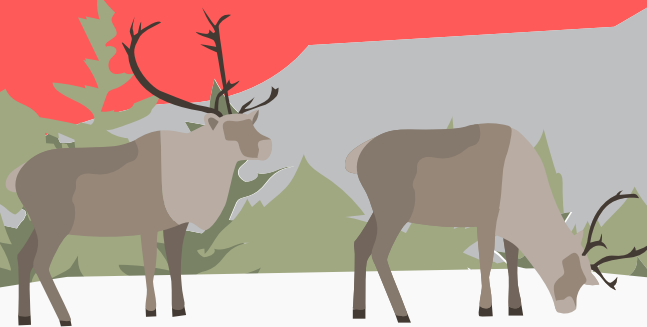




LEGAL PATHWAYS TO INDIGENOUS CONSERVATION:

Legal Tool Evaluation Booklet







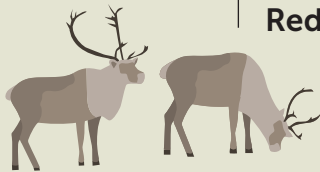
The purpose of this booklet is to provide Indigenous communities with information and tools to identify the most effective legal pathways for protecting their lands and waters according to their shared values and governance goals.

Evaluation Metrics:

The evaluation metrics are developed to help Indigenous communities, governments, and their partners assess and compare different legal pathways for establishing and supporting protected and conserved areas. Each metric highlights a key factor that can influence the success, sustainability, and suitability of a given tool in achieving long-term, Indigenous-led conservation. The answers to the metric questions are neutral, meaning, 'yes' isn't necessarily good and 'no' isn't necessarily bad. The value of the metrics will vary depending on the priorities of Indigenous Governments.

METRICS

Partner Funding



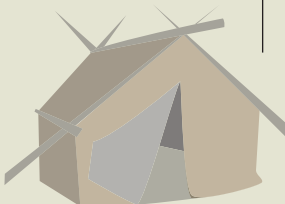
- \$\$ Scale** Are there annual amounts of funding over \$150K available?
- Stability** Is the funding source likely to be available for 10+ years?
- Restrictive** Are the categories of spending for the funding flexible?
- Red Tape** Do the application and/or reporting processes take up a lot of time?

Indigenous Authority



- Process** Does the Indigenous partner have the process authority to design a planning and establishment process that is culturally appropriate?
- Governance** Do Indigenous Governments maintain authority in decision making, or, if a co-management arrangement, do Indigenous Governments share authority in decision making?
- Partner Involvement** Can the Indigenous partner negotiate the level of involvement external partners have in the decision-making process?

Partner Expertise and Experience



- Capacity** Does the partner have the capacity to provide external support to the planning and development process in a meaningful way, such as providing staff and experts?
- Long Term** Does the partner have the internal capacity to commit to a long-term partnership through all stages of work?
- Expertise** Does the partner have experience in developing protected and conserved area partnerships and processes?
- Context** Does the partner have a strong record of working with Indigenous governments and communities in the North?

Social and Economic Benefits



Jobs

Does the tool include (or allow for negotiation of) development of long-term employment opportunities, e.g., Guardians?

Training

Does the tool include opportunities (or allow for them in negotiation) for education and training?

Co-Benefits

Does the tool include support for indirect co-benefits, such as healing and wellness programming?

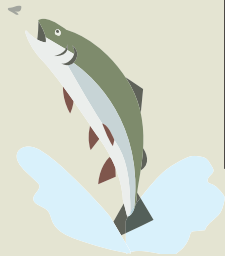
Infrastructure

Does the tool allow for building infrastructure in the area, such as camps and trails?

Sustainable Activities

Does the tool allow for the development of sustainable, non-extractive industries like small-scale fisheries or similar artisanal activities?

Nature of Protection



Alignment

Does the tool take precedence over existing jurisdictional processes for the area in question?

Surface/ Subsurface

Does the tool include surface and subsurface protection?

Uses

Does the tool allow partners to determine what land uses are acceptable and which ones are not?

Focus Areas

Does the tool effectively support multiple areas of focus for protection, e.g., cultural area protection?

Permanence



Legislation

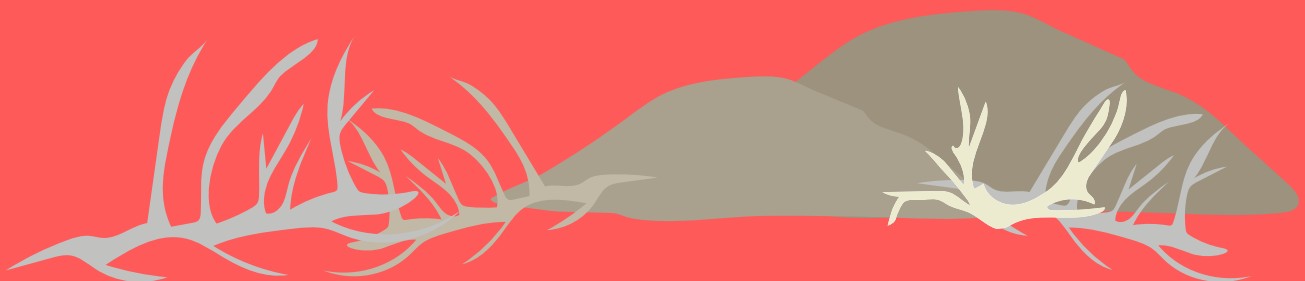
Is the tool legislation formally recognized by the Canadian court system?

