

PLANNING INSTITUTE OF BRITISH COLUMBIA

# PLANNING WEST

SPRING 2019

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## PLANNING IN THE NORTH

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# PLANNING WEST

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Tumbler Ridge; photo courtesy of Hillary Morgan



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## PRESIDENT'S MESSAGE

In looking ahead through 2019 and beyond, we are key partners in the joint 2019 BC Land Summit: Collaborations & Connections, one of the largest collaborative conferences for land-related professionals in Canada. Several key PIBC events are happening in conjunction with the Land Summit: our 2019 AGM, where members will elect the new Board members (a big thank you to everyone who stepped forward and was nominated for the 2019-2021 Board term); and the presentation of the 2019 Awards for Excellence in Planning and Individual Achievement, recognizing the important work our members are doing throughout the BC and the Yukon.

After the BC Land Summit wraps up we will be participating in CIP's conference in Ottawa where we will help mark CIP's 100th anniversary, a short few days after Canada celebrates its 152nd birthday. We will also be undertaking a joint national planning compensation and benefits survey in partnership with CIP and the other provincial institutes – so watch for that in the coming year. In looking even further ahead, planning has already begun for our 2020 joint CIP-PIBC conference in Whistler, and I am excited to let you know we have confirmed the location of our 2021 conference, which will be held in Whitehorse, Yukon.

As I wrap up my tenure as President, I need to give a special thanks to the outgoing Board: you have been an inspirational group to work with, and you have accomplished so much, both for the Institute, and, indeed, for all planners throughout BC and the Yukon. My thanks also go out to the PIBC staff team, as well as to everyone who has volunteered, in any capacity, with PIBC over the past two years. Without all of you, we would not have been able to achieve the many goals and objectives we set out for ourselves in 2017. While some of those goals were lofty, I am proud of the work we did, together, to achieve them.

My time on the Board has been a deeply rewarding experience; I am grateful for the opportunity to have served as PIBC's President, and to have represented you – our members – and our shared profession for the past two years. I offer my best wishes and continued support to the incoming president Lesley Cabott as she and the incoming members of the Board lead us into and through the 2019-2021 term.

**Andrew Ramlö** MCIP, RPP

**A**s professional planners, it is an integral part of our work to review and evaluate the plans we have been involved in making – acknowledging what aspects of our intentions were achieved, considering why certain things may not have been, and reflecting on what may have been missed in our initial design. As the 2017-2019 Board's term comes to a close, the time has come for us to start this same work; to reflect on the strategic plan we put in place in 2017; to check off the tasks we completed; to consider what we were not able to achieve (and why); and to ponder what we may have missed.

In terms of accomplishments, I am proud to share that we achieved many of the major initiatives and goals we set when we started out two short years ago. With respect to our goal of enhancing member engagement, the Board sought to strengthen support for our next generation of planners, beginning with student members and the elimination of all student fees. While we are, so far, the only provincial or territorial institute to waive such fees, CIP has followed PIBC's lead and eliminated student member fees this year.

Our updated member survey was another important way we were able to gain insight into who our PIBC member planners are, and into the issues that are most important to them. The data this survey provided will continue to be integral as the Board moves forward in its next term with plans that will reflect the needs and desires of our membership.

In the area of strategic advancement of the planning profession, we were honoured to welcome several government ministers and elected officials to our conferences and events over the past two years, including the Honourable Selina Robinson, Minister of Municipal Affairs & Housing who contributed to several events over the past year.

Our objective of expanding member services was also reflected in the Board's support for expansion of our Continuous Professional Learning (CPL) events, as we created a new full-time Professional Learning & Events position to PIBC's staff team to manage and implement these enhanced activities. The substantial redesign of our website is allowing us to refresh the look and feel of the site and expand the reach of our CPL activities, member services, and planning-related resources.

In terms of work still to do, the Board sought to define a framework for PIBC to advocate for, and undertake potential research on, important planning issues. While substantial work has been undertaken in this area, further work on this important initiative will likely continue to be a priority area for the Board in its next term.

# OUTLINES



What's Trending... Interview...



Notice some planning gold in the social media universe? Share it @PIBC

2019  
BC LAND SUMMIT

COLLABORATIONS  
& CONNECTIONS

## What's Trending?

> **Cindy Cheung**, PIBC Communications & Marketing Specialist

**E**very five years, the BC Land Summit conference brings together five professional organizations with ties to land and land-use for three days of interdisciplinary discussions, workshops and networking. The rich and diverse conference program supports this year's theme of "Collaborations & Connections". Here are three of the presenters from this unique joint conference that showcase collaborations and connections.

### **Social Purpose Real Estate Collaborative @space4community**

The Social Purpose Real Estate Collaborative (SPRE) consists of funders and investors who engage in social purpose real estate investment. By collaborating with various organizations, including Vancity, BC Housing, the Real Estate Foundation of BC, and cities such as New Westminster, Vancouver and Richmond, SPRE creates a blend of social, environmental and financial returns through

investment partnerships. Participating as an Allied Partner at this year's BC Land Summit, SPRE's presentation "Risk & Return on Investment in Social Purpose Real Estate" presents an industry panel connecting the dots between the risks and returns of social purpose real estate collaborations.

### **Young Anderson Legal Blog**

If you've been to any one of our recent events, whether it's a BC Land Summit conference or a legal workshop held by a local PIBC Chapter, you'll most likely have come across Bill Buholzer FCIP, RPP, Guy Patterson MCIP, RPP, and others from the team of Young Anderson Barristers & Solicitors. At this year's Summit they offer an in-depth "Deep Dive" session on the enforcement aspects (or the "pointy end") of regulation.

The Young Anderson team also authors a legal perspective piece for PIBC's quarterly publication *Planning West*, and publishes an online blog with updates on current legal hot topics, including cannabis

legalization and rental housing shortages. See their piece in this issue of *Planning West*, and visit their blog to stay connected. <https://www.younganderson.ca/blog>

**Lilian Chau MCIP, RPP**  
**@soyabeanlc**

The hashtag #BankingOnValues on Lilian's Twitter home page sums up how she feels about being an urban planner and the Community Investment Portfolio Manager at Vancity. As Manager she connects her expertise in social financing with development planning, community engagement, and communications in support of affordable housing and community-owned spaces. See some of the vibrant results of these collaborative partnerships in the "Innovative Models of Social Purpose Real Estate" mobile

workshop at the BC Land Summit program. You can also follow her on Twitter to learn more about her work. ■

**Planning West**  
**Call for Submissions**

**2019 Conference and Emerging Issues** | Summer Issue.  
Deadline June 15, 2019

**Planning for Health and Wellbeing** | Fall Issue  
Deadline September 15, 2019

Articles should be 1000-1200 words in length and in an unformatted, MS Word document. **Please note:** not all articles may be accommodated based on editorial decisions and the number of submissions received.

**INTERVIEW**

# Ryan O'Toole

> **Hillary Morgan MCIP, RPP**

Ryan O'Toole is a 3rd year student in the University of Northern British Columbia's (UNBC) Environmental Planning Program. Ryan is studying Indigenous Planning and is currently participating in UNBC's Cross-Cultural Indigenous Knowledge Exchange (CCIKE) program. We caught up with Ryan to find out more about her studies and what she is learning on her exchange in Auckland, New Zealand. Ryan O'Toole was born amiskwaciwâskahikan (Edmonton), Alberta. She is from the Tsimshian Nation and of the Killer Whale Clan on her mother's side, and of Irish and French ancestry on her father's side.

## GUEST EDITOR'S NOTE

I am writing this as I fly in a propeller plane from Prince George to Fort St John. Flights and long drives are a familiar part of my life in the north and provide me with welcomed time to reflect. I met Maria Stanborough (*Planning West* editor) at the 2018 PIBC Conference in Victoria, where she planted the seed for the idea of a northern edition of *Planning West*. Always eager to showcase the North, I happily took on the task.

As a planner in the North I fit in because I can't seem to nail down a specific planning topic to focus on. As a planning student I was told I had to pick a stream: land use, social, or environmental planning. I thought it was very unfair that I could not study all three topics!

My "professional identity crisis" has served me well in Prince George, where I have had opportunities to tackle a variety of planning issues such as affordable housing, heritage planning, accessibility, urban design, and Indigenous community planning. I have now made the leap from urban planning to natural resource planning where problems that were previously framed as 'science' are being re-framed as 'human,' and require scientists and social scientists to work together to find solutions.

After living in Prince George for 5 years and transitioning from local-level planning to provincial-level planning I have learned a lot about the different scales and types of planning that are needed in the North. I hope that this edition of *Planning West* showcases the wide variety of work underway and provides useful case studies for planners throughout B.C. Thank you to all of the northern planners who contributed to this edition of *Planning West* and to Maria Stanborough for bringing it all together.

**Hillary Morgan MCIP, RPP is the PIBC Central-North Chapter Committee Chair**

### 1) WHAT ATTRACTED YOU TO UNBC?

I came across the First Nations/ Indigenous Planning program at UNBC and found that it met a lot of my interests regarding Indigenous-Crown relations in Canada, including: First Nations studies, politics, geography, sociology, anthropology, environmental science, law, and more. UNBC is unique in that (I believe) it is the only university in Canada to offer an undergraduate degree in First Nations/ Indigenous Planning.

