

Tool 4

Addressing Residual Impacts to Cultural Rights

Step 4 of Undertaking an Assessment
of Impacts to Cultural Rights and Values



FIRST NATIONS
MAJOR PROJECTS
COALITION

THE INDIGENOUS CULTURAL RIGHTS AND INTERESTS TOOLKIT

Spirit of the Land

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The Indigenous Cultural Rights and Interests Toolkit has been co-developed by the First Nations Major Projects Coalition (FNMPC) and its First Nation partners, the Anishinabek Nation, and Stelat'en First Nation, Nadleh Whut'en First Nation, Saik'uz First Nation, and Cheslatta Carrier Nation ("Carrier First Nations").

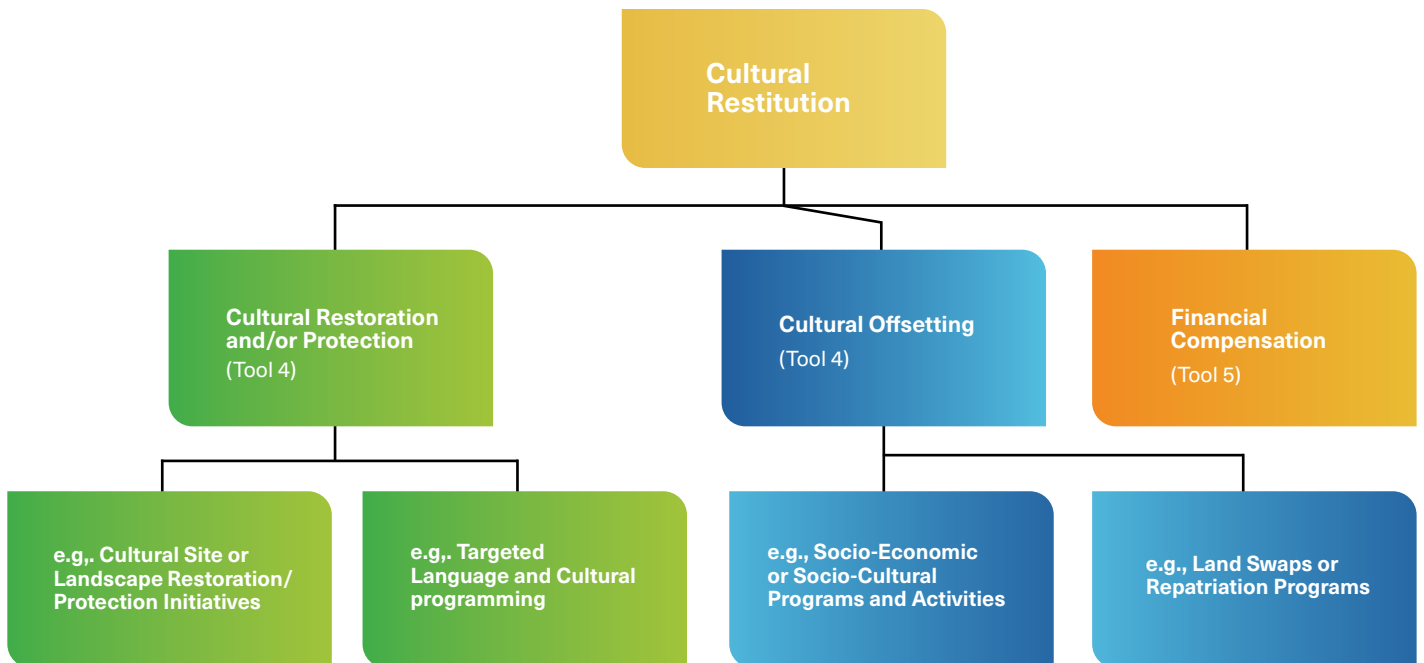
Cover artwork is created by Indigenous artist, Johnny Ketlo III who is a member Nadleh Whut'en located in north central BC. The Nadleh Whut'en community is a member of the FNMPC.

Once residual effects of a project are determined through an effects characterization and severity determination, they must be addressed. First Nation systems should serve as the vehicles for assessing the decisions presented in the context of responding to impacts. This is done by assessing whether certain impacts of a project can be avoided, and if so, how; whether mitigation measures can be implemented to reduce impacts; or whether restitution is required for impacts that can't be mitigated. In some cases, where potential impacts are unacceptable, the conclusion of this analysis may be to seek the termination of the project. The FNMPC recognizes that the EA system is a flawed and evolving set of regulations and processes. We seek, however, to provide transparent information that Nations can use at their discretion to make their own determinations about consent, mitigation, and compensation.