Reversal

Can the protections provided by the tool be reversed?

Amend

Does the tool have (or support development of) an amendment process to update protections?



TOOLS FOR LEGAL ESTABLISHMENT

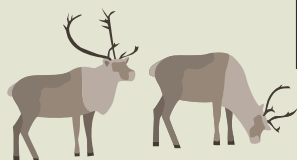
Protected Areas Act (PAA)

The Protected Areas Act allows for the establishment of protected areas on both public and Indigenous lands in the Northwest Territories. Under PAA, Indigenous governments play a central role in planning and managing NWT Protected Areas. For this tool, there is not currently guaranteed core funding; however, the GNWT can enter into funding agreements with management boards. Many protected areas can also access resources through Guardians programs, philanthropic partnerships, or other joint initiatives.

Metrics

Assessment

Partner Funding



\$\$ Scale

✗ No – While the Act empowers the Minister to enter funding agreements and establish special purpose funds for individual protected areas, the GNWT must go through its own internal financial allocation processes for each territorial protected area and funding is not guaranteed.

Stability

✗ No – This tool does not come with core funding.*

Restrictive

✗ No – This tool does not come with core funding.*

Red Tape

✗ No – This tool does not come with core funding.*

Indigenous Authority



Process

? It depends – The Act has a dual purpose: conservation and maintaining biodiversity and cultural continuity. The Act recognizes Indigenous traditional knowledge should be considered in the decision-making process for protected areas. However, the specifics of any culturally based decision-making processes would vary by protected area, likely negotiated through the establishment agreement and management plan. The GNWT is often receptive to participating in a negotiation process based on partners' cultural norms (such as on-the-land negotiations) but will continue to make decisions in accordance with public legislation.

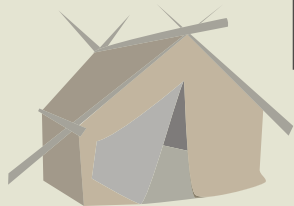
Governance

? It depends (on the area of interest) – Indigenous governments and communities play a primary and central role in the planning, management, and governance, but the Minister responsible retains final authority under the Act. The Act requires engagement with the public and adjacent communities to the protected area in the preparation of a management plan. Where co-management partners differ, dispute mechanisms are built into agreements.

Partner Involvement

✗ No – Indigenous partners would be able to negotiate the level of involvement of additional external partners but would not be able to reduce the level of involvement required by the GNWT by law.

Partner Expertise and Experience



Capacity

? It depends – If GNWT internal capacity is high, there is usually a strong willingness to support these processes and often that support is funded by GNWT. There is unlikely to be financial support for participating external partners or experts.

Long Term

? It depends – GNWT staff can commit to partnership through all stages of work, but internal capacity varies for many reasons, including political mandates.

Expertise

✓ Yes – GNWT has a dedicated department working in developing protected and conserved areas. Note: there can be a lot of turn-over in staffing.

Context

✓ Yes – GNWT staff live and work in the North and understand the Northern context.

Social and Economic Benefits



Jobs

✗ No – There are no specific funds available to support jobs, but this would generally be subject to negotiation in an establishment agreement.

Training

✗ No – While the development of long-term employees is supported and encouraged, there are no specific funds available to support this.

Co-Benefits

✓ Yes – The PAA process encourages the incorporation of Indigenous knowledge and values in conservation planning. Specific recognitions would need to be negotiated in agreements. There are no specific funds available to support this.

Infrastructure

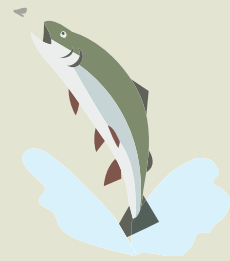
✓ Yes – The Act is meant to be flexible and supports the development of infrastructure that aligns with protection objectives, i.e., under specific conditions described in a management plan. Funding for some infrastructure may be available if required to support the GNWT in meeting its obligations under the Act.

Sustainable Activities

✓ Yes – The Act allows for sustainable activities like ecotourism, small-scale tree-cutting, etc., under specific conditions described in a management plan.

* The evaluation values are subject to change based on whether a territorial protected area includes a funding agreement or receives special purpose funds.

Nature of Protection



Alignment

✗ No – Areas established under the PAA are recognized in land use planning processes, which can help limit incompatible development and support Indigenous land use priorities. The Act states it must also be interpreted in a manner that recognizes and affirms existing Aboriginal and treaty rights and specifically exempts Indigenous rights-holders from permitting requirements applicable to visitors.

Surface/ Subsurface

✓ Yes – This tool has strong legal protection, including subsurface rights. No surface or subsurface authorizations can be granted in the protected area for mining, oil and gas or energy developments.

Uses

✓ Yes – The Act allows for a wide range of uses, though specifics should be negotiated, and industrial activities are generally not allowed.

