



**DAVID SUZUKI
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TRIBAL PARKS AND INDIGENOUS PROTECTED AND CONSERVED AREAS

LESSONS LEARNED FROM B.C. EXAMPLES

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TRIBAL PARKS AND INDIGENOUS PROTECTED AND CONSERVED AREAS: LESSONS FROM B.C.

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**Tla-o-qui-aht
Tribal Parks.**

PHOTO COURTESY
JEREMY WILLIAMS/
RIVER VOICES

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An aerial photograph of a mountain valley. In the background, there are snow-capped mountain peaks under a blue sky with some clouds. The middle ground is a lush green valley filled with dense evergreen forests. A winding river flows through the valley, reflecting the sky. The foreground shows more forested slopes.

EXECUTIVE SUMMARY

DASIQOX TRIBAL PARK, PHOTO RIVER VOICES PRODUCTIONS

INDIGENOUS COMMUNITIES ACROSS CANADA are taking the lead in protecting the places that are essential to them. Indigenous Protected and Conserved Areas (IPCAs) aim to safeguard Indigenous rights—including the right to exercise free prior and informed consent—while also maintaining biodiversity, and securing a space where communities can actively practice Indigenous ways of life. The initiatives by Indigenous groups in B.C. to establish IPCAs that are profiled in this report provide some excellent examples of Indigenous-led land stewardship and governance.

Experts and Indigenous community knowledge-holders involved in establishing K'ih tsaa?dze, Nexwagwež?an – Dasiqox Tribal Park, and Tla-o-qui-aht Tribal Parks, as well as advisers from the Canadian Indigenous Circle of Experts, provided interviews and shared stories to inform this report. Their voices are woven throughout it to bring forward a diverse set of themes ranging from the role of elders in creating the vision for IPCAs, to sustainable livelihood initiatives, to the need to restore areas that have been impacted by industrial disturbance.

This report builds on some important foundational work from previous studies including the recent work completed by the Canadian Indigenous Circle of Experts (ICE) titled *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit of Practice and Reconciliation*.¹ The ICE report sets out conceptual recommendations for establishing a system of Indigenous Protected and Conserved Areas across Canada.

¹ Indigenous Circle of Experts, *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit and Practice of Reconciliation*, March 2018, iccaconsortium.org/index.php/2018/03/28/launch-of-indigenous-circle-of-experts-report-we-rise-together/

Recent changes in government policy contexts have hinted at supporting IPCAs, but legislative tools to secure these areas from development pressures are still not available.

The report explores six key themes that emerged from the interviews and literature review including:

1. Community involvement and engagement;
2. Indigenous governance;
3. Land use and management planning;
4. Management of industrial disturbance;
5. Establishing a healthy economy for sustainable livelihoods; and
6. Operational challenges.

KEY ELEMENTS

Some of the lessons learned profiled in the report are important elements in establishing an IPCA.

- **A clear vision and mandate**—Many knowledge holders and leaders emphasized the importance of working with elders and community members to identify a vision for each IPCA, so that all further work is rooted in a strong mandate based on the voices of community members.
- **Utility of land-use planning**—Indigenous land use planning processes can serve as a useful tool, when driven by and tailored to Indigenous communities, for developing the guidelines that leaders, staff, and external agencies need to manage the IPCA.
- **Interim protection**—A key theme is the critical need for interim measures to protect Indigenous territories while communities go through the process of management planning and negotiations.
- **Proactive and strategic communications**—Taking a proactive approach to communications about an IPCA was highlighted as a key aspect of the work in securing IPCAs. This point includes open communications between community members and leadership, as well as taking the lead in messaging to the broader public, other governments, and interest groups.
- **Internal cooperation**—Some leaders highlighted the importance of nurturing internal cooperation among and between Indigenous communities and leaders, in order to effectively negotiate for, and manage, IPCAs within their territories.

The initiatives by Indigenous groups in B.C. to establish IPCAs that are profiled in this report provide some excellent examples of Indigenous-led land stewardship and governance.

- **Relationships with other governments** — Declaring an IPCA and governing it means that Indigenous governments face decisions about how they want to relate to other governments on all matters pertaining to the new jurisdictional declaration.
- **Role for restoration** — IPCAs are generally in areas that face impacts from a variety of sources (e.g., industrial activity, forest fires, road-building, motorized vehicle use), and Indigenous peoples often place a high priority on healing or restoring the land and people, together.
- **The importance of culture and language in IPCA establishment** — Indigenous protected areas are as much about practising ways of life and holding space for peoples' cultural relationships, as they are about the land. Culture and language revitalization are central to IPCAs.

The report includes a checklist of tools for those initiating work on IPCA establishment.

The work of Indigenous communities in establishing IPCAs clearly points to the need for a transformative shift in the way that conservation areas are approached in Canada. This shift will require that resources be directed to Indigenous peoples and nations for planning, capacity-building, and nation-building. It will also require a re-examination of protected area jurisdiction and management at all levels of government.

The work of Indigenous communities in establishing IPCAs clearly points to the need for a transformative shift in the way that conservation areas are approached in Canada.

Ultimately, IPCAs in B.C. and Canada are rooted in the exercise of constitutionally upheld Indigenous rights in accordance with Indigenous laws. Exercising agency in how these lands are managed and protecting and conserving space to practise Indigenous preferred livelihoods on the land may seem “new,” but these practices are much older than our current governance structures and land jurisdiction.

We must work together to change the structures that govern how lands are managed so that Indigenous communities are empowered with capacity, tools and a supportive regulatory landscape to successfully establish and govern IPCAs.



K'IH TSAA?DZE TRIBAL PARK PHOTO COURTESY EMMA GILCHRIST

SECTION 1

INTRODUCTION TO INDIGENOUS PROTECTED AND CONSERVED AREAS



PHOTO RACHEL PLOTKIN

“Our people said without a doubt they wanted a tribal park, because they wanted our people to be in that driver’s seat. So that would be us managing the process and managing the territory.” — Marilyn Baptiste, Xeni Gwet’in²

INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAs)³ are a model for land management in Canada that supports both ecosystems and human use of the land. These lands are managed by the Indigenous communities on whose traditional territory the protected areas are established, in ways that are culturally appropriate and sustainable. IPCA designations link Indigenous communities to the land through active practices of Indigenous ways of life.

2 Marilyn Baptiste, who has served as Chief, and as a Councillor for Xeni Gwet’in First Nation Government. May 7, 2017a, interview XG01, transcript.

3 IPCAs are often referred to in international arenas as Indigenous and Community Conserved Areas, or ICCAs. In Canada, they are also referred to as Indigenous Protected Areas or Tribal Parks. ICE uses a definition: IPCAs are lands and waters where Indigenous governments have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems. *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit of Practice and Reconciliation*, 2018, p. 35.

Many existing protected areas exclude Indigenous practices and, in some instances, forcibly removed Indigenous Peoples from the land.⁴ Supporting IPCAs advances reconciliation by recognizing and upholding Indigenous rights (including treaty rights and the right to self-determination) and Indigenous peoples' self-described responsibilities to manage and steward their traditional territories.

There are many forms of IPCAs. This report brings forward some lessons learned from three tribal parks (a form of IPCA) in Canada: two emerging examples, and one of the first tribal parks established in Canada:

- **K'ih tsaa?dze Tribal Park** declared by Doig River First Nations in 2011;
- **Nexwagwež'an – Dasiqox Tribal Park** established by Yunesit'in and Xeni Gwet'in (Tsilhqot'in communities) in 2014; and
- **Tla-o-qui-aht Tribal Parks – Wahnah'juss Hilth'hoo'iss (Meares Island) Tribal Park** established in 1984 by Tla-o-qui-aht and Ahousaht First Nations. (Tla-o-qui-aht have established three additional Tribal Parks: Ha'uukmin, Tranquil and Esowista Tribal Parks, collectively known as the Tla-o-qui-aht Tribal Parks).

(See map and profiles of the three parks on the following pages.)

This report builds on the Indigenous Circle of Experts (ICE) report for Canada's Pathways to Target 1, 2020, *We Rise Together* (2018), which the David Suzuki Foundation and the Firelight Group support. The ICE report calls for nongovernmental organizations and other allies to support and partner with Indigenous governments as they develop, implement and manage IPCAs.⁵

The authors have collaborated with experts from Doig River, Yunesit'in, Xeni Gwet'in and Tla-o-qui-aht First Nations, as well as other advisers, to bring forward some lessons learned from practitioners. Research has been compiled from stories and insights shared by informants gained through their experiences in establishing IPCAs. This report can be used in three ways:

1. By the Indigenous Peoples who contributed to this report to gain support for IPCAs;
2. As a resource for other Indigenous people and First Nations who want to establish their own IPCAs; and
3. To build broader awareness and understanding of IPCAs.

4 Mulrennan M., "Aboriginal peoples in relation to resource and environmental management," in *Resource and Environmental Management in Canada: Addressing Conflict and Uncertainty*, ed. Mitchell B, 5th ed. (Toronto: Oxford University Press, 2015); Dowie M., *Conservation Refugees: The Hundred-Year Conflict between Global Conservation and Native Peoples* (Cambridge: MIT Press, 2009); Notzke C., *Aboriginal Peoples and Natural Resources in Canada* (North York: Captus University Publications, 1994).

5 Indigenous Circle of Experts, *We Rise Together*, Recommendation #16, p. 61.

DASIQOX

NAME: Nexwagweʔan – Dasiqox Tribal Park

LOCATION: 300 km north of Vancouver

BACKGROUND: In Tsilhqot'in territory, a precursor to the Dasiqox Tribal Park was the Nemiah Aboriginal Wilderness Preserve, established by the Xení Gwet'in First Nation in 1989. Tsilhqot'in First Nation established Dasiqox Tribal Park as an expression of its right to govern and manage unceded territory. The motivation to establish the park came directly from elders, who insisted on protecting an area for the continued practice of rights and responsibilities to the land.

ESTABLISHED: 2014

SIZE: almost 300,000 hectares

MAP: dasiqox.org/about-us/map/

K'IH TSAA?DZE

NAME: K'ih tsaa?dze Tribal Park
(K'ih tsaa?dze means "old spruce" in the Dane-za, or Beaver, language)

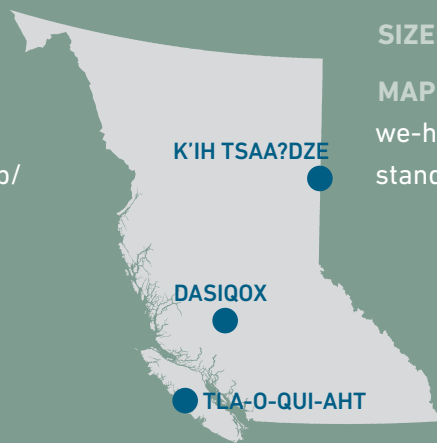
LOCATION: Northeastern B.C.,
Northwestern Alberta

BACKGROUND: K'ih tsaa?dze has long been a place of spiritual importance to the community members of Doig River. The nation has negotiated logging deferrals with many of the companies operating within K'ih tsaa?dze's boundaries, and is currently in conversations with the provinces of B.C. and Alberta to explore co-governance models.

ESTABLISHED: 2011

SIZE: 90,000 hectares

MAP: thenarwhal.ca/it-s-last-place-we-have-our-people-doig-river-s-last-stand-amidst-fracking-boom/



TLA-O-QUI-AHT

NAME: Tla-o-qui-aht Tribal Parks – Wahnah'juss Hilt'h'hoo'iss (Meares Island) Tribal Park

LOCATION: At the heart of the Clayoquot Sound UNESCO Biosphere Reserve on the west coast of Vancouver Island

BACKGROUND: Tla-o-qui-aht Tribal Park (otherwise known as Meares Island) was declared a Tribal Park by Ha'wiih (hereditary chiefs) in 1984 in response to unsustainable logging practices that were impinging on traditional territories. Since then, the Tla-o-qui-aht have established three additional tribal parks: Ha'uukmin (Kennedy Lake Watershed), Tranquil Tribal Park and Esowista Tribal Park.

