resource Centre (FNLMRC) provides technical guidance and practical resources, including assistance with developing Land Codes, undertaking community engagement, advancing land-use and environmental planning, and establishing land governance tools such as registries, policies, and related procedures tailored to each community.

The Resource Centre (FNLMRC) also supports access to funding available under the Framework Agreement for development and operational funding for implementing a Land Code. There are also dedicated funds that can assist with land-use planning initiatives, environmental planning and management, and addressing legacy land issues, including matters related to surveys and land registry requirements.

***LINK:*** ***https://labrc.com/resource-centre/***

### RESERVE LAND AND ENVIRONMENT MANAGEMENT PROGRAM (RLEMP)

Under the *Indian Act*, lands management support is provided to First Nations through the Reserve Land and Environment Management Program (RLEMP). This program provides funding, training, and capacity-building resources to support land-use planning, environmental management, permits, leases, and other land-governance responsibilities under the *Indian Act*. The RLEMP is structured so First Nations can progressively assume greater responsibilities, beginning at a training level and, with time and certification, moving toward operational control.

Within this framework, the National Aboriginal Lands Management Association (NALMA), acts as a key delivery partner. Through its training and professional development arm, the Professional Lands Management Certification Program (PLMCP), NALMA provides First Nation lands managers with accredited post-secondary and technical training to meet the knowledge and skills required for effective land and environment management.

In addition, NALMA offers technical support, networking, and resources via its Regional Lands Associations, along with land use planning, environmental planning, and surveying services.

***LINK: https://nalma.ca/funding/land-use-planning***

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## Next Steps: Continued Relationship Building and Collaborative Planning

Strong relationships and clear communication between First Nations and municipalities are essential for effective collaborative land use planning and economic development. Establishing connections at the lands and planning staff level is particularly important, as these professionals handle day-to-day interactions on land management, zoning, and infrastructure planning in the region. Building trust through consistent engagement—whether through working groups, joint committees, or formal agreements—creates a foundation for long-term cooperation. By prioritizing relationship-building at both the leadership and operational levels, First Nations and municipalities can create sustainable, well-planned communities that benefit all residents.

***For more information on the First Nation – Municipal Community Economic Development Initiative (CEDI), please visit: https://www.cedipartnerships.ca/***

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8. *Backgrounder—Treaty Land Entitlement, http://www.aadnc-aandc.gc.ca/eng/1100100034822/1100100034823*
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    c. *Nova Scotia: Municipal Government Act*
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    f. *Ontario: Municipal Act, 2001, Planning Act Manitoba: Municipal Act, Planning Act*
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