### 2) HOW DID YOU GET INVOLVED WITH THE NEW ZEALAND PROGRAM?

When I learned that UNBC offered a 'Cross-Cultural Indigenous Knowledge Exchange' (CCIKE), I thought it was a perfect opportunity for me to further explore Indigenous people's experience around the globe. I had a connection through UNBC to a Māori research centre in Auckland and luckily I was able to line up an 8-month exchange when my application for CCIKE was accepted!

The internship is mainly exploratory with the objective of determining contrasts or





Photos courtesy of Ryan O'Toole

parallels that may exist between Māori Planning in Aotearoa and First Nations planning in Canada. By participating in Māori-led initiatives related to Indigenous planning, I am able to identify uniquely Māori practices fundamental to their Indigenous planning processes. This identification allows me to compare practices and principles from my knowledge of First Nations planning and to contemplate how I can bring these perspectives together to plan for Indigenous futures.

**3) WHY DID YOU THINK NEW ZEALAND WOULD BE A GOOD PLACE TO LEARN ABOUT INDIGENOUS PLANNING?**

In one of my first year Planning courses, we read “Theorizing Indigenous Planning” by Hirini Matunga, an Indigenous Māori

Planner. This writing changed how I pictured being an Indigenous Planner and is fundamental to my understanding of Indigenous Planning.

In Canada, there is a perception amongst Indigenous peoples that Māori are leading the charge in terms of Indigenous rights and self-determination. I certainly held similar beliefs prior to coming here and after reading Matunga. While I now see more clearly how this idea holds truth, there are still many challenges Māori face in Aotearoa. All of these reasons, combined with my fascination for travelling drew me towards coming to Aotearoa to learn about Indigenous planning.

**4) HOW IS WHAT YOU ARE LEARNING APPLICABLE TO INDIGENOUS PLANNING ISSUES IN BC AND CANADA?**

Learning about the 1840 Treaty of Waitangi, which is considered to be the founding document of New Zealand, has been significant to my understanding of how Māori orient themselves in the country today. Misinterpretation of the treaty by European settlers has led to many similar power dynamics that exist and unfold in Canada everyday. Even though the Treaty of Waitangi exists, there are many iwi (tribes) in Aotearoa who are going through a claims process (which can include land or bodies of water) to rectify breaches made to treaty principles by the Crown.

In what is now known as British Columbia, many Nations have the opportunity to negotiate their terms in agreements made with the Crown, should they choose to go down the path of negotiations.

My experience in Aotearoa has reaffirmed that I must always remember that Indigenous peoples do not solely exist in response to colonialism; therefore, their planning processes are not solely in response to colonial measures. Some Indigenous communities believe that having an agreement in place with the Crown enables them to move forward, some do not. The bottom line is that Indigenous peoples have been “planning” for their futures since time immemorial. To this end, I have been learning how important it is to understand the context through which Indigenous Planning practices and processes are happening in BC and Canada.

**5) WHAT HAS MADE IT A MEMORABLE EXPERIENCE SO FAR?**

I would have to say the relationships I have built while here comes to mind first. I am very lucky to have such an opportunity and the support I’ve received from everyone helping me has been incredible.

**6) WHAT ARE SOME INSPIRING STORIES OR EXPERIENCES YOU WILL BE TAKING BACK TO CANADA?**

Three experiences come to mind immediately. Firstly, I was very lucky to be invited to participate in a Māori youth science camp in Northland (northern peninsula of the North Island) learning about Māori culture and perspectives in science. This experience showed me ways in which Indigenous communities can support their youth to foster connection to their culture, instilling

- 1. 'Noho Taiao' - Māori youth science camp in Northland
- 2. Aotearoa; Treaty of Waitangi signing grounds in Waitangi, Aotearoa New Zealand
- 3. Ryan on the beach in Aotearoa New Zealand



kaitiakitanga (stewardship) and responsibility to whenua (land).

Secondly, I’ve also been lucky to work with the ‘Save Our Unique Landscape’ (SOUL) campaign in Auckland who are working towards saving an area of Māori land known as Ihumātao, which is under threat of housing development. Auckland has a significant history with Māori land rights and I believe there is much from this history that Indigenous Planners in Canada can learn from with regards to urban Indigenous planning.

Finally, I’ve just recently learned of a cultural assessment tool, which allows Māori to determine the health of rivers and streams based on cultural values. The information from the assessment tool can then be used for Indigenous planning purposes.

**7) WHAT ARE SOME OF THE BIGGEST DIFFERENCES YOU HAVE FOUND BETWEEN INDIGENOUS PLANNING IN NEW ZEALAND IN COMPARISON TO CANADA?**

I’ve had this conversation with many people since I’ve been in Aotearoa and one of the biggest differences I have found is (obviously) the area of land. My sense is that we as Indigenous peoples face more complex challenges in Canada because we do not identify as one nation nor do we orient to just one treaty. This does not mean that we should refer to ourselves as the ‘same’ nor to just one agreement with the Crown, but I believe the size of the land complicates our ability in Canada to come together as a unified voice.

An interesting point of reference is Māori’s ability to have te reo Māori recognized as a national language and taught to

all New Zealanders. For First Nations, Inuit or Métis to be able to have anything similar, we’d have to negotiate unique curriculums all across the country, and, sadly, I don’t believe all of our Indigenous languages would ever be recognized as national languages in Canada.

I believe this unified Māori voice (which is very diverse once you move beyond the surface) has allowed for Māori to be in a position where they make the decisions for their communities, picking and choosing when outside perspectives will benefit them. I feel like we are moving closer towards this in Canada but we still face interference from municipal, provincial and federal governments.

**8) WHAT DOES THE FUTURE OF INDIGENOUS PLANNING IN CANADA LOOK LIKE TO YOU?**

There’s a part of me that wants to say that defining this future is not really up to me, it’s up to the communities I work with. I suppose from an academic standpoint though, I hope it looks like more Indigenous people studying Indigenous Planning as a way to support their communities.

I hope the field of planning becomes more understanding of its historical role in the structuring of contemporary Indigenous and non-Indigenous relations. Planners can play a pivotal role in Canada’s reconciliation with Indigenous peoples. On a grandiose scale, I hope Indigenous planning principles and philosophies can be incorporated into all micro- and macro-level planning processes because I believe Indigenous planning can transform societal decision-making to ensure sustainable futures. ■



# Young Planners in the North

> Ashley Murphey CANDIDATE MEMBER



Amanda Taylor fat biking with friends in the Yukon.

The desire to be in a small town where I could get to know my neighbours and where access to the outdoors is plentiful is what drew me to the North. But is that always the case?

**To answer these questions I reached out to several young planners across northern BC and the Yukon.**

These five planners all graciously accepted my request for an interview in my search to find out why young planners are choosing to move to northern BC and the Yukon.

In chatting with each of them it was apparent that they came from diverse backgrounds in terms of experience, education and geography. I was surprised to learn that I was not alone in being from a larger urban centre.

Richard came to BC when he finished his double major in Human Environment and Urban Studies from Concordia University in Montreal. Amelia moved to Terrace from Victoria after finishing her degree in Urban Planning from VIU. Amanda moved to Whitehorse, Yukon after finishing her Masters in Planning from Dalhousie University in Halifax, Nova Scotia. Deepa, who originally came from southern India to get her Masters in City

Planning and Michael, who has a degree in Planning, are both graduates from the University of Winnipeg and came to BC from Manitoba.

It's safe to say aside from the similar long winters experienced out East and in Winnipeg, we are all located in a vastly different type of community these days.

Northern planning opportunities attract highly educated people from diverse backgrounds, but why did they choose to travel hundreds or thousands of kilometers for a job?

The answer to this question appeared to be two-fold and answered another of my questions – what is the best part about being a planner in



Charle Lake Crystal Cup Tournament



northern BC? The main response: diversity and opportunity. The other response I heard was that there is a lack of entry-level jobs in the larger centres.

Each of the planners had looked at postings across Canada, but as Richard said, “didn’t want to be pigeon-holed into one role or type of planning.” Amelia is passionate about working with people, so for her when she read the job posting for a Land Use Planner with the Yukon Government, she knew that she would get that opportunity and “it would be a great fit.”

Not one of the five had a bad thing to say about their leap to the North; rather each seemed to share the same notion that

the range of planning that they get to do in a northern community is vast.

“Often northern planners find themselves in small departments or are even the only planner in the community,” echoed Michael and Richard. They get to do a mixture of development approvals, long-range planning, bylaw reviews, and dabble in the world of building code, business licensing and engineering requirements.

“You get more responsibility right off the bat and you may even find yourself in a more senior role than you would be able to attain in a larger city right from the start”, said Amelia.

“There’s a steep learning curve but the rewards are great,” noted Deepa.

Unsurprisingly, access to the outdoors and adventure also topped the list of reasons why young planners are moving to northern and rural communities to begin their planning careers.

“Whitehorse is known as the land of wilderness,” said Amanda. “There are endless trails and I spend a lot of my free time mountain biking in the summer or fat biking in the winter.”

For Richard in Fort Nelson, his free time in the summer is spent “camping and hiking in the mountains.” As for winter activities, Richard noted that his small



Fort St. John Canada Day Celebration





Moose in Peace River Regional District



Amanda Taylor fat biking in the Yukon.



