

WESTBANK FIRST NATION
LAND USE LAW NO. 2007-01

SCHEDULE "A" – LAND USE PLAN

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Section One: Introduction

Westbank First Nation Land Use Plan Vision

The Westbank First Nation Land Use Plan promotes planned community development, bringing together business, residents and membership resources for policies to guide growth in a manner consistent with WFN goals to establish a complete and sustainable community.

1.1 Background

Westbank First Nation (WFN) is governed under the *Westbank Self Government Act*, the *Westbank First Nation Self Government Agreement* between WFN and the Government of Canada dated October 3rd 2003, and the *Westbank First Nation Constitution*, ratified on April 1, 2005. The use and development of Westbank Lands is subject to Part XI of the Westbank First Nation Constitution (the "Land Rules"). Section 98.7 of the WFN Constitution states that:

Council shall, within two years of the date this Constitution comes into force, refer a final draft Westbank Law to adopt a Land Use Plan to a Special Membership Meeting for enactment by Electors ...

The Land Use Plan has been prepared in order to meet that commitment, and to serve as a statement of objectives and policies to guide planning decisions on Westbank Lands. The Westbank Land Use Law provides the enabling legislation for this Land Use Plan, which forms Schedule "A" of the Law. Adoption of this Land Use Plan was achieved through a WFN membership vote, and as such the document is considered to be a statement of community land use values. Amendments to the Land Use Plan are only considered if the changes will, in Westbank's opinion, bring significant benefit to the community. Goals and objectives in the Land Use Plan are statements of intent or purpose over the long term. This Land Use Plan was adopted after extensive community consultation, which included a Council and Staff land use retreat, ongoing work with the WFN Land Use Law Working Group, an Elders Meeting, a community survey, and also several family meetings.

1.2 Purpose and Scope

The purpose of the Land Use Plan is to provide a straightforward, yet flexible, land use framework for both private and community interests on WFN lands. The Land Use Plan is a forward looking document that outlines how the Westbank Lands will develop over time. The scope of the Land Use Plan is to address archeological and environmental protection, housing, health, culture, parks, infrastructure, community facilities and economic development. The Land Use Plan applies to all Westbank Lands, as shown on Figure 7.1.

Section One: Introduction

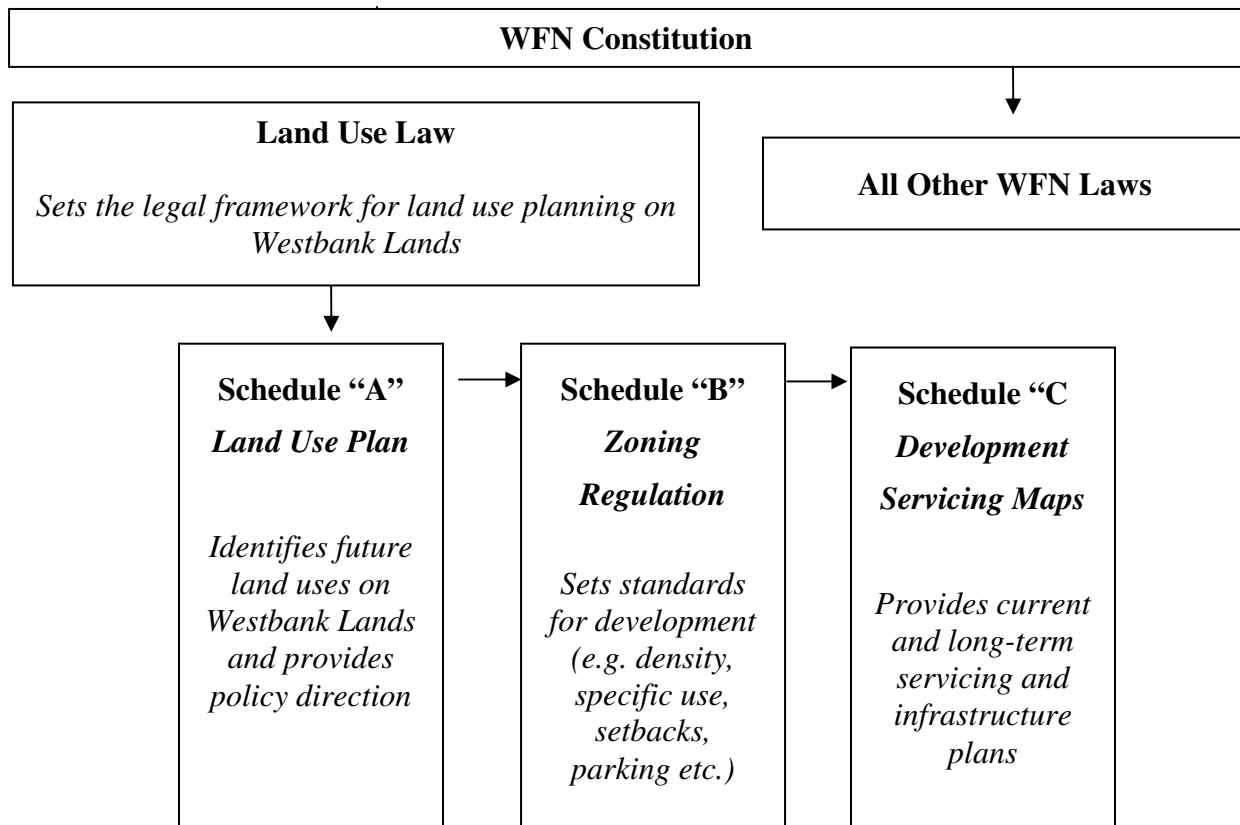
1.3 Planning Process

Planning involves the process of establishing a set of long-term goals and agreeing on the means to attain those goals. The Land Use Plan is a Council and community statement of that process. The goals and objectives within the Land Use Plan are statements of intent or purpose over the long term which are meant to direct development. Policies are to be used as day-to-day guidelines by which the community can evaluate land use activity and direct WFN and private land development.

Considering the current and anticipated rates of growth, land use planning is especially important on the WFN lands. The community is undergoing rapid change, and as such the need for a solid game plan for directing growth is essential. Effective planning can conserve resources, prevent waste, as well as save time and money. Having a good plan can often prevent a smaller problem from becoming a big problem, and equates to good stewardship of the land. The Land Use Plan promotes orderly growth by allocating future land uses to those areas most suited, while still protecting key community features. The plan facilitates complementary development, while also calling for more detailed analysis when it is needed for proposed larger neighbourhood level developments.

1.4 Legal Framework

The following flowchart outlines where the Land Use Plan falls within the hierarchy of WFN Law.



Section Two: Principles and Goals

2.1 Guiding Principles

Section 4.2 of the WFN Land Use Law sets out the land use principles that guide the land use and development process on Westbank Lands as follows:

- "4.2 The Westbank First Nation Land Use Principles are as follows:*
- (a) Westbank shall work to promote a healthy and prosperous future to ensure the continued existence of Westbank as a strong political, social and cultural community;*
 - (b) Westbank honours its connection to the land, resources and elements of the natural world that provide for its Members' physical and spiritual needs;*
 - (c) Westbank recognizes its responsibility to protect the land and her resources for future generations;*
 - (d) Westbank shall work to promote sustainable economic development and work to protect the value of Westbank Lands;*
 - (e) Westbank in this Law seeks to establish a clear plan for land use through the Land use Plan and Zoning Regulation to provide stability and predictability for the development of Westbank Lands; and*
 - (f) Westbank in this Law seeks to ensure a transparent, consistent and credible process for the development of Westbank Lands."*

2.2 Land Use Plan Goals

The following goals provide the basis for the policies contained within the Land Use Plan:

- To create land use certainty;
- To articulate the membership's land-use vision and provide policy for decision making;
- To promote business investment and economic development;
- To achieve a balance between residential and business development;
- To manage infrastructure investments in a fiscally sound and sustainable manner;
- To provide adequate opportunities for business and employment activities;
- To enhance livability and provide opportunities for a variety of housing on Westbank Lands;
- To provide an effective and efficient transportation system, that balances opportunities for a variety of modes of travel, while ensuring the efficient movement of goods;
- To preserve and protect the natural environment;
- To preserve archeological/cultural areas, sites and features that illustrate WFN heritage;
- To address the social and cultural needs of the community; and
- To enhance health, safety, and welfare of all residents within Westbank Lands.

