



MIKI'SIW Métis Association

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February 10, 2025

830 Cliffe Avenue
Courtenay, BC, V9N 2J7

Tansi Joy Chan,

Thank you again for inviting and hosting the MIKI'SIW Métis Association (MIKI'SIW) Board of Directors to review and provide feedback on the City of Courtenay Strategic Cultural Plan on October 21, 2024. Your personal approach to meeting with our board members was conducted in a manner that demonstrated cultural humility, safety and respect.

We understand that reconciliation and Indigenous engagement and consultation is often seen as complex. We have tried to address some of your questions and further explain the nuances.

Municipal Affairs Mandate

Mandate Letter to Honourable Ravi Kahlon, Minister of Housing and Municipal Affairs, from David Eby, Premier, November 18, 2024.

"This work will be enabled and accelerated by advancing true, lasting, and meaningful reconciliation with Indigenous peoples. Reconciliation is not just a priority—it is foundational to our collective future. Our government will strengthen our relationships with Indigenous communities in tangible, measurable ways that benefit all communities across the province."

Ministry of Housing 2024/25-2026/27 Service Plan, February 2024.

"Government will continue working collaboratively with Indigenous Peoples as it implements the Action Plan for the Declaration on the Rights of Indigenous Peoples Act and delivers initiatives that advance reconciliation in ways that make a difference in communities throughout the province."

Indigenous Peoples

The provincial government passed the *Declaration on Rights of Indigenous Peoples Act* (Declaration Act) into law in 2019. This establishes the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) as the Province's framework for reconciliation.

The *Indigenous Governing Bodies in the Declaration on the Rights of Indigenous Peoples Act* document provides guidance on what constitutes an "entity authorized to act on behalf of Indigenous peoples" is a matter of Indigenous self-determination, as articulated in the UN Declaration including in articles 3, 4, and 5:

“Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”

Métis as Indigenous People with Section 35 Rights

The Métis people of Canada are identified under Section 35 of the Constitution as a rights-holding Aboriginal peoples. These rights are equal to the First Nations and Inuit peoples of Canada. There is a misconception nationally that treaty rights with First Nations supersede the Section 35 rights of the Métis, or merely that the Section 35 rights of the First Nations supersede Métis Section 35 rights. This misconception is not supported by the Constitution or any relevant case law. Métis Section 35 rights are equal to the Section 35 rights of First Nations and Inuit.

In his 2016 report to the Government of Canada, *A Matter of National and Constitutional Import: Report of the Minister’s Special Representative on Reconciliation with Métis: Section 35 Métis Rights and the Manitoba Métis Federation Decision*, Tom Issac states:

“Reconciliation is more than platitudes and recognition. Reconciliation flows from the constitutionally protected rights of Métis protected by Section 35 and is inextricably tied to the honour of the Crown, and must be grounded in practical actions.”

Métis Nation British Columbia

The Métis Nation BC (MNBC) represents the Section 35 rights of over 27,000 Métis citizens who are registered with MNBC and advocates for the over 98,000 self-identified Métis in BC. MNBC is recognized by the Métis National Council, Provincial Government of British Columbia, and the Federal Government of Canada, as the Governing Nation for Métis in BC. MNBC represents forty (40) Métis Chartered Communities. The MIKI’SIW Métis Association is the Chartered Community of MNBC in the Comox Valley.

Understanding Rights, and Land and Title Rights

All First Nations, Métis and Inuit have Section 35 rights. Land and title rights are held by Indigenous Nations that have an inherent Aboriginal right to land or a territory. The Canadian legal system recognizes Aboriginal title as a *sui generis*, or unique collective right to the use of and jurisdiction over a group’s ancestral territories. This right is not granted from an external source but is a result of Aboriginal peoples’ own occupation of and relationship with their home territories as well as their ongoing social structures and political and legal systems. As such, Aboriginal title and rights are separate. A distinctions-based approach is used to differentiate between Section 35 rights and land and title rights.

In the Comox Valley, the K'omoks First Nation (KFN) holds land and title rights. The non-status, urban and away First Nations population does not hold the same land and title rights. Neither do Métis or Inuit. However, these Indigenous communities still hold Section 35 rights. MNBC and MIKI'SIW respectfully acknowledge KFN rights and title to their unceded traditional territory and do not claim any rights or title to these lands.

Understanding the distinctions-based approach

The province utilizes a distinctions-based approach to consulting and engaging with Indigenous Peoples.

"A distinction-based approach means that the Province's work with First Nations, Métis, and Inuit will be conducted in a manner that acknowledges the specific rights, interests, priorities and concerns of each, while respecting and acknowledging these distinct Peoples with unique cultures, histories, rights, laws, and governments."

A distinctions-based approach means that where engagement is intended for Indigenous Peoples, this is inclusive of First Nations, Métis and Inuit. For First Nations, this includes land and title holders; as well as, non-status, urban and away First Nations. There is no hierarchy of rights. Only when the engagement is specific to, and deals with land or title rights of the First Nation, would it be appropriate to consult with that First Nation individually.

City of Courtenay Cultural Strategic Plan

Any content or graphics contained in the City of Courtenay Cultural Strategic Plan should honour and respect the information provided above.

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Respectfully,



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