In general, avoidance of potential residual impacts is preferred option. However, this is not always possible and impact minimization must be applied through mitigation measures. Restitution may be needed if avoidance and minimization are not possible or sufficiently effective and adverse effects on cultural rights remain. It is important to note that mitigation and restitution are not mutually exclusive approaches. In fact, it is rare for a project's mitigation measures to fully reduce all impacts, even where mitigation measures are robust and First Nations have been incorporated into their design and review. In these cases, mitigation and restitution measures can be taken in unison. Each Nation can determine the focus of efforts in this regard and choose which measures to pursue.

The decision to seek restitution should be taken only after careful consideration, as it may impact the Nation's position in other realms. For example, if a Nation seeks to protect its cultural rights in a Canadian court, previous acceptance of restitution may prejudice their legal position. However, in cases where litigation is not being considered, restitution can be a way for a Nation to receive compensation if the project proponent is unable or unwilling (alone and in combination with Crown conditions or measures) to sufficiently reduce project impacts to the Nation's cultural rights.

There are a variety of forms of restitution. This Tool identifies three primary forms of restitution for impacts to cultural rights: cultural restoration, cultural offsetting, and financial compensation. The following diagram illustrates these three options for restitution.



This diagram illustrates three primary means of restitution: restoration, offsetting, or compensation. Assessing compensation for residual impacts to cultural rights is the subject of Tool #5.¹

Cultural Restoration is any action that works to *directly* restore or return an impacted cultural right, or aspects of the cultural right, back to a desired condition. Unlike offsetting, restoration involves actions or investments that are directly targeted at restoring the same specific cultural values (e.g., a sacred site, or degree of language use in a community) that have been impacted. Cultural restoration may be directed at both a geographically situated set of cultural values, such as a cultural landscape, or at a less geographically situated set of cultural values, such as language retention.

Restoration

Restoration of a geographically situated set of cultural values

When, in response to a loss or degradation of a geographically situated set of cultural values, environmental and/or structural restoration investments are made to assist recovery of values important to the retention or practice of cultural rights in the same geographic vicinity, matters most to them

Restoration of lost or infringed cultural right that is not necessarily geographically situated

When cultural loss is restored through programs, developments, projects, policies, etc. that seek to restore the same aspect of culture, e.g., language programs to address anticipated adverse effects on language transmission.

In contrast, the Tool defines *Cultural Offsetting* as a form of restitution that is **not** directly linked to the specific geographic location or specific kind of cultural value being impacted. In this Tool, the term of “offsetting” is used more generally than how the concept of habitat offsetting is used in biophysical Environmental Assessment. Rather, it is defined as an action that works *indirectly* to address the lost or diminished opportunity to receive benefit from, or to exercise, a cultural right.

¹ For the purposes of this tool, compensation is defined as providing financial compensation based on an assigned monetary value, preferably as defined by the affected First Nation, for the lost or diminished opportunity to exercise a cultural right.

Offsetting

Offsetting for a lost or infringed cultural right that is may or may not be geographically situated

When a cultural loss is restituted through restoration investments, developments, programs, policies, etc. that are NOT directly tied to the impacted cultural right, e.g., development of a language centre as a form of offsetting loss of a trapline.

That is, here the concept of an offset is an action that is different in nature and extent from the dimension of culture that is being impacted. For example, project impacts to a fishing site may be “offset” by the establishment of protected area in a different part of the Nation’s territory to support for other cultural values or activities, e.g., hunting and trapping. In this hypothetical case, while the protected area has a different kind of value from the fishing site, and while the protected area doesn’t “restore” the impacts on the fishing site, it is deemed by the impacted Nation to provide an acceptable degree of restitution.

Hence, the main distinction between how the concepts of *restoration* and *offsetting* are used in this Tool is that restoration is directly focussed on restoring the specific cultural right that is being impacted, with “like for like”, while offsetting provides a more general form of non-monetary restitution that while deemed generally equivalent in compensatory value to what is being lost, it provides a different kind of cultural value or benefit from the cultural right being impacted.

It is important to note that in the area of intangible culture, there may be similar types of programs and activities to address both restoration/protection and offsetting initiatives (e.g., culture camps or language immersion). In one case they may be needed to address an immediate risk or impact posed by a specific project (restoration/protection initiatives). In other cases, it may not be directly related to the project but viewed as a preferred form of offsetting by a Nation.



Terminology

The following terminology is used throughout this Tool. Definitions for each term are provided below.