ESTABLISHED: 1984

SIZE: ~ 21,249 hectares

MAP: wildernesscommittee.org/sites/all/files/publications/2013_tla-o-qui-aht_Paper-Web-2.pdf

This report identifies core building blocks for establishing IPCAs. It reviews the policy context for IPCAs (Section 1), explores reasons for establishing IPCAs (Section 2) and identifies themes shared among various Indigenous protected area initiatives (Section 3) such as the importance of community engagement, the challenges in managing industrial activities, and the role of Indigenous governance. This report also identifies the emerging theme of the need for restoration areas in highly degraded landscapes (Section 4), and offers a summary of lessons shared and a checklist of tools for establishing IPCAs (Section 5).

POLICY CONTEXT FOR IPCAS IN CANADA AND INTERNATIONALLY

“If Indigenous cultures can continue to thrive into the future, then you are doing something right because the land is so central to Indigenous cultures. If you have a healthy culture, then the land will be healthy as well.” — Dahti Tsetso, Resource Management Coordinator, Dehcho First Nations⁶

Currently, protected areas are categorized through a variety of jurisdictional designations that include:

- UNESCO world heritage sites and biosphere reserves;
- National parks;
- Provincial parks;
- Conservancies; and
- Co-management agreements.

These existing formal designations have had limited success in supporting Indigenous Peoples' governance and right to manage the land. By asserting an Indigenous vision for land and resource use and an Indigenous or co-governance framework for decision-making, Indigenous communities that establish IPCAs are exercising a proactive form of leadership.

IPCAs are an assertion of Indigenous rights that resonate with section 35 of Canada's Constitution, as well as international declarations that Canada has pledged to support, such as the United Nations Declaration on the Rights of Indigenous Peoples, in a form that is new in a Canadian context. Although there are clear links between the recognized rights of Indigenous Peoples and those asserted by First Nations governing IPCAs, it does not follow that IPCAs are, themselves, appropriately recognized and supported by provincial, territorial or federal governments in Canada. The understanding of conservation among Canadians must undergo a transformative shift to advance and secure the establishment of IPCAs.

⁶ Dahti Tsetso, interview by the Indigenous Circle of Experts, *The Indigenous Circle of Experts year in review 2017*, Facebook, March 27, 2018. facebook.com/CanadianIPCAs/videos/345844242602744/.

FPIC, UNDRIP and reconciliation

“Built into the constitutional foundation stones of this country is a commitment to respect one another and to respect the water and the land that we all depend on.”
— Eli Enns, co-chair of ICE⁷

UNDRIP and free, prior and informed consent

At the United Nations in New York on May 9, 2016, Minister of Crown-Indigenous Relations and Northern Affairs Carolyn Bennett and Minister of Justice and Attorney General Jody Wilson-Raybould announced that Canada fully endorsed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (see sidebar on page 14).⁸

On-the-ground realities for Indigenous Peoples in British Columbia and throughout Canada have included destruction and degradation of natural ecosystems, steep declines in and loss of local wildlife populations, and the overall failure of provincial, territorial and federal governments to effectively manage cumulative impacts to ensure that where industrial activities occur, ecosystem health is maintained. These experiences have led to a significant mistrust of provincial, territorial and federal governments as land managers.

As conversations that informed this report revealed, Indigenous communities are still not sufficiently (if at all) included at decision-making tables pertaining to land-use decisions.

The mistrust of government is rooted in Canada's history of colonialism, including systemic racism, policies to eliminate Indigenous governments and ignore Indigenous rights, destruction of Indigenous social institutions, banning of Indigenous languages and spiritual practices, con-

fiscation and destruction of objects of spiritual value, forced relocation and residential schools.⁹ This history has created enduring legacy effects.

As conversations that informed this report revealed, Indigenous communities are still not sufficiently (if at all) included at decision-making tables pertaining to land-use decisions. One community member expressed frustration at being constantly consulted for resource extraction projects but, no matter what was said, all consultations seemed to lead to a project outcome of “yes.”¹⁰

7 Eli Enns, interviewed by Steve Paikin, *Checking in on Conservation in Canada*, TVO, March 26, 2018.

8 “United Nations Declaration on the Rights of Indigenous Peoples,” adopted September 13, 2007, G.A. Res. 61/295, U.N. Doc. un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html.

9 List adapted from the introduction of the TRC report. Truth and Reconciliation Commission of Canada. “Honouring the Truth, Reconciling for the Future,” 2015. trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf.

10 Clarence Wilson, West Moberly First Nation, conversation, June 12, 2017.

To date, the federal government's progress in upholding FPIC is merely in the form of commitments made to create new processes and approaches aimed at securing consent.¹¹ It has not introduced any new policies to enshrine FPIC principles, for which it has come under fire.¹²

Reconciliation

"Without recognition through Crown legislation, any protected area that is led by Indigenous Peoples could be an area of conflict. Is that reconciliation? I don't think so." — Steven Nitah, Indigenous Leadership Initiative¹³

The commitment to advance FPIC is coupled with a national recognition of the need for reconciliation with Indigenous Peoples in Canada, rooted in the space created by the Truth and Reconciliation Commission for Canadians to hear stories about, acknowledge and move toward healing the intergenerational trauma from the country's history of residential schools.

The Truth and Reconciliation report outlines that, in addition to the devastation caused by residential schools,

Canada asserted control over Aboriginal land. In some locations, Canada negotiated Treaties with First Nations; in others, the land was simply occupied or seized. The negotiation of Treaties, while seemingly honourable and legal, was often marked by fraud and coercion, and Canada was, and remains, slow to implement their provisions and intent.¹⁴

Reconciliation must address the forced removal of Indigenous Peoples from their lands, broken treaty processes and promises, and the exclusion of First Nations from decisions about how their traditional territories were and are managed. In this context, IPCAs are initiatives that warrant the respectful attention of provincial, territorial and federal governments committed to advancing reconciliation, as well as stakeholders and citizens.

11 "Principles respecting the Government of Canada's relationship with Indigenous peoples," Government of Canada, last modified February 14, 2018, justice.gc.ca/eng/csj-sjc/principles-principes.html.

12 James Munson, "Wilson-Raybould defends stand on UNDRIP adoption," *iPolitics* (July 22, 2016), <http://ipolitics.ca/2016/07/22/wilson-raybould-defends-stand-on-undrip-adoption/>.

13 Steven Nitah, March 20, 2018, interview TE03, transcript.

14 "Honouring the Truth, Reconciling for the Future," Truth and Reconciliation Commission of Canada, p. 1.



CONSULTATION:

Although governments are bound by Supreme Court decisions (Haida, Taku River, Mikisew Cree, Little Salmon/Carmacks and Rio Tinto)^a to consult with Indigenous Peoples prior to development activities in traditional territories and to accommodate their interests, in many instances the consultation processes have been devolved to industry, and the consultation efforts are often deemed insufficient by First Nations.

^a *Government of Canada and the duty to consult*, aadnc-aandc.gc.ca/eng/1331832510888/1331832636303#sec1

JUVENILE BALD EAGLE
PHOTO COURTESY SADIE PARR

“As informed by the UN Declaration, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.”

GOVERNMENT OF CANADA'S 2017 PRINCIPLES PERTAINING TO ITS RELATIONSHIP WITH INDIGENOUS PEOPLES

In July 2017, the Department of Justice released 10 principles respecting the Government of Canada's relationship with Indigenous Peoples. These include:

PRINCIPLE ONE:

“The Government of Canada recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government. ...This principle reflects the UN Declaration's call to respect and promote the inherent rights of Indigenous peoples. This includes the rights that derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, laws, and philosophies, **especially their rights to their lands, territories and resources.** (emphasis added) ...

As informed by the UN Declaration, Indigenous peoples have a unique connection to and **constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.**” (emphasis added)

PRINCIPLE SIX:

“The Government of Canada recognizes that meaningful engagement with Indigenous peoples **aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.**” (emphasis added)

“Principles respecting the Government of Canada's relationship with Indigenous peoples,” Government of Canada, 2018, justice.gc.ca/eng/csjsjc/principles-principes.html.



According to Steven Nitah, an advisor to the Indigenous Leadership Initiative, “The role of governments should be as a partner, as was originally intended in the treaties. The way I understand it is that we agreed to share the land and the benefits from it. That’s the mandate that I’ve been following from the beginning, in the spirit and intent of the peace and friendship treaty.”¹⁵

Ultimately, the potential for governments to recognize and uphold IPCAs represents a significant opportunity in the path toward honouring FPIC and advancing reconciliation.

Indigenous Circle of Experts on IPCAs and Target 1

IPCA establishment in Canada can be nested within another international commitment: the federal Pathway to Canada Target 1.¹⁶ Pathway to Canada Target 1 is a process established to fulfill Canadian commitments as part of the global Convention on Biological Diversity, Aichi Target 11, to achieve a target of 17 per cent protection for land and freshwater by 2020. The goal of the federal government’s Pathway to Canada Target 1 is: “In partnership with Indigenous Peoples and relevant sectors of Canadian society, produce a pathway, grounded in science and traditional knowledge, to establish a coordinated network of parks and conservation areas throughout Canada that will serve as the cornerstone for biodiversity conservation for generations to come.”¹⁷

As part of this process, a National Advisory Panel and an Indigenous Circle of Experts (ICE) were created. ICE facilitated a process to create recommendations for the Canadian federal government to meet the target. In 2018, ICE released the report *We Rise Together: Achieving Pathway to Canada Target 1 through the Creation of Indigenous Protected and Conserved Areas in the Spirit of Practice and Reconciliation*. According to the report, “few legal mechanisms currently exist to formally recognize and establish an IPCA. For the most part, protected area laws in Canada either conflict with or do not allow the types of governance arrangements or uses that would be the basis of most IPCAs.”¹⁸

15 Steven Nitah, March 20, 2018, interview TE03, transcript.

16 “Priorities for 2018,” IUCN Canadian Committee. <https://cc-iucn.ca/category/pathway-to-canada-target-1/>.

17 “Introduction,” Pathway to Canada Target 1. https://cciuendotca.files.wordpress.com/2016/04/pathway-to-canada-target-1-update-for-cc_iucn_may2017.pdf

18 Indigenous Circle of Experts, *We Rise Together*, p. 43.



K'IH TSAA'DZE TRIBAL PARK
PHOTO RACHEL PLOTKIN

RECONCILIATION AND

LAND: “How can we ‘advance the process of Canadian reconciliation’ without talking about land? ... Land is an important conversation for Indigenous Peoples and Canada to have because land is at the root of our conflicts. Far from asking settler Canadians to pack up and leave, it is critical that we think about how we can better share land. ... If reconciliation is to be meaningful, ... It means giving back land, so we can rebuild and recover from the losses of the last four centuries and truly enter into a new relationship with Canada and Canadians.”

— Leanne Simpson

Leanne B. Simpson, “Land and Reconciliation: Having the Right Conversations.” *Electric City*, March 5, 2018, electriccitymagazine.ca/2016/01/land-reconciliation/.

International guidance recognizes protected and conserved areas that are:

- Governed by governments;
- Governed by private landowners;
- Co-governed by governments, private landowners, or Indigenous Peoples and local communities; or
- Governed by Indigenous Peoples and local communities.¹⁹

There is potential alignment between IPCA establishment and the federal government's commitment to the Aichi protected areas targets under the UN's Convention on Biological Diversity, especially if the federal government provides adequate resources and, in concert with provinces and territories, appropriate regulatory frameworks.