All photos courtesy of Ashley Murphey.

community also has some great amenities such as “a new community recreation facility and some great hockey rinks;” you can often find him at the gym or playing hockey 3-4 nights a week.

Michael likes to hike and has been exploring all over the Peace region stating, “there’s a lot of trails and Tumbler Ridge is beautiful.”

“It’s real wilderness and there’s seldom a bunch of people around when you’re out on the trails,” noted Amelia.

In addition to praising the career and adventure opportunities of the North, all of these planners were keen to provide some advice to new or young planners.

The common theme: keep an open mind.

“Be open minded about taking a position that isn’t necessarily in your comfort zone, both professionally and personally,” said Michael. “You never know what skills you will learn or connections you will develop.”

Amelia, Richard and Amanda all agreed that taking a risk by moving somewhere out of their comfort zone can lead to some amazing opportunities.

“Get involved and be a part of your local planning chapter or PIBC” said Deepa. Michael add that you should “get involved in your organization” and “attend the conferences”; they are great learning opportunities and can help to expand your network of planning connections.

For Amanda, “it doesn’t matter what job you take right out of school. Take it all

as a learning experience that will further your career.”

As for me, the North has been my home for a while and I truly love it here. I have been able to advance in my career, make wonderful friends and have a ton of amazing adventures. Housing is affordable up here and there is great work-life balance.

Whether you’re a current student, recent graduate or someone looking to expand their career, the North has a lot to offer. From adventure to career advancement, why not take the leap? It could lead to something incredible! ■

**Ashley Murphey is originally from North Delta, BC and currently works as a Planner I for the City of Fort St. John**

**Michael Blatz is a North Peace Land Use Planner in Fort St. John with the Peace River Regional District**

**Richard Roy is a Regional and Town Planner with the Northern Rockies Regional Municipality in Fort Nelson**

**Amelia Andrews is a Planner with the Regional District of Kitimat-Stikine in Terrace**

**Amanda Taylor is a Land and Resource Planner with the Yukon Government in Whitehorse**

**Deepa Chandran is a planner with the Town of Smither**

# From the Ground Up: Sustainable Land Use in BC

> **David Hendrickson** MCIP, RPP

British Columbia features astounding biodiversity, stunning natural landscapes, and rich cultural history. In 2018, the Real Estate Foundation of BC supported research to deepen knowledge and to inform strategies and actions to help British Columbians move towards a more sustainable future.

The research identified overarching challenges, including climate change, industrial development, and poor conservation practices. This project also explores land use management approaches that strategically promote thriving, resilient communities and natural environments. In other words, the report strives to link land with life, or “Hishuk ish ts’awalk” – everything is one.

Climate change and forest mismanagement caused two of the worst wildfire seasons on record in 2017 and 2018, devastating many rural communities. Since 2017, costs associated with firefighting and forest management have reached close to \$1 billion. These impacts highlight the need for urgent response to rapid change, particularly in rural areas and backcountry regions.

Other land management challenges identified in the research include fragmented governmental. Provincial and federal governments are sometimes perceived as ineffective at protecting the environment, such as in the Mount Polley mine disaster. First Nations and rural local governments, responsible for managing the province’s largest land bases, are often plagued by a lack of capacity.

In all, the research project included a literature review, interviews with 12 land use expert advisors, and a survey of 54 land use professionals and practitioners, as well as secondary results drawn from a public opinion poll in 2018.

The findings are organized into seven themes:

## Climate change and the sustainable economy

Climate change and resource development are key drivers impacting land use. Natural resource-based industries (such as fishing, forestry, and agriculture) and non-renewable extractive industries (such as mining, oil, and gas) impact the land as resources become scarce and industrial footprints become conspicuous. Communities that depend on fossil fuels for all their energy needs will likely face greater uncertainty in the future. On the other hand, communities that are diversifying to renewable energy will be more resilient.



Recent declines in oil and gas prices have created volatile economic impacts in communities like Fort Nelson and Fort St. John, where oil and gas companies are major employers. Other communities, like Nelson and T'Sou-ke Nation, are moving towards self-sufficiency by diversifying their economic bases to include solar power, wind energy, specialized agriculture and eco-tourism.

## Cross-sectoral coordination



A lack of strategic coordination among groups and across sectors often results in land use decisions that occur in isolation. A single gas wellhead, forestry cutblock, or new housing subdivision may not significantly impact a natural ecosystem on its own. However, when these impacts are combined, the detrimental effects on ecosystems can be substantial. Add to this associated transportation and energy infrastructure and each project’s impact increases. This process of “death by 1,000 cuts” has adverse effects on fresh water, fish and wildlife habitat, and the quality of life in rural communities.

Land use approaches warrant effective planning to monitor issues on the ground at local, regional, and provincial levels. A coordinated approach can involve knowledge sharing among various groups (i.e. NGOs, governments, industry, and landowners). Sustainable Regional initiatives to coordinate projects across sectors can address the complexity of land impacts and decisions. The South Okanagan-Similkameen Conservation Program (SOSCP) successfully addresses gaps in baseline ecological and landownership data through cross-organization coordination.

## Environmental policies in rural communities

While numerous municipal tools are available, rural and unincorporated areas often lack effective land use planning capacity. Planners working in interface zones (areas where rural or backcountry lands meet an urban or suburban periphery) often lack access to baseline environmental data, relevant legislation, or funding for residents to engage in land use decisions. These are often the zones that need most protection, have sensitive, diverse wildlife habitats, and are often at the highest risk of development pressures.

To help support these interface zones, the Environmental Stewardship Initiative (ESI) has four stewardship forums in Skeena, Omineca, the Northeast, and the North Coast to identify and develop projects according to priorities in each area. A governance working group is developing ESI governance principles, decision-making,





and an operating structure for the Province, First Nations and industry.

The Marine Plan Partnership for the North Pacific Coast (MaPP) is a co-led process between 17 First Nations and the Province to implement marine use plans on BC's North Pacific Coast. Marine plans identify and guide recommendations for decision makers and land administrators, project planners, businesses, First Nations, and local governments. MaPP is notable for its diversity of participants and marine uses.

### Indigenous-led initiatives

Unresolved jurisdictional issues related to Crown and Indigenous rights and title continue to affect land claims and investment predictability. The recent Trans Mountain pipeline expansion project was thrown into jeopardy due to



uncertainty in how Canada recognizes and affirms Aboriginal rights and title on their traditional territories.

Two significant developments are changing the way settlers (non-Indigenous people) work with Indigenous peoples: the UN's Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commission. In 2016, Canada endorsed the adoption and implementation of UNDRIP actions that emphasize free, prior, and informed consent about decisions affecting Indigenous lands. Nationally and provincially, the Truth and Reconciliation Commission set mandates for new governance roles for Indigenous Nations and communities in 2012.

Increasing Indigenous leadership can have a positive impact on sustainable land use. Government-to-government frameworks and high-profile court cases are changing political conditions related to land use, and "early engagement" environmental assessments are a noteworthy innovation.

### Ecosystem conservation

Biodiversity and natural areas are central to a healthy land use base. Healthy, natural ecosystems are fundamental to long-term, sustainable livelihoods and communities. Research advisors identified the conservation of natural habitat and wildlife as a top priority.



Unprecedented environmental change, including the loss of intact ecosystems, is due to accelerated pollution, development, and climate change. A warming planet exacerbates the effects of human disturbances on forests, plants, wildlife, and fish.

The good news is that natural systems are resilient and can adapt to various conditions, but only to a certain point. When pushed beyond a threshold, an ecosystem can "flip" and become so severely degraded that the change is lasting and hard to reverse. A key species or ecosystem can find it extremely difficult to adapt to rapid and potentially irreversible shifts.



### Rural-urban disparities

Rural communities do not possess the economic opportunities or services that urban centres have. Most natural resources that contribute to the provincial economy (e.g. forestry and mining) are near rural communities, and these communities are often faced with "boom and bust" economies that depend on global commodity markets. Local economies often fail to "future-proof" a town's economic outlook due to volatility in commodity prices.

There can be other models to help mitigate the boom-bust economy. Rural communities and First Nations have established community forests as a tool to help provide long-term employment opportunities. Community forests support local livelihoods, promote community participation, and foster environmental stewardship. Across the province, almost 100 communities are planning or operating community forests that collectively represent 2% of BC's annual harvest.

### Public perceptions of land use

Our research poll findings indicate that British Columbians have a limited understanding of the role of sustainable land use and how decision-making affects local residents. Sustainable land use is sometimes viewed as bureaucratic red tape, rather than carefully considered, long-term decision-making for future generations. This perception underscores why there may be a lack of political will for making prudent land use decisions, and instead prioritize economic opportunities over holistic land use choices.



### CONCLUSION AND RECOMMENDATIONS

What we learned is both dire as well as heartening. Findings indicate that BC is facing significant challenges, such as the loss of vital ecosystems and increased vulnerability to drought, wildfires, and a changing climate. However, examples and trends also showcase positive change, such as Indigenous-led land use planning initiatives and innovative stewardship practices. The research aims to characterize sustainable land use and how planners and others can intervene to create more holistic land use patterns in British Columbia. ■

**David Hendrickson is Manager Special Projects at the Real Estate Foundation of BC.**

The author would like to acknowledge The Firelight Group for assistance with this research and thank the expert advisors for agreeing to be interviewed.