Focus Areas

✓ Yes – Although primarily a biodiversity- and land protection-centred tool, the PAA process and focus on management planning allow for effective support of multiple protection types.

Permanence



Legislation

✓ Yes – The PAA is recognized as a formal piece of legislation in territorial and federal court systems. The Minister can appoint officers with powers to enforce the Act.

Reversal

✗ No – Amending the regulation establishing a protected area to reduce the size of the protected area or repeal the protections would require the consent of all Indigenous parties to the establishment agreement..

Amend

✗ No – While the management planning process allows for flexibility over time, changes to protections would likely require additional legal agreements if developed after the initial negotiations are concluded. Amendments to reduce the size of the protected area would require the consent of all Indigenous parties to the establishment agreement.

Notes

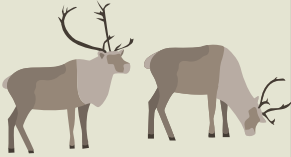
Canada National Parks Act

The Canada Parks Act enables the federal government to enter into agreements with Indigenous communities to establish national park reserves. The Government of the Northwest Territories (GNWT) must also participate as the land administrator.

Metrics

Assessment

Partner Funding



\$\$ Scale

✓ Yes – The CNPA tool comes with core funding allocated through Parks Canada’s annual budget.

Stability

✓ Yes – The core funding supplied to national parks is likely to be available long term, though the amounts may vary depending on Parks Canada’s annual budget and the revenue generation streams available.

Restrictive

? It depends – There can be some flexibility in how core funding is spent, and funds can be shifted from one spending category to another sometimes. Funds may also be redirected outside of usual spending categories on some occasions but will require additional approvals. Changes to spending must align with program objectives.

Red Tape

✓ Yes – A reporting process will be required each year, as will regular audits; however, Parks Canada has been working to simplify their reporting process where possible.

Indigenous Authority



Process

✓ Yes – The CNPA allows for flexibility in agreement negotiations, particularly where Indigenous rights and land claims are concerned.

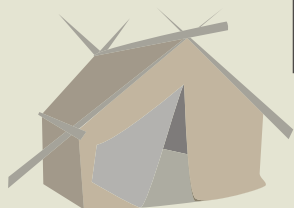
Governance

? It depends (on area of interest) – Indigenous Governments and communities can enter agreements with the Minister of Environment and Climate Change within which they could negotiate a primary and central role in the planning, management, and governance of the protected area. However, absent an agreement, the Minister is ultimately responsible for the administration, management and control of parks and retains decision-making authority under the Act.

Partner Involvement

? It depends – It depends on the external partner. If there are overlapping areas of interest between two or more Indigenous partners, Parks Canada has a requirement by law to consult or develop management regimes with that partner. Parks Canada does not create co-management relationships with non-Indigenous communities or stakeholders, and advice from such external partners would be factored into the co-management decisions made by Indigenous partners and Parks Canada. Parks Canada is required under the CNPA to allow for public participation in management planning, land use planning and development.

Partner Expertise and Experience



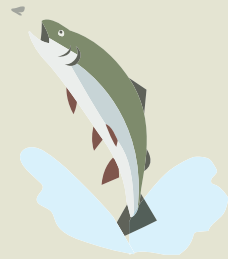
Capacity	? It depends – If Parks Canada’s internal capacity is high, there is usually a strong willingness to support these processes, including for participating external partners or experts. <i>(Note: the ‘?’ here is primarily driven by current concerns of cuts to Parks Canada budget in 2025.)</i>
Long Term	✓ Yes – Although Parks Canada’s budget may fluctuate across governments and mandates, Parks Canada retains staffing with high levels of expertise available for all stages of park development.
Expertise	✓ Yes – Parks Canada has a long history of developing parks and has been working closely with Indigenous Governments to support IPCA establishment.
Context	✓ Yes – Parks Canada has been involved as a partner in developing IPCAs and protected areas in the NWT and across the North. Some staff will live and work in the North, others will be located in Southern Canada.

Social and Economic Benefits



Jobs	✓ Yes – Parks Canada-administered protected areas can receive funding to support Guardians programs. The amount of funding available will vary annually with Parks Canada’s budget and according to federal government mandate.
Training	✓ Yes – Parks Canada does fund employee training. They offer various training opportunities, including in-house programs, tuition subsidies for external courses, and specific initiatives like the Indigenous Employee Training Fund (IETF).
Co-Benefits	? It depends – Parks Canada will likely fund co-benefit programs, like healing and wellness initiatives, as part of a general recognition of the importance of these initiatives and the role they play in promoting cultural wellbeing. However, while funds to support this work can be built into funding agreements or accessed individually through Parks Canada programs, there are no additional funding options similar to those seen for training and Guardians.
Infrastructure	✓ Yes – The Act is meant to be flexible and supports the development of infrastructure that aligns with protection objectives, i.e., under specific conditions described in a management plan.
Sustainable Activities	? It depends – The CNPA allows for sustainable development forms such as ecotourism and educational programming but is generally not open to small-scale industry such as tree-cutting or fisheries.