The ICE process developed specific recommendations on how Canada can work with Indigenous governments to meet Target 1 by 2020 and go beyond the target.²⁰ Those recommendations include:

- "For IPCAs or other protected areas already declared by Indigenous governments, such as Tribal Parks, federal, provincial and territorial governments should formally respond to and engage in good faith dialogue with Indigenous governments to explore appropriate recognition, level of protection and governance as sought by the Indigenous government²¹"; and
- "ICE recommends that federal, provincial, territorial and Indigenous governments work together on an ongoing basis to review —and, where necessary, amend— protected area legislation, policies and tools to support IPCAs."²²

Nadine Crookes, director of Parks Canada's natural resource conservation branch said,

I think Canada's ability to work with Indigenous people to put Indigenous Protected and Conserved Areas on the ground represents an important shift that we need to make in Canada writ large, in which Indigenous people play a leadership role in conservation. ... We are moving towards a governance model that is reflective of having seats at the table for Indigenous peoples, and ensuring that the seats are seats of leadership ... we're really looking for a shift in the way we do conservation in Canada, so Indigenous People can have a leadership role, in order to support a more connected network of protected areas. The health and well-being of lands and waters is often directly linked to the health of Indigenous communities — that's why this work is important to all of us.

19 UCN, Governance of Protected Areas, as found at: iucn.org/sites/dev/files/import/downloads/iucn_governance_complete_no_sig_9_09.pdf

20 Indigenous Circle of Experts, *We Rise Together*, p. 58-67.

21 Ibid., p. 60.

22 Ibid.



International examples of IPCAs

New Zealand and Australia's approaches to Indigenous management and stewardship of lands and places are setting unique precedents of interest to Indigenous Peoples in Canada that are particularly relevant due to the shared colonial histories and use of British Commonwealth legal common law.

With its Te Urewera Act (2014), the New Zealand government formally gave up ownership of the lands known as Te Urewera, which had been a designated national park. Instead, it recognized Te Urewera as a legal entity with "all the rights, powers, duties, and liabilities of a legal person."^a With legal personhood, "lawsuits to protect the land can be brought on behalf of the land itself, with no need to show harm to a particular human."^b

Australia formally recognized Indigenous Protected Areas as part of its National Reserve System, funding management, planning and establishment. IPAs collectively comprise more than 40 per cent of the Australian National Reserve System of protected areas.^c

Australian IPAs and the International Union for Conservation of Nature guidelines on which they are based are not without problems. A fundamental critique is that the conservation ethic that frames and structures IUCN guidelines on the establishment of IPCAs remains rooted in a non-Indigenous separation of nature and culture. That perceived separation can slot Indigenous knowledge into management frameworks that ultimately reinforce conventional approaches to management, and continue to leave protected areas vulnerable to government pressures promoting resource extraction.



The New Zealand government formally gave up ownership of the lands known as Te Urewera and recognized it as a legal entity with "all the rights, powers, duties, and liabilities of a legal person."

With legal personhood, "lawsuits to protect the land can be brought on behalf of the land itself, with no need to show harm to a particular human."

PHOTO: TE UREWERA, COURTESY THOMAS JUNDT,/FLICKR COMMONS

MAP: ADAPTED FROM COSTELLO, WIKIMEDIA COMMONS

a New Zealand Legislation, "Te Urewera Act 2014" (Document, 2014), p. 16.

b Rousseau, Bryant. (2016) "In New Zealand, Lands and Rivers Can Be People (Legally Speaking)." New York Times. July 13, 2016.

c Australian Government, "Australia's Indigenous Protected Areas" (Document, 2015), p. 1.

Crookes concluded,

*The current federal government has been particularly clear that reconciliation and nation-to-nation relationships are a priority. Our task is to find the next generation of conservation in Canada and IPCAs will be an important part of it, and the tools to support IPCAs will be developed in due course — it's a great opportunity.*²³

Conservation objectives should not be reduced to, or limited by, ecologically and culturally arbitrary targets such as 17 per cent. The Indigenous Circle of Experts' recommendations clearly call for the government to support IPCAs beyond Target 1 and to support IPCAs that may not be considered in achieving Target 1.



Tla-o-qui-aht Tribal Parks. PHOTO COURTESY CHRISTOPHER ROY

²³ Nadine Crookes, August 3, 2017, interview TE02, transcript.



SECTION 2

WHY ESTABLISH AN IPCA?

“[It] is about us setting down our laws of the land and water and have that as the management in the title lands, in Dasiqox Tribal Park and elsewhere, right? And so that we can sustain and maintain the health of the land for the future.”
— Marilyn Baptiste, Xeni Gwet’in²⁴

Tla-o-qui-aht
Tribal Parks.

PHOTO COURTESY
CHRISTOPHER ROY

THE INDIGENOUS PEOPLES and First Nations interviewed for this report described numerous reasons for establishing tribal parks or other types of IPCAs. Those motivations are deeply layered with the variety of circumstances faced by Indigenous peoples and communities—differences in history, cultures, communities, political strategies and social, economic and environmental situations. In addition, geographical region, industrial impacts, community leadership style and relationships with provincial/federal governments also influence Indigenous communities’ rationale and motivations for establishing IPCAs.

Through this study, a number of common themes were identified, rooted in two key concepts: the assertion of Indigenous rights and responsibilities, particularly concerning the land, and the protection, conservation and revitalization of Indigenous lands and associated cultures.²⁵

²⁴ Marilyn Baptiste, supra note 2, June 16, 2017, interview XG01, transcript.

²⁵ Diversity of Indigenous natures, cultures, languages and spirits is often collectively referred to as “biocultural diversity” in the international arena. (See for example iucn.org/theme/social-policy/our-work/bio-cultural-diversity)

The key themes are described below as follows:

1. Indigenous title, rights, stewardship and spiritual places in IPCAs;
2. Protecting lands, waters, wildlife;
3. Sharing language, knowledge and culture; and
4. Healing people and the land together.

INDIGENOUS TITLE, RIGHTS, STEWARDSHIP AND SPIRITUAL PLACES IN IPCAs

“Since my dad was chief, as far as I’ve always learned, governments in Canada have reserved parks for their own benefit for later use. And, as a reflection of that, a couple of years ago, B.C. passed, with Christy Clark, Bill F4 to open parks to [mining] exploration. So that’s the reality of that.” — Marilyn Baptiste, Xení Gwet’in²⁶

Tsilhqot’in and Doig River First Nation study participants described goals for how their lands should be governed and managed that differ from those of conventional parks or protected areas. For example, in addition to asserting authority over the management of the Dasíqox Tribal Park, key Tsilhqot’in knowledge-holders noted a distrust of provincial parks in B.C. as a result of recent government policies that could open provincial protected areas to industrial extraction. Tsilhqot’in First Nation established Dasíqox Tribal Park as an expression of their right to govern and manage unceded territory.

Doig River First Nation first defined the spatial region of K’ih tsaa’dze Tribal Park according to their own protocols across a provincial boundary, and then approached British Columbia and Alberta to establish co-governance arrangements for the area. Tla-o-qui-aht Tribal Park managers developed a strategic plan based on watersheds and Indigenous law that creates economic development and sustainable job opportunities in ecotourism, renewable energy, ecosystem services and non-timber forest products.

In each of the examples within this report, First Nations established protected and conserved areas to practise traditional ways of life while exercising governance over land management and economic activities.

Many knowledge-holders referenced the essential spiritual importance of the areas they were working to protect as central to their rationale for establishing IPCAs. For knowledge holders who informed this study, the areas protected had spiritual power and significance critical to ancestors’ spirits, and to contemporary and future generations’ ability to connect with them.

²⁶ Marilyn Baptiste, Xení Gwet’in, June 16, 2017, interview XG01, transcript.

According to community members from Doig River First Nation: “And then one part on that K’ih tsaa?dze is our spiritual ground, too, so we really respect that, that area, too, besides living off it.”²⁷

“[The tribal park is] the protection of the land for future generations. We want them to go to that spiritual place and that’s why we’re doing a lot of work with the elders, and archiving all their stories, and pictures, so future generations will know the significance of that area. It’s the biggest thing and we want to protect that.”²⁸

PROTECTING LANDS, WATERS, WILDLIFE

“Relationships with the land and Indigenous people in their territories are very strong — every Indigenous community has their own place that they want to protect while they still have it.” — Steven Nitah, Indigenous Leadership Initiative²⁹

The IPCAs reviewed in this study were established partly as a response by communities facing pressures from resource industries, including oil and gas, forestry, mining, hydroelectric, agriculture and wind energy. Many knowledge-holders spoke about the most basic and urgent need to protect and conserve lands, waters, plants, forests and wildlife, as well as natural habitats and systems, corridors and places as a whole. The strongest motivation was to protect lands from unsustainable industrial activities.

Northeastern B.C., where Doig River First Nation is located, has been particularly affected by oil and gas exploration and development. Tsilhqot’in communities continue to face ongoing pressure from mining and forestry. Tla-o-qui-aht Tribal Park areas were initially established in response to the threat of logging and more recently are responding to mining pressures. Tla-o-qui-aht managers have highlighted the importance of moving away from extractive industrial processes and focusing on developing sustainable economies to support community needs.³⁰ These may include fish hatcheries, run-of-river hydroelectricity and ecotourism, among others.

27 Margaret Davis, Doig River First Nation, June 14, 2017, interview DR01, transcript.

28 Chief Trevor Makadahay, Doig River First Nation, June 14, 2017, interview DR05, transcript.

29 Steven Nitah, March 20, 2018, interview TE03, transcript.

30 Gordon Hoekstra, “Vancouver Island First Nation declares tribal park to protect land”, *Vancouver Sun*, April 13, 2014. vancouversun.com/Vancouver+Island+First+Nation+declares+tribal+park+protect+land/9735029/story.html

“When we say ‘our land’ it’s not property that is claimed but relation to the land that is defined.”
— Melissa Mollen Dupuis, Innu Nation

Source: Melissa Mollen Dupuis, personal communication, June 7, 2018.



PHOTO RACHEL PLOTKIN

Indigenous communities in B.C. face intense industrial pressures

The primary industrial-scale resource activities referenced by knowledge-holders in this study include logging, mining, oil and gas extraction and large-scale hydroelectric power generation.

Indigenous communities are also affected by other large-scale landscape changes, including industrial agricultural activities (farming and ranching) and urban development that accompanies industrial activity. Industrial resource extraction exploration and infrastructure development includes clearing linear corridors for roads, pipelines and seismic lines; clearings and setbacks around key infrastructure and equipment; development of power corridors and facilities; establishment of work camps; water extraction and discharges; exploration drilling and wellheads; and a number of other social, environmental and cultural impacts.

The extent of industrial impacts varies from community to community. First Nations in Treaty 8 in British Columbia are some of the most heavily affected communities. For example, in Blueberry River First Nations, 73 per cent of the area inside the traditional territory is within 250 metres of an industrial disturbance and approximately 84 per cent is within 500 metres of an industrial disturbance.^a The traditional territory of Blueberry River First Nations overlaps with the traditional territory of Doig River First Nation.

Other industrial activities that drive Indigenous communities to establish their own protected areas include (but are not limited to) human impacts and uses of lands that degrade or diminish the ability of Indigenous Peoples to live, practise and sustain their own rights in relation to the land. For example, among the numerous pressures that influence First Nations to assert their rights and responsibilities to make decisions about how lands should be managed are pollution and contamination of water, plants and animals, increased access to the backcountry resulting from road networks, and the influx of hunters from other regions.

^a Eliana MacDonald, "Atlas of Cumulative Landscape Disturbance in the Traditional Territory of Blueberry River First Nations, 2016" (Report prepared for Blueberry River First Nations and the David Suzuki Foundation, June 2016), p. 6.

