

TERMS OF REFERENCE

MARSH LAKE COOPERATIVE LOCAL AREA LAND USE PLAN

BETWEEN:

The Yukon government (Department of Energy Mines and Resources)

AND:

The Kwanlin Dun First Nation (hereinafter referred to as “KDFN”) hereinafter referred to as “the Parties”

1.0 PREAMBLE

Whereas Yukon government (hereinafter referred to as “Yukon”) is responsible for Local Area Planning on lands within its jurisdiction in the Yukon including private lands;

Whereas the Kwanlin Dun First Nation (hereinafter referred to as “KDFN”) is responsible for planning on its Settlement Lands;

Whereas it is in the mutual interests of the Yukon government and KDFN to cooperate in the exercise of their respective Cooperative Local Area Land Use Planning responsibilities; and

Whereas the Parties to these Terms of Reference have particular obligations pursuant to the Kwanlin Dun Self-Government Agreement, Chapter 30.0 .

NOW THEREFORE the Parties agree as follows:

2.0 DEFINITIONS

Terms defined in the KDFN Final Agreement and Self-Government Agreement (SGA) have the same definition for the purposes of these Terms of Reference.

The Marsh Lake Cooperative Local Area Land Use Plan will be referred to hereinafter as the 'Marsh Lake Local Area Plan' or the 'Plan.'

3.0 GOALS

3.1 The goals of this planning process are to:

- a) develop and recommend a Local Area Plan in the Planning Area as described in 5.0 of these Terms of Reference;
- b) given the mix of Yukon and KDFN lands, facilitate coordinated land use between the Parties; and
- c) share information, knowledge and technical expertise between the Parties.

4.0 PLANNING AREA

4.1) The planning area for the Marsh Lake Local Area Plan is the East side of Marsh Lake from the Judas Creek watershed to the south, a line joining the KDFN rural land selections to the east and north, returning to the Alaska Highway and the Lewes River Bridge, and following the easterly shore of Marsh Lake to the southern edge of KDFN R-9, south of Judas Creek, returning to the Alaska Highway following heights of land and the southern boundary of the KDFN Traditional Territory. The planning area includes Mabel Island;

4.2) The planning area encompasses, and extends beyond, the Marsh Lake Local Advisory Area, established through OIC 2000/157 pursuant to the Municipal Act, excepting Marsh Lake and the Lewes River Habitat Protection Area;

4.3) The Planning Area for the purpose of these Terms of Reference and the matters that they address is set out by the boundaries in the map which is attached to and forms part of these Terms of Reference as Appendix A.

5.0 PLANNING TIME HORIZON

5.1) The Marsh Lake Local Area Plan shall be reviewed every ten (10) years subject to appropriation of funding and as otherwise agreed to by the Parties.

5.2) The timing for the Plan's review shall be informed by new or unanticipated natural events or development proposals.

5.3) The Plan shall be prepared within two (2) years of the effective date of the Terms of Reference, subject to the availability of financial resources and personnel to prepare the Plan.

6.0 PLANNING PRINCIPLES

6.1) For greater certainty the following provisions shall apply when developing the Marsh Lake Local Area Plan:

- a) The principle of cooperation between the Parties in developing the plan (SGA 30.2.1);
- b) The Plan will encompass privately titled, Yukon and KDFN settlement lands (SGA 30.2.2.1); and for greater certainty will not include CTFN settlement lands.
- c) Ta'an Kwach'an Council and Carcross-Tagish First Nation traditional territories include portions of the planning area and will be consulted throughout the planning process (SGA 30.2.2.6; 30.3.1.4);
- d) Planning will embrace the principle of sustainable communities. It will do so by recommending on design, including possible intensification; commercial node; schools, etc.; and
- e) Planning will embrace the principle of sustainable ecosystems.

6.2) To the extent practical, the Marsh Lake Local Area Plan shall be consistent with other land and resource plans where these other plans have been subject to public review and are approved by the Yukon Government and where other land and resource plans affecting Settlement Land in the Planning Area have been approved by the First Nations owning the Settlement Land.

6.3) The Marsh Lake Local Area Planning process will, to the extent practical, take into consideration information and suggested management direction of other public land and resource plans in development but not yet approved. These may include: recommendations and plans generated by the Southern Lakes Wildlife Coordinating Committee; the Whitehorse and Southern Lakes Forest Resources Management Plan; and the Lewes Marsh Habitat Protection Plan.

7.0 GENERAL MATTERS

7.3) The Marsh Lake Local Area Plan shall also include the following information:

- a) a description of the Planning Area;
- b) a description of land tenures and land users and associated values;
- c) a description of key land use issues;
- d) mapped information that may be associated with key issues to be addressed in the Plan, including existing tenures, wildlife habitat, ecosystems, recreation potential, development suitability and limitations, etc.;
- e) relevant guidance from other existing plans which apply in the Planning Area;
- f) any additional relevant and available information;
- g) ;
- h) strategies for Plan implementation; and
- i) strategies for Plan review and amendment.

8.0 STEERING COMMITTEE

8.1) The Parties shall each appoint three (3) representatives to a plan Steering Committee (“MLLAPSC”).