Nature of Protection



Alignment	✗ No – The Act states that it does not ‘abrogate or derogate’ from Aboriginal or treaty rights, mandates consultation with governments on the establishment of parks and land use, which is bound by the Constitution of Canada on issues related to jurisdiction. The Act also provides for a process to create National Park Reserves where an area of the park land is subject to Indigenous land claims. This provides a pathway for protecting the land while preserving First Nations’ underlying interests for negotiation with Canada.
Surface/ Subsurface	? It depends – Subsurface rights are owned by Parks Canada as a requirement of the CNPA, though there are exceptions. Those exceptions must be negotiated and require amendment to the legislation. The Act allows Parks Canada to manage and regulate activities that could affect the subsurface.
Uses	✗ No – The Act allows for different types of land use within national parks, but the land use is strictly regulated and subject to conditions and restrictions. Land use changes require authorization from Parks Canada via permits.
Focus Areas	✓ Yes – Recognition of numerous forms of protection, including for cultural areas and heritage sites, is possible through the CNPA.

Permanence



Legislation	✓ Yes – The CNPA and the Cabinet Orders in Council creating parks are recognized as a formal piece of legislation in territorial, provincial, and federal court systems. Reducing the size of the park or revoking protections requires approval and amendment by Parliament.
Reversal	✗ No – Not easily. The CNPA is amended each time a new designation takes place to formally protect under the Act. To remove the designation, this tool would require legislation to be revoked. However, in the case of a National Park Reserve, it is formally recognised that through negotiations with the Crown, lands may be removed to form parts of settlement lands.
Amend	✗ No – While the management planning process allows for flexibility over time, changes to protections would likely require additional legal agreements if developed after concluding initial negotiations.

Canada Wildlife Act (CWA), Sections 5,7

The Canada Wildlife Act enables the federal government to enter into agreements with Indigenous communities to establish land protections. The Government of the Northwest Territories (GNWT) must also participate as the land administrator. For this tool, there is no legislated core funding; however, many National Wildlife Areas access resources through federal Guardians programs, impact and benefit agreements or separate establishment agreements. Agreements under the CWS that are not National Wildlife Areas, e.g., under Section 7 of the Act, are likely to include negotiated funding.

Metrics

Assessment

Partner Funding



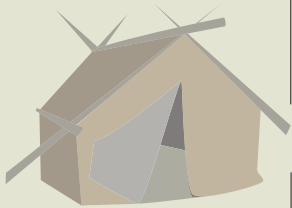
\$\$ Scale	✗ No – This tool does not come with core funding, but Section 7 agreements may include funding negotiations.
Stability	✗ No – This tool does not come with core funding.
Restrictive	✗ No – This tool does not come with core funding.
Red Tape	✗ No – This tool does not come with core funding.

Indigenous Authority



Process	? It depends – The CWA itself does not require negotiations, but the Minister enters into agreements to establish an NWA that typically involves territorial or provincial approvals.
Governance	? It depends (on area of interest) – This tool allows for co-management with Indigenous Governments (IGs). While IGs typically lead the planning and implementation process and the Minister would rarely act outside of the board's recommendation, final authority under the Act ultimately resides with the federal Minister.
Involvement	✗ No – Indigenous partners would be able to negotiate the level of involvement of additional external partners but would not be able to reduce the level of involvement required by the Canadian Wildlife Service under law.

Partner Expertise and Experience



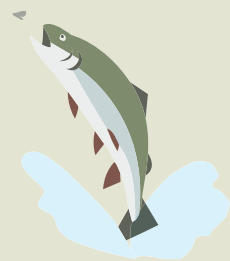
Capacity	? It depends – Environment and Climate Change Canada (ECCC) typically offers guidance and support during the planning and establishment phases; however, successful implementation largely depends on the capacity of Indigenous partners.
Long Term	? It depends – Canadian Wildlife Service staff can commit to partnership through all stages of work and have staff with high levels of expertise available for all stages of wildlife area development. Staff would be responsible for management and monitoring. However, locally, internal capacity varies for many reasons
Expertise	✓ Yes – The Canadian Wildlife Service has a long history of establishing National Wildlife Areas and has been working closely with Indigenous Governments to support IPCA establishment.
Context	✓ Yes – The Canadian Wildlife Service has been involved as a partner in developing IPCAs and National Wildlife Areas in the NWT and across the North. There is a regional office in Yellowknife. Some support will come from Southern Canada.

Social and Economic Benefits



Jobs	✗ No – While development of long-term employment is supported and encouraged, there are no specific funds available to support this.
Training	✗ No – While training and education of employees is supported and encouraged, there are no specific funds available to support this.
Co-Benefits	✗ No – While the process encourages the incorporation of Indigenous knowledge and values in conservation planning, there are no specific funds available to support this.
Infrastructure	? It depends – The Act supports the development of infrastructure, but development is subject to strict regulations and must align with protection objectives, i.e., under specific conditions described in a management plan.
Sustainable	? It depends – Activities must align with the vision/mandate of the National Wildlife Area. Certain small-scale activities may be allowed on a case-by-case basis, subject to permitting from ECCC.