IPCAs are places where people, animals, waters, ecosystems, culture, ways of life, language, knowledge and spirits can be protected from the impacts of unwanted industrial activity. They are also places where Indigenous communities can cultivate preferred sustainable economies.

Some knowledge-holders explained that it is not only their right but their *responsibility* to care for or steward the lands, waters, animals, plants and sacred places in the IPCAs they have declared. This sense of combined rights and responsibilities was expressed by each of the communities profiled in this report.

As a Doig River community member described,

*Good friend of mine, he's a logger, he tried to log it. I told him 'You can't log it. We're saving this. You log it and then where we going to camp? It'll be just clear cut, and all those big trees will be gone forever.'*³¹

Tsilhqot'in leaders explained that the motivation to establish Dasiqox Tribal Park came directly from elders, who insisted on protecting an area for the continued practice of rights and responsibilities to the land:

*...our elders had said: because of all of the logging that is going on around us, with all of the other Tsilhqot'in communities, we needed to set out our area of interest, to protect our area, to be able to carry on our duties and responsibilities.*³²

SHARING LANGUAGE, KNOWLEDGE AND CULTURE

"Let's let all the kids grow up in there. They're the next generation. They lose that, that part of the land. They, I grew up, our ancestors grew up with it." — Elder, Doig River First Nation³³

At the heart of IPCAs is the imperative to protect, conserve and revitalize the culture of the Indigenous communities establishing them. Some knowledge-holders are responding to an urgent need to protect places where community members can practise, learn and share traditional cultural ways of living and knowing. Many knowledge holders conveyed that the people, culture and their lands are inseparable.

*Yes, it was tough back then, but our people lived by the laws [of] the land. And they lived with the seasons with respect to mother earth.*³⁴

31 Gerry Attachie, Doig River First Nation, June 14, 2017, interview DR02, transcript.

32 Marilyn Baptiste, Xení Gwet'in, May 7, 2017, interview XG01, transcript.

33 Elder, Doig River First Nation, June 14, 2017, interview DR03, transcript.

34 Marilyn Baptiste, Xení Gwet'in, May 7, 2017, interview XG01, transcript.

The role that language and stories play in defining a sense of place, as well as traditions, history and survival skills, was raised frequently in the interviews. As the ICE report states, “Language speaks to the interconnectedness of all things and to people’s connection to the land and water. It is a human birthright; and it gives rise to the natural laws that make nations. As a result, language and culturally appropriate ceremonies are key to creating and managing IPCAs and in revitalizing existing protected areas.”³⁵

Horse Fell in the Mud Creek: a story of place

“At night, in the evening after supper they tell them stories — why this creek is called that name. And in that K’ih tsaa?dze people go get medicine when they’re sick, and stuff like that. ... And we’re, that’s how I teach my grandkids, me. I tell them, because my husband used to tell our kids, the kids stories about places where he used to camp when he was small. What his dad taught him about that area, about stuff...”

Like one [place] close to Sweeney, this one creek we call it Horse Fell in the Mud in the Creek ... ‘cause it’s this lady’s horse that fall in the mud and everybody, all the guys went up there, ... trying to pull that horse out. And they don’t just tie up a rope around the neck or pull it like that. They don’t want to hurt the horse so they gotta do it special way to pull that horse out. And they saved that horse, nothing happened, no broken bones or nothing. Stuff like that, why it’s called that creek ...

So ... we’re still ... we kept their stories so we know this is where all these things happen. ... So it’s like we’re all part of one when we talk about things. That’s how we do it in Doig. When something going on, elders would say ‘Oh, if we do it this way and we teach these young people this way, it gonna happen like that. Because that’s how our parents way back do it.’ So it’s something that we have to work on if we gonna get ... if we thinking about getting our young people involved.”

— Margaret Davis, Doig River First Nation³⁶

³⁵ Indigenous Circle of Experts, *We Rise Together*, p. 56.

³⁶ Margaret Davis, Doig River First Nation, June 14, 2017, interview DR01, transcript.

HEALING PEOPLE AND THE LAND TOGETHER

“The thing we need to look to is the healing of our people, and we can’t do it without our land and water. That’s a part of this tribal park process.” — Marilyn Baptiste, Xení Gwet’in³⁷

Some knowledge-holders emphasized the need for healing among Indigenous Peoples, as it’s important for Indigenous people trying to overcome a legacy of intergenerational trauma, the on-going stress of biological and cultural loss, and land heavily affected by industrial development and degradation from human activities. These knowledge-holders spoke about the essential need to provide safe, nurturing places and opportunities for people to spend time on the land to gain strength and heal (emotionally, psychologically, physically and spiritually), and to deepen their relationships and understanding of the land in ways that facilitate its conservation and restoration.

For many Indigenous communities, the motivation to heal people and the land together lies at the heart of their cultural ways of knowing and relating to the land. Conventional approaches to land management, economic development and conservation have tended to separate environmental interests from human well-being and cultural continuity. In contrast, Indigenous nations creating IPCAs often do so with the clear intention of healing, restoring and protecting people and their lands as interdependent parts of a whole. In practice, this means that IPCAs provide spaces where people can use the land, wildlife, water and plants in respectful, restorative and sustainable ways. IPCAs can host culture camps for elders and youth, nature walks to learn language, and opportunities for people to practise their rights, including hunting, fishing and harvesting medicines, berries and other plants. For some First Nations, IPCAs also help to focus and galvanize ecological restoration initiatives in areas that have been degraded (see section 4).



WETLAND NEAR DOIG RIVER FIRST NATION, PHOTO CAROLYN WHITTAKER

37 Marilyn Baptiste, Xení Gwet’in, June 16, 2017, interview XG01, transcript.



SECTION 3

EXPERIENCE ESTABLISHING IPCAs — SELECTED THEMES

TEZTAN BINY, DASIQOX TRIBAL PARK, PHOTO JONAKI BHATTACHARYYA

THROUGH CONVERSATIONS WITH community members, leaders and experts, six key theme areas emerged:

1. Community involvement and engagement;
2. Indigenous governance;
3. Land-use and management planning;
4. Management of industrial disturbance;
5. Establishing a healthy economy for sustainable livelihoods; and
6. Operational challenges.

THEME 1

COMMUNITY INVOLVEMENT AND ENGAGEMENT

IPCAs are unlikely to succeed unless they are supported by community members. Historically, protected areas excluded Indigenous Peoples from their territories. This legacy remains a challenge for garnering support for new forms of protected areas—even Indigenous-led initiatives. Knowledge-holders from both K'ih tsaa?dze and Dasiqox Tribal Parks emphasized the importance of community engagement in IPCA establishment, both in terms of creating the vision for the IPCA and in getting people out on the land.

Beyond engaging community members specifically in planning and governance processes, it is crucial to build and facilitate access to the land and the practice of Indigenous rights and interests. Activities may include harvesting preferred plants and animals, spiritual and cultural practices, building a network of cabins, revitalizing traplines, and developing culture and language camps where elders share knowledge or skills and language with younger generations. Community engagement on the land is also supported through Indigenous monitoring or guardian programs in established IPCAs.³⁸

*[We decided on a] tribal park because it needs to be there for us. Dasiqox Tribal Park, it needs to be our people who are setting down the laws of the lands and water within our territories for our future generations. It's that simple.*³⁹

One knowledge holder described the key to successfully establishing an IPCA as being to truly engage and involve community members. She described the importance of leadership taking direction and guidance from the deep and diverse knowledge among community members. Many of community members have extensive experience, not only of the land itself, but also from prior involvement in political and community planning processes; they are like “walking PhDs.”⁴⁰

Community engagement is an essential component in the process of planning, negotiating and managing tribal parks. When community members have developed the vision and foundational Indigenous laws or principles for their IPCA, managers have a directive that can be brought to bear in negotiation forums.

One knowledge holder described the key to successfully establishing an IPCA as being to truly engage and involve community members. She described the importance of leadership taking direction and guidance from the deep and diverse knowledge among community members.

38 “Eyes on the Ground,” Indigenous Leadership Initiative. ilinationhood.ca/our-work/guardians/

39 Marilyn Baptiste, Xeni Gwet'in, June 16, 2017, interview XG01, transcript.

40 Jessica Setah-Alphonse, Yunesit'in First Nation, June 16, 2017, interview YFN02, transcript.

Engagement in this context means that community members are kept informed about progress and have opportunities to contribute to planning and decisions and to spend time on the land.

Throughout the processes of establishing the IPCAs profiled in this report, community elders provided guidance and direction to elected leaders. As a member of Doig expressed,

*The elders, even this elder that we just lost, he keeps saying that K'ih tsaa?dze is a very important piece of land that we want to protect for future use and so we talk with the leaders about that.*⁴¹

In Tsilhqot'in territory, a precursor to the Dasiqox Tribal Park was the Nemiah Aboriginal Wilderness Preserve, established by the Xeni Gwet'in First Nation in 1989. According to Marilyn Baptiste of Xeni Gwet'in First Nation,

*Back then our elders said that we had to set out our area of interest to protect because that's our responsibility, our duties and our responsibility, and, so that's why they created the 1989 declaration.*⁴²

In addition, IPCAs should express aspirations and values of Indigenous community members of all ages—their wishes for the future of their lands, their quality of life and culture in relationship with the land, and the well-being of future generations.

A vision for an IPCA is likely to be shared within a community if the following occurs:

- Leadership takes direction from elders and traditional leaders on the IPCA's purpose;
- Youth are involved in community discussions about the future of their territories;
- Community gatherings and meetings are held to discuss the initiative as it unfolds; and
- A cross-section of community members (i.e., different families, age groups, balanced gender representation) have the opportunity to contribute to the visioning process, in settings where they can speak comfortably.

When asked what advice she would give to another community interested in establishing a tribal park, one elder from Doig River First Nation commented,

*Elders get together, and remember where you live off the land. Where is important to you? You guys should know. The stories that you can teach your kids, your young people... why is that place important to you guys of all the land? And maybe if you know the stories and know the area ... then you guys are going to make it. And without this knowledge it's hard. You gotta know. ... All the elders get together [and] they share their stories.*⁴³

41 Madeleine Davis, June 14, 2017, interview DR04, transcript.

42 Marilyn Baptiste, June 16, 2017, interview XG01, transcript.

43 Madeleine Davis, June 14, 2017, interview DR04, transcript.

THEME 2

INDIGENOUS GOVERNANCE

Indigenous governance is informed by Indigenous law. It can take on myriad forms from First Nation to First Nation, some of which are interim steps toward a vision that may take years to fully recognize. The IPCAs featured in this report were defined (spatially and in terms of guiding principles and priority objectives) by Indigenous principles.

According to Tla-o-qui-aht ICE co-chair Eli Enns, tribal parks build on stories with encoded knowledge patterns about natural laws. This encoding is evidenced by Indigenous art, symbols and stories.⁴⁴

Some knowledge-holders described Indigenous protocols that guide how the land should be cared for, how people should behave and how they should use the land and its resources.

Some knowledge-holders described Indigenous protocols that guide how the land should be cared for, how people should behave and how they should use the land and its resources (e.g., hunting protocols, travel routes). They also explained that Indigenous laws guide how rights and stewardship responsibilities are exercised.

Sovereignty, co-governance and exploring existing models

“That is our law, we want to see healthy forests and ecosystems, ecosystems to contribute to our livelihood, our sustenance.” — Saya Masso, Tla-o-qui-aht Tribal Parks⁴⁵

In Canada, there is a wide spectrum of how IPCAs are playing out on the ground. Some examples of different processes for IPCA establishment are identified below. These are not necessarily static; once lands have been secured from development pressures in one format, often new approaches are used, and new models explored, to further advance sovereignty and Indigenous decision-making within governance structures.

