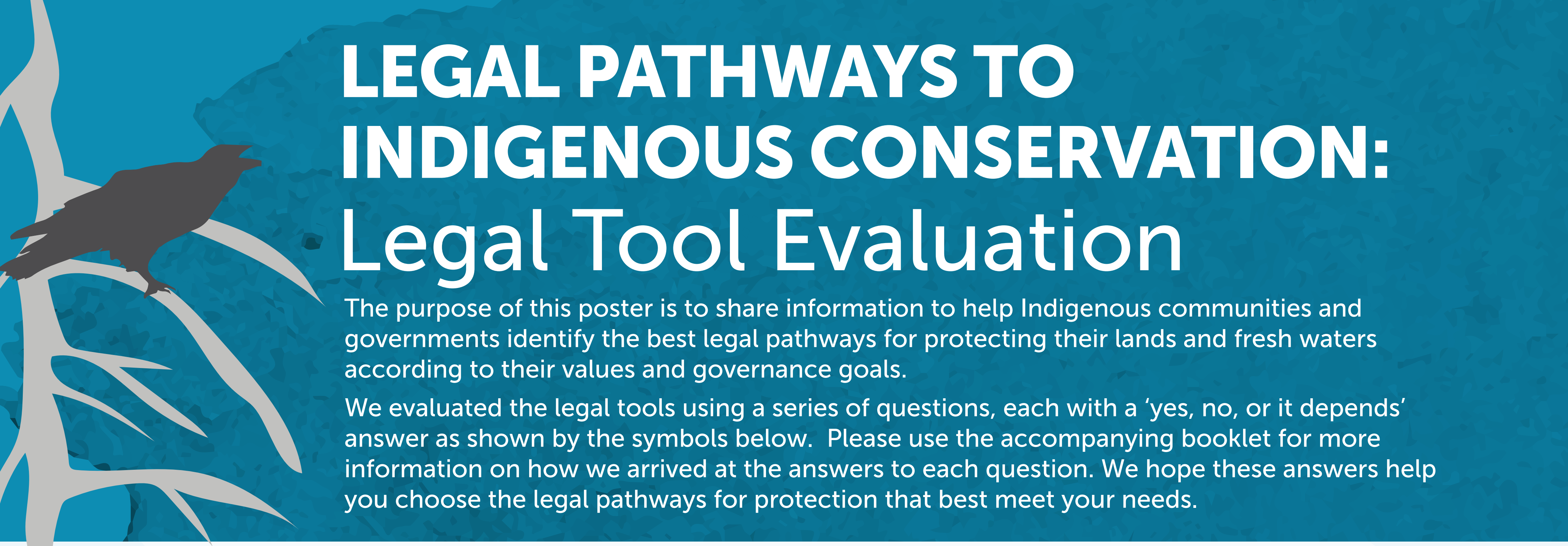




LEGAL PATHWAYS TO INDIGENOUS CONSERVATION: Legal Tool Evaluation

The purpose of this poster is to share information to help Indigenous communities and governments identify the best legal pathways for protecting their lands and fresh waters according to their values and governance goals.

We evaluated the legal tools using a series of questions, each with a ‘yes, no, or it depends’ answer as shown by the symbols below. Please use the accompanying booklet for more information on how we arrived at the answers to each question. We hope these answers help you choose the legal pathways for protection that best meet your needs.

Legislative Tools:	PAA	CNPA	Unilateral IPCA	CWA Sections 5, 7	Land Claims
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 formally recognized by the Canadian court system as legislation?	✓	✓	?	✓	✓
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?	✗	✗	✓	✓	✓

INDIGENOUS PROTECTED AND CONSERVED AREAS (IPCAS) – JOINT DECLARATIONS

- IPCAs can be created through joint declarations between Indigenous Nations and public governments.
- Joint IPCAs combine the IPCA framework with other legal tools for stronger protection.

Example: Thaidene Nëné (NWT), Declared as an IPCA under Dene Law and co-managed with Parks Canada and the Government of the Northwest Territories (GNWT). Includes multiple legal designations: national park reserve under the CNPA, territorial protected area under the PAA, territorial wildlife conservation area under the Wildlife Act.

MEMORANDA OF UNDERSTANDING (MOUS) & AGREEMENTS IN PRINCIPLE (W)

- Useful for interim protection, especially during lengthy negotiations.
- Can be customized to address specific needs beyond existing legislation.
- Considered temporary tools — not strongly legally binding.
- Typically serve as stepping stones toward a final, permanent agreement.



MakeWay