Section Three: Land Use Policies

Land Use Designations are intended to establish a vision for functional land use areas throughout Westbank Lands. The following headings set out community priorities identified for consideration in shaping the Land Use Plan and are intended to drive future land use planning on Westbank Lands.

3.1 Housing Choices

WFN recognizes that appropriate housing choices play a major role in the creation of a balanced community, and as such WFN will:

- Meet membership housing needs by developing additional WFN housing where possible.
- Encourage creative ways to provide affordable housing.
- Provide a balanced mix of choices in the type, tenure and cost of housing in appropriate locations that will support all age and income groups, renters and household types.

3.2 Health and Culture

A healthy community nurtures the physical, social, and cultural well being of everyone living in the community, and as such WFN will:

- Promote accessible and appropriate health services for residents, especially youth, seniors, special needs, and low-income families.
- Promote the effective delivery of community health services to meet the needs of the growing and increasingly diverse population.
- Promote an environment free of violence/abuse, discrimination, and inequality, supporting the growth and development of youth to be successful, independent, and valued citizens.
- Maximize opportunities for people with disabilities to become active community members.
- Support and enhance sports, the arts, as well as cultural and heritage initiatives.
- Maintain and enhance the well-being and quality of life for all WFN community members.

3.3 Economic Development

Balancing high quality economic development and environmentally responsible initiatives will help establish a sustainable local economy, and as such WFN will:

- Promote the tourism industry as an economic growth sector.
- Promote employment, services, and business opportunities for WFN residents.
- Pursue opportunities to partner with other governments and external agencies to enhance the quality of life for all members of the community.
- Pursue strategies to optimize the sustainable use and enjoyment of waterfront areas.

Section Three: Land Use Policies

3.4 Environment

Protecting natural areas preserves inherently valuable environments, and as such WFN will:

- Protect and enhance sensitive natural environmental areas, including fish, wildlife and bird habitats, through land use planning regulations, and public education.
- Protect the aquatic environment of all creeks, riparian areas and foreshore areas.
- Minimize the hazard of floodplains on development by locating lower intensity land uses in these areas and regulating any development within the floodplains.
- Conserve sloped areas of greater than thirty percent grade in a natural state.
- Retain significant vegetation and trees that are native to the site.
- Through the development process, balance habitat losses with habitat replacement.
- Conserve, enhance and promote wildlife corridors that connect parks, open spaces, and other large wildlife habitat areas, thereby increasing the variety of wildlife habitat.
- Effectively balance fire mitigation measures with the priority of tree retention.
- Support energy conscious community planning and building design.

3.5 Archaeology

Archaeological sites are important links to the past for the Westbank First Nation, and as such WFN will:

- Conduct inventory and impact studies prior to any proposed ground disturbance.
- Protect and commemorate places of cultural and archaeological heritage.
- Avoidance is considered the preferred option for archaeological site protection.
- As a last resort, archaeological remains are to be salvaged before being impacted.
- Document and sample the cultural information contained in an archaeological site.
- Emphasize the importance of archaeological sites and manage their conservation.

3.6 Parks and Leisure

Parks provide important recreation opportunities for the community, and as such WFN will:

- Encourage the development of good quality parks, open space, and recreational facilities for residents, as well as access to cultural resources and other amenities.
- Promote public access to creeks and the Okanagan Lake foreshore.
- Coordinate the provision of parks and open space to serve the recreational needs of the community.
- Make efforts to preserve, protect and use natural areas where appropriate for parks and recreational purposes.

Section Three: Land Use Policies

3.7 Agriculture

Protecting agricultural areas enables a community to feed itself, and as such WFN will:

- Allow the membership to continue agricultural use over Westbank Lands where appropriate.
- Promote efficient use of agricultural lands through strategies that facilitate desired types of agricultural development in preferred areas.

3.8 Growth Management

Growth Management encourages "smart" type development, and as such WFN will:

- Prioritize development to support compact and complete communities.
- Enable Westbank Lands to grow while preserving open space areas.
- Encourage development that minimizes commuting.
- Consider the establishment of smaller residential lots within single family developments.
- Consider residential developments that allow more than one dwelling type on the same lot (e.g. second dwellings over garages with lane access).
- Encourage multiple unit residential developments such as duplexes, triplexes, four-plexes, townhouses, and apartment buildings.
- Where appropriate, allow mixed use developments that combine housing with retail, office or other uses.

3.9 Form and Character

Quality community design dramatically shapes the sense of place evident in a community, and as such WFN will:

- Ensure that new building designs integrate the character of the surrounding area, provide a compatible dynamic between adjoining sites, and create a relationship with the street.
- Strive to keep neighbourhoods as compact as possible to allow people to walk or bicycle to and from common destinations and thereby reduce reliance on cars.
- Discourage gated communities in an effort to improve the orientation of public streets and spaces.
- Support the principle of "crime prevention through environmental design" by encouraging opportunities for surveillance, increased public activity and presence in streets.
- Make use of WFN Design Guidelines to promote high quality building design.
- Ensure that the size, scale, massing and design features of development must be harmonious and in character with existing development in the area, while also supporting creativity in design.
- Ensure development addresses issues of transportation, services, utilities and environmental protection.

Section Three: Land Use Policies

- Ensure landscape designs for new developments on WFN Lands incorporate local drought resistant vegetation.

3.10 Transportation and Servicing

Transportation options and adequate services provide a mobile and fiscally responsible community, and as such WFN will:

- Strive to increase public transit ridership levels and transit service to move people within the reserves and throughout the region.
- Give priority to development in areas where major infrastructure services, transportation systems, and public amenities are already present and can effectively meet additional demand created by development; or where those services or systems can be provided in a timely and cost effective manner.
- Coordinate plans and services for orderly and cost-effective development.
- Improve the road network to move people and goods more effectively, and support the development pattern of businesses, workplace centres, and neighbourhoods.
- Provide safe alternatives to car travel such as cycling, walking routes and better transit service.
- Encourage the development of a local road network on Westbank Lands.

Section Four: Land Use Designations

The future use and development of Westbank Lands shall be consistent with the overall pattern of land use depicted on the Future Land Use Maps (Figure 7.2, 7.5, 7.8). The general types of uses encouraged in each land use designation are outlined and explained below. It is recognized that many existing land uses do not conform to these designations. The intent is not to change the use of this land in the immediate future, but to define the preferred pattern of land use as redevelopment occurs.

4.1 Commercial

The Commercial designation refers to land uses of a commercial nature, including retailing, office space, wholesaling, the provision of services and limited medium and high density residential use.

4.2 Community Core

The Community Core designation refers to the mostly low density residential area located within the Community Village. This land use designation covers most of the membership housing area. Neighbourhood commercial; institutional; educational; parkland; and recreational uses; as well as local services, including curb, gutter, sidewalk, street lights etc. are all encouraged within the Community Core, in order to encourage revitalization of this neighbourhood. Secondary suites and home based businesses are also encouraged to promote affordable membership housing and local economic development respectively. Densities are not to exceed a maximum of 30 units per hectare.

4.3 Low Density Residential

The Residential designation refers to land used for single family or for ground oriented townhouse purposes. Densities are not to exceed a maximum of 30 units per hectare.