Assertion of sovereignty/responsibility

We learn from our ancestors, elders and our people that being out there on the land and water... What I used to ask my dad was: what is sovereignty? ... What is our rights and title? And it's simple; his answer is so simple: it's being out there on the land and water and practising, doing it, practising your rights and your title. That's how simple it is.⁴⁶

44 Eli Enns, August 14, 2017, interview TE01, transcript.

45 Saya Masso, interview by ICCA Consortium, December 15, 2014, iccaconsortium.org.

46 Marilyn Baptiste, June 16, 2017, interview XG01, transcript.

The Indigenous community members interviewed emphasized that they have always looked after the land. Taking care of the land was part of the ethos and practice of using it. In that way, IPCAs are an expression of ancient ways of life, principles, laws and land/resource management practices.

Example from First Nations:

- The Tsilhqot'in communities have rejected a co-management model and opted not to seek provincial protected area designation, because they approach the Dasiqox Tribal Park as an assertion of their Indigenous law over unceded territory. Councillor Marilyn Baptiste emphasized the assertion of sovereignty by First Nations is "not about kicking people out,"⁴⁷ but presenting an alternative decision process led by people living in the region.
- Eli Enns, an ICE member involved in the founding of the Ha'uukmin Tribal Park remarked, *"As QUU-US [human beings] we have a responsibility to manage our natural inheritance with care. Our natural inheritance includes everything from cedar and salmon to songs and names; it includes all of that and even our own natural selves."*⁴⁸

Co-governance

Under a co-governance approach, governance of a protected area is shared and sovereignty is not relinquished.

Example from First Nations:

- The Haida First Nation and the federal government signed the Gwaii Haanas Agreement in 1993, and it is still being upheld. The two governments agreed to manage for certain values and goals, while agreeing to disagree on the title of the archipelago the Haida call "Gwaii Haanas" and the federal government calls "South Moresby." The agreement outlines the divergence of worldviews about jurisdiction over the protected area, giving voice to the Haida, who see the archipelago as Haida lands, subject to Haida sovereignty, and to the federal government, which views it as Crown land. However, the Haida and the federal government also recognized that they had a shared interest in managing the archipelago. The "Reasons for Agreement" allows for traditional Indigenous activities within the protected area: "all actions related to the planning, operation and management of the Archipelago will respect the protection and preservation of the environment, the Haida culture, and the maintenance of a benchmark for science and human understanding. The parties agree that it is an objective to sustain the continuity of Haida culture and the parties agree to contribute to the attainment of this objective in the Archipelago by providing for the continuation of cultural activities and traditional renewable resource harvesting activities."⁴⁹

47 Marilyn Baptiste, June 16, 2017, interview XG01, transcript.

48 Eli Enns, August 14, 2017, interview TE01, transcript.

49 Gwaii Haanas Agreement, sections 3.1, 3.2, as found at: haidanation.ca/wp-content/uploads/2017/03/GwaiiHaanasAgreement.pdf.

Exploring existing structures

Indigenous Peoples have been engaged in many protected and conserved areas that fall within existing provincial, territorial or federal government models. In this approach, First Nations work co-operatively with government ministries/departments to manage conservation areas. These areas might not constitute IPCAs but can serve as a step along a path toward IPCA establishment. Even where title issues haven't been resolved to an Indigenous community's satisfaction, several mechanisms exist to share management of traditional lands with provincial, territorial or federal governments without foreclosing future claims of title, such as Conservancies in B.C.⁵⁰

In the national forum, in the 1970s, Inuit successfully argued that the federal government's plans to expand the national park system through northern parks was tantamount to unilateral expropriation of Indigenous rights and, therefore, in contravention of the Canadian Bill of Rights.⁵¹ The government amended the National Parks Act to include national park reserves, "... an area set aside as a national park pending settlement of any outstanding aboriginal land claim. During this interim period, the National Parks Act applies and traditional hunting, fishing and trapping activities by Aboriginal peoples will continue. Other interim measures may also include local Aboriginal people's involvement in park reserve management to allow for the creation of National Park Reserves."⁵²

Example from First Nations:

- The Kitasoo/Xai'Xais have worked within B.C.'s regulatory system, establishing several marine and terrestrial conservancy areas. Provincial conservancies in B.C. were created "expressly to recognize the importance of some natural areas to Aboriginals for food, social and ceremonial purposes"⁵³ and are co-managed with the province. Unfortunately, despite the agreements, Kitasoo/Xai'xais are sometimes inadequately consulted about decisions in the conservancies and are actively developing new forms of protected area management. The new designation(s) are intended to apply recent jurisprudence regarding consultation in unproven Indigenous title areas, and aim to provide stronger protection of ecological and cultural resources than the current provincial model affords.⁵⁴

50 A strength of B.C.'s Conservancy policy is that it: "Respects Aboriginal rights and remains subject to unextinguished Aboriginal title and land claims, consistent with shifting International and Parks Canada policies and practices." As found in Turner, Katherine and Christopher Bitonti, "Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations' Interests" *The International Indigenous Policy Journal*, Volume 2 Issue 2, 2011, p. 7. <http://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=1054&context=iipj>

51 McNamee, K. (2009). "From wild places to endangered spaces: A history of Canada's national parks." In P. Dearden, & R. Rollins (Eds.), *Parks and protected areas in Canada: Planning and management* (3 ed., pp. 24-55). Oxford: Oxford University Press.

52 <http://laws.justice.gc.ca/eng/acts/N-14.01/section-4.html>

53 British Columbia, BC Parks. (2014). *Summary of designations and protected areas system*. env.gov.bc.ca/bcparks/about/park-designations.html

54 Personal communication, Sam Harrison, April 12, 2018.

Establishing interim measures of protection

Protecting core elements, features and values while planning and negotiation are underway is likely one of the most difficult components of IPCA establishment. Since IPCAs are not currently reflected in provincial, territorial or federal legislation, there is a significant risk that permitting of industrial activities and other land uses will continue as before until First Nations are able to assert or negotiate a change. As planning and building the capacity to manage IPCAs can take years, there is a real danger that First Nations could lose the core values they are aiming to protect in the meantime.

Negotiated deferrals and agreements

Many First Nations have relationships with industries operating in their traditional territories. One tool in establishing IPCAs is to directly approach companies and ask them to voluntarily put a temporary hold on (defer) their activities in areas of core ecological/cultural values while IPCA negotiations are underway. Withdrawing land from industrial tenure can also be accomplished by government. The ICE report recommends, “federal, provincial and territorial governments use land withdrawals and other measures to prevent development and new third-party interests in IPCA candidate areas while those areas are being considered.”⁵⁵

Example from First Nation:

- In Doig River, the community asked logging companies to voluntarily cease activities in K'ih tsaa'dze until there was clarity around the outcome of negotiations to protect it. Most logging companies agreed to stop their activities while the IPCA was being negotiated with the provinces. There are some oil and gas operations within K'ih tsaa'dze boundaries.

Legal and court action

IPCA introduce many unknown elements into existing political and regulatory processes and negotiations. Legal counsel is an essential part of enacting IPCAs through government-to-government relationships. First Nations have often had to resort to legal and court action to change how their territories and rights are affected by industries, and by provincial, territorial or federal resource management decisions. Court injunctions against industrial operators are sometimes used by nations as emergency stop-gap measures when faced with an impending development activity that threatens the values of an IPCA. These measures can buy time and draw attention to—and possibly support for—IPCA establishment, but they also have the potential to worsen poor relationships between communities and industrial companies.

⁵⁵ Indigenous Circle of Experts, *We Rise Together*, p. 61.

Example from First Nations:

- Facing the threat of clear-cut logging, the Tla-o-qui-aht First Nation declared Meares island a tribal park in 1984. Massive protests against the logging company, led by local Indigenous community members and supported by local residents and environmental organizations, followed in March 1985. The Tla-o-qui-aht and Ahousaht First Nations sought and obtained an injunction against logging on the island, which is still in effect. The park, Wah-nuh-jus—Hilth-hoo-is continues to have broad public support and is a popular tourist destination. The First Nations have not sought formal designation by the provincial or federal governments for the tribal park.⁵⁶

Civic action

Direct action or the possibility of it (e.g., blockades, rallies, acts of civil disobedience) to assert Indigenous rights (recognized in Canadian constitutional law, yet not always respected or protected in practice) may be a last resort strategy for First Nations pursuing other means of achieving interim protection.

Examples from First Nations:

- Chief Trevor Makadahay explained that civic action has been a key tool in Doig River First Nation's strategic approach to negotiations. *"We still do get consulted on all projects ... we still have some say in what happens. But in the end, the government's just going to do whatever the government wants. Basically what I've seen. ... Until we do a demonstration or until we make a lot of noise, and then it's, then it's different. So ... if we say we're going to protect something, we're going to protect it. ... We'll go out there and be in the way."*⁵⁷
- The Xeni Gwet'in have used blockades against forestry, mining development and moose hunting, to enforce their commitment to stewarding their lands and safeguarding them from destruction.
- Joe Martin from Tla-o-qui-aht said of the efforts to stop the logging of Meares island, *The decision to blockade the forest companies was taken back then ... the forest provides for our needs, water being an important one and the cedar tree, the tree of life ... The forest companies have taken all of the best areas. There are many communities on Vancouver Island that do not have enough red cedar for their cultural purposes.*⁵⁸

56 Eli Enns, Personal communication, January 17, 2017.

57 Chief Trevor Makadahay, June 14, 2017, interview DR05, transcript.

58 Joe Martin, in video. "Canada: For Our Grandchildren, Tla-o-qui-aht Tribal Parks," ICCA Consortium. iccaconsortium.org.



**"Until we do a demonstration or until we make a lot of noise, and then it's, then it's different. So ... if we say we're going to protect something, we're going to protect it. ... We'll go out there and be in the way."
— Chief Trevor Makadahay**

Government-to-government relationships

First Nations have government-to-government relationships with other First Nations, with federal and/or provincial/territorial governments and with neighbouring municipalities. For Indigenous communities that share territory in an IPCA, achieving unity in governance and management can be challenging. IPCAs can provide a framework for collaboration among First Nations and between First Nations and other governments.

In B.C., most First Nations participate in one or more of the many provincially-led government processes, including the regional strategic environmental assessment process, new relationship and reconciliation agreements, proposed industry plan reviews (referrals), treaty extension negotiations, species-at-risk action plans, cumulative effects studies, strategic advisory groups, environmental stewardship initiatives, etc. First Nations often speak of death-by-process fatigue from over-engagement in mistrusted processes that often do not lead to positive or agreed-upon outcomes. Yet most First Nations and communities feel compelled to participate in these processes, lest activities they do not want get approved and industry or the province claim they fulfilled their duty to consult but the community did not engage.

Co-operation between adjacent communities is also important. If First Nations aren't working together, a "waterbed effect"—where the regulated exclusion of industrial activity from one area increases industrial pressures in a highly valued area of another community's traditional territory—could occur. IPCAs, especially if they are supported by robust land-use plans, can create negotiating mandates for community members engaged in a myriad of government processes, and bring First Nations together with a shared management vision.

Examples from First Nations:

- Steven Nitah offered an important reminder about the power of, and the regional nuances inherent in co-operative relationships: *"The challenge and the opportunity of IPCAs lies in relationships. The relationships will be different in different parts of the country."*⁵⁹
- Russell Myers Ross, Chief of Yunesit'in, explained that reaching agreement about conservation goals and governance structure between the two First Nations involved in the Dasiqox Tribal Park initiative (Xeni Gwet'in and Yunesit'in), was important to ensure unity internally, before publicly announcing the tribal park. He emphasized the importance of ensuring that community members and leaders from both communities felt included in the processes, in order to support and maintain the necessary morale and strength to move forward.⁶⁰

⁵⁹ Steven Nitah, March 20, 2018, interview TE03, transcript.

⁶⁰ Russell Myers Ross, June 16, 2017, interview YFN01, transcript.