- » **Cultural Offsetting:** a form of non-monetary restitution that is **not** directly linked to the specific geographic location or specific kind of cultural value being impacted. These initiatives work *indirectly* to address the lost or diminished opportunity to receive benefit from, or to exercise, a cultural right.
- » **Cultural Repatriation:** processes that return lost cultural property (often tangible cultural heritage) to the rightful owners.
- » **Cultural Restitution:** processes that address residual adverse impacts on a cultural right or rights, including restoring the practicability of a cultural right to its original state, offsets of equal or greater value to cultural losses, or financial compensation for cultural losses.
- » **Cultural Restoration/Protection:** any action that works to *directly* restore or return an impacted cultural right, or aspects of the cultural right, back to a desired condition. These initiatives may be connected to either a specific geographic location or cultural right being impacted by a project and focuses on the protection and restoration/revitalization of **specific** cultural rights such as language, tangible cultural heritage, etc.



Principles

The following principles may be considered when addressing residual cultural impacts:

- » There should be a focus on cultural impact avoidance as a priority, with adequate minimization and compensation measures demonstrably employed where impact avoidance cannot be assured.
- » Indigenous Nations should be included, or allowed to lead, the development and implementation of avoidance, mitigation, and restitution measures to ensure that they meet their needs and requirements.
- » Where avoidance of cultural impacts cannot be achieved, Indigenous communities should be involved in verifying the nature and magnitude of all residual adverse effects on culture prior to a determination being made on what accommodation measures (i.e., offsets, compensation) are required.
- » Addressing residual cultural impacts should include the consideration of reconciliation, namely the possibility and opportunity for potential beneficial impacts to culture arising from a project. A project should do more than “not harm” an Indigenous community; it should bring about a net benefit.

The following principles may be considered when pursuing avoidance of residual cultural impacts:

- » Indigenous Nations should be able to determine contexts in which impacts to cultural rights are non-negotiable and must be avoided at all costs. For example, there may be some locations so valued and sensitive that it is not possible to mitigate adverse effects to them through any means other than outright avoidance.
- » High-value cultural sites/cultural landscapes should be avoided and maintained intact with appropriately sized protective buffers placed around them, as determined by affected Indigenous Nations.

The following principle may be considered when pursuing mitigations for residual cultural impacts:

- » Cultural monitoring plans and their implementation must be agreed to and preferably conducted by the First Nation themselves. However, it must also be kept in mind that monitoring does not constitute a form of mitigation and should not be treated as such.

The following principles may be considered when pursuing restitution for residual cultural impacts:

- » Restitution can take many forms, including, but not limited to, offsetting, restoration, and financial compensation.

- » Negotiations about restoration, offsetting and compensation measures must be culturally sensitive and trauma-informed. It is important to observe cultural protocols when engaging in these negotiations.
- » The trade-offs between likely adverse impacts on a nation or community's cultural rights and beneficial impacts in other areas of value to the same group must be:
 - Understood (i.e., well characterized with a relatively high degree of confidence in the predicted outcome, relatively free from uncertainty);
 - Shared with the First Nation in an acceptable format, and
 - Acceptable to the First Nation, with the appropriate formal consent processes set out by the Indigenous Nation.
- » Restitution practices, such as restoration of a cultural site, should be led - planned, managed, and implemented - by the affected First Nations themselves.
- » Wherever possible, restitution mechanisms should do more than simply reduce negative impacts, they should also ensure and promote benefits for the community.
- » When the impacted First Nation requests it, all reasonable efforts shall be given by all parties to find non-monetary restitution measures to protect or restore practicability of cultural rights, before considering financial compensation.
- » In determining the nature and extent of overall restitution owed to an impacted community, cumulative effects must be taken into consideration. Crown agencies may be required to get involved, including in the identification of **complementary measures** to protect and promote Indigenous cultural rights that the Crown will support over and above proponent commitments and Crown conditions on the proponent.
- » Indigenous communities should be able to identify their preferred means of restitution in accordance with their own institutions and governance systems.
- » In order to allow Indigenous communities to identify their preferred means of restitution, they must be provided with the time, funds, and resources necessary to make these assessments. This includes conducting relevant studies, engaging with leadership and community members, determining what works best for the Nation, and funds for engagement with the proponent and consultation with the Crown to ensure that measures are adopted.

Recommended Approaches for Addressing Residual Impacts to Indigenous Cultural Rights



The selection of an approach to address residual impacts to cultural rights must be grounded in an Indigenous Group's context, history, and legal systems, as well as existing policies, protocols, norms, and laws. As previously identified, avoidance is the most commonly preferred form of addressing residual cultural impacts. In the event that avoidance is not possible, mitigation and/or restitution mechanisms can be implemented.

Mitigation Measures

As noted above, mitigation measures are often developed through collaboration and engagement with the proponent and/or relevant government agencies. While the focus of this Tool centres on determining opportunities for restitution, it is important to note that, at a minimum, mitigation measures should focus on either changing the actors or triggers that can lead to adverse impacts; or alternatively, strengthening the Nation's cultural resilience by supporting conditions that nurture and strengthen cultural rights.