For a more detailed account of the research and findings, see Hendrickson, D. & The Firelight Group (2019), *Beyond the Horizon: Sustainable Land Use in British Columbia*, The Real Estate Foundation of British Columbia; Vancouver, Canada. Also see McAllister Opinion Research (2019), *Sustainable Land Use: A public opinion survey from British Columbians*, Real Estate Foundation of BC.; Vancouver, Canada.



# *Is Surfing in your Job Description?* **Planning in Kitimat**

> **Gwendolyn Sewell** MCIP, RPP

In order to plan in Kitimat you need to be able to ride the waves. The first wave was initiated by the establishment of western Canada's first aluminum smelter by Alcan in the late 1940's. Alcan hired Clarence S. Stein to plan the newly incorporated community. The settlement pattern, based on the 'Garden City' model, remains a strong reflection of Stein's work: a street hierarchy with logical transit routes; a park and pedestrian network that encourages walking; and a wide greenbelt separating residential areas from industrial sites to provide a better quality of both life and air.

The second wave in the late 1960's was associated with construction and start-up of Eurocan Pulp & Paper, Kitimat's second export industry. The third wave was created by Ocelot Industries, later Methanex and Pacific Ammonia, in the early to mid 1980's. Then, from the 1980's to the late 2000's, industrial operations began to run with less people and Kitimat started to lose population. Planning work became about managing change rather than growth.

In the early 2010's waves four and five hit. Rio Tinto Alcan (RTA) invested what proved to be almost \$5 billion in a

replacement smelter. The new smelter uses a more efficient production technique called "AP40". Emissions have been cut almost in half — reducing the overall environmental footprint and improving working conditions — while increasing aluminum production by 48%. People wanting to work on the RTA project began arriving in Kitimat in early 2011, and the vacancy rate dropped from 30.2% to 5.4%.

RTA's on-site accommodation provided about 1,850-beds and, with rental market units, it was expected there would be sufficient housing for the multi-year build.





LNG Canada Site rendering



1952 OCP



1954 Plan of Kitimat

Instead there was a significant shortfall. Workers who could not be housed on-site, or who wished to live in the community, received a “living out allowance” (LOA) to pay for food and accommodation.

Workers who pooled LOA could easily afford \$3200 for a furnished apartment or house. These rental rates were comparable to a new unit in downtown Vancouver, but formerly unheard of locally. This resulted in tremendous stress and upheaval for tenants who had been renting month-to-month at affordable market rates for up to thirty years.

The project workforce reached a peak of about 3,600 and the vacancy rate plummeted to zero. Some landlords began asking tenants to sign a lease for significantly higher rent, and a few landlords began to evict tenants to renovate and furnish units for temporary residents. Given the long history of stable and low rent

in Kitimat, most tenants were unaware of their rights, and many were displaced.

Initial response to the housing shortage was led by local social service organizations who secured senior government grants to establish a housing resource service. The service provided advocacy, education and support to tenants, helped individuals find market or non-market housing as well as apply for pensions, disability benefits and housing subsidies. Landlord education sessions were also provided. The RTA creatively expanded on-site accommodation in the form of a Baltic ferry with 600 staterooms to house both contractors and crew.

During the four-year span of smelter construction, many rental properties were sold or flipped. There was also speculative investment in single-family homes. The positive side of this activity was rehabilitation of purpose-built rental buildings constructed in the late 1950’s and early 1960’s, and a spurt of new home construction.

To compound an already overheated market, and while the RTA modernization project was active, liquid natural gas (LNG) became the “it” industry in BC. LNG was seen as having the potential to inject new revenue into the BC economy, both directly as a result of royalties and indirectly through job-growth and potential spin-off gas-to-liquids industries and support services. During this fifth wave, Kitimat could have seen export sector jobs jump from 1000 at the new smelter to over 3000 if all identified projects went into production, pushing total employment to 6000 and perhaps doubling the population to 17,500.

For planners in Kitimat a figurative surfboard would have been handy. We rode a wave of economic optimism through 2014 and 2016, then experienced a bit of a slowdown when the new smelter reached full production and many construction workers returned to their home communities.

On October 1, 2018 LNG Canada announced their plan to build a \$40 Billion LNG export facility in Kitimat, the largest private-sector project in Canadian history. The Coastal GasLink (CGL) pipeline starting in Dawson Creek is set to deliver natural gas to the LNG Canada facility, where it will be super-cooled, liquefied, and loaded onto LNG carriers headed for destinations overseas.

The time gap between RTA’s smelter upgrade and LNG Canada’s construction plan has proven useful. Kitimat planners caught our collective breath and are gearing up for a boom fueled by LNG, a surge which is potentially of greater magnitude than any of the other waves we have seen.

During the RTA project we learned lessons that will help our planning group manage impacts from the upcoming LNG Canada initiative. Our coping strategy for RTA included a series of housing workshops and education events, OCP and housing policy changes, an affordable housing fund, a legal suite incentive, and a Housing Action Plan. Kitimat also developed regulations for temporary buildings commonly found on construction sites.

Given the long lead up to the fifth wave, we have had time to develop working relationships with the LNG Canada project team who are making decisions about housing. Our message that a ‘living out allowance’ is not a good solution in a small housing



RTA Modernization Village

Plant operations will not be fly-in, fly-out.

A dedicated LNG Canada facility with 4500 rooms (expandable to 7500) will be located close to the worksite. One private accommodation facility (expected to be around 1450 rooms, maximum 2032) has been built a short walk from downtown, and a second (around 750 rooms) is under construction on the northern edge of town. The Affordable Housing Fund (AHF) receives \$500 per

market has been heard; LNG contractors will house workers in purpose-built temporary facilities with amenities designed to attract tradespeople and craft workers that are in high demand and short supply. LOA will not be paid, but workers who choose to live in the community will buy or rent homes for the duration of construction, and may move into an operational role when the LNG Canada plant goes into production.

bed from each work camp, paid by camp developer or owner. Council's distribution of AFH monies is guided by policy, with a \$500,000 cap for any social housing project.

Although the October 2018 vacancy rate was 44%, and housing resource workers and rent subsidies are in place, there is growing discontent about the availability of stable low-cost rental housing. To address on-going concerns, new initiatives include

maintenance standards for rental units and an incentive program to encourage construction of affordable and accessible legal suites. To-date there has been little interest in either program.

A 22-unit BC Housing affordable rental building plus extreme weather shelter opened in 2018. An OCP and zoning amendment bylaw to create a new site for social and seniors housing, and accessory mixed uses, has recently been adopted.

An OCP amendment bylaw laying the foundation for density benefits in return for affordable and/or accessible housing will go to public hearing this spring. Accessory residential units on properties zoned for single-family use are under consideration, but sewer capacity remains an unresolved technical issue.

Our planning team is gearing up for an exciting ride, trying to maximize community benefit from industrial and non-industrial development, negotiating amenities associated with increasing density, and keeping our pulse on changing community needs. The key to success will be managing community expectations as well as impacts, and ensuring we are prioritizing the needs of permanent residents — including new operations personnel — over the needs of fly-in, fly-out construction workers.

We think we are well-prepared but there are bound to be challenges, not just on the housing front but also in managing public realm and commercial development in the downtown core. Given the magnitude of the private investment that has been announced and the solid tax base provided by local industry we look forward to the challenge and expect our work will help shape the next sixty-five years of Kitimat history. ■

**Gwendolyn Sewell MCIP, RPP, is the Director of Community Planning & Development, District of Kitimat**

<sup>1</sup>LNG Canada is a joint venture comprised of Royal Dutch Shell through Shell Canada Energy (40%); PETRONAS, through North Montney LNG Limited Partnership (25%); PetroChina Company Limited, through PetroChina Canada Limited (15%); Mitsubishi Corporation through Diamond LNG Canada Ltd. (15%); and Korea Gas Corporation through Kogas Canada LNG Ltd (5%). Each partner provides its own natural gas supply and will individually offtake and market its share of LNG. The project will initially export about 14 million tonnes per annum from two processing units or "trains," with potential to expand to four trains.

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# Mining within the Municipality: A Yukon Perspective

> **Clarissa Huffman** CANDIDATE MEMBER

Municipal planners share a commitment to protecting and balancing the rights and interests of all current and future members of their community. In recent years, planners in the Yukon have grappled with significant conflict between several community groups around one main issue. The mining community, home and property owners, developers, and recreational users find themselves struggling to find common ground with respect to mining within the municipality.

Part of the conflict is due to two conflicting legislative documents: The Municipal Act and the Placer Mining Act. Both impact land use in the Yukon.

Planning, land use and development in the Yukon are governed by the Municipal Act which provides local governments the authority to adopt official community plans (OCP) and zoning bylaws (ZBL). Municipalities have the right to use the tools outlined in Part 7 to ensure that development and land use within the municipality is safe, compatible, and in the public interest wherever possible. Section 277 states that in some cases where individual rights and the public interest may on occasion conflict, the public interest prevails.

However, the Placer Mining Act does not recognize this authority, which puts the two pieces of territorial legislation fundamentally at odds with each other. In fact, the only reference to the Municipal Act within the Placer Mining Act is section 17, which does not allow for location or prospecting for gold or precious metals within the boundaries of a city. However, active mineral claims (i.e. quartz or copper) are still allowed to engage in a permitting process for mineral extraction.