4.4 Medium Density Residential

The Medium Density Residential designation refers to land where condos and apartment buildings up to four storeys, townhouses, and garden apartments are suitable. Densities are to not exceed a maximum of 60 units per hectare.

4.5 High Density Residential

The High Density Residential designation refers to sites suitable to accommodate high rise condos and apartments, which are over four storeys in height. The buildings will generally be an integral component of an urban type neighbourhood, and not exceed a maximum of 120 units per hectare in density.

Section Four: Land Use Designations

4.6 Institutional

The Institutional designation refers to areas where the predominant land use, as is determined by its general purpose, provides a community service (of a public or private nature). Such land uses include private or public educational, medical, utility, or congregate care facilities.

4.7 Light Industrial

The Light Industrial designation refers to those areas used for warehousing, manufacturing and production of goods, as well as a limited amount of retailing. Operations should not generate a nuisance factor that would make their use incompatible with adjacent uses.

4.8 Mixed Use

The Mixed Use designation refers to land where different uses are combined in the same building or property, such as a sensitively integrated commercial, multiple unit residential, commercial, or institutional project. Special attention must be paid to the context of the neighbourhood, ensuring that the proposed mix of uses is complementary to adjacent and nearby uses.

4.9 Manufactured Home

The Manufactured Home designation is intended for land where manufactured home parks exist, and it is also anticipated that they will continue to do so within the timeframe of this Land Use Plan. It is acknowledged that manufactured home parks serve to provide an affordable housing option. Densities are not to exceed a maximum of 20 units per hectare.

4.10 Private Recreation

The Private Recreation designation refers to areas devoted to facilities and also equipment for recreational purposes, including swimming pools, tennis courts, golf courses, playgrounds, and other similar uses whether the use of such area is limited to private membership or open to the public upon the payment of a fee.

4.11 Public or Private Open Space

The Public or Private Open Space designation refers to developed or undeveloped land used for recreational, agricultural, or environmental protection purposes. Public access to areas fronting on to Okanagan Lake is to be preserved where possible.

Section Five: Special Planning Areas

It is recognized that there are certain areas of the Westbank Lands that are unique for cultural, economic, and environmental reasons. As such, to promote development and land use in accordance with preferred WFN land use direction, policies encourage both the establishment and protection of these important community features.

5.1 Community Village

The Community Village is considered the "heart" of the WFN community. This is an area of I.R.#9 where most WFN band members live, with the majority of existing and future WFN services also being located within the Community Village. Other important services related to health, traditional uses, education, employment, and recreation are also sited in the village, or could be sited in the village sometime in the future.

5.2 Economic Centre

The Economic Centres are areas that generate significant outside revenue for both WFN and C.P. holders. Uses that are encouraged include: retail, private or public sector office space, business parks, commercial, medium and high density residential as well as food and other services. These areas are highly visible, have good transportation connections, and provide the most employment for the community and the surrounding areas.

5.3 Environmentally Sensitive Area

An Environmentally Sensitive Area is defined as an area of land or water that may be sensitive to human presence, activities or land development. Foreshores, floodways, rare and endangered plant and animal habitat, creeks, streams, ponds, lakes, wetlands and other such areas are included. Environmentally Sensitive Area's are not limited to the boundaries identified on the Land Use Plan - Land Use Maps, with some Environmentally Sensitive Area's not being identified yet. WFN may also pass subsequent laws expanding the regulation of Environmentally Sensitive Area's. Prior to development on any land on Westbank Lands, an environmental assessment shall be undertaken by a qualified environmental professional, to identify all of the Environmentally Sensitive Area's located on the site. The reports and recommendations that are made by the qualified environmental professional may result in possible revisions, additions, modifications, or deletions to those Environmentally Sensitive Area's shown on the Land Use Maps.

5.4 Culturally Sensitive Areas

A Culturally Sensitive Area is a site of cultural or archaeological importance. Such sites are usually sensitive to human presence, activities or land development, and may include burial grounds, or locations of religious or ceremonial importance. WFN may also pass subsequent laws expanding the regulation of Culturally Sensitive Areas. Prior to development on Westbank Lands, an archaeological assessment shall be undertaken by an appropriately qualified professional, to identify all Culturally Sensitive Areas located on

Section Five: Special Planning Areas

the site. The reports and recommendations that are made by the professional may result in possible revisions, additions, modifications, or deletions to WFN's inventory of Culturally Sensitive Areas.

5.5 Steep Sloped Areas

The areas identified within the Steep Sloped Areas are over thirty percent grade, and have been identified as such in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of the land. Any development is strongly discouraged in these areas. Both geotechnical and aesthetic considerations must be addressed before development on these steep slopes. Furthermore, environmental considerations, such as wildlife, should be taken into account wherever development proposals may conflict with them.

Section Six: Neighbourhood Planning Concept

6.1 Concept

A central component of this Land Use Plan is the Neighbourhood Planning concept, which identifies areas within Westbank Lands that require a Neighbourhood Plan to be completed (those areas labeled as "NP" on Figures 7.2, 7.5 and 7.8). Areas identified as Neighbourhood Planning Areas are typically larger tracts of undeveloped land where significant levels of development are anticipated. Under the Land Use Law the requirement for a Neighbourhood Plan is triggered when a proposed amendment to a Zoning Designation is within an area defined as a Neighbourhood Plan.

Development has a lasting impact on a community, and as such the Neighborhood Plan will have to assess many aspects of the anticipated impact of a particular development proposal. The specific considerations which must be addressed in the preparation of a Neighborhood Plan include:

- location and type of proposed land uses;
- compatibility of land uses, unit density, and community design;
- integration of development and consideration to context (e.g. surrounding land uses);
- protection of cultural and archaeologically significant features;
- protection of habitat and environmentally sensitive features;
- topographic conditions and hillside protection;
- protection of land suitable for agricultural production;
- geotechnical conditions and suitability for development;
- transportation implications and traffic impact;
- dedication of a minimum 5% of the land area for usable public open space;
- the encouragement and protection of public access to the Okanagan Lake foreshore;
- adequate provision of roads, sidewalks, streetlighting and walking/biking trails, etc.; and,
- infrastructure capacity (e.g. water, sanitary sewer, stormwater management).

A Neighbourhood Plan is intended to provide a comprehensive approach to development that addresses the above issues. The purpose of the Neighbourhood Plan process is to integrate the development vision, community needs, and infrastructure requirements.

Section Six: Neighbourhood Planning Concept

The following table identifies the presence of Neighbourhood Plans, and outlines the relationship between the Land Use Plan and the Zoning Regulation on the five Westbank Lands

Neighbourhood Plan Summary Table					
I.R. #	9	10	11	12	8
Neighbourhood Plans	Primarily undeveloped areas	Primarily undeveloped areas	Whole reserve	Whole reserve	Whole reserve
Zoning	Varies	Varies	Holding Zone	Holding Zone	Holding Zone

6.2 Neighbourhood Plan Process

Prior to proceeding with the preparation of a Neighbourhood Plan, the proponent group must meet with the WFN Planning Department in order to initiate the process. Once a formal application triggering the Neighbourhood Planning Process has been submitted, staff will draft a terms of reference document to guide the preparation of the Neighbourhood Plan.

6.3 Neighbourhood Plan Implementation

The purpose of this Land Use Plan is to guide future development and direct land use decision making for the Westbank Lands.

Those Neighbourhood Planning Areas that have a land use designation shown as an underlying use are intended to illustrate the likely prevailing future land use – and do not in any way grant development rights to the related lands.

6.4 Adoption of Neighbourhood Plans

Once approved in accordance with the WFN Land Use Law, a Neighbourhood Plan will amend the Land Use and Zoning Designations of those lands within the Neighbourhood Planning Area.

6.5 Neighbourhood Plan Matrix

The following matrices outline existing uses and possible future uses of lands located within Neighbourhood Planning Areas on I.R. #9 and I.R. #10. The possible future land uses are intended to illustrate a potential neighbourhood characteristics, and do not presuppose the outcome of the required Neighbourhood Planning process.