Nature of Protection



Alignment	✗ No – National Wildlife Areas do not negate existing land claims or legal rights.
Surface/ Subsurface	? It depends – The CWA affords strong legal protections to National Wildlife Areas, for wildlife and wildlife habitat. The Act does not have any direct tools for subsurface protection, however, surface or subsurface activities which would negatively impact wildlife, i.e., mining, would not be permitted in a NWA under the Act. However, subsurface rights may be treated differently in areas where the NWA contravenes territorial or land tenure laws relating to those subsurface rights.
Uses	✗ No – The Act allows for different types of land use within National Wildlife Areas, but the land use is strictly regulated and subject to conditions and restrictions. Land use changes require authorization from ECCC via permits. In a co-management arrangement, development of the management plan with co-management committee participants will allow for decision on how certain areas might be used. For example, the committee may choose to set an area to not be accessed by tourists because it is a highly important cultural site.
Focus Areas	✓ Yes – Recognition of numerous forms of protection, including for cultural areas and heritage sites, is possible through the CWA. Note that the purpose of the Act is wildlife conservation, research, and interpretation so all rights and permitted activities will be assessed through that lens.

Permanence



Legislation	✓ Yes – The CWA and regulations creating National Wildlife Areas are recognized in territorial, provincial, and federal court systems.
Reversal	✗ No – National Wildlife Areas are created by regulation, which is more easily overturned than legislation; however, the protections afforded by this tool are strong and extremely difficult to reverse. A Ministerial Order is needed but is politically sensitive and requires due process and consultation.
Amend	✓ Yes – The CWA authorizes making regulations for National Wildlife Areas that can be amended, and agreements made under Section 7 can be modified.

Land Claim Processes (and Land Use Plans)

Land claims is the term used when individual or groups of Indigenous Nations negotiate land ownership or resolution of land-related issues with public governments in a way that recognizes rights and land. Land Use Plans (LUPs) are a tool used under a land claim. LUPs guide land and resource use and identify zones for protection. When finalized through land claim or governance agreements, they can become legally binding and offer protection for Indigenous-led conservation zones.

While this booklet focuses most on land claims (as the process that generates any funding or legal protections), specific differences relative to the LUP as a tool are also included where relevant.

Metrics

Assessment

Partner Funding



\$\$ Scale

✓ Yes – Core funds are typically negotiated as part of the land claims process. Annual payments and distribution vary per negotiated settlement but can be used to support land activities.

Stability

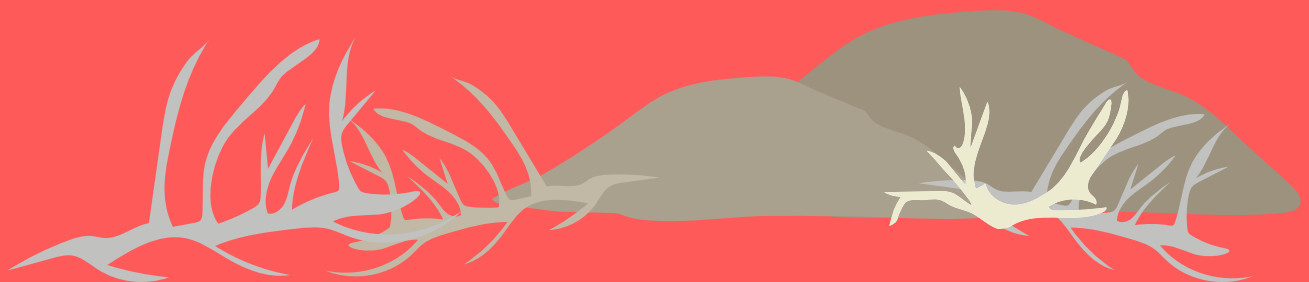
✓ Yes – while there is variation per settlement on the treatment of issues such as inflation and payments over time, the core funds are stable for 10+ years.

Restrictive

? It depends – There can be some flexibility in how core funding is spent, and funds can be shifted from one spending category to another sometimes. However, settlement funds do have funding categories.

Red Tape

✓ Yes – A reporting process will be required each year, as will regular audits.



Indigenous Authority



Process

? It depends – In land claims with self government, the Indigenous Government has jurisdiction and authority over settlement (Indigenous owned) lands. In land claims without self government, the land authority will vary. Indigenous Government will have ownership, while territorial and federal governments will have jurisdiction.

Governance

? It depends – If the land claims are supported by self-government, the Indigenous partner has governance authority. If the land claims are not supported by self-government, the rights of the Indigenous parties will be set out in the land claim, but typically are those of an owner, rather than of a government. Indigenous parties can decide how to use their own settlement lands, while shared or co-management processes (including LUPs) apply to land use and resource management decisions in the broader settlement area. NWT land claims all include specific chapters relating to land use planning, and the establishment and operation of national parks and territorial protected areas.

Partner Involvement

? It depends – If the land claims are supported by self-government, the Indigenous partner has governance authority. If the land claims are not supported by self-government, the land authority will vary. Indigenous partners will retain authority to dictate involvement on private lands, while shared or co-management processes will determine decision-making on territorial and federal lands within the land claim areas.