In Placer, some protection is granted to landowners who have existing legal surface rights; section 18 states that property owners can request security to be posted if a mineral exploration or extraction project could potentially cause loss or damage to private property. As well, in order to allow a mineral claim to remain active, work valuing \$200 or greater must be done on the claim in order to renew the grant to the claim annually, and excess work can be banked for future years.

Municipalities are faced with an interesting conundrum: protecting the overall public interest in the face of conflicting legislation that puts surface rights holders (commercial, residential and recreational land uses) and subsurface rights holders (mining) in competition for the right to access and use land.

Recent case law demonstrates that municipalities have legal grounds on which to expect mining proponents to engage in the regulatory processes contemplated in the OCP and ZBL. In *Coyne v. Whitehorse (City)* [2017] *Coyne* proposed that the Official Community Plan and Zoning Bylaw were invalid with respect to subsurface mineral interests.

The ruling judgement did not support this claim, stating that *Coyne* needed to obtain approval from the City as per the Municipal Act. Several conclusions are drawn in this judgement. The ruling recognized mining is a form of development, and thus needs to be considered through the relevant legislation. The end of the ruling states that “the 2010 OCP and 2012 zoning bylaw are validly adopted or enacted instruments, consistent with the City’s jurisdiction in planning and zoning regulation. While they may require *Coyne* to follow regulatory procedures before exercising its right to mine, this limitation was contemplated in the 1898 QMR and the 2003 Act, and is not an impairment.”

In *Lobo del Norte v. Whitehorse (City)* [2017], *Lobo* claimed that the OCP and ZBL amounted to expropriation of their mineral rights. However, the subsequent ruling assured that *Lobo* was required to comply with all zoning bylaws in exercising those rights. This may require the claim holder to apply for an amendment in order to permit certain mining activity. The ruling recognized that the City had no intention of prohibiting or frustrating all mining activities within City boundaries. It had permitted mining activity that is away from residential areas, significant wildlife corridors, or other areas with conflicting land uses.

Other municipalities have a similar stance. The City of Dawson allows mineral

extraction within the municipal boundary in zones designated as Industrial and appropriately permitted. The ruling for the case of *British Columbia v Tener* (1985) recognized that the 2010 OCP and 2012 Zoning Bylaw do not take away any incident of quartz claim ownership, even if they do lead to more scrutiny of activities pursuant to regulatory processes.

Based on these case law examples, it is clear that municipalities have the right to enact an Official Community Plan and Zoning Bylaw, and to plan areas for future development, regardless of subsurface rights that may exist. Additionally, municipalities have the right to require mineral extraction proposals within the municipal boundary engage in the permitting processes identified in these bylaws, as mineral extraction is in fact considered a surface use. Finally, this requirement is not considered impairment or expropriation, as processes are in place to allow a proponent to petition to amend these bylaws.

Natural resource development is a key industry in the north. Mining was listed as one of the top three drivers of business and economic growth in a study done by Klondike Development Organization in 2017. In the Yukon Labour Demand Survey 2018, the “Mining, Quarrying, and Oil & Gas Exploration” sector had the second-highest number of overall employees in the Yukon. Therefore, it is in the economic interest of municipalities to create a situation where the personal and economic interests of those in the mineral extraction industry are protected within the framework of protecting the broader public interest.

It is clear that the incompatibility between the Placer Mining Act and the Municipal Act exacerbates this sensitive issue. From a municipal planning perspective, it is the ideal time to consider updating this legislation to more adequately respond to these challenges and provide a framework in which mineral rights and planning rights can be balanced. ■

**Clarissa Huffman is a PIBC Candidate Member and the Community Development and Planning Officer, City of Dawson, Yukon**

# In Tune with the Local Scene — Smithers District Music Strategy

> **Liliana Dragowska** MCIP, RPP

The Town of Smithers is located in Northern British Columbia along Highway 16 half way between Prince George and Prince Rupert, in the heart of the Witsuwit'en Nation and located on Gitdumden (Wolf) Clan unceded territory.

The Town covers a land area of 15.27 square kilometers and is home to 5,401 residents (2016). Smithers has a dynamic community, with established businesses who have grown and opened offices in other places but choose to keep their head offices here. It is Northern BC's cultural capital, with an unparalleled variety of artistic activities reflecting its diverse population.

Towns and cities like Smithers are increasingly recognizing the potential of music beyond its long-acknowledged cultural and social benefits. Music has enormous potential as an economic, job creation and cultural driver. As identified in Music Canada's *The Mastering of a Music City*, "a thriving music scene generates a wide array of benefits for cities, from economic impacts to cultural development. Key benefits include:

- Economic impact
- Music tourism
- City brand building
- Cultural development and artistic growth
- Attracting/retaining talent and investment in the area
- Strengthening the social fabric
- Validating music as a respected and legitimate industry"

On May 30, 2018, Music Canada Live, Canada's national live music industry association, launched *Here, The Beat: The Economic Impact of Live Music in BC*. This assessment of BC's live music sector identifies a number of challenges, opportunities, and insights to the live music industry. A key highlight of the study was that live music contributed 6,950 full-time employment, \$619.3 million in labour income, and \$815.8 million in GDP to the BC economy in 2017.

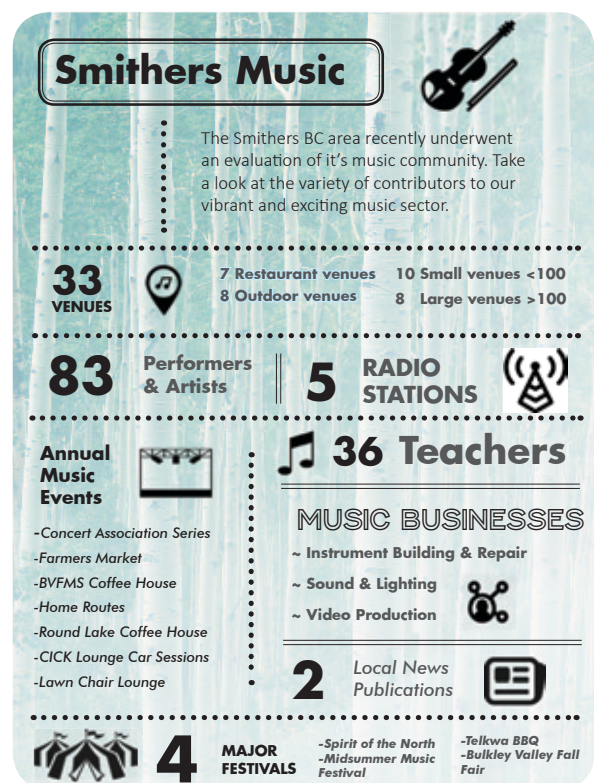
Studies have shown that the most successful music cities have certain elements in common, elements which are all found here in Smithers.

In recognition of the role that music plays in the culture and economy of the Bulkley Valley, the Smithers District Chamber of Commerce secured funding to create a Music Strategy to support and grow this economic sector. The project was part of the Music City Toolkit initiative, which was developed by Music Canada and

distributed by the Canadian Chamber of Commerce. Together with the Chamber's leadership, a partnership with the Bulkley Valley Arts Council, and funding from the Province of British Columbia through Creative BC's Industry Initiatives Program, the Smithers District Music Strategy project was initiated.

In order to advance the music sector of Smithers and align with provincial initiatives, this project had three goals:

1. Assemble an inventory of the Smithers music sector, including identifying key element and how they contribute to the sector
2. Gather preliminary economic information that will help define a baseline assessment of how the music sector is structured
3. Develop a set of recommendations to help grow the music sector in our region



Infographic from the Smithers District Music Strategy





“The recent trend in creative cities has anchored the arts and culture as key industries in municipal economic development, cultural industries create job growth, turn ordinary cities into “destination cities,” create interconnections between arts and business, revitalize urban areas, attract skilled workers, and create spin-off businesses.”  
(Culture as an economic driver, 2005.)

Preliminary economic information was gathered through a survey sent out 160 individuals, businesses, and organizations in the Smithers music sector. The survey received 65 responses and was augmented with 36 interviews with community members and businesses. Some key highlights from the survey and interviews are:

- There are 36 known private music teachers, 33 identified venues, 5 radio stations, and over 83 performers and groups currently in the Smithers Area
- Live music was reported as a main source of revenue for Artists; yet 50% of these artists reported less than \$1,000 in annual income from music. Artists are performing out of passion rather than income
- The four major music festivals had an economic impact of \$1.1M in 2017 and have the highest number of recorded volunteer hours than any other music-focused activity. This in-kind work supports substantial economic activity in the Smithers area

The Music Strategy identifies 19 recommendations which were reviewed with performers, businesses and those involved in developing of the strategy. These recommendations are divided into three categories of action and responsibility:

1. Municipal regulatory changes that could foster and encourage the growth of the music sector in the Smithers area and, more broadly, the whole arts and culture sector
2. Recommendations that focus on advocacy, attraction, promotion, communication and integration of the music sector by the Smithers District Chamber of Commerce through an “all things music” website funded by Northern Development Initiatives Trust – [smithersmusic.com](http://smithersmusic.com)
3. Music sector recommendations that focus on continuing collaboration to strengthen the sector from within

In addition to direct economic benefits, a vibrant music scene forms part of a city’s culture, identity and livability, factors that contribute to people’s decisions when choosing a place to live. Jason Azmier, Senior Policy Analyst from the Canada West Foundation and author of Culture and Economic Competitiveness explains, “It is a city’s urban culture and ‘livability’ aspects that determine where someone decides to hang up their shingle and lay down roots.”