Section Six: Neighbourhood Planning Concept

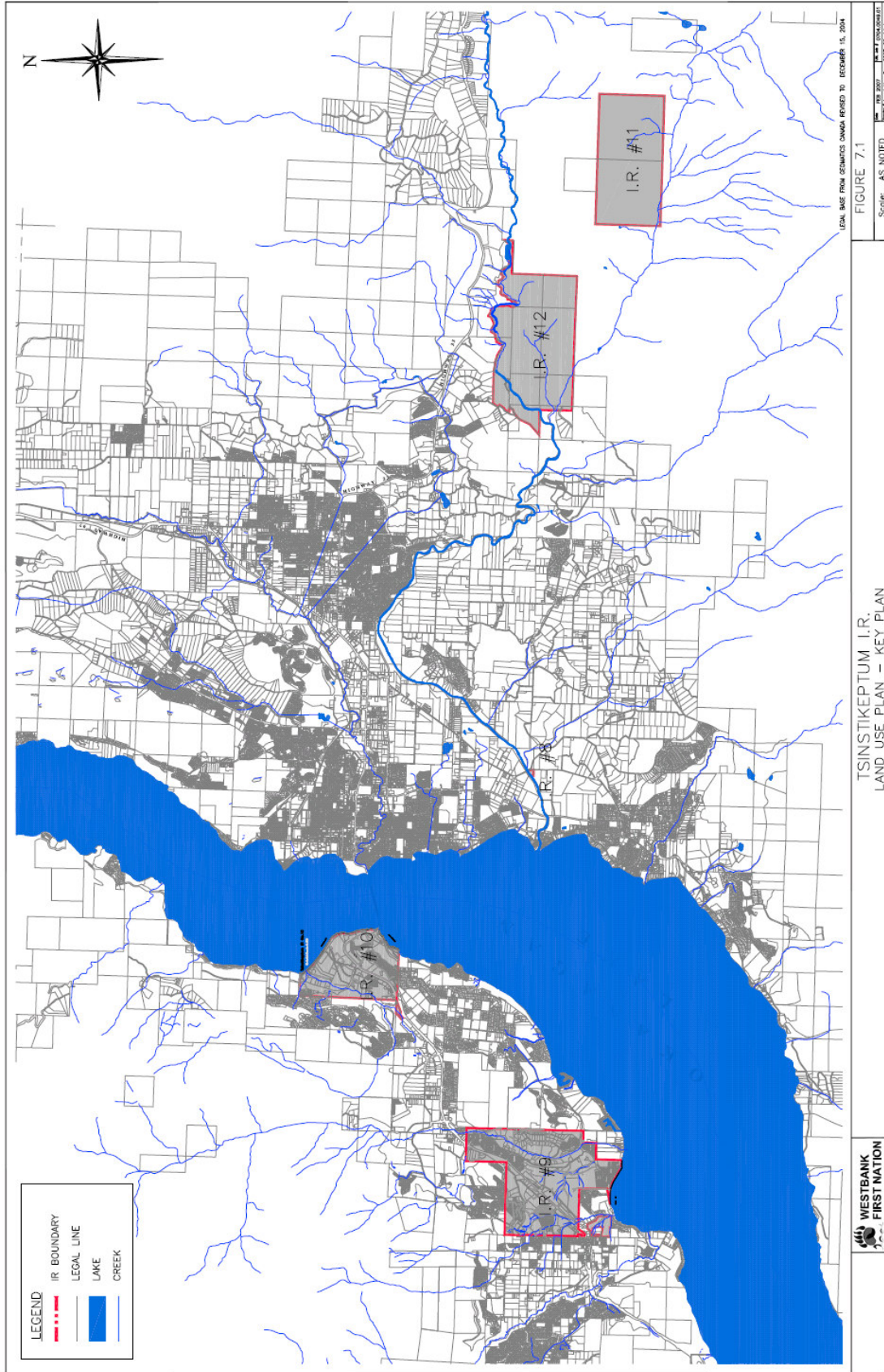
NEIGHBOURHOOD PLAN MATRIX – EXISTING USES (IR9 AND IR10)										
	Commercial	Concert Venue	Institutional	Light Industry	Mobile Home Park	RV Park	Single Family Homes	Tourist Recreation	Vacant Land	Notes
NP 8-1										Mission Creek
NP 9-1				•			•			Lakefront
NP 9-2										McDougall Creek
NP 9-3										Smith Creek
NP 9-4	•		•				•			McDougall Creek
NP 9-5								•		
NP 9-6			•				•			
NP 9-7					•					Smith Creek
NP 10-1			•	•			•			Lakefront
NP 10-2								•		
NP 10-3	•	•	•				•	•		
NP 10-4				•		•	•	•		Lakefront
NP 10-5	•	•	•							
NP 10-6										Keefe Creek
NP 10-7				•		•	•			Lakefront
NP 10-8										Lakefront, Keefe Creek
NP 11-1										Mission, Hydraulic Creeks
NP 12-1										Mission, Hydraulic Creeks

Section Six: Neighbourhood Planning Concept

NEIGHBOURHOOD PLAN MATRIX – POSSIBLE FUTURE USES (IR9 AND IR10)																			
	Maximum Average Density (Units/Hectare)	Business Park	Civic Centre	Commercial Uses	Comprehensive Resort	Destination Winery	Golf Course	High Rise Condominiums / Apartments	Institutional Uses	Light Industry	Single Family Homes	Marina	Neighbourhood Commercial	Medium Rise Condominiums / Apartments	Open Space Preservation	Public Beach Access	Tourism Accommodation	Tourist Recreation	Townhomes
NP 8-1	NA																		
NP 9-1	90				•			•					•	•	•	•	•	•	•
NP 9-2	30										•		•						•
NP 9-3	60										•			•					•
NP 9-4	90	•		•				•					•	•			•		•
NP 9-5	30								•		•		•				•	•	•
NP 9-6	90			•				•			•		•	•			•		•
NP 9-7	30					•					•		•	•	•				•
NP 10-1	90			•	•			•				•	•	•	•	•	•	•	•
NP 10-2	90								•		•		•	•	•				•
NP 10-3	NA	•	•	•				•	•					•					
NP 10-4	90				•		•	•	•			•	•	•	•	•	•	•	•
NP 10-5	NA	•	•	•							•			•					•
NP 10-6	60										•			•	•				•
NP 10-7	90				•		•	•			•	•	•	•	•	•	•	•	•
NP 10-8	90										•			•	•				•
NP 11-1	NA																		
NP 12-1	NA																		