Partner Expertise and Experience



Capacity

? It depends – This tool relies on the capacity of the Indigenous Government pursuing the land claim.

Long Term

? It depends – This tool relies on the capacity of the Indigenous Government pursuing the land claim.

Expertise

? It depends – This tool relies on the capacity of the Indigenous Government pursuing the land claim.

Context

✓ Yes – Indigenous Peoples and Governments have been stewarding the land since time immemorial.

Social and Economic Benefits



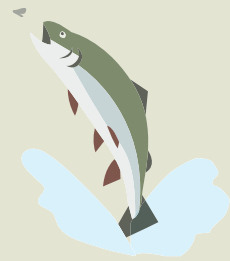
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|-------------------------------|---|
| Jobs | ✓ Yes – Typically, land claims settlement funds can be used to fund a wide range of processes, including jobs and training. However, a LUP alone would not typically provide these benefits. |
| Training | ✓ Yes – Typically, land claims settlement funds can be used to fund a wide range of processes, including jobs and training. However, a LUP alone would not typically provide these benefits. |
| Co-Benefits | ✓ Yes – Typically, land claims settlement funds can be used to fund a wide range of processes, including healing and wellness. However, a LUP alone would not typically provide these benefits. |
| Infrastructure | ✓ Yes – Typically, land claims settlement funds can be used to fund a wide range of processes, including infrastructure development, subject to existing land uses and zoning. A LUP could allow for these types of infrastructure in different management zones but would not provide funding to support infrastructure development. |
| Sustainable Activities | ✓ Yes – Typically, land claims settlement funds can be used to fund a wide range of processes, including infrastructure development, subject to existing land uses and zoning. LUPs can also be negotiated to ensure traditional activities continue to be allowed in different management zones. |

Permanence



- | | |
|--------------------|---|
| Legislation | ✓ Yes – Once concluded and signed by Indigenous and Government parties, land claims and land use plans are legally binding and formally recognized by all levels of government and courts. Land claims have constitutional recognition as treaties and prevail over other laws. |
| Reversal | ✗ No – Land claims are constitutionally protected and can only be amended by consent of the parties. |
| Amend | ✓ Yes – Land claims are constitutionally protected and can only be amended by consent of the parties; LUPs typically have a review and amendment process, e.g., every five years. However, the process to alter or change the designation for zoned areas can be lengthy, must be approved by the Land Use Planning Board, and requires consent from all parties. |

Nature of Protection



Alignment

? It depends – As negotiated agreements between Indigenous, federal and territorial governments, any impacts that a land claim or LUP would have on existing protected areas, LUPs or jurisdictional processes for land use within the land claim or plan area will be considered as part of the negotiations. The final agreement will be decisive on all issues relating to how existing protected areas are managed..

Surface/ Subsurface

? It depends – Land tenure of distinct parcels of land is negotiated during the land claims process. Settlement lands under Indigenous government jurisdiction often include surface and subsurface protections. Areas negotiated as conservation zones or protected areas in land use plans may or may not include subsurface protections, but typically include land use restrictions, which have a comparable effect.

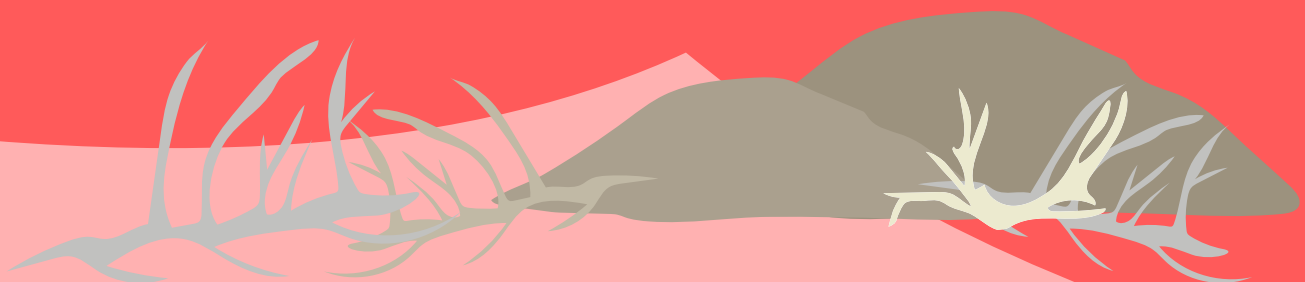
Uses

? It depends – As with the extent of protection, the land uses negotiated as part of the land use planning process (tied to land claims) determine the acceptable uses for different areas of land, including conservation zones and protected areas.

Focus Areas

✓ Yes – The land claims/land use planning process recognizes different types of value during the zoning process, including cultural sites and heritage areas, and these are typically zoned for protection.

Notes



Indigenous Protected and Conserved Areas (Unilateral Declarations)

Community-developed laws provide a self-determined legal basis for protecting and managing Indigenous lands and fresh waters. These laws reflect traditional governance systems and prioritize cultural survival, language, and environmental stewardship. For this tool, there is no legislated core funding; however, many protected areas access resources through federal Guardians programs, philanthropic partnerships, or joint initiatives with other governments.