Implementation of the Smithers District Music Strategy is ongoing and will require collaborative efforts by the local municipalities, regional district, the Smithers District



Instrument Maker Micheal Nelligan  
Photo Credit Camus Photography

Chamber of Commerce and organizations, businesses and individuals involved in the music sector. The hope is that the work started locally, paired with provincial and national music sector initiatives, will instigate further collaboration and momentum in raising the profile of music and its importance to every community.

To view the Smithers District Music Strategy please visit [www.smithersmusic.com/about](http://www.smithersmusic.com/about). ■

**Liliana Dragowska is an independent planning and community engagement consultant working out of Smithers BC partnering with other professionals on small to medium size community planning projects. If you have any questions or want to talk about the project please feel free to contact the author at [lilianadragowska@gmail.com](mailto:lilianadragowska@gmail.com).**

# What to Do When Density Doesn't Work

> **Alison Watson** MCIP, RPP

**Planners are known for promoting mixed use, higher density development as a strategy for creating compact, healthy and resilient communities.**

However, for smaller communities these density-based policy solutions don't always work. Smithers offers some key solutions in how to approach density in a small community.

Smithers is a mountain community located in Northwest BC's Bulkley Valley. The community is home to a diverse economy and is known for its vibrant Main Street, active arts/culture scene, stunning natural amenities, and friendly local residents. Smithers' walkable and dynamic downtown is a defining feature for both residents and visitors alike.



Like many communities, Smithers Official Community Plan supports mixed-use development in the downtown and a diverse mix of housing types, tenures and densities. The challenge is that while land in Smithers is relatively affordable, the cost of building is high and profit margins too low to see local developers build new apartments or mixed-use buildings.

As well, affordable, single-family homes in established neighbourhoods are available within Smithers and the surrounding rural area which reduces the demand for multi-family housing. Given this context, density policies and zoning regulations have not been enough of an incentive to lead to higher density development.

With changing population needs, a perpetually low vacancy rate, and municipal challenges in financing existing infrastructure, Smithers has had to develop its own local toolbox to actively encourage density within the community. As well, this density needs to align with the small-town character residents are deeply connected with.

An increase in density is being achieved through residential intensification in existing single-family neighbourhoods, downtown mixed-use developments and multi-family residential infill development. Town Council has supported a number of specific strategies to support density in Smithers:

- Eliminating the majority of downtown parking regulations
- Permitting carriage houses and secondary suites
- Creating a simple revitalization tax exemption program for downtown mixed-use projects
- Working closely with local housing providers on supportive housing projects
- Granting variances for multi-family residential projects to reduce parking
- Directly engaging downtown business owners in regulatory reviews
- Continuing to invest in downtown public amenities.

These strategies have been put in place over the last decade and are a direct result of ongoing public engagement processes (i.e. OCP update, community forums) and action-focused planning exercises (i.e. charrettes and task forces). These processes have not only engaged the community to think about how density supports overall community viability, but have also resulted in residents becoming community champions for mixed-use development and housing diversity. Very little public opposition has been expressed during



Photos courtesy of the author

recent public hearings for higher density housing applications and for changes in policy and bylaws supporting more density.

Smithers' success with downtown development and housing diversification has been helped by key political decisions made over the years to uphold the Town's original 1913 traditional grid street pattern, reinvest in the downtown, and limit commercial sprawl from outside Main Street and the downtown area. Today, Smithers continues to stay true to the original core planning fundamentals. As a result, the Town has created a unique sense of place for its residents and density that is appropriate to a small community.

From Smithers the lesson is that while density in small towns may not look like traditional big city density, it can still have the same positive outcome of creating dynamic, affordable and healthy communities. ■

**Alison Watson MCIP, RPP is the Principal at Watson Projects**





Illustration by Keenan Hopson. Keenan is the Economic Development Officer with the City of Prince George and a freelance illustrator and children's book author. Keenan can be reached at keenan@keenanhopson.com

# A Brief Overview of the Duty to Consult



When I went to planning school, sustainability was all the rage. After attending the UBC Planning Students Symposium for the past few years it is apparent that reconciliation now tops the agenda. At least no one can accuse the profession of shying away from a challenge.

Like sustainability, reconciliation means many things. According to the Supreme Court of Canada's companion decisions in *Haida Nation v. British Columbia (Minister of Forests)*<sup>1</sup>, and *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*<sup>2</sup> one thing reconciliation means is the Crown has a duty to consult, and in some cases accommodate First Nations. *Haida* was a case of infringement on asserted but unproven title to land by the issuance and transfer of provincial logging rights; *Mikisew* dealt with an infringement of Treaty 8 rights to hunt, trap and fish, due to road construction.

In *Haida*, the Province argued against any duty to consult the *Haida* before their claim was “proven”. The trial judge found a moral but not a legal duty, but the Supreme Court of Canada stated the duty to consult, even before rights or title claims have been formally proven, is a legal duty.

In *Mikisew*, the government tried and failed on three arguments: the road didn't infringe treaty rights; any duty to consult was discharged in 1899, when the Treaty was negotiated; if further consultation was required, Parks Canada's process was sufficient.

Consultation has been central to planning practice for decades, so it might come as a surprise to planners that the duty to consult First Nations is a relatively new development in Canadian law. Before a series of 1990s cases on aboriginal rights and title, courts scarcely mentioned it. There is now a rich and ever-expanding body of decisions on the subject.

This article provides a brief overview of the legal duty to consult First Nations, and considers how that duty might inform planners' reconciliation work. There is, of course, much more to reconciliation than consultation, and more to consultation than what courts require, but it's never a bad idea to go back to basics.

The duty to consult First Nations is entirely a product of what lawyers call “judge-made law.” Unlike a local government's obligation to hold a public hearing before adopting certain kinds of bylaws, or the province's obligation to consult local governments before issuing a cannabis retail licence, there's no legislation codifying exactly when, or how the Crown must consult and accommodate First Nations before making a decision. The absence of clear rules might seem daunting, but it also creates exciting and meaningful opportunities for planners to exercise their professional judgment, and do their best work.

Under section 35(1) of Canada's constitution, “the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed”. Much

of northeastern BC is covered by Treaty 8, but in the rest of the province aboriginal groups have been obliged to prove the existence and extent of the aboriginal rights that section 35(1) recognizes and affirms.<sup>3</sup>

The result today is that the Crown can't take actions or make decisions that might affect section 35 rights without first consulting, and in some cases accommodating, the First Nations whose rights stand to be affected.

In both *Haida* and *Mikisew* the Court emphasized the source of the Crown's duty to consult lies in the “honour of the Crown”, which itself arises from the assertion of sovereignty over people who never acquiesced to that assertion. The Court in *Haida* explained:

Put simply, Canada's Aboriginal peoples were here when Europeans came, and were never conquered. Many bands reconciled their claims with the sovereignty of the Crown through negotiated treaties. Others, notably in British Columbia, have yet to do so.

The potential rights embedded in these claims are protected by s. 35 of the Constitution Act, 1982. The honour of the Crown requires that these rights be determined, recognized and respected. This, in turn, requires the Crown, acting honourably, to participate in processes of negotiation. While this process continues,





the honour of the Crown may require it to consult and, where indicated, accommodate Aboriginal interests.

It's hard not to quote at length from former Chief Justice McLachin, who penned the Court's unanimous judgment on the Haida claim:

The Crown, acting honourably, cannot cavalierly run roughshod over Aboriginal interests where claims affecting these interests are being seriously pursued in the process of treaty negotiation and proof. It must respect these potential, but yet unproven, interests ... To unilaterally exploit a claimed resource during the process of proving and resolving the Aboriginal claim to that resource, may be to deprive the Aboriginal claimants of some or all of the benefit of the resource. That is not honourable.

While *Haida* is the better-known case, for planners interested in consultation, *Mikisew* perhaps offers more to chew on. The decision opens with these words:

The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions. The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding. The multitude of smaller grievances created by the indifference of some government officials to aboriginal people's concerns, and the lack of respect inherent in that indifference, has been as destructive of the process of reconciliation as some of the larger and more explosive controversies.

Again, Parks Canada, on behalf of the Crown, said it had consulted appropriately with the Miksew before deciding to go ahead with the winter access road through treaty territory. In support of this assertion, the government gave examples of the Mikisew being provided with essentially the same information and consultation oppor-

**While never amounting to a duty to agree, the duty to consult and accommodate cannot admit of the kind of “indifference” observed in *Mikisew*. It requires a process of balancing of interests, of give and take.**

tunities as “the general public of interested stakeholders”.

The Mikisew were apparently advised of public open houses but declined to participate, explaining that open houses were not the forum for adequate consultation with them. Parks Canada, apparently after having decided to go ahead with the road, apologized in writing for the consultation process, and a few weeks later announced on its website the approval of the winter road without any reference to the Mikisew.

The way the alleged consultation had unfolded led the Court to observe that consultation is not simply an opportunity for those affected by a proposed decision to “blow off steam” before the decision maker goes ahead with what he or she intended all along. These choice words from Canada's highest court reinforced at least one critical proposition: because it is grounded in the honour of the Crown and part of the process of reconciliation, the duty to consult First Nations demands something deeper than mere “public” consultation.