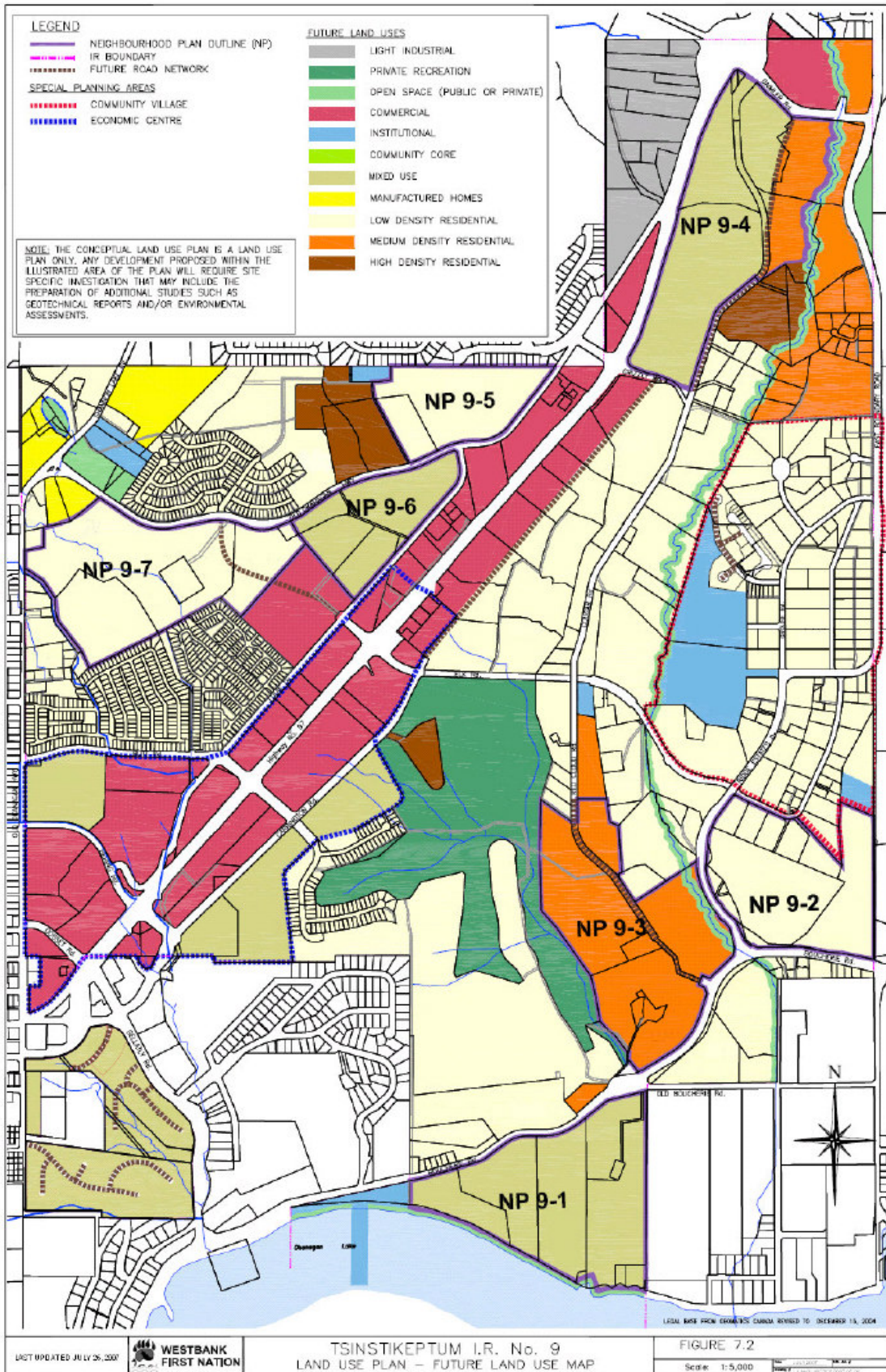
Section Seven: Future Land Use Figure

7.1 Land Use Plan – Key Map



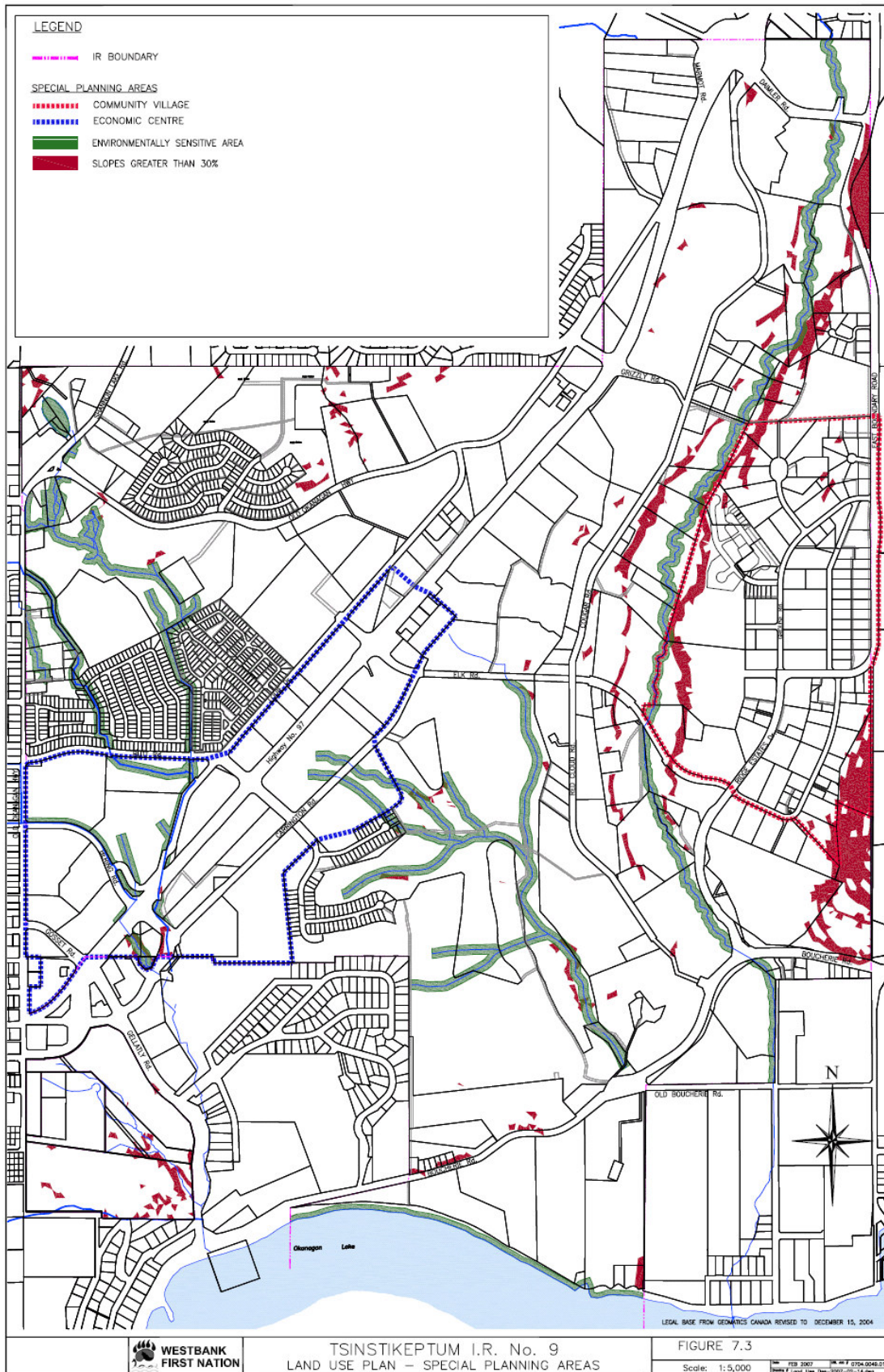
Section Seven: Future Land Use Figure

7.2 IR 9 Land Use Plan – Land Use Map



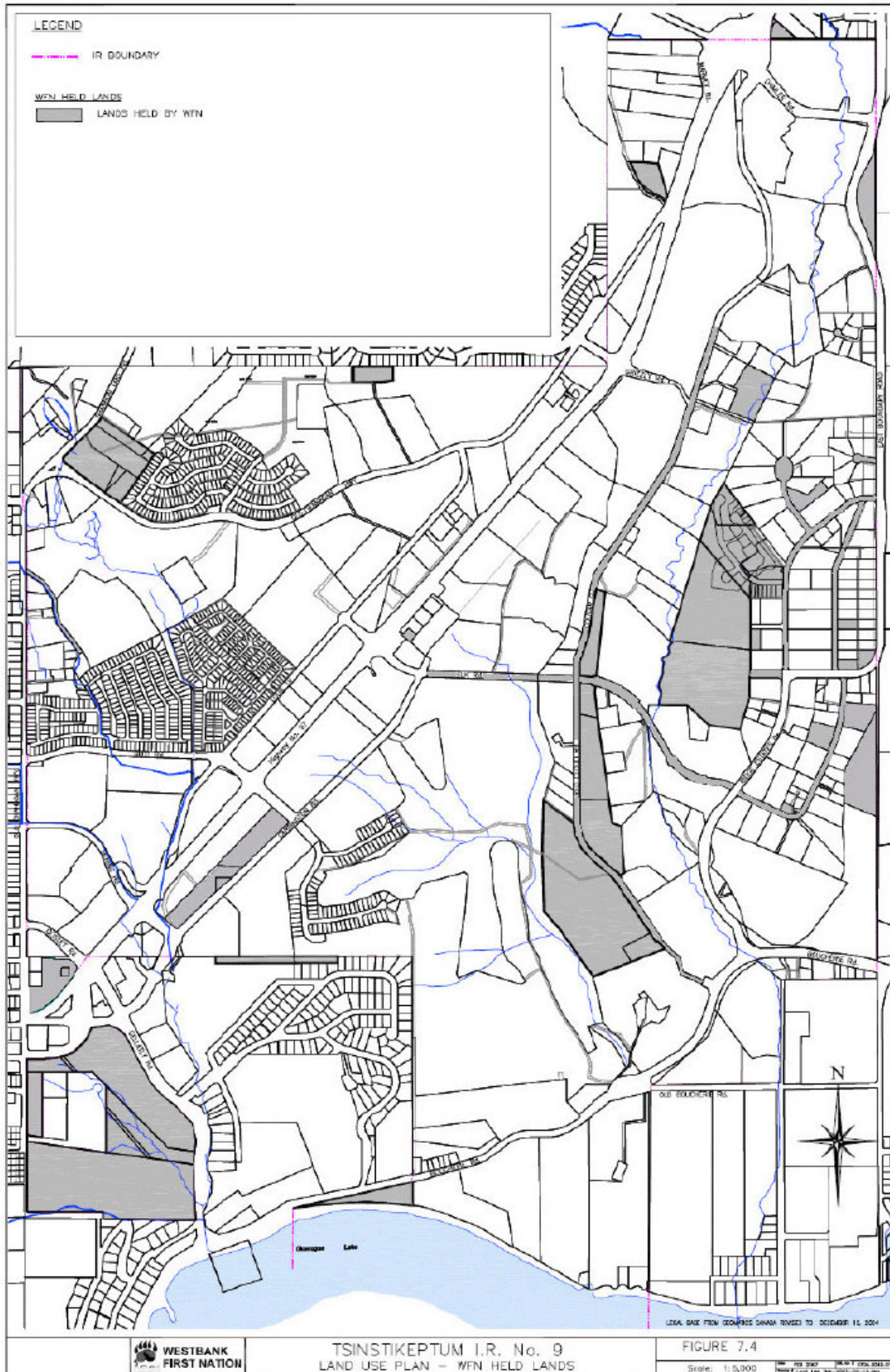
Section Seven: Future Land Use Figure