DASIQOX TRIBAL PARK: NEMIAH PHOTO MATHEW MURRAY

THEME 3

LAND-USE PLANNING

“With every land-use plan a story unfolds about the current and future state of the territory. Land-use planning is important for asserting rights and community values on the development of a Nation’s traditional territory, and is an opportunity to engage a community in determining the future use of its natural resources.” — Ecotrust Canada⁶¹

Land-use planning is a process by which communities or governments develop a framework to guide decision-making about lands, waters, resources, wildlife and people who live in an area. This process can include an articulation of Indigenous laws and protocols for managing the land. It can also explore the linkages between language, place names and stewardship of the land.

Community-based planning processes have proven invaluable for determining the desired long-term vision and foundation principles for many IPCAs, while identifying key areas of cultural and

61 Ecotrust Canada, “BC First Nations Land Use Planning: Effective Practices. A guide prepared for the New Relationship Trust” (Report, 2009), p. 3.



RESEARCHER IN MUSKEG AREA NEAR DOIG RIVER IPCA, PHOTO CAROLYN WHITTAKER

ecological importance, preferred human uses in specific areas, wildlife habitat, approaches to managing industrial activity, access management, and other essential decisions about how lands will be used and managed. For example, as a planning outcome, Fort Nelson First Nation identified habitat protection and restoration zones in their Medzih Action Plan for boreal caribou.⁶²

Land-use plans (LUPs) can make responding to industry referrals less onerous, by identifying areas that will be off limits to industrial activity, areas to be managed for some industrial activity based on community-established thresholds and guidelines, and areas to be managed for restoration objectives. Off-limit areas (potentially buffered by restoration areas) could then be declared as IPCAs.

Land use planning can also be a critical tool for communities that want to move beyond a “hot spot” approach to conservation, where an area that is culturally important to community members or is seen as “the best of what’s left” in a highly degraded area is identified for protection, while larger landscape goals such as ecosystem resiliency and restoration (which include sufficient wildlife habitat and connectivity corridors) are not taken into consideration and thus forfeited through negotiation processes.

Management planning usually pertains to a distinct unit of land (e.g., a protected area) or a specific component of lands and waters (e.g., moose habitat, water resources). Strategic planning can further articulate goals, strategies, actions and indicators to help realize the vision. For example, the Xeni Gwet’in and Yunesit’in engaged outside expertise to help guide ecosystem-based management planning and an inventory of key wildlife species.⁶³

62 Fort Nelson First Nations, “Medzih Action Plan: Fort Nelson First Nation Boreal Caribou Recovery Plan” (Report, September 2017),

63 Marilyn Baptiste, May 7, 2017, interview XG01, transcript.

Planning for landscape and habitat connectivity

Many Indigenous rights rely on healthy ecosystems that support abundant wildlife populations. Planning can help meet ecological values important to people, wildlife and plants, as well as the interrelated cultural values of Indigenous communities. Planning can also ensure connectivity corridors, so wildlife are not isolated and can travel for foraging, mating and migration. According to the ICE report, “As an embodiment of the traditional lifestyles, values and laws of Indigenous Peoples, IPCAs will likely be designed to create the conditions to support cultural keystone species. In this manner, they will support the systems that provide for Indigenous Peoples’ cultural survival and that maintain their food security.”⁶⁴

Examples from First Nations:

- Doig River elders spoke about caribou decline and the desire to manage the landscape so that caribou populations can return to health: *“We like caribou; we like caribou meat. All of us, we like caribou meat. A lot of people from here, we look after everything, look at everything. ... We really like caribou meat, but the last 20 years ... ever since we start knowing the caribou numbers are going down, we said to ourselves and this reserve, we said to ourselves, ‘Let’s not kill one caribou. Let’s protect it and then see what happens.’ So we still today, once in a while I go check the herd north of here, to look at them. ... And [the caribou herd] went down really bad. But now the way I look at it, I see four there, eight there, few more, three in other places. What’s right in front of my eyes, looks like they’re declining. So you see that’s us, we don’t shoot them. We want them to come back.”*⁶⁵
- Yunesit’in Chief Russell Myers Ross identified the need for research partnerships, to inform planning once the community has established the governance structure for their IPCA. He articulated the importance of collaborations with universities and other research entities, to ensure that Indigenous governments have the necessary information to inform decision processes, particularly where provincial government has not done the work, for example to ensure that the needs of keystone species are incorporated into cumulative effects modelling and management.⁶⁶

Many Indigenous rights rely on healthy ecosystems that support abundant wildlife populations. Planning can help meet ecological values important to people, wildlife and plants, as well as the interrelated cultural values of Indigenous communities.

⁶⁴ Indigenous Circle of Experts, *We Rise Together*, p. 40.

⁶⁵ Sam Acko, June 14, 2017, interview DR06, transcript.

⁶⁶ Russell Myers Ross, June 16, 2017, interview YFN01, transcript.



Caribou habitat and land-use planning

Caribou have been a cornerstone for multiple Indigenous Peoples' cultures and histories for thousands of years. Indigenous Peoples from across Canada have relied/continue to rely on caribou for sustenance and as a central part of their culture.

Boreal caribou range across Canada and need large, intact forest ecosystems to survive. Industrial resource extraction activities have destroyed or fragmented caribou habitat. Boreal and southern mountain caribou populations have declined primarily because of the increase in predation triggered by these changes and are currently threatened with extinction.

Under the Species At Risk Act, the federal government must identify caribou's "critical habitat" in a recovery strategy. It did so for boreal woodland caribou in 2012. The science supporting the recovery strategy identified a relationship between the total level of habitat disturbance in a caribou range and the survival rate of calves, an important determining factor of whether a population increases or declines.

The federal government directed provinces to manage forests so there is a minimum of 65 per cent undisturbed habitat in each boreal caribou range. First Nations, equipped with traditional ecological knowledge, are well-positioned to lead in caribou habitat restoration. Recent examples of Indigenous-led caribou conservation and action planning are the Fort Nelson First Nation caribou action plan and the Doig River First Nation *Madziih (caribou) Tsáá? ché ne dane Traditional Knowledge and Restoration Study*.^a

^a Fort Nelson First Nations, "Medzi Action Plan: Fort Nelson First Nation Boreal Caribou Recovery Plan" (Report, September 2017); Susan Leech, Carolyn Whittaker, Doig River First Nation, "Madziih (caribou) Tsáá? ché ne dane Traditional Knowledge and Restoration Study" (Report prepared for DRFN and the David Suzuki Foundation by the Firelight Group, December 2016).

THEME 4

MANAGING INDUSTRIAL DISTURBANCE

"The opportunity to protect special places is a great opportunity for Indigenous peoples to assume responsibilities over their territories once again. A part of taking back our voice is taking back our responsibilities ... but at the same time it's important that we view protected areas as part of a balanced approach to managing territories. For example, it's not to prevent development from happening, but to prevent it from happening in certain areas, and where it happens they had a say in it and they benefit from it. Development should be in the spirit of peace and friendship and shared benefits as well — this is an important point to make — one of the biggest challenges is pushback from extractive industries. As Indigenous people in this field, we have to be cognizant of that — of what can we say and do to give industry comfort. Indigenous peoples, if they protect their special places, can have better relations with industry, and create investment certainty and help to create a balanced economy for the folks that live there. So IPCAs should not be a threat to industrial Canada, but a way to create investment certainty." — Steven Nitah, Indigenous Leadership Initiative⁶⁷

Most First Nations have to deal with disturbance (ecological, cultural) from industrial activities as a core issue in the establishment and management of protected areas.

Managing industrial impacts on ecosystems, communities, cultures and economies is another significant challenge to the existence and success of IPCAs.

Industrial activities that affect IPCA establishment and management may include:

- Pre-existing, already operating developments (i.e., mines, forestry, agriculture, etc.) within the boundaries of an IPCA;
- New industrial activities proposed by governments and proponents that don't respect the IPCA;
- Pre-existing or new industrial activities outside the IPCA but near enough to affect local ecosystems, watersheds and/or wildlife; or
- Future operations that First Nations may manage as revenue sources.

Within and outside of IPCAs, Indigenous land managers can make decisions about how their lands are managed. Indigenous communities can set terms for economic activity levels based on their objectives. They can exclude activities from some areas, such as within IPCAs, and strategically limit or set standards for activity in other areas of the territory.

⁶⁷ Steven Nitah, March 20, 2018, interview TE03, transcript.

Examples from First Nations:

- Yunesit'in Councillor Jessica Setah-Alphonse spoke about reclaiming responsibility through an Indigenous permitting system. While the industrial operators traditionally work on a 20 to 25 year permitting cycle, the community is now telling them industrial operations must be planned for the short-term; the community is looking at issuing three year permits as the tribal park moves forward.⁶⁸

- According to Marilyn Baptiste (Xeni Gwet'in),

*In that [Nemiah] declaration it says no mining, no exploration, no commercial logging, no commercial road building, no commercial dam building or whatever it is. ... People are welcome to come and enjoy our territory but you need to respect our land and respect our people and our way. You would require permits to come in to enjoy our territory.*⁶⁹

- In Dasiqox Tribal Park, Yunesit'in First Nation is working with an agency to develop scenarios for different approaches to logging, to gauge their effect on the lands.⁷⁰

THEME 5

ESTABLISHING A HEALTHY ECONOMY FOR SUSTAINABLE LIVELIHOODS

*"From an Indigenous world view and through our meetings with Indigenous communities from across the country ... there is a way to create sustainable economies ... that creates more abundance in the ecosystem." — Eli Enns, co-chair, ICE*⁷¹

Establishing viable economic initiatives that support local livelihoods can be key to the success of IPCAs, particularly where the designation does not ensure funding to support the protected area management. Examples of sustainable economic initiatives that are being developed or explored within B.C.'s IPCAs include run-of-river hydro, tourism, carbon offsets and small-scale logging. The ICE report references *conservation economies* that "can provide significant opportunities to benefit from living on the land and water while further developing the growing market for sustainable cultural tourism."⁷²

68 Jessica Setah-Alphonse, June 16, 2017, interview YFN02, transcript.

69 Marilyn Baptiste, June 16, 2017, interview XG01, transcript.

70 Russell Myers Ross, June 16, 2017, interview YFN01, transcript.

71 Eli Enns, interviewed by Steve Paikin, *Checking in on Conservation in Canada*, TVO, March 26, 2018.

72 Indigenous Circle of Experts, *We Rise Together*, p. 39.

Building a sustainable local economy means supporting diversity in the livelihoods of local people. This includes creating revenue options that are protective of hunting, harvesting and sharing traditional foods, drinking clean water, and providing for family and community members. Working and being self-reliant in jobs that are compatible with Indigenous values is an important part of healing, and fundamental to the long-term protection of ecosystems and cultures. Creating sustainable economic initiatives empowers First Nations to exercise more agency when dealing with challenging economic forces.

