

**Brief –
East Side Planning Initiative (ESPI)/
Wabanong Nakaygum Okmawin (WNO)
May 2007 Update**

The need for coordinated and integrated land use planning in Manitoba, on a regional scale, has been recognized and debated for over twenty years. Right now, many southern rural municipalities undertake 'development plans' on the basis of municipal and/or planning district by-laws under *The Planning Act*, but this is development planning only. Certain modern treaties have a mechanism for land use planning, but so far only a few First Nations in Manitoba have completed their traditional use studies, needed before land use and management planning can take place, and even fewer have developed their own land use and management plans.

For the most part, the only review of significant large-scale land use decisions, such as forestry, hydro generation stations, new mines or mills, highway or transmission systems, takes place through environmental licensing processes under *The Environment Act*. Under the new *Water Protection Act*, watershed planning is to take place, but this has only started in rural and municipal Manitoba. In short, significant land and water use decisions are being made without comprehensive plans that reflect ecological capacity, community values and goals, sustainability, Manitoba legislation and public policy, and economic priorities.

The main finding of the 1999 Consultation On Sustainable Development Implementation (COSDI) Report was that Manitoba must change from a system where 'development drives planning' to one where land use decisions are based on plans. COSDI recommended that societal values be part of the basis for land use plans and plans must take into account:

- community equity on an intergenerational basis
- rights and expectations of affected Aboriginal communities
- the current and future economy
- ecological sustainability

When the current provincial government came into office in the fall of 1999, it accepted the recommendations of the COSDI report and committed itself to large-scale land use planning process. The East Side Planning Initiative (ESPI) was announced in August 2000 by the Minister of Conservation.

Phase 1 of the ESPI consisted of a series of meetings conducted by a three-member government panel held with First Nations, local communities, the public, industry, non-government organizations and others interested in the future of the area. Phase 1 concluded in 2002 with release of a report that made recommendations as to:

- steps and timing for the planning process
- boundaries for the planning area

- establishment of an East Side Lake Winnipeg Round Table and a larger Stakeholder Advisory Committee

Phase II of the ESPI took place between March 2002 and August 2004. In Phase II, the ESPI Round Table and advisory committees were to develop a work plan, conduct public meetings and provide recommendations on a wide area plan for the east side of Lake Winnipeg. According to its Terms of Reference, the ESPI Round Table was to advise the government on the establishment of land use zones within the East Side region based on the following fundamental principles:

- Maintaining the ecological integrity and biological functions of the boreal forest within the planning area.
- Respecting and advancing the social, economic, cultural and traditional needs of First Nations, Métis and other communities located within the planning area.
- Recognizing, affirming and being in compliance with treaty obligations and Aboriginal rights.

MOUs (memorandum of understanding) were signed in April 2004 between the Province of Manitoba and some of the ESPI region First Nations. The MOUs came before a protocol (see below) and stated that First Nations and Manitoba intended to develop a protocol that will be the foundation for consultation with First Nations about decisions that will affect their communities and traditional territories. The MOU acknowledged the government to government relationship between First Nations and Manitoba, and affirmed treaty and Aboriginal rights. Eight First Nations signed the MOU initially, and other First Nations communities signed later. The communities that chose not to sign cited a need for additional time to review the agreement or noted fundamental flaws to the East Side Planning Initiative process that made the MOU unacceptable.

Phase II of the ESPI concluded without a work plan or any actual planning having taken place. The Minister of Conservation released a status report (as opposed to the recommended land use plan mandated) was on November 16, 2004.

Phase III began with a December 2004 announcement that Manitoba's government had accepted the recommendation of the ESPI Status report. In 2005 the East Side Round Table was dissolved and replaced by ESFNC (East Side First Nations Council). It was at this point that ESPI was re-named to reflect the region's Aboriginal population. The ESPI became **Wabanong Nakaygum Okimawin (WNO)** – "East Side of the Lake Governance". Phase III has seen the least amount of public information regarding the WNO process, decisions.

As part of the WNO, east side First Nations and the Government of Manitoba entered into negotiations to develop a **protocol, which eventually evolved into the accord released April 2007** (see below). The protocol was intended to be a "foundation for first Nations Governments within the east side to be involved in decisions that will affect their communities and traditional territories". The draft protocol was first discussed and a draft produced back in Phase II, but over time underwent significant changes.

The *Wabanong Nakaygum Okimawin Council of Chiefs Accord* between east side First Nations Chiefs and the Government of Manitoba was publicly released April 3, 2007. The accord is “an agreement to a set of principles and guidelines the province and First Nations on the east side of Lake Winnipeg will work from”, specifying that (among other things),

- the WNO accord will serve as a foundation to ensure the First Nations within the east side are involved in decisions that will affect their communities and traditional territories;
- each First Nation will be aided in undertaking a traditional lands plan;
- the parties will work together in a spirit of mutual recognition, respect and reconciliation to achieve the objectives and goals of the East Side Broad Area Land Use Planning Initiative; and
- land-use planning and promotion of sustainable economic development that will benefit local communities will be the guiding principles of decision-making.

Which or how many east side First Nations Chiefs actually signed the accord has not been made clear. The governing NDP has confirmed that the original principles for the East Side Planning Initiative continue to be a foundation for the WNO, and the new relationship.

An independent legal review of the accord indicates (among other things) that:

- clarity will be needed on every step in the ‘new’ relationship between the province and east side First Nations, as many elements in the accord have not been described in detail and have yet to be worked out
- a test of the new relationship between the province and east side First Nations will be to see how aboriginal and treaty rights will be upheld, and how it will truly reflect the historic and original relationship envisioned in the treaties – whereby Manitoba and First Nations relate on a government to government basis
- the new relationship dictates that drafting of the consultation process/ standards will be joint from the beginning – a unique feature, as any province that has developed a consultation policy to date has done so unilaterally based on their own interpretation of case law and government obligations to First Nations
- independence of the WNO and WNO secretariat is an important indication of the validity of the new relationship; the 2006 funds (\$500,000) for land use planning that have been transferred and the 2007 funds (\$500,000) that have been committed should be transferred and administered in an independent manner

Government support for community land use planning projects was one of the recommendations of the November 2004 ESPI Status report. In April 2006, the Manitoba government announced \$500,000 to support community driven land use plans on the east

side of the province. This translates into just over \$31,000 if all sixteen east side First Nations applied for and received equal funding for land use planning from the WNO fund. There have been assurances that a First Nation will not be required to be a signatory to the protocol/accord in order to be eligible for a grant.

The Manitoba Government further committed \$2.5-million over five years to the WNO to support land use planning in a March 23, 2007 press release, indicating that the initial payment (announced in April 2006) has been made.

As of May 2007, First Nations have not been able to make grant requests to the WNO land use planning fund, as the criteria and process for applying are to be determined.

To date no steps have been taken for the outstanding protocol regarding the east side between Manitoba and the Métis Federation.

For more information regarding the ESPI and WNO go to:

Manitoba Wildlands – ESPI/WNO pages http://manitobawildlands.org/lup_espi.htm

Manitoba Conservation – WNO pages <http://www.gov.mb.ca/conservation/wno/>