7.3 IR 9 Land Use Plan – Special Planning Areas



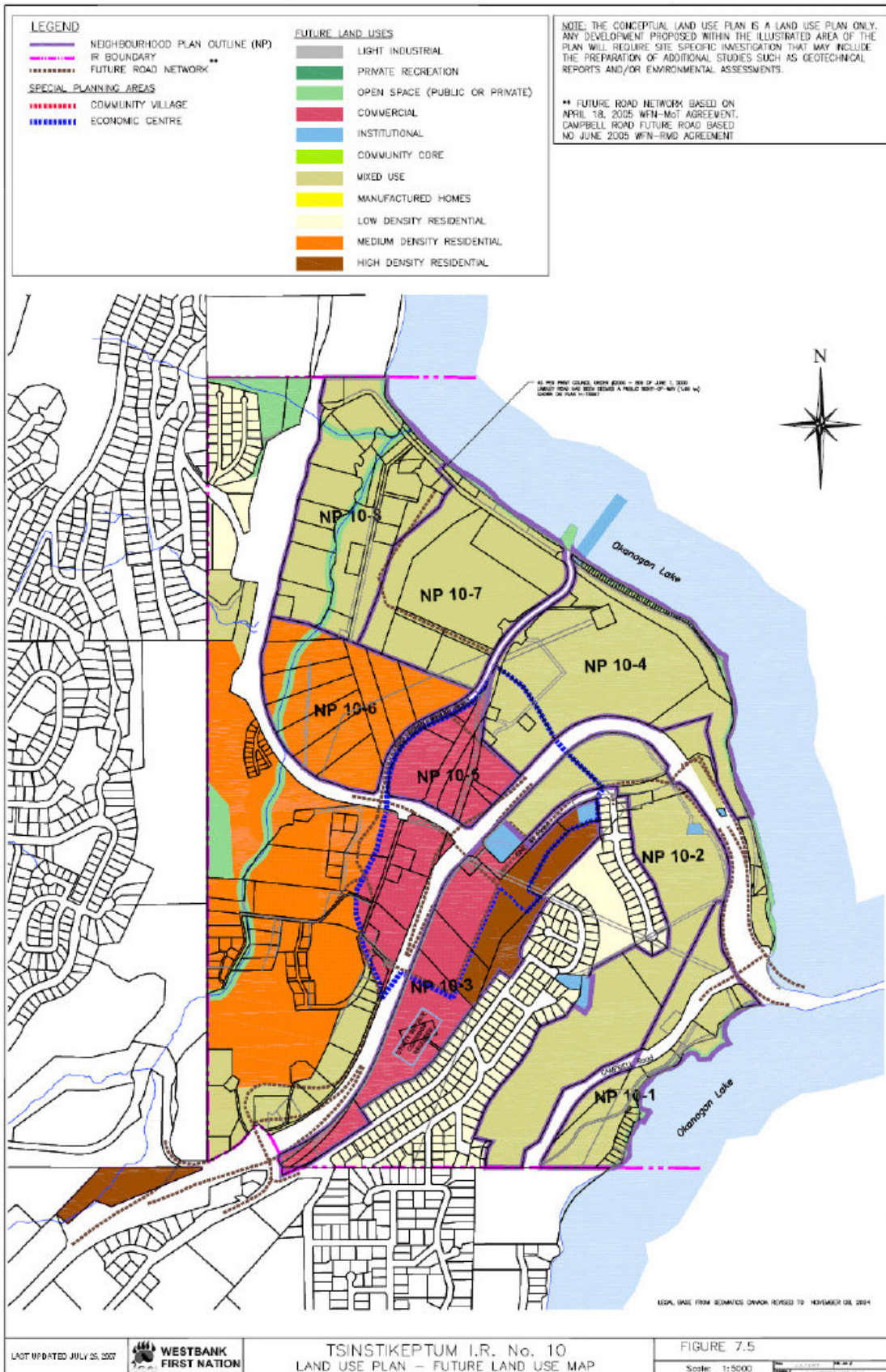
Section Seven: Future Land Use Figure

7.4 IR 9 Land Use Plan – WFN Held Lands



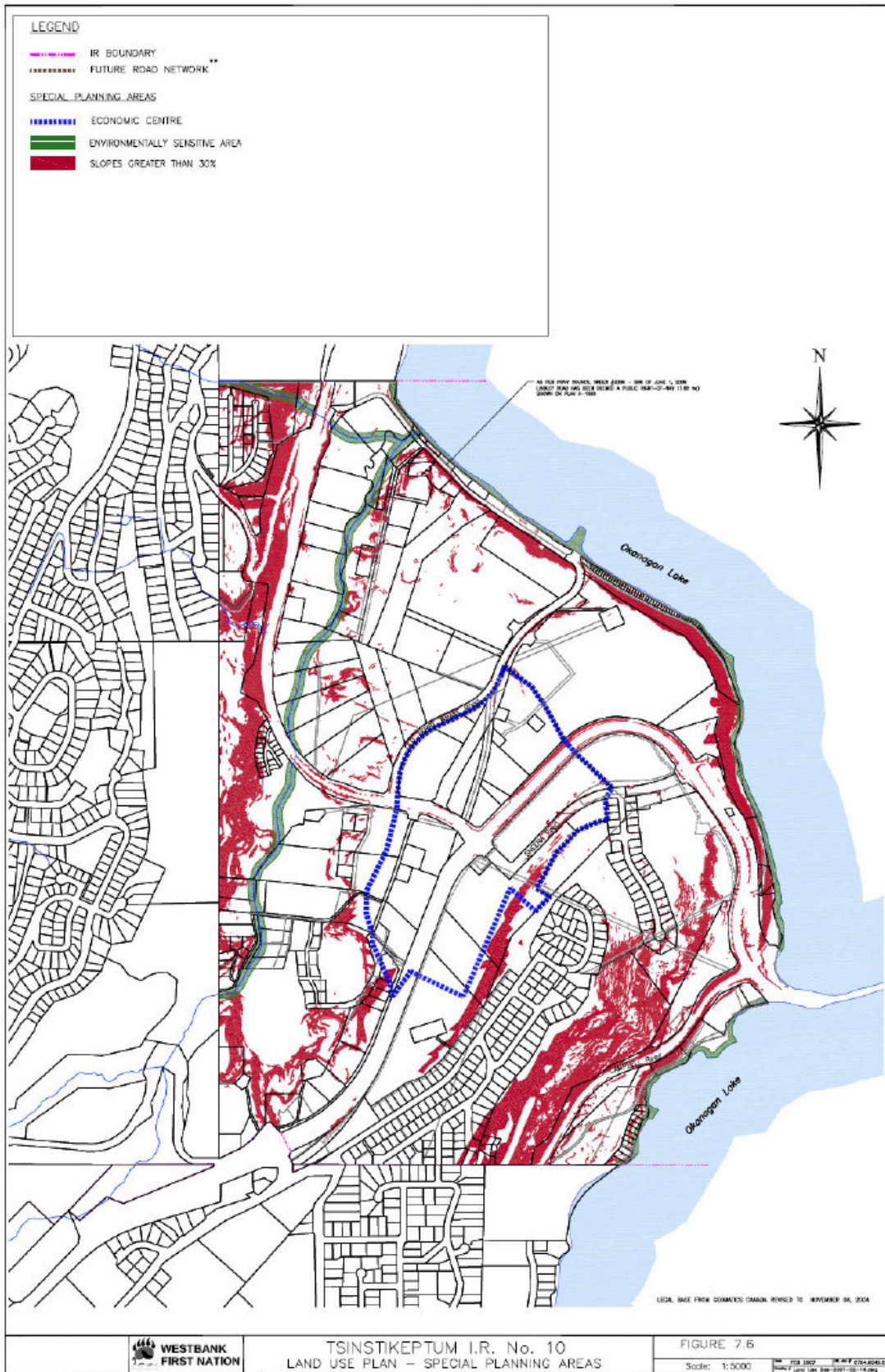
Section Seven: Future Land Use Figure

7.5 IR 10 Land Use Plan – Land Use Map



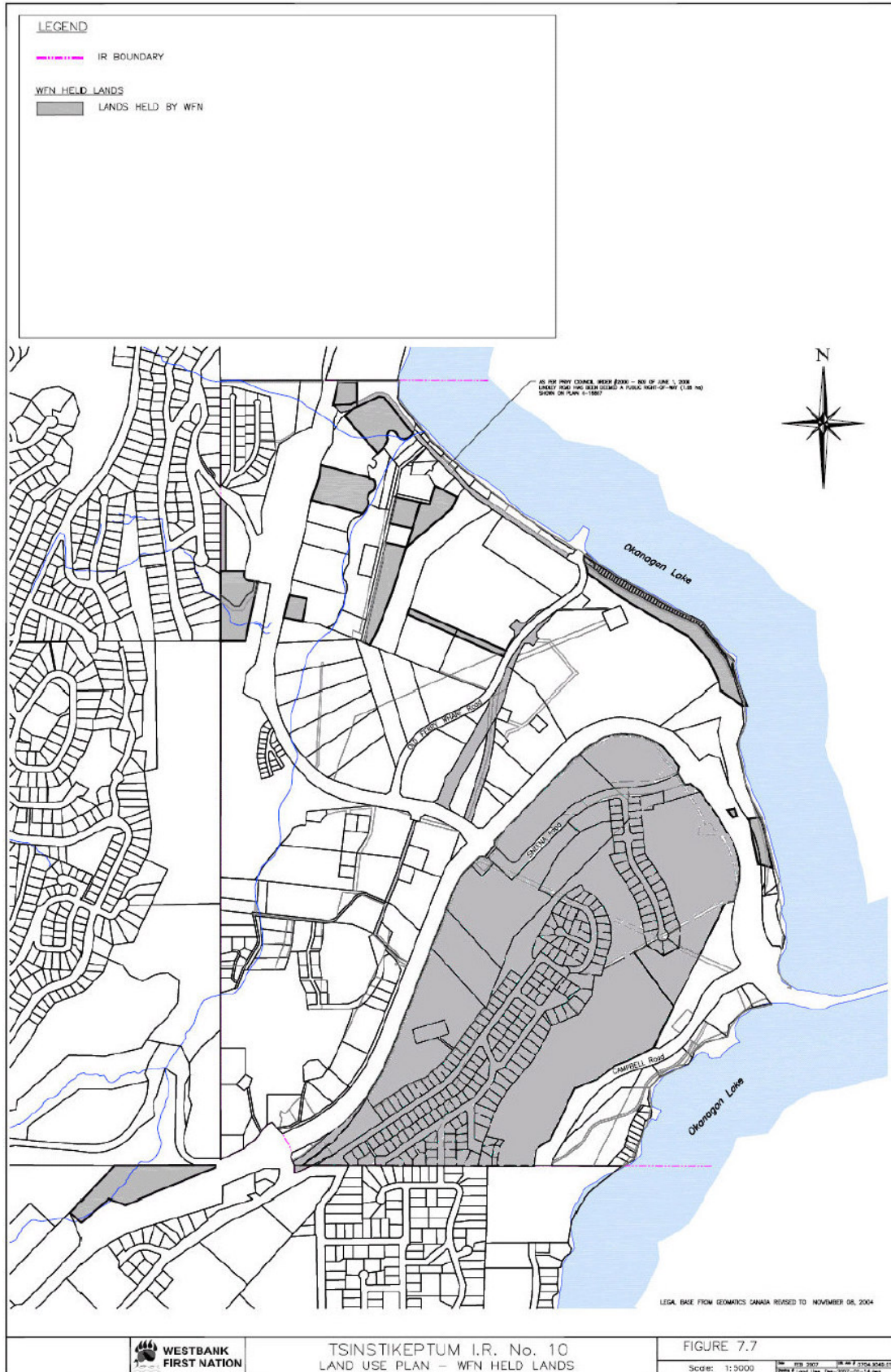