In accordance with general EA policy, for mitigation measures to be considered effective, they should:

- » Consider all possible alternatives
- » Include culture holders as partners in the identification of appropriate mitigation, implementation, monitoring, and feedback
- » Be transparent and specific
- » Be adequately funded, resourced, and staffed
- » Be precautionary
- » Deal with impacts regardless of where they may be located
- » Have outcomes that are measurable against goals
- » Be adaptable



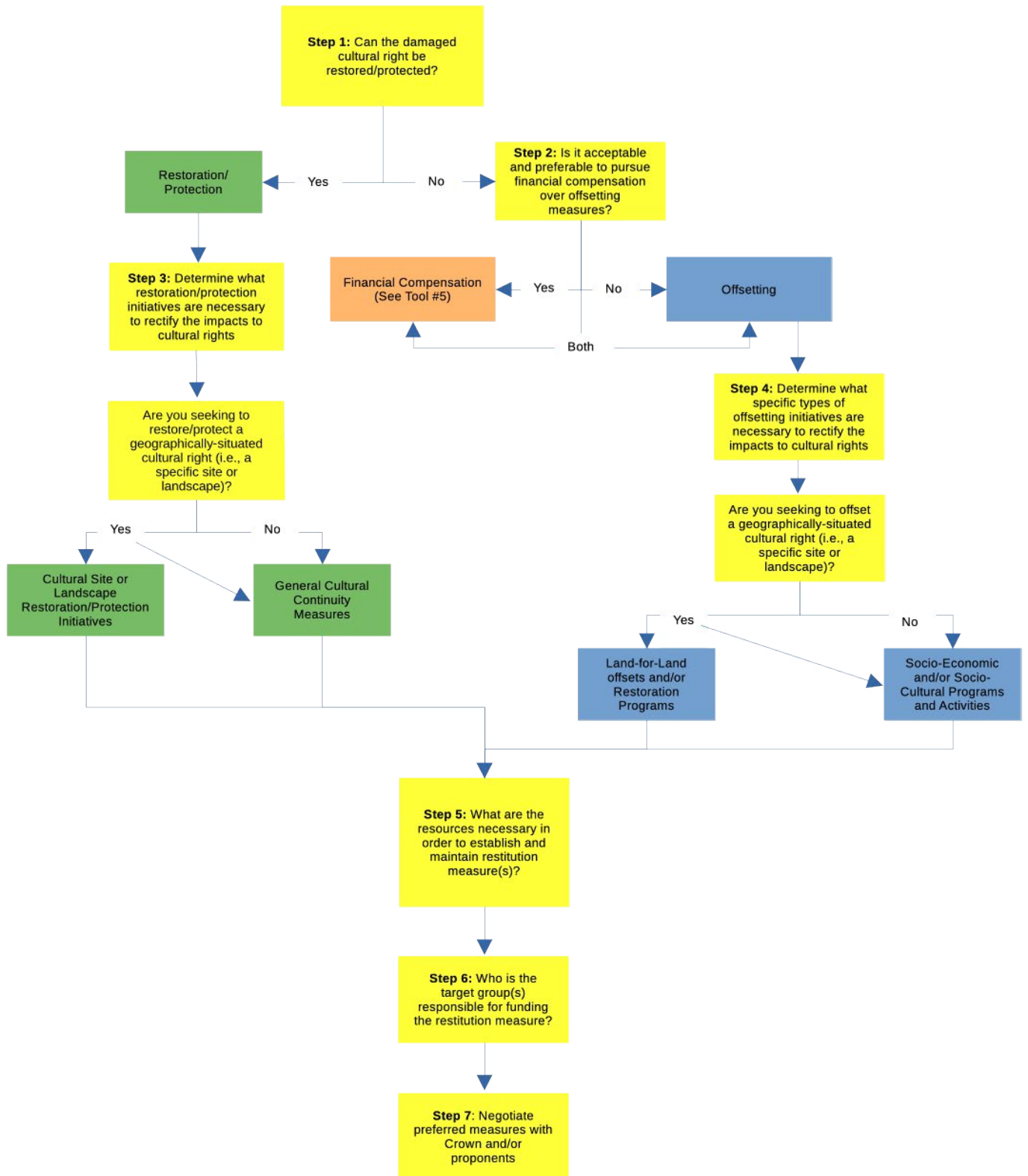
Restitution Measure

In general, the deliberation and decision-making about potentially appropriate and preferred restitution measures should be conducted internally within the First Nation, prior to engagement with the Proponent and/or government. For the sake of this Tool, we have identified three forms of restitution: cultural restoration, cultural offsetting, and financial compensation. These forms of restitution can overlap and the desired measure for restitution may be a combination of all three.