Metrics

Assessment

Partner Funding



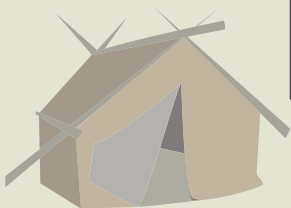
\$\$ Scale	☒ No – IPCAs and unilateral declarations do not receive core funding; however, declarations may make funding proposals more appealing to funding entities.
Stability	☒ No – this tool does not come with core funding.
Restrictive	☒ No – this tool does not come with core funding.
Red Tape	☒ No – this tool does not come with core funding.

Indigenous Authority



Process	☒ Yes – The Indigenous Government declaring an IPCA has sole authority over their declaration process.
Governance	☒ Yes – The Indigenous Government declaring an IPCA has sole authority over its governance of the IPCA.
Involvement	☒ Yes – The Indigenous Government declaring an IPCA has sole authority over the level of involvement of external partners in their IPCA.

Partner Expertise and Experience



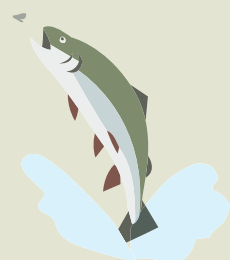
Capacity	☐ It depends – This tool relies on the capacity of the Indigenous Government declaring the IPCA.
Long Term	☐ It depends – This tool relies on the capacity of the Indigenous Government declaring the IPCA. There are no external partners for a unilateral IPCA declaration. <i>(Note: Many IPCAs are declared unilaterally as a first step in land conservation and combined with additional layers of legal protection, such as the other tools described here.)</i>
Expertise	☐ It depends – This tool relies on the experience of the Indigenous Government declaring the IPCA.
Context	☒ Yes – Indigenous Peoples and Governments have been stewarding the land since time immemorial.

Social and Economic Benefits



Jobs	? It depends – This tool relies on the interests and priorities of the Indigenous Government declaring the IPCA. There are no specific funds available to support this.
Training	? It depends – This tool relies on the interests and priorities of the Indigenous Government declaring the IPCA. There are no specific funds available to support this.
Co-Benefits	? It depends – This tool relies on the interests and priorities of the Indigenous Government declaring the IPCA. There are no specific funds available to support this.
Infrastructure	? It depends – This tool relies on the interests and priorities of the Indigenous Government declaring the IPCA and on the legislation currently guiding land use in the area. There are no specific funds available to support this.
Sustainable Activities	✓ Yes – The interests and priorities of the Indigenous Government declaring the IPCA dictate the acceptable land uses. There are no specific regulations (beyond applicable agreements such as Land Use Plans) that determine land use in IPCAs.

Nature of Protection



Alignment	? It depends – IPCAs' legal power comes from inherent rights to land use and occupancy, rights that cannot be infringed upon and are guaranteed under the Constitution. However, where there are other land uses or acts in conflict with these constitutional rights, conflicts may need to be resolved through arbitration or other legal means.
Surface/ Subsurface	? It depends – While courts may respect IPCA declarations as an exercise of a Nation's sovereign authority and Indigenous law, there are no current case law examples in which a court has upheld a unilaterally declared IPCA. Individual cases regarding land use and rights issues within a declared IPCA currently need to be argued on a case-by-case basis.
Uses	? It depends – While courts may respect IPCA declarations as an exercise of a Nation's sovereign authority and Indigenous law, there are no examples of a court having done so definitively. Individual cases regarding land use and rights issues within a declared IPCA currently need to be argued on a case-by-case basis. Some self-declared IPCAs (such as Ahousaht and Tla-o-qui-aht) relied on interim orders (injunctions) to protect specific values from certain activities (such as logging) but have also negotiated joint designations with public governments for long-term protection.
Focus Areas	✓ Yes – The Indigenous partner determines the goals and areas of protection focus for IPCAs.

A stylized illustration of a bison, facing forward, rendered in shades of brown and tan. The bison has a large, dark brown head with prominent, curved horns. Its body is a lighter tan color, and it has a thick, dark brown mane around its neck. The illustration is set against a plain white background.

It depends – While courts may recognize and uphold IPCA designations as an exercise of a Nation’s sovereign authority and Indigenous law, individual cases regarding land use and rights issues within a declared IPCA currently need to be argued on a case-by-case basis. Without protections under federal, territorial, or self-government laws operating alongside the IPCA declaration, the IPCA protection measures and enforcement mechanisms against third parties are not likely to be enforced except on an interim basis (whether through agreements or court orders).

- ✓ Yes – The protections for an IPCA can be revoked through the loss of court cases or through decisions made by Indigenous Governments, such as council resolutions.

- ✓ Yes – IPCAs can be amended and updated using existing Indigenous Government processes.