Section Seven: Future Land Use Figure

7.6 IR 10 Land Use Plan – Special Planning Areas



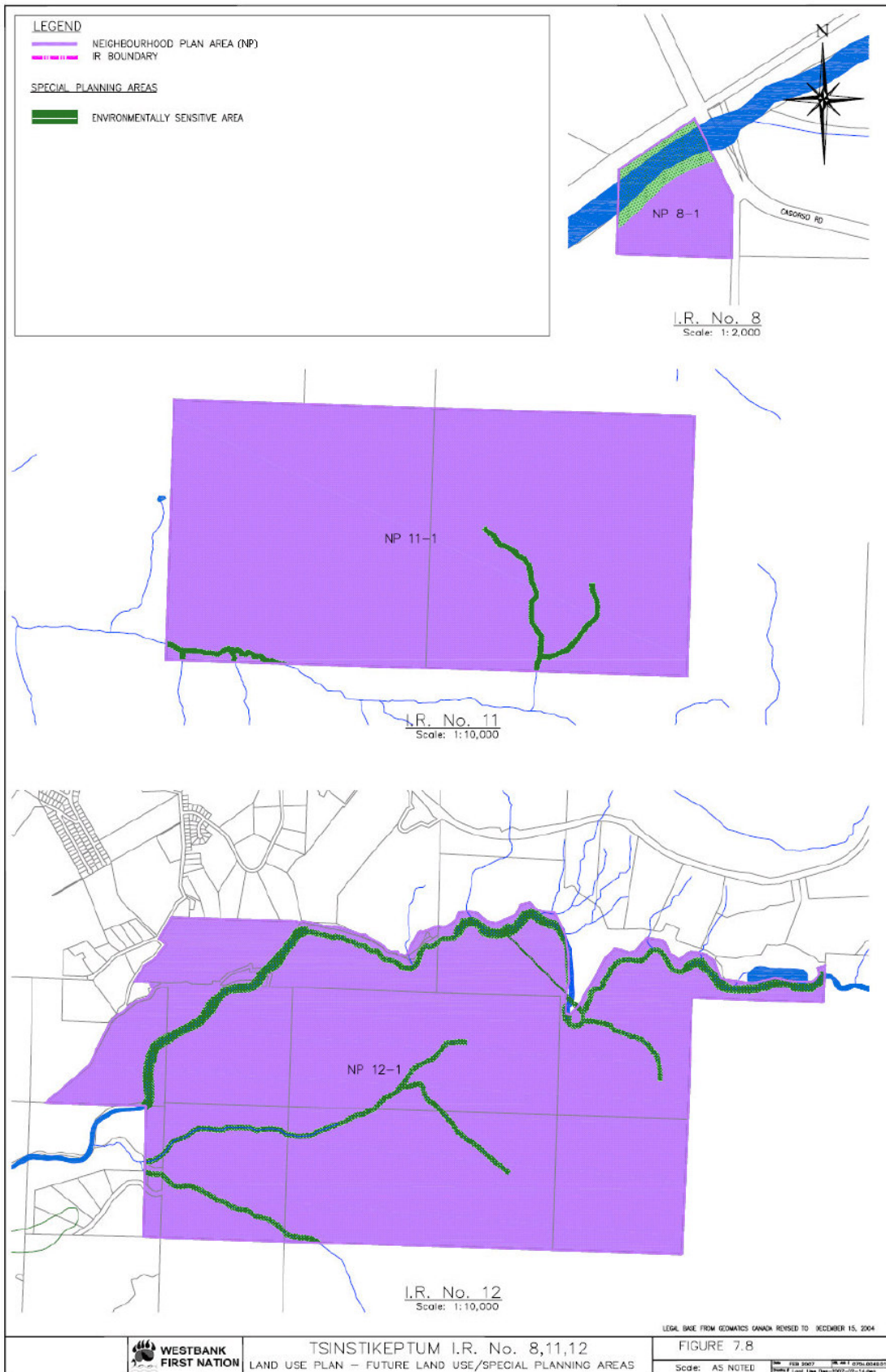
Section Seven: Future Land Use Figure

7.7 IR 10 Land Use Plan – WFN Held Lands



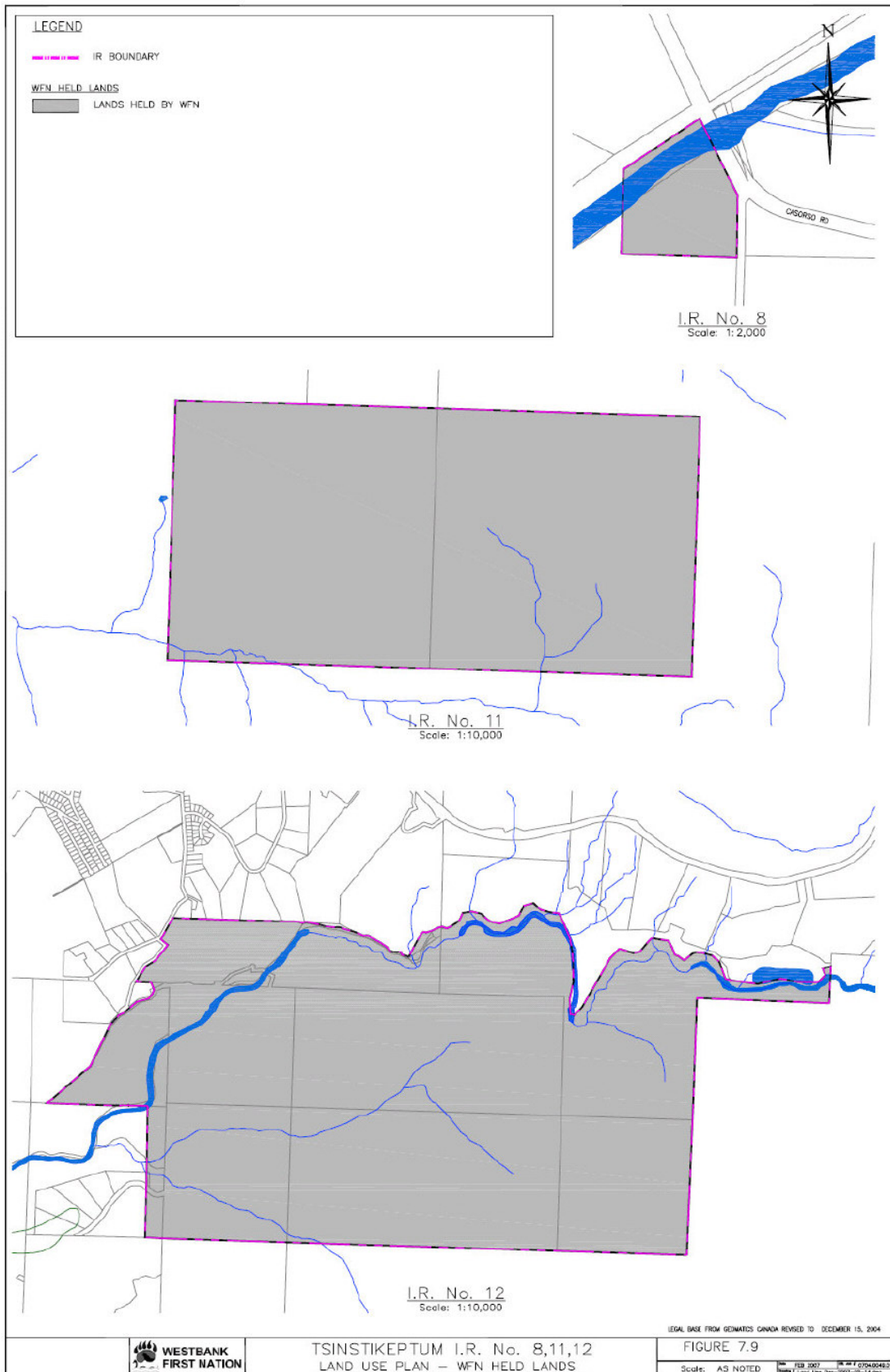
Section Seven: Future Land Use Figure

7.8 IR 8,11,12 Land Use Plan – Land Use Map/Special Planning Areas



Section Seven: Future Land Use Figure

7.9 IR 8,11,12 Land Use Plan – WFN Held Lands



Section Eight: Schedule of Land Use Plan Amendments

8.1 Schedule Land Use Plan Amendments

Amendment No.	Date of Amendment	Type of Amendment (Mapping / Text / Both)	Summary of Amendment