Examples from First Nations:

- The Tla-o-qui-aht First Nation declared the Tranquil Valley tribal park in Clayoquot Sound and supported local livelihoods by creating hatchery programs to improve fisheries, bear watching and run-of-river hydro projects within it. According to Tla-o-qui-aht natural resources manager Saya Masso,

If there is one thing salient about all this, [it is that] we just finished a tribal park planning unit that has jobs for 500 years, not 10 years of jobs and 500 years of impact. ... That's the premise: we are developing plans for our future.⁷³

- According to Marilyn Baptiste,

Our people always wanted to look at value-added stuff, we've been working with Herb Hammond on ecosystem-based management, we've been working on our fisheries and restoring the fisheries, stuff like assessing the fishing grounds and the spawning grounds, all these kinds of things, and looking at cultural tourism, and how the fisheries could complement cultural tourism, and of course in the restoration ecosystem based approach, looking at all of that and making sure those grounds are healthy and that ecosystem is intact — that it's not being destroyed by whatever we're doing.⁷⁴

- Tsilhqot'in community members who helped plan Dasiqox Tribal Park said they wanted paid work opportunities to support and supplement other livelihood activities. Preferred types of work on the land included, but were not limited to:
 - Restoration of degraded areas;
 - Tree-planting and native species-based restoration;
 - Environmental monitoring and guardianship on the territory;
 - Building trails and maintaining cabins; and
 - Guiding and ecotourism.⁷⁵

73 Saya Masso, quoted in: Hoekstra, Gordon, "Vancouver Island First Nation declares tribal park to protect land", *Vancouver Sun*, April 13, 2014. vancouversun.com/Vancouver+Island+First+Nation+declares+tribal+park+protect+land/9735029/story.html

74 Marilyn Baptiste, May 7, 2017. Interview XG01, transcript.

75 *Nexwagweʔan — Dasiqox Tribal Park Community Vision and Management Goals*. (Report 2018).

THEME 6

OPERATIONAL CHALLENGES

Economics and funding

“Funding is always a challenge in land-based conservation generally—it costs a lot of money to manage parks, and when you add in elements like restoration, that’s another cost. The need for funding is a challenge but also an opportunity for us to envision the conservation economy moving into the future—more thinking will have to be done around that, so the long-term economic values of conservation areas can be accounted for. We need to develop the economy so that it’s consistent with the objectives of protected areas but goes beyond just the tourism economy.”⁷⁶ — Nadine Crooks, Parks Canada

First Nations leaders are faced with the challenge of figuring out which revenue sources will reflect community members’ values and be sustainable in the long term, while still paying for

First Nations leaders are faced with the challenge of figuring out which revenue sources will reflect community members’ values and be sustainable in the long term, while still paying for desired, wage-earning positions.

desired, wage-earning positions. Resources to manage IPCAs can come from a variety of sources, including federal and provincial governments, private philanthropic foundations, profits from small scale-ventures such as hydro, restoration or tourism, or profits from royalties from industrial activities occurring outside the IPCA.

Examples from First Nations:

- Chief Russell Myers Ross explained the challenges of developing operational capacity, when many funding sources are not guaranteed from one year to the next, mostly garnered through proposals. While the Dasiqox Tribal Park had core foundation support, small grants were often needed to supplement additional work as the IPCA developed.⁷⁷
- Steven Nitah noted, “*There are resources from the Crown [for IPCA establishment] where there are areas that the Crown wants to protect—in other areas, there aren’t any. That’s where organizations that share values and a respect for place with Indigenous communities come in.*”⁷⁸

⁷⁶ Nadine Crookes, August 3, 2017, interview TE02, transcript.

⁷⁷ Russell Myers Ross, June 16, 2017, interview YFN01, transcript.

⁷⁸ Steven Nitah, March 20, 2018, interview TE03, transcript.

Management and staffing capacity

First Nations are frequently challenged by limited financial and human resources, especially in small communities. It can be difficult to find community members with the capacity to take on new initiatives, as those with applicable skillsets (e.g., proposal writing, public and media communications, strategic planning, project management, protected area management and community planning, etc.) usually have other job responsibilities. IPCA establishment often also means significant administrative demands on already-stretched First Nations office staff.

To address this challenge, some communities pay for outside expertise. This requires seeking funding so that projects include capacity-building and training. It is important to ensure that hired consultants train community members so expertise is built within the community.

Example from First Nation:

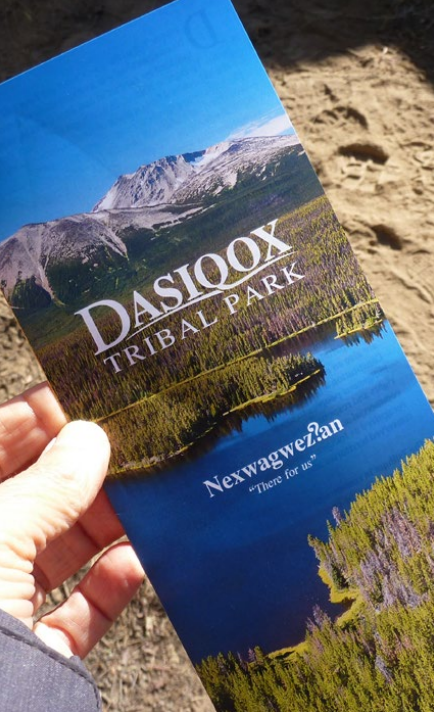
- Dasiqox Tribal Park leaders discussed the challenges of planning and managing a tribal park with limited staff capacity, and leaders who were already stretched by demands on their time and resources. Work to establish and plan the Dasiqox Tribal Park has been driven and overseen by chief and councillors, some of whom already hold several employed positions. In that context, teamwork and communication have been essential. Chiefs and Councillors have brought in outside advice and specialized expertise to support their communities' initiative.⁷⁹

Communications

Internal and external communications are vital to the success of IPCAs. Internally, as identified above, the strength of First Nations' initiatives in establishing IPCAs has rested on effectiveness of communications among community members, between community members, staff and leadership, and between generations. Regular communication between elders, elected leaders and First Nation staff was critical. For IPCAs to maintain strong grass-roots support and become a lived reality, communication within communities must be two-way. This means regular meetings or gatherings are held, community members' input is asked for and listened to, input implementation is demonstrated, and feedback is sought on decisions and progress made.

⁷⁹ Jessica Setah-Alphonse, June 16, 2017, interview YFN02, transcript.

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PHOTO COURTESY PAT SWIFT
& DAVID WILLIAMS

Communicating with people outside Indigenous communities is also an important operational consideration that can sometimes create challenges. Publicly announcing an IPCA can help catalyze broader social support and assist in withdrawing social license from resource extraction interests. Yet maintaining adequate communications—including developing public messaging, ensuring staff or leadership can respond to media queries, making decisions about what culturally sensitive information to make public, managing logistics and costs associated with campaigning or advocating for ecological and cultural protection, and responding in a timely manner to misconceptions and misinformation—can place demand on the capacity, funding and human resources for IPCA initiatives.

The success of publicity campaigns is contingent on many factors, including:

- Where communities are located (remote communities can have a more difficult time reaching mainstream media);
- What else is happening in the news cycle;
- The extent to which allies exist to amplify the messaging; and
- The resources available to develop sophisticated outreach and communications strategies.

Examples from First Nations:

- Marilyn Baptiste referenced the challenge of news media that focus on the controversial or sensational, such as inflammatory or controversial statements, roadblocks and civil disobedience.⁸⁰ Getting media coverage for proactive and positive conservation or cultural initiatives is difficult. First Nations can strategically plan IPCA communications to garner sustained coverage and build public understanding.

80 Marilyn Baptiste, June 16, 2017, interview XG01, transcript.



SECTION 4

LOOKING FORWARD: THE ROLE OF RESTORATION AREAS

PHOTO JONAKI BHATTACHARYYA

"It is incumbent upon us as human beings to restore areas that have been degraded if we can." — Steven Nitah⁸¹

THE NEED FOR RESTORATION was frequently cited in interviews with knowledge-holders. Not only are First Nations beginning to lead the call for restoration, they are identifying priority restoration areas, and broadening restoration goals to include diverse ecological and cultural values.⁸² Many Indigenous community members expressed the need for restoration as a component of Indigenous-led protected areas and territorial stewardship, often fuelled by concern for wildlife that can no longer survive in degraded landscapes.

For example, elders from Doig River First Nation observed that industrial impacts have severely afflicted wildlife populations over vast areas, and continue to do so.

Too much oil spill and clearcuts, moose and caribou they lick that and they all die, so not too many around. There used to be lots. Clearcuts everywhere so the caribou don't have shelter from predator like wolf.⁸³

That time, not many wolves, she said [translating for elder aunty], so it was safe for those mother animals to raise their babies. But now, sure lots of bears and wolves, you

81 Steven Nitah, March 20, 2018, interview TE03, transcript.

82 Susan Leech, Carolyn Whittaker, Doig River First Nation, "Madzihi (caribou) Tsáá? ché ne dane Traditional Knowledge and Restoration Study" (Report prepared for DRFN and the David Suzuki Foundation by the Firelight Group, December 2016).

83 Ibid, p. 41.

*can't protect those, it's hard to protect them now. Lots of roads, too, so they run around all over the place on the roads... [Talks momentarily with elder aunty] They not only die from those bears or wolves, they die from those oil wells. They eat the dirt, or they drink that water, whatever, but from the well.*⁸⁴

Restoration, then, becomes a core aspect of protecting and recovering wildlife, ecosystems and cultural values in areas where they have already been severely degraded or damaged.

Restoration goals often align with provincial, territorial and federal government responsibilities, either to ensure Indigenous Peoples' constitutional rights or to achieve targets for species recovery. For example, the 2012 *Boreal Caribou Recovery Strategy* calls for caribou ranges that have been heavily impacted by linear disturbances and industrial activity to be restored so that at least 65 per cent of each range is in an undisturbed condition.⁸⁵ (See caribou sidebar on page 38.) But this does not mean that provinces are actively restoring degraded habitat; rather, in many instances in B.C., First Nation leadership is filling a void where the province is ignoring its responsibility to restore impacted areas and allowing business-as-usual practices to continue.⁸⁶

Degraded areas managed for restoration could be used as buffer zones to surround IPCAs. Alternatively, where there are few intact areas left to protect (as is the case in some areas of B.C.

Restoration activities could provide Indigenous community members with opportunities to spearhead transitional economies.

and Alberta), impacted and degraded areas could be managed for restoration by, over a specific timeline, grandfathering and/or buying out existing industrial leases and licenses and excluding new industrial activities, such that these areas are restored and managed as protected areas in the future.

Restoration areas such as these, where industrial activities are still occurring although the area is being managed for restoration and protection in the future, should not fit within

existing provincial, territorial, federal or international protected areas categories. New designations will need to be developed that recognize the management objectives of restoration areas but safeguard against weakening current protected areas designations.

Restoration activities could provide Indigenous community members with opportunities to spearhead transitional economies; some communities are already poised to play these leadership roles. For example, West Moberly and Saúlteau First Nations jointly own their own nursery that specializes in native plants and trees that can be used in restoration initiatives.⁸⁷

⁸⁴ Ibid, p. 43.

⁸⁵ Environment Canada. "Recovery Strategy for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population, in Canada." (Report, Ottawa, 2012), p. 42.