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

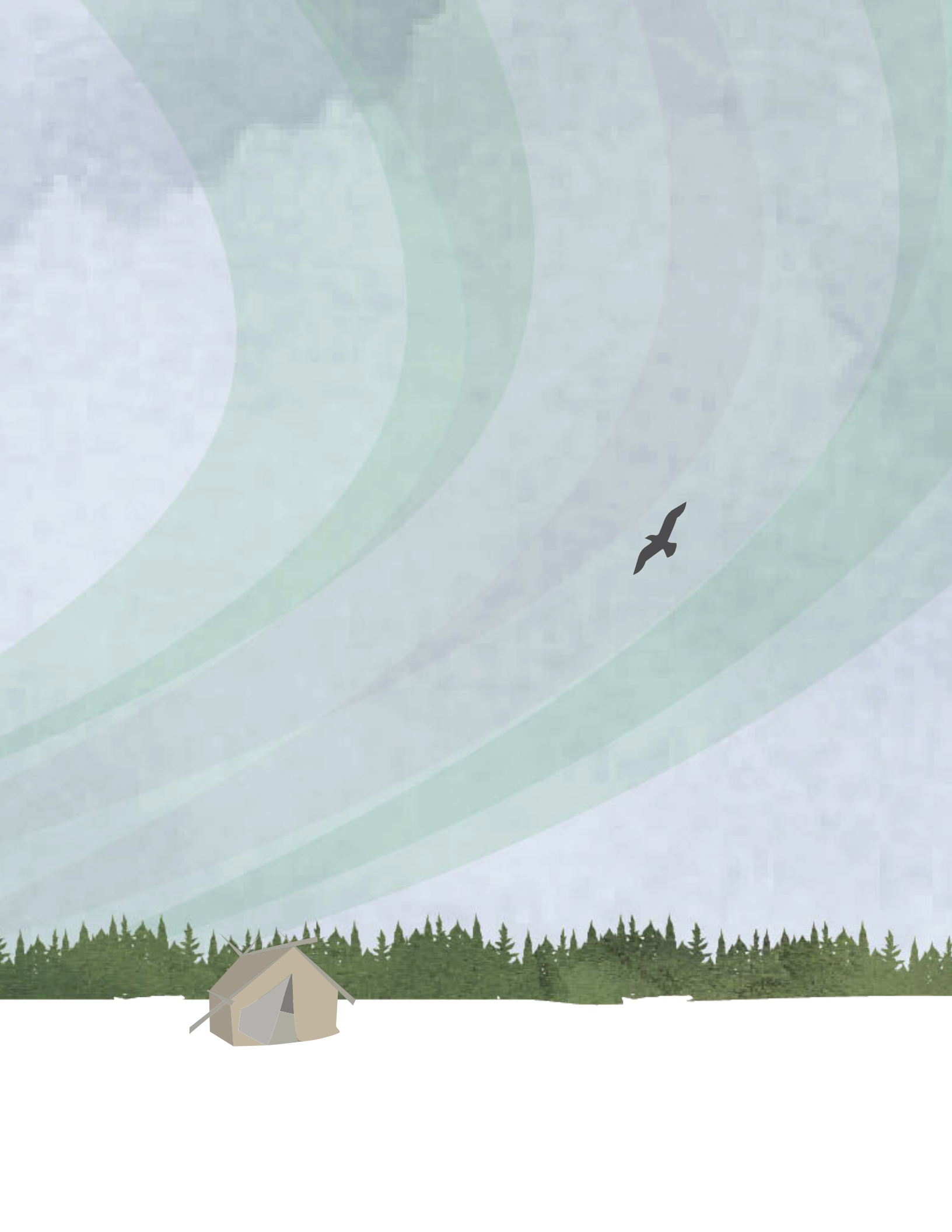
Indigenous Protected and Conserved Areas (Joint Declaration)

IPCAs can also be developed through partnerships (joint declarations) as a legal basis for protecting and managing Indigenous lands and waters. Similar to a unilateral declaration, jointly declared IPCAs prioritize cultural survival, language, and environmental stewardship. However, jointly designated IPCAs are pursued as a partnership with public governments and typically use other legal tools to enhance protection, such as those described in this booklet. In the joint declaration IPCA model, the features of the other tools can be used together with the IPCA tool. This means that the portions of this booklet exploring those other tools will be more relevant for jointly declared IPCAs than the section on unilaterally declared IPCAs. For example, jointly declared IPCAs can see core funding supplied via establishment or impact and benefit agreements.

Thaidene Nënë is one example of a joint declaration in the Northwest Territories. Thaidene Nënë is a protected area designated as an IPCA under Dene Law but co-managed with Parks Canada and the GNWT. Portions of the IPCA are designated as a national park reserve under the CNPA, a territorial protected area under the PAA, and a wildlife conservation area under the territorial Wildlife Act.

Memoranda of Understanding (MOU) and Agreements in Principle (AIPs)

MOUs and AIPs are useful to achieve interim protection, particularly in scenarios featuring longer negotiations. Agreements can be tailored to address the specific needs of a protected area, including subjects that are not included in other public government legislation. However, these tools are not broadly considered permanent nor strongly legally binding and so should be viewed as temporary steps towards a final agreement using one or more of the available tools.



This booklet is intended to guide Indigenous Governments and communities through the complex but powerful legal landscape for protecting their traditional territories. While each tool or support mechanism has different strengths and challenges, combining pathways can often create stronger, community-driven conservation outcomes.