Courts have repeatedly emphasized the scope or nature of consultation required where the honour of the Crown is at stake will vary depending on factors such as the potential impact of the decision on the rights in issue, and in the case of unproven rights, the strength of the claim. This approach creates a spectrum of consultation, but even where the required consultation falls at the lower end of the spectrum,

it requires much more than giving notice, waiting for a response, and then moving right along. In all cases, at a minimum, the Crown must actively solicit and listen carefully to First Nations' concerns, take account of those concerns, and attempt to minimize adverse impacts on aboriginal or treaty rights.

Turning back to Haida, the point is that “the effect of good faith consultation may be to reveal a duty to accommodate.” While never amounting to a duty to agree, the duty to consult and accommodate cannot admit of the kind of “indifference” observed in *Mikisew*. It requires a process of balancing of interests, of give and take.

This might all sound like everything planners already know about consultation: proper notice, meaningful engagement, careful listening, a balancing of interests, blah, blah, blah. But I'm not aware of any other requirements to consult, in Canadian law, that even come close to what courts demand when consultation is grounded in the honour of the Crown, and is part of the long process of reconciling aboriginal and non-aboriginal interests.

And I am aware of at least two cases decided in the last year in which courts have found the Crown failed to adequately consult with First Nations,<sup>4</sup> so either there aren't any planners working for the Crown, or we still have room for improvement. ■

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<sup>1</sup> 2004 SCC 73 [*Haida*].

<sup>2</sup> 2005 SCC 69 [*Mikisew*].

<sup>3</sup> It's far beyond the scope of this article to probe the question of why aboriginal people are required to prove the existence of rights that have been constitutionally “recognized and affirmed”.

<sup>4</sup> In *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153 the Federal Court of Appeal overturned the National Energy Board's approval of the Transmountain pipeline for inadequate consultation; in *Morton v Canada (Fisheries and Oceans)*, 2019 FC 143 the Federal Court concluded that the Department of Fisheries and Oceans failed to adequately consult with respect to a high level policy related to finfish aquaculture.

## PIBC BOARD NOTES

### NOVEMBER 2018

On November 3, 2018 the PIBC Board of Directors met in Vancouver.

#### PRESIDENT

Andrew Ramlö MCIP, RPP provided an update on various recent activities, including: a recent meeting of the Planning Alliance Forum – the leadership group of Presidents of the principal bodies of the planning profession across Canada – where there was discussion about developing a joint initiative to increase recognition of the “RPP” brand nation-wide.

#### BOARD & GOVERNANCE

The Board reviewed the work to-date on the various goals and tasks from the 2017-2019 Strategic Plan and discussed opportunities and requirements to complete ongoing and remaining tasks.

The Chair of the Institute’s Governance & Nominating Committee provided a brief update on recent activities of the committee. Director of Finance & Member Services, Ryan Noakes, also provided an update on recent activities of the Institute’s Awards & Recognition Committee.

The Board approved the appointment of the following members to the Institute’s Policy & Public Affairs Committee for the current term: Brian Miller MCIP, RPP; and Erica Tiffany MCIP, RPP.

#### ADMINISTRATION & FINANCE

Executive Director, Dave Crossley, reported on ongoing and key activities at the PIBC Office.

The Board reviewed the Institute’s unaudited 2018 year-to-date finances for information. The Institute continues to maintain a healthy financial position, with current operations largely keeping within overall budget objectives.

The Board reviewed, for information, the final 2019 Schedule of Membership Fees and the final 2019 Operating Budget, as approved and adopted in September 2018.

#### MEMBER PROGRAMS & SERVICES

The Board reviewed, for information, the financial report for the 2018 Annual Conference. Attendance at the conference was greater than anticipated, resulting in a small profit.

### COMMITTEE REPORTS & BUSINESS

**Professional Standards & Certification:** The Board approved the admission of a number of new members, and a number of membership transfers and changes, as well as approving the extension of membership eligibility for a number of Candidate members, in order for them to complete the certification process and become Certified members (Registered Professional Planners).

**Policy & Public Affairs:** The Board reviewed the report of recent activities of the committee, including: the creation of a sub-committee to explore some form of right to practice legislation or protection for the planning profession. There was further discussion regarding the Institute’s outreach and ongoing contact with the BC provincial government. The Board also approved the appointment of the following member to the Policy & Public Affairs Committee for the current term: Lui Carvello MCIP, RPP.

**Climate Action Task Force:** The Board reviewed the wrap-up report of the Task Force, outlining the conclusion of its work and ongoing tasks going forward. The Board also approved the creation of, and potential terms of reference for, a climate action sub-committee to the Policy & Public Affairs Committee, continuing the work started and undertaken by the Climate Action Task Force.

#### LOCAL CHAPTERS

**Vancouver Island-North:** The Board approved a small one-time funding allocation to help cover expenses for the Chapter’s recently held 60th Anniversary event and activities.

#### OTHER BUSINESS & CORRESPONDENCE

The Board approved the designation of Sharon Horsburgh MCIP, RPP to serve as its alternate representative to the Province of BC’s Energy Step Code Council.

#### NEXT MEETING(S)

It was noted that the next meeting would be held Friday, January 25, 2019 in Vancouver.

### JANUARY 2019

On January 25, 2019 the PIBC Board of Directors met in Vancouver.

#### PRESIDENT

Andrew Ramlö MCIP, RPP provided an update on various activities including: translation work by the Professional Standards Board (PSB) for the Professional Examination; discussions with counterparts across the country to develop and implement a joint national compensation and benefits survey; and his recent attendance at meetings with local federal Members of Parliament. There also was discussion regarding member feedback from a recent Chapter event, and follow-up work undertaken. There also was discussion about Institute support for new PIBC Presidents attending national meetings at the annual CIP conference during the transition to new Board terms.

#### BOARD & GOVERNANCE

The Board reviewed the work to-date on the various goals and tasks from the 2017-2019 Strategic Plan and discussed opportunities and requirements to complete ongoing and remaining tasks.

The Chairs of the Institute’s Governance & Nominating and Professional Conduct Review Committees provided brief updates on recent activities for their respective committees. Director of Finance & Member Services, Ryan Noakes, also provided a brief update on recent activities of the Awards & Recognition Committee.

The Board reviewed and approved the adoption of a revised Administrative Policy 2.1 (Governance & Nominating Committee). The Board also directed staff to explore further potential revisions to the policy.

The Board reviewed the potential 2019-2021 Board meeting schedule, including discussion options to hold more Board meetings in locations outside Vancouver, and for opportunities for the Board to connect with government officials.

The Board approved and confirmed that the Institute’s 2019 Annual General Meeting shall be held on Wednesday, May 8, 2019, at The Westin Bayshore, Vancouver hotel.



## ADMINISTRATION & FINANCE

Executive Director, Dave Crossley, reported on ongoing and key activities at the PIBC Office.

The Board reviewed the Institute's unaudited 2018 year-to-date finances, for information. The Institute continues to maintain a healthy financial position, with operations largely keeping within overall budget objectives. It was noted that the audit of the 2018 fiscal year would begin in February.

The Board approved confirming the allocation and amounts of the Institute's various internally restricted reserves funds as of the end of the 2018 fiscal year, in keeping with Institute policies on financial reserves.

## MEMBER PROGRAMS & SERVICES

The Board approved amending the Institute's 2019 operating budget to reallocate funding for Student members, to support the opportunity for more Student members to attend the 2019 BC Land Summit conference in Vancouver.

## NATIONAL AFFAIRS

The Board confirmed an earlier approval of an email resolution of November 21, 2018, regarding the revised national Standards for the Certification of Academics as circulated by the Professional Standards Committee (PSC).

The Board also confirmed the re-appointment of Kerry Pateman MCIP, RPP as the Institute's representative on the Professional Standards Committee for the Planning Profession in Canada (PSC), and directed staff to explore revisions to any applicable Institute policies or

practices to provide for the PSC representative to report back to the Board on a regular basis.

## COMMITTEE REPORTS & BUSINESS

**Professional Standards & Certification:** The Board approved the admission of a number of new members, and a number of membership transfers and changes, as well as approving the extension of membership eligibility for a number of Candidate members, in order for them to complete the certification process and become Certified members (Registered Professional Planners). The Board further approved the revocation of memberships for Student members who had exceeded the time limits on membership prescribed in the bylaws, effective as of the end of 2018.

**Member Engagement:** The Board reviewed the report of recent activities of the Member Engagement Committee. It was noted that recent dialogue was held with the Association of Regional District Planning Managers, many of whom are PIBC members, regarding possible future collaboration.

**Continuous Professional Learning:** The Board reviewed the report of recent activities of the Continuous Professional Learning Committee. It was noted the Institute's CPL webinars have expanded substantially (in terms of registration numbers, topics, and revenue) in the four years since the Institute's first piloted them.

**Policy & Public Affairs:** The Board reviewed the report of recent activities of the Policy & Public Affairs Committee. The Board approved the final proposed terms of reference for a Climate Action

Subcommittee, and endorsed a call for expressions of interest be undertaken to populate the subcommittee as required.