While each Nation will have different requirements for the purposes of restitution, informed by its own unique needs and priorities, the act of determining the Nation's preferred path to restitution might take will likely involve some or all of the following steps. The following decision tree (*Figure 1*) illustrates the key steps in one approach to determining a desirable restitution mechanism or mechanisms. The steps are described in further detail in Figure 1.



Figure 1: Form of Restitution Decision Tree



Step 1:

Can the damaged cultural right be restored/protected? Yes/No

Yes – Restoration (see Step 3)

No – Offsetting or Financial Compensation (see Step 2)

Determine whether restoration and/or protection opportunities are feasible. The severity of potential impacts of the proposed major project on the cultural right(s) will be a factor in this determination. Restoration opportunities within the impacted area may not be feasible or practical in all contexts, and if so, offsetting may offer the best options for effective means of restitution. Where there is an opportunity to invest in the recovery and/or renewal of a cultural area or place, or a non-geographically situated cultural right, the Nation's own policies and laws can give direction. For example, where a project has the potential to adversely effects an area that a Nation has identified in its land-use plan for important cultural use, restoration and/or protection measures should be prioritized.

Step 2:

If it's not feasible to restore a cultural area, **is it acceptable and preferable to pursue financial compensation over offsetting measures?** A Nation's policies and laws in this area can serve as guidance in making this decision.

Yes – Financial Compensation (see Tool #5)

No – Offsetting (see Step 4)

Determine whether financial compensation is possible and/or desired by the community. Financial compensation may be difficult to calculate for intangible cultural values and is not always applicable. In some instances, offsetting mechanisms may provide a greater benefit to the preservation and protection of cultural values than financial compensation. Further information on the complexities and limitations of financial compensation is provided in *Tool #5: A Model for Evaluating the Economic Value of Cultural Rights*.

Step 3:

Are you seeking to restore/protect a geographically-situated cultural right (i.e., a specific site or landscape)?

Yes – Determine preferred geographically situated restoration measure(s) (e.g., cultural site or landscape restoration/protection initiatives), then **continue to Step 5**

No – Determine preferred non-geographically situated restoration measure(s) (e.g., general cultural continuity measures), then **continue to Step 5**

Determine what specific restoration and protection initiatives (e.g., fish habitat restoration project, establishment of a cultural centre) are necessary to rectify the impacts to cultural rights. General examples of restoration and protection initiatives are provided below, and a listing of example initiatives undertaken by Nations across Canada are included in **Appendix A**.

Some examples of geographically situated restoration measures (e.g., Cultural Site or Landscape Restoration/Protection Initiatives) include:

- » Revitalization of natural landscapes, local vegetation, and native fauna within the project-affected area with the same cultural values that support the continued or enhanced exercise of the same cultural right being impacted;
- » Restoring the project area to a certain quality following project-closure; and
- » Targeted cultural programs and activities within the project area, such as language programs and culture camps, aimed and designed at supporting and/or restoring resilience in cultural dimensions that may be adversely affected.

Some examples of non-geographically situated restoration and protection initiatives include:

- » Enhancing or protecting key cultural areas outside of the project affected area that are used for the exercise of the cultural right being impacted; and
- » Targeted cultural programs and activities outside of the project area, such as language programs and culture camps, aimed and designed at supporting and/or restoring resilience in cultural dimensions that may be adversely affected.

Step 4:

Are you seeking to offset a geographically-situated cultural right (i.e., a specific site or landscape)?

Yes – Determine preferred geographically situated offsetting measure(s) (e.g., land-for-land offsets and/or restoration programs), then **continue to Step 5**

No – Determine preferred non-geographically situated offsetting measure(s) (e.g., socio-economic and/or socio-cultural programs and activities), then **continue to Step 5**

Determine what specific types of offsetting initiatives (e.g., activity/program, land swap) are necessary to rectify the impacts to cultural rights and bring the community back into balance. General examples of offsetting initiatives are provided below, and a listing of initiatives undertaken by Nations across Canada are included in **Appendix B**.

Some examples of geographically situated offsetting measures, such as Land-for-Land Offsets and Restoration Programs include:

- » Legal administrative, land transfer and/or land-purchase financing to support preservation of an area/landscape/location within the project area with different cultural values that support the continued or enhanced exercise of cultural rights;
- » Providing long-term funding to support ecological restoration and stewardship programs for areas that support different cultural rights; and
- » Return of (off-reserve) lands to community control and jurisdiction.

Some examples of non-geographically situated offsetting programs and activities, such as Socio-Economic and/or Socio-Cultural Programs and Activities include:

- » Funding community project and initiatives (including long-term funding to support programs such as cultural camps for elders and youth);
- » Repatriation of cultural legacy objects and belongings;
- » Long-term supports for language revitalization programs;
- » Long-term supports for revitalization of cultural activities; and
- » Establishing a cultural “trust”.
- » Providing socio-economic benefits to a community;
- » Housing development and programs;
- » Training and education programs;
- » Establishment of mental health supports and infrastructure; and
- » Construction of permanent infrastructure such as offices, medical sites, *schools, etc.*

Step 5:

Seek to answer the question, **what resources are necessary in order to establish and maintain the restitution measure?** Then proceed to **Step 6**.