⁸⁶ See, "Leaked audit suggests rules to reduce impact of energy industry on caribou in B.C. being ignored, *The Globe and Mail*, May 28, 2018, theglobeandmail.com/canada/british-columbia/article-leaked-audit-suggests-rules-to-reduce-impact-of-energy-industry-on/

⁸⁷ "Home," Twin Sisters Native Plants Nursery. twinsistersnursery.com/



PHOTO CHRISTOPHER ROY

As Steven Nitah states,

Restoration should be an ask of any type of development that occurs — it should be a part of any plan. Hence the role of guardians — they could play a major role in restoration management plans that could be jointly created using scientific and traditional ecological knowledge of that area.⁸⁸

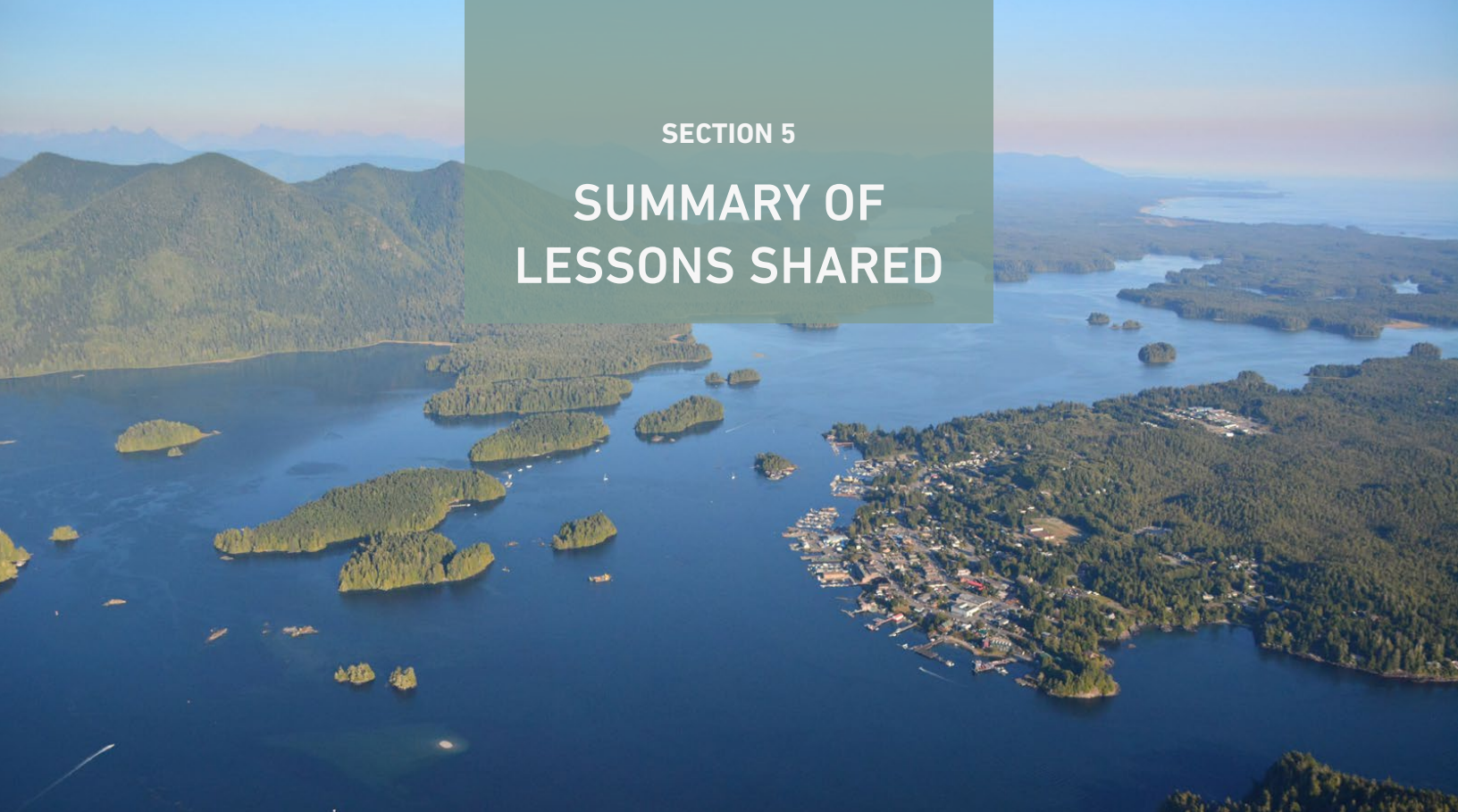
Restoration is not limited to ecological objectives. Chief Russell Myers Ross spoke of ecological restoration and cultural restoration together.⁸⁹ For Yunesit'in First Nation, a core part of establishing Dasiqox Tribal Park is engaging in land-use activities and practices that fundamentally reinforce cultural continuity and revitalization for community members.

According to Nadine Crookes, director of Parks Canada's Natural Resource Conservation Branch, "We are now exploring other area-based conservation measures, and believe that this provides us with an opportunity to have bolder visions for the future that should include restoration."⁹⁰

88 Steven Nitah, March 20, 2018, interview TE03, transcript.

89 Russell Myers Ross, June 16, 2017, interview YFN01, transcript.

90 Nadine Crookes, August 3, 2017, interview TE02, transcript.



SECTION 5

SUMMARY OF LESSONS SHARED

TLA-O-QUI-AHT TRIBAL PARKS PHOTO JEREMY WILLIAMS/RIVER VOICES

ALTHOUGH NO SINGLE APPROACH to the establishment of IPCAs is right for all communities, a number of building blocks were frequently referenced that could be helpful for communities exploring the possibility of IPCA establishment.

Summary of lessons shared through interviews

- **Internal co-operation** — First Nations leaders emphasized that it is important to create unity within the IPCA communities, and among their nations, to effectively negotiate for the protected areas. Developing effective internal governance frameworks is an essential part of establishing an IPCA.
- **Clear vision and mandate** — Work on internal unity includes clarifying how community visions or declarations are to be interpreted and translated into policy and management on the ground. A clear vision and mandate also strengthens negotiations with government and industry.
- **Land-use planning** — Land-use planning can serve a critical function in determining the most appropriate use for areas in traditional territories. Planning processes should be undertaken at a scale that is meaningful for the community. (This could be watershed-based as in Tla-o-qui-aht or landscape-based as in other communities.) Planning for IPCAs should be informed by cultural values, language, Indigenous protocols, economic opportunities and ecological values. The habitat needs of culturally important species (for example, caribou) can provide strong ecological building blocks.

- **Relationships with other governments**—First Nations each determine what form they would like their IPCA to take, whether it be an assertion of sovereignty or an opportunity for co-governance. This can depend on a number of factors, including industrial pressures, broader support and community capacity. Principles of UNDRIP and FPIC are key to ensuring an ethical and respectful process is developed.
- **Establishing interim protection**—Industrial and political pressures often continue on IPCA lands and waters, even while First Nations are working to develop their own management and governance plans. While many different strategies are employed to protect territories in the meantime, the need for some form of interim protection was common to most initiatives, to prevent the IPCA from being exploited by “business as usual” practices while First Nations are in the process of securing them, and even after they are declared.
- **Communication**—Proactive and strategic communications are often an essential part of IPCA establishment. This includes communications between First Nation leaders and community members; among neighbouring First Nation governments and communities; with non-Indigenous residents and communities; with other governments (federal, provincial, territorial, regional, municipal); with industrial interests; with NGOs; and with a broader public.
- **Opportunity for restoration as a component of IPCAs**—There is significant potential for restoration areas, either as buffers or as stand-alone sites, to play a critical role in healing the land, and in a transitional economy. Many First Nations see the need for restoration and are poised to lead. The success of such initiatives is largely contingent on available resources.
- **Cultural revitalization and sustainable livelihoods in IPCAs**—Indigenous leaders and community members emphasize the importance of linking culture and language to the development of IPCAs. This means supporting and organizing cultural activities on the land, developing jobs in association with the IPCA (e.g., guardian programs), cultivating stewardship practices, and showing real conservation results (i.e., important places are safe from environmental damage). IPCAs are a lived reality, practised and experienced by members in their lives and on the ground; not simply negotiated policies or lines on a map.

Indigenous leaders and community members emphasize the importance of linking culture and language to the development of IPCAs. This means supporting and organizing cultural activities on the land, developing jobs in association with the IPCA, cultivating stewardship practices, and showing real conservation results.

CHECKLIST OF IPCA TOOLS

A clear community vision and guiding principles



- Why is the area important to protect and what does the community hope to achieve by establishing the IPCA?
- Write it down and share widely.

A spatial context



- Use local knowledge and available science to define and understand the scope of the area that is important to protect.
- Map key features or places of cultural importance. Identify the area's spatial boundaries. Include protective buffers around sensitive features and areas to be managed for restoration.
- Make sure boundaries are confirmed with appropriate authorities, including leadership, elders, legal and other advisers.

A strategic plan



- Identify priority issues and develop short- and longer-term goals to address them.
- Identify strategies and actions necessary to achieve your goals. (Make sure the actions are SMART — specific, measurable, achievable, realistic and time-bound.)
- Assign tasks to achieve the planned actions. (Include who is responsible and when they are to be completed.)

A community-based land-use or management plan for the area



- Develop a land-use plan (rooted in Indigenous laws) to guide resource-use decisions.
- How does the land-use or management plan deliver on the strategic plan and goals? Follow best practices for planning that include pre-planning (setting visions, timelines, community engagement plan, etc.), planning and implementation.

An internal management structure and operational goals



- Establish an internal management and stewardship structure so staff understand their roles in relation to decision processes and the strategic plan.
- Create a workplan to link operational activities over the course of a year to broader strategic and organizational goals.

Capacity

- Build internal capacity dedicated to this project (likely coordinator or manager position, finance).
- Building capacity may require fundraising.
- Clearly identify who is responsible for key roles.



A governance framework to guide the planning process

- How are decisions made regarding the IPCA?
- What existing Indigenous governance bodies and processes can be used to support the IPCA?
- Do you currently have the governance authority to address known threats to your IPCA?
- Work with other Indigenous Peoples whose shared territory overlaps the IPCA to confirm buy-in, governance arrangements, roles and responsibilities.
- What Indigenous laws can be used to support your IPCA?
- Record Indigenous laws so they can be recognized and supported by the governance parties.



A communications strategy



- Develop a strategy and the capacity for regular communication between community members and decision-makers in the territory comprising the IPCA.
- Develop a strategy for how the IPCA will communicate with other governments and industries.
- This may include development of negotiation strategies or specific protocols for resource sectors.
- How does the management staff communicate or relate to other Indigenous and non-Indigenous communities in the region?

A sustainable plan for financing programs

- This may involve fundraising over the short term and/or business development to identify a sustainable funding stream.
- Look to examples from other IPCAs that have developed economic opportunities and build on work done.





SECTION 6

CONCLUSION

IPCA INITIATIVES IN B.C. AND ALL OF CANADA — and the motivations, forms, visions and goals that support them — are as diverse as the cultures, political circumstances and territories of the people behind them.

Experts from communities interviewed for this report revealed that IPCAs are a part of the complex relationship between Indigenous self-determination, territorial governance, land-use and cultural revitalization.

Taking a step forward into reconciliation through IPCAs is an imperative for Canada.

Until now, and in many cases still, Indigenous Peoples have been and are excluded from strategic planning and decision-making tables affecting their lands. For many communities, industrial resource extraction activities have degraded the land to such an extent that it is no longer possible to uphold Indigenous rights or treaty rights, such as hunting preferred species. In these instances, significant restoration is required to accompany conservation.

The federal government's Pathway to Canada Target 1 initiative supports establishment of IPCAs. Fulfillment of recommendations by ICE referenced throughout this report requires a firm commitment from all levels of government. Taking a step forward into reconciliation through IPCAs is an imperative for Canada. Protecting sacred spaces for Indigenous culture, language, knowledge transmission, practice of rights and establishment of local economies is critical to maintain Canada's biological diversity. Obviously, as the ICE report notes, IPCA establishment is



DASIQOX TRIBAL PARK: TEZTAN BINY PHOTO JONAKI BHATTACHARYYA

not confined or limited to the framing of the federal Pathways initiative. Indigenous Peoples have been leading protection and conservation of their traditional territories for millennia.

Ultimately, IPCAs in B.C. and Canada are rooted in the exercise of constitutionally upheld Indigenous rights in accordance with Indigenous laws. Exercising agency in how these lands are managed and protecting and conserving space to practise Indigenous preferred livelihoods on the land may seem “new,” but these practices are much older than our current governance structures and land jurisdiction.

The lessons learned from the ICE process establish a playing field and conditions for success; this report contributes lessons learned from knowledge holders and presents some building blocks for IPCA establishment.

We must work together to change the structures that govern how lands are managed so that Indigenous communities are empowered with capacity, tools and a supportive regulatory landscape to successfully establish IPCAs.

Exercising agency in how these lands are managed and protecting and conserving space to practise Indigenous preferred livelihoods on the land may seem “new,” but these practices are much older than our current governance structures and land jurisdiction.

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