## LOCAL CHAPTERS

**Central-North:** The Board approved the appointment of Hillary Morgan MCIP, RPP (Chair); Maria Sandberg MCIP, RPP; and Ashley Murphy (Candidate) to the Chapter Committee for the current term.

**Sunshine Coast:** The Chapter's 2017 and 2018 annual reports were reviewed. The Board approved receipt of the reports and the release of the Chapter's 2019 annual seed funding. There was discussion regarding the challenges the Chapter faces in organizing events for local members, and follow-up work with the Chapter to assist in overcoming those challenges.

## OTHER BUSINESS & CORRESPONDENCE

The Board endorsed the nomination of Leslie Shieh MCIP, RPP as the Institute's representative on the City of Vancouver's Chinatown Historic Area Planning Committee for a term of up to four years.

The Student member representatives from each of the accredited university planning programs provided brief update reports regarding activities at their respective programs.

## NEXT MEETING(S)

It was noted that the next meeting would be held Friday, March 15, 2019 in Prince George (and via telephone teleconference).

## MEMBERSHIP REPORT November 3, 2018

### New Members

#### Congratulations and welcome to all the new PIBC Members!

At its meeting of November 3, 2018, it was recommended and approved that the Board admit the following individuals to membership in the Institute in the appropriate categories as noted:

#### CERTIFIED:

Julia Bahen

Steven De Sousa

Frank Ducote  
*(Reinstate)*

Claudia Freire

Kali Holahan

Jessica Jiang

Jeremy Johnston

Maggie Koka  
*(Reinstate)*

Leanna Leib-Milburn

Shadrach Mayne

Brook McCrady

Jamie McEwan

Cian O'Neill-Kizoff

Chris Quigley

Mateja Seaton

Timothy Shah

Sarah Thomas

Wesley Woo

#### CANDIDATE:

Amelia Andrews

Deepa Chandran  
*(Transfer from MPP)*

Andréanne Doyan

Filippos Gkekis

Larissa Lychenko

Duncan Martin

Meghan Murray

Tammara Soma

*(Transfer from OPPI)*

Emma Watson

#### PRE-CANDIDATE:

Xiong (Alex) Jia

Cassandra Marsh

Mike Phillips

Alex Thumm

Angela Zhuo

#### STUDENT:

Daniel Dale (SFU)

Katherine  
Janota-Bzowska  
*(Queen's Univ.)*

Amanda McCulley

*(Waterloo)*

Kacia Tolsma (SFU)

Mackenzie Walker

*(UBC)*

It was further recommended and approved that the Board approve the retroactive reinstatement of **Carla Guerrero** to Certified membership in the Institute, effective as of September 28, 2018.

### Member Changes

It was further recommended and approved that the Board approve and/or acknowledge the following membership transfers and changes in membership status for the following individuals as noted:

#### FROM CERTIFIED TO MEMBER ON LEAVE

Taryn Hayes

Heather

Kamitakahara

Luciana Moraes

Claire McQuarrie-Jones

#### FROM CANDIDATE TO MEMBER ON LEAVE

Stephanie Holland

#### FROM MEMBER ON LEAVE TO CERTIFIED

Ellen Larcombe

Alanna McDonagh

Karen Williams

#### RESIGNED

Andrew Martin

## New Members

Congratulations and welcome to all the new PIBC Members!

At its meeting of January 25, 2019, it was recommended and approved that the Board admit the following individuals to membership in the Institute in the appropriate categories as noted:

### CERTIFIED:

**Michele Cloghesy**  
*(Reinstate)*

**Jacqueline East**  
*(Transfer from MPP)*

**Schaun Goodeve**  
*(Transfer from APPI)*

**Thomas Stubbs**  
*(Transfer from APPI)*

**Timothy Van Hinte**  
*(Transfer from OPPI)*

### CANDIDATE:

**Mark Barsevskis**

**Thomas Bevan**

**Nicholas Deibler**

**Bethany Dobson**

**Emily Gray**

**Zachary Haigh**

**Isabelle Kim**

**Fang Ning Mei**

**Austin Norrie**

**Payvand Razaghizad**

**Mark Tanner**

**Michael Watibini**  
*(Transfer from APPI)*

**Kevin Webber**

**Lillian Wilson**

**Janet Zazubek**

**Anna Zhuo**

### RETIRED:

**Hernan Bello**

**Frances Chandler**

**Eric Fiss**

**Lynn Guilbault**

**Janet Lee**

**Malcolm MacPhail**

**Susan Palmer**

**Randy Pecarski**

### PRE-CANDIDATE:

**Karen Campbell**

**Natalie Chiang**

**Barbara Crawford**

**Jessica Mann**

### STUDENT:

**Payton Carter (UNBC)**

**Maddie Hague (SFU)**

**Jordan Hallam (Univ. of Sask.)**

**Purnesh Jani (UNBC)**

**Leah Labarrere (UNBC)**

**Timothy Luk (UBC)**

**Rafid Shadman (UNBC)**

**Dean Taylor (UNBC)**

**Julia Tippett (UNBC)**

It was further recommended and approved that the Board approve the retroactive reinstatement of **Pierre Ichetti** to **Certified membership** in the Institute, effective as of September 28, 2018.

## Member Changes

It was further recommended and approved that the Board approve and/or acknowledge the following membership transfers and changes in membership status for the following individuals as noted:

### FROM CERTIFIED TO MEMBER ON LEAVE

**Nirmalendu Bhattacharya**

**Joan Chess-Woollacott**

**Christopher Correia**

**Keltie Craig**

**Angela Davies**

**Annie Dempster**

**Marlaina Elliott**

**Julian Gonzalez**

**Natasha Lock**

**Claire Negrin**

**Rebecca Newlove**

**Bruce Simard**

**Judith Walker**

**Heather Charest**

**Imelda Nurwisah**

**Erin O'Reilly**

**Kerry Thompson**

### FROM MEMBER ON LEAVE TO CERTIFIED

**Amy Anaka**

**Dominica Babicki**

**Hernan Bello**

**Nirmalendu Bhattacharya**

**Annie Booth**

**Rachel Harrison**

**Janette Leung**

**Christine Lyons**

**Malcolm MacPhail**

**Robin Mills**

**Jennifer Natland**

**David Pinel**

**Linda Piroddi**

### FROM MEMBER ON LEAVE TO CANDIDATE

**Heather Shedden**

**David Thomas Smith**

**MacKenzie Stonehocker**

**Andrea Wen**

**Laura Beveridge**

**Samantha Charlton**

**Allison Pickrell**

**Lauren Sanbrooks**

**Mark Thorvaldson**

### RESIGNED

**Allan Bronsro**

**Neil Connelly**

**Ron Fralick**

**John Gauld**

**Anita Green**

**Robert Gubbe**

**Kevin House**

**Aiden Kennedy**

**Nicholas Kuhl**

**Gerard LeBlanc**

**Greg Leighton**

**Sarah Lumley**

**Nancy Mclean**

**Shelley Miller**

**Abby Morning Bull**

**Jocelyne Piercey**

**Pieter Rutgers**

**Cari St. Pierre**

**David Wahn**

**Maura Walker**

**Greg Woollacott**

## Membership Time Limits

It has been reported and confirmed by the PIBC Board of Directors on January 25, 2019 that the following individuals had exceeded the prescribed time limits for their respective membership category and, in accordance with the Institute's bylaws, ceased to be members of the Institute in those categories effective as of December 31, 2018:

### CANDIDATE:

**Aliaa Elkhashab**

### STUDENT:

**Tyson Baker**

**George Benson**

**Jonathan Boron**

**Chloe Boyle**

**Jordan Brown**

**Ignatius But**

**Tyler Carlson**

**Mary Cascadden**

**Arielle Dalley**

**Torill Gillespie**

**Amanda Girard**

**Evan Hammer**

**Michael Huck**

**Brennan Hutchinson**

**Riley Iwamoto**

**Fausto Kadomoto**

**Inomata**

**Janet Kivett Knight**

**Allison Lasocha**

**Emme Lee**

**Jeff Lemon**

**Dustin Lupick**

**Sarah Marshall**

**Hollie McKeil**

**Elizabeth Mosier**

**Tess Munro**

**Ernette Post**

**Victoria Postlethwaite**

**Peivand Razaghizad**

**David Sametz**

**Cail Smith**

**Aylin Tavakoli**

**Michelle Vandermeer**

**Magdalena Wojtalewicz**





**“Cycling Through Water” Bike Trail, Genk, Limburg, Belgium**

The 'Cycling Through Water' bike trail, opened in April 2016, is a 212-meter long and 3-meter wide path that enables cyclists to ride through a pond in the De Wijers nature reserve in Bokrijk-Genk, with water at eye level on both sides. An inspirational construction project, this unique bike trail was part of a nature conservation project for the surrounding ponds of De Wijers.

Since its opening, 500,000 cyclists have traversed this innovative cycling trail, with an average of 800 visitors per day exploring the unique route. With the increased visibility boosting awareness in the entire region, there have been benefits to the wider environment, including water quality improvements and an increase in the amphibian habitats nearby. “Cycling Through Water” not only increased awareness of the nature reserve and the open-air museum Bokrijk, but also boosted eco-tourism at the De Wijers site and its 700-hectare network of ponds.



Source: cyclingthroughwater.com





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-Rebecca Chaster, City of Coquitlam Community Planner

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