Once the desired form of restoration/protection or offsetting is determined, the Nation can determine the resources necessary in order to establish and maintain the program or activity. The resources required will be dependent on the form of restitution chosen, as well as the existing context of the Nation (i.e., existing resources, infrastructure, personnel, etc.). Some key factors to consider when determining the resources necessary for restitution mechanisms are provided below, subdivided the type of measure chosen.

Restoration Measures

1. Geographically situated restoration/protection measures:
 - Size: What is the size of the land to be protected/restored? Does this factor in cumulative effects and current and future context?
 - Quality: What is the existing quality of the site or landscape?
 - Degree of protection: What is being protected (i.e., a patch of land, a species, an ecosystem, etc.)? What is the degree of protection? What are the consequences for continued impacts to the protected area?
 - What are the criteria for determining whether restoration/protection objectives have been achieved?
2. Non-geographically situated restoration/protection measures:
 - Duration: Is the initiative a one-off event (i.e., the construction of a school), or a long-term program? If it is a long-term program, how long will the initiative take place? (i.e., months, years, in perpetuity, etc.)
 - Target community group: Who is the restitution activity engaging with? (i.e., youth, elders, women, etc.)
 - Staffing: What sort of staffing is required? (i.e., maintenance staff, administration, honoraria, etc.)
 - Space/location: Where will the restitution activity or program take place? Is a new location required? Are there existing places that can be utilized?
 - Trajectory of program: Will the program or activity remain the same size for its duration? Is this a pilot program that will be developed and will grow with time?
 - What are the criteria for determining whether restoration/protection objectives have been achieved?

Offsetting Mechanisms

1. Geographically situated offsetting measures:

- **Size:** What is the size of the land to be offset? Does this factor in cumulative effects and current and future context?
- **Quality:** In the case of a land swap or return, what is the quality of the new land in comparison to that which was lost?
- **What are the criteria for determining whether restoration/protection objectives have been achieved?**

2. Non-geographically situated offsetting measures:

- **Duration:** Is the initiative a one-off event (i.e., the construction of a school), or a long-term program? If it is a long-term program, how long will the initiative take place? (i.e., months, years, in perpetuity, etc.)
- **Target community group:** Is the initiative engaging with a specific community demographic? (i.e., youth, elders, women, etc.)?
- **Staffing/Employment:** What sort of staffing needs will the offsetting activity require? (i.e., maintenance staff, administration, honoraria, etc.). Will there be a construction component (i.e., for infrastructure developments) that community members can participate in?
- **Space/location:** Where initiative take place? Is a new location/new infrastructure required? Are there existing places that can be utilized?
- **What are the criteria for determining whether restoration or offsetting objectives have been achieved?**

Once the resources required for a restitution initiative are determined, the total cost of the initiative can be determined and communicated to the proponent/government.

Step 6:

Seek to answer the question, **who is the target group(s) responsible for funding the restitution measure(s)?** Then proceed to **Step 7**

Determine how funding for the restoration/offsetting measure will be provided. Indigenous Groups may wish full control over how cultural restitution activities and projects are planned and implemented.

Step 7:

Negotiate the desired restitution measure(s) with the proponent and/or Crown.

The First Nation may issue its own consent conditions or other requirements for measures associated with impacts on cultural right. However, in the Canadian EA system, this does not guarantee that those measures will be adopted. As such, they may need to be negotiated with the proponent and/ or Crown who will put forward their own expectations and limitations. To help in these negotiations, it is encouraged that the Nation draw on the past identification of priority cultural rights and the results of the effects characterization to clearly articulate their desired forms of restitution.

Summary

It is important to note that the decision to seek restitutions should only be taken after careful consideration as it may impact the Nation's position in other realms (e.g., seeking protection of cultural rights in the Canadian court system). This Tool identified three primary options for restitution:

1. Restoration: any act that works to *directly* restore or return an impacted cultural right (or aspects of the cultural right) back to a desired condition (i.e., rebuilding a sacred site that has been destroyed).
2. Offsetting: an action that works *indirectly* to address the lost or diminished opportunity to receive benefit from, or to exercise, a cultural right (e.g., offsetting impacts to a sacred area by transferring lands located elsewhere in the Nation's territory to the control of the Nation).
3. Compensation (discussed further in Tool #5)

These forms of restitution or not mutually exclusive and can be used in combination to best support the protection and promotion of the Nation's cultural rights and related interests.