8.2) The MLLAPSC shall:

- a) coordinate the planning process and program of work to prepare and recommend a Marsh Lake Local Area Plan within two (2) years of the signing of this Terms of Reference;
- b) prepare a communications plan;
- c) engage the appropriate technical resources to assist in the preparation of the Plan;
- d) ;
- e) Identify a public consultation process for the development and review of the draft Plan. Any obligations on the Yukon Government to consult with the CTFN and TKC pursuant to their respective Final Agreements shall be conducted on a government-to-government level;
- f) review draft Plans as they are prepared; and
- g) recommend the Plan to their respective Parties.

8.3) Additional guidance to the Steering Committee is provided in the Operating Procedures, which comprise Appendix B of these Terms of Reference.

9.0 INFORMATION SHARING

9.1) The Parties agree that they shall exchange information necessary for the preparation of the Plan on a regular and timely basis.

9.2) Traditional knowledge shall be shared subject to the agreement of the affected Yukon First Nation.

10.0 RESOLUTION OF ISSUES

10.1) In the event that the members of the MLLAPSC are unable to reach consensus on matters that they determine to be important to strategic direction and recommendations in the Plan, the MLLAPSC may engage an independent facilitator to assist them in resolving the issue.

10.2) As a measure of last resort, and prior to recommending the Plan, the MLLAPSC may refer matter(s) and options for addressing disagreement(s) to their respective senior officials for resolution.

11.0 PLAN APPROVAL

11.1) The Parties shall recommend the Plan to the appropriate elected official(s) of their respective governments.

11.2) The Yukon and KDFN may approve the Plan for lands under their respective jurisdiction.

12.0 EFFECTIVE DATE

12.1) The Terms of Reference come into effect on the day of signing by the Parties.

13.0 TERM, TERMINATION AND AMENDMENT OF THE TERMS OF REFERENCE

13.1) Unless the Parties agree to extend it, the TOR shall remain in effect until the completion of the Plan.

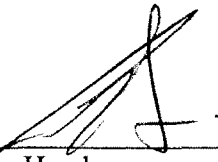
13.2) The Terms of Reference may be amended by written agreement of the Parties.

13.3) The Terms of Reference may be terminated at any time upon written notice of the Parties.

14.0 PLAN FUNDING

14.1) Yukon will support a planning consultancy contract and costs associated with the planning process.

14.2) The Parties will fund their respective technical support, constituency consultations and data inputs.



Lyle Henderson
ADM Sustainable Resources
Department of Energy, Mines and Resources
Government of Yukon

March 16/2011
Date



Tom Beaudoin
Director,
Department of Lands and Resources,
Kwanlin Dun First Nation

March 16, 2011
Date

Appendix B:

MARSH LAKE COOPERATIVE LOCAL AREA LAND USE PLAN STEERING COMMITTEE OPERATING PROCEDURES

The composition of the Marsh Lake Local Area Plan Steering Committee and the work of this committee are described in the terms of reference for the Marsh Lake Cooperative Local Area Land Use Plan. The purpose of the operating procedures is to provide additional guidance regarding the conduct of the members and committee meetings.

1. Meeting Procedures

- Meeting agendas will be developed and circulated at least one week in advance of meetings
- Meeting summaries of key decisions and points of discussion will be completed for each Committee meeting
- Meeting summaries will be circulated within two weeks after meetings
- Meeting dates and location will be identified in advance
- Meetings may be convened by teleconference
- Decisions and recommendations of the Committee will be made by supporting motions of the members
- The Committee will strive to reach decisions by consensus. Where consensus is not achieved, the views of the respective members on a matter will be documented and referred to the parties.

2. Quorum

- Two thirds of the Committee must be present for valid transaction of business by the committee (4 of the 6 delegates). Of these four, 2 representatives of Kwanlin Dün First Nation and 2 representatives of Yukon government must be present.
- Members may participate in person or by teleconference.

3. Committee members

The responsibility of an individual Committee member is to work with other members to contribute to the fulfillment of the Committee mandate. To accomplish this committee members will:

- Effectively represent the interests of their respective governments

- Keep informed about the matters of relevance to the work of the Committee and the views of their respective governments on these matters
- Participate fully in Committee meetings
- Review all relevant meeting materials prior to Committee meetings
- Attend meetings on a regular and punctual basis
- Facilitate effective communication between the Committee and their respective governments

4. Alternates

At the discretion of each participating government, alternate members may be designated by them to assist in the work of the Committee when regular members are not in attendance. The responsibilities of the members apply to the alternates.

5. Secretariat Support

Secretariat support for the Committee will be provided by the Yukon government. Responsibilities will include:

- Scheduling and arranging meetings
- Preparing materials to assist the Committee to carry out their work
- Overseeing the production of meeting summaries, including the appropriate distribution, and required follow-up of action items as required
- Responding to information requests, and developing and managing public communications for review and approval by the Committee
- Under the direction of the Committee, drafting documents, developing work plans and supporting the completion of the plan.

6. Non-member Participation

Committee members may request persons with specialized information about the area or the planning process to attend meetings in an advisory capacity.