This Tool provides a decision tree to help Indigenous Groups determine a desirable restitution mechanism or mechanisms for project-specific and cumulative effects on cultural rights identified in Tools 1 to 3.

Once the desired form of restoration or offsetting is determined, this Tool provides some guiding questions to help Indigenous Groups determine the resources necessary in order to establish and maintain the program or activity. The Nation may then determine how funding for the measure will be provided. This will help set up the First Nation to negotiate the desired form of restitution with the proponent/Crown.

Appendix A: Restoration/Protection Initiatives

The following examples of restoration/protection initiatives have been implemented by Indigenous Groups across Canada. While each program would be specifically designed to address a Nation's key requirements and cultural context, the following examples may serve as a starting point for the determination of possible restitution initiatives a Nation may wish to establish:

- » Syilx Okanagan Nation, **Bringing the Salmon Home! Columbia River Salmon Restoration Initiative (CRSRI)**: A program that reintroduces salmon, a species of profound importance for Syilx Okanagan Nation, into their historical spawning grounds in the Canadian portion of the Columbia River. Part of an agreement to integrate Indigenous voices and needs into the existing Columbia River Treaty, the program addresses impacts to salmon populations due to hydroelectric dams, development, and habitat disruption. In recent years, the program has resulted in the return of annual runs of hundreds of thousands of sockeye salmon and has contributed to the restoration of the Nations' relationships with salmon.
- » West Moberly First Nations and Saluteau First Nations, **Klinse-Za Mountain Caribou Protection Partnership Agreement**: A co-management program involving the direct participation of Nation members in the stewardship of the Klinse-Za caribou herd in the South Peace region of BC, where industrial development and other human activities have resulted in a drastic decline in caribou numbers over the past 50 years. The program protects a range of Klinse-Za caribou habitat and provides funding to the Nations to begin restoring habitat in the region and buying out private resource tenures in the designated area. Part of a partnership agreement between the First Nations, BC, and Canada, the program has resulted in an increase in the Klinse-Za caribou herd from a low of 38 individuals in 2013 to 114 individuals today. The program is actively working to restore the Nations' ability to hunt caribou as they previously had for thousands of years.
- » Kaska First Nations, **Dene K'éh Kusān Protected Area**: A large Indigenous Protected and Conserved Area (IPCA) in the core of Kaska traditional territory designed to act as a buffer against climate change and biodiversity loss. The plan includes the development of relationships with land users currently operating in the proposed area. The Kaska Land Guardians will co-manage the protected area, creating jobs grounded in Kaska culture, legal principles, and value systems. The plan is part of ongoing co-management and planning agreements Kaska First Nations have with the BC government. It is designed to protect against further losses to land and culture for Kaska First Nations, to revive caribou populations, and to provide economic opportunities for Indigenous communities. The Dene K'éh Kusān plan will restore Kaska stewardship over traditional lands and empower communities to manage their territories.

- » Coastal First Nations, **Coastal Guardian Watchmen Support:** A guardian program whereby the Watchmen uphold and enforce traditional and contemporary Indigenous laws passed down over countless generations, and work together to monitor, protect, and restore the cultural and natural resources of coastal territories. The Watchmen facilitate monthly conference calls and organize annual gatherings and learning exchanges that bring Guardians together to build relationships and share information and experiences. Although Coastal Guardian Watchmen programs provide ongoing monitoring across the Central and North Coasts and Haida Gwaii, each Nation is responsible for its own specific territory. The Coastal Guardian Watchmen network safeguards Coastal Nations' territories by gathering and sharing detailed regional knowledge about lands and waters, animal populations and habitats, and impacts from human activities. This knowledge can then be used to inform Nations' decision-making regarding uses of lands and waters. NOTE: *while monitoring is not typically considered mitigation, the development of - or increased investment in an existing - evergreen, well-funded, strongly mandated monitoring program, can be considered mitigation, in part because it empowers the Indigenous Group above and beyond simply monitoring the project.*

Appendix B: Offsetting Initiatives

The following examples of offsetting initiatives have been implemented by Indigenous Groups across Canada. While each program will be specifically designed to address a Nation's key requirements and cultural context, the following examples may serve as a starting point for the determination of possible restitution initiatives a Nation may wish to establish:

- » Inuit Tapiriit Kanatami, **ITK IlikKuset-Ilingannet! Culture Connect!:** Connecting youth and adult role models in order to facilitate knowledge transfer on hunting, trapping, sewing, art, carving, snowshoe making, music and wild food preparation. A pilot program took place in three communities in Nunatsiavut, Labrador, where the mental health of community members was found to be negatively affected by climate change and associated changes to wildlife, ice cover, and precipitation. By pairing youth with Elders to share knowledge about traditional activities, the program increased generational knowledge transfer, improved participants' mental health, and built pride in Inuit identity.
- » Haida Gwaii First Nation, **Haida Rediscovery Camp:** A youth-based culture camp on the islands of Swan Bay and Mount Moresby, that reconnect youth to their culture. Young people gain a set of skills based in traditional values that will support them through their lives. The program bridges gaps created by family disruption and other effects of colonialism that have caused a loss in young people's ability to connect with their culture. Rediscovery Camps were founded in the 1970s and have since spread throughout Canada and the world.
- » Tłı̨cho, **Jmbè Program:** An intensive cultural land-based learning program for senior high and post-secondary students that connects young people with Elders to help ensure that Tłı̨cho language and culture are passed onto future generations. Participants share and learn traditional skills such as fishing and fish preparation, sewing and beading, plant gathering, language learning, and storytelling. The program addresses the loss of culture due to youth departure for schooling and has been shown to improve participants' level of cultural knowledge, self-esteem, and sense of cultural identity.

- » Singaqmiut, **Culture Committee:** A culture committee that engages the community with cultural/ traditional activities and practices including ice fishing, seal hunting, polar bear hunting, whaling, harvesting wild onions, berries, etc., cooking traditional foods, cultural history lessons, skin sewing, storage of subsistence foods, et building and root gathering. There are several culture committees like this one across Nunavik, each of which is specific to the community it serves. The committees seek to strengthen Inuit culture and ensure Inuit traditions are maintained.

- » Dehcho First Nations, **The Aboriginal Language Nest Program:** A program where Dene children (ages 0 to 5) are immersed in their traditional language to support language acquisition and generational transfer. Initiated as part of the Northwest Territories Aboriginal Languages Plan in 2010, the program aims to revitalize the Dene language, which has been declining in use over the past several decades. This early childhood program is based on the Maori language nest model. Funding is provided by the Northwest Territories government but is managed by Dehcho First Nations.

- » Cheslatta Carrier Nation, **Cheslatta Carrier Nation and British Columbia Settlement Agreement:** Designed as a means of restitution for the impacts of the flooding of Cheslatta Territory and associated eviction of the Cheslatta t'en from their territory for the construction of the Nechako Reservoir. It was determined that 10,000 ha of Crown land would be transferred as Land Parcels to the Cheslatta Carrier Nation. Cheslatta had the opportunity to identify Crown lands within the Cheslatta Territory or Area of Interest for protection or for transfer as a tenure. This example is unique in that it involved restitution for past impacts, illustrating how the tools outlined above can be used in a variety of contexts. The Carrier Nation is a partner in the development of this Toolkit and their success in the Nechako Reservoir case demonstrates what can be achieved with such tools.

DISCLAIMER

This Toolkit has been developed from the perspective of the First Nations Major Projects Coalition (FNMPC) and does not represent the perspectives of the federal government, provincial governments, and territories, or industry. Although it represents a general First Nations perspective, it does not represent the specific perspective any First Nation as every First Nation will have its own distinct perspective. The Toolkit is designed to provide support to First Nations that are engaging with project proponents in discussions about offsetting residual cumulative effects affecting cultural rights and values within their territories. The Toolkit is not to be viewed as prescriptive on how to assess impacts on cultural rights and each First Nation should determine its own method and process for assessing impacts on its cultural rights in accordance with its laws, methodologies, protocols, and processes. A First Nation that chooses to engage with a project proponent or the Crown in discussions regarding impacts on cultural rights may want to obtain legal advice prior to using this Toolkit in those discussions.

The Toolkit has not been agreed to or endorsed by the federal government, provincial or territorial governments, or by industry. Therefore, if a First Nation chooses to use any of the methodologies or processes in the Toolkit to assess impacts of a major project on its cultural rights, the results of the assessment are not legally binding on the other levels of government or project proponent. The First Nation will need to seek agreement with other levels of government and/or a project proponent on how to apply the results of the First Nation's assessment.

The Toolkit is designed to be a collaborative and led by Indigenous Groups. While collaborative implementation, coupled with capacity support, is an option to help foster relationships between proponents/government and Indigenous Nations, this Toolkit should not be unilaterally applied by industry or government. First and foremost, this Toolkit must be understood to be an Indigenous-led process, grounded in a community's principles and leadership.

Cultural rights and values must be viewed as sensitive information. The principles of First Nations ownership, control, access, and possession (OCAP) is included in the Toolkit, but we wish to make clear that this concept is not recognized as law or policy by other levels of government. A First Nation may take the position that OCAP protects their sensitive cultural information from public disclosure, but any information shared with the federal government and provincial or territorial governments may not remain confidential due to federal and provincial privacy laws and procedural fairness in regulatory processes. Therefore, a First Nation must continue to exercise caution when sharing information in such processes.

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