



YUKON LAND USE PLANNING COUNCIL

Terms of Reference Dawson Regional Planning Commission

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Definitions

Affected First Nation: A Yukon First Nation whose traditional territory is included within a Yukon Land Use Planning Region.

Approval Parties: The Yukon Government, Tr'ondëk Hwëch'in, and Vuntut Gwitchin First Nation who own and administer land within the planning region.

Draft Plan: The version of the plan that exists before the Recommended Plan.

Final Recommended Plan: The plan created after the commission considers modifications proposed by the Parties (section 11.6.5.1).

Transfer Payment Agreement: A funding agreement made between the Council and the Commission, based upon funds the Council receives from the Yukon Government. These funding agreements enable the Commission financially on a pre-determined schedule.

Parties: Same definition as Approval Parties.

Recommended Plan: The plan created for consideration by the Parties under section 11.6.1 of the land claim agreements.

Traditional Knowledge and Experience: The accumulated body of knowledge, observations and understandings about the environment, and about the relationship of living beings with one another and the environment, that is rooted in the traditional way of life of first nations.

* For additional relevant definitions not provided above, see the Tr'ondëk Hwëch'in Final Agreement.

1. Introduction

In 1998, the Tr'ondëk Hwëch'in, the Government of Canada and the Government of the Yukon signed the Tr'ondëk Hwëch'in Final Agreement (THFA). In November of 2005, the Tr'ondëk Hwëch'in requested the establishment of a regional land use planning commission ("Commission") based on Chapter 11 of the THFA:

Government and any affected Yukon First Nation may agree to establish a Regional Land Use Planning Commission to develop a Regional Land Use Plan (11.4)

These Terms of Reference (TOR) have been developed through a process of consultation and consensus by the Yukon Land Use Planning Council ("Council"), Yukon Government, Tr'ondëk Hwëch'in, and the Vuntut Gwitchin First Nation. The Approval Parties for the Regional Land Use Plan are the Yukon Government, the Tr'ondëk Hwëch'in and the Vuntut Gwitchin First Nation.

2. Purpose of the Terms of Reference

The Terms of Reference is to provide direction to the Commission for the preparation of a regional land use plan for the Dawson Planning Region. It delineates the roles of the Parties, the Council, and the Commission, and outlines the products, timelines, available budget and processes expected during the Commission's term.

In the event that any of the conditions contained within this TOR conflict with the Final Agreements of the Affected First Nations, those Agreements will prevail. If interpretations of the Final Agreement become of concern to the Commission, they will direct their questions to the Senior Liaison Committee for resolution on behalf of the Parties to the Agreement.

3. Mandate of the Commission

The Commission will develop and recommend a Final Recommended Plan to the Parties for their consideration within three years of establishing the Commission and commencing the planning process.

4. Purpose of the Plan

The purpose of a regional land use plan is to create a vision of future land use, including identifying conservation and development areas, and providing land use decision makers with guidance and direction. By bringing clarity to the appropriate uses and levels of use of the land, a regional plan helps create certainty for land users and assists in avoiding future land use conflicts.

5. Objectives of the Regional Land Use Plan

The Commission will develop a plan for Settlement Land and Non-Settlement Land that is consistent with, and achieves, the objectives of Chapter 11 of Yukon First Nation Final Agreements. The objectives for the plan are as follows:

11.1.1.1 to encourage the development of a common Yukon land use planning process outside community boundaries;

11.1.1.2 to minimize actual or potential land use conflicts both within Settlement Land and Non-Settlement Land and between Settlement Land and Non-Settlement Land;

11.1.1.3 to recognize and promote the cultural values of Yukon Indian People;

11.1.1.4 to utilize the knowledge and experience of Yukon Indian People in order to achieve effective land use planning;

11.1.1.5 to recognize Yukon First Nations' responsibilities pursuant to Settlement Agreements for the use and management of Settlement Land; and

11.1.1.6 to ensure that social, cultural, economic and environmental policies are applied to the management, protection and use of land, water and resources in an integrated and coordinated manner so as to ensure Sustainable Development.

6. Requirements of the Regional Land Use Planning Process

Chapter 11 states that any [Yukon] regional land use planning process shall:

11.2.1.2 be linked to all other land and water planning and management processes established by Government and Yukon First Nations minimizing where practicable any overlap or redundancy between the land use planning process and those other processes;

11.2.1.3 provide for monitoring of compliance with approved regional land use plans;

11.2.1.4 provide for periodic review of regional land use plans;

11.2.1.5 provide for procedures to amend regional land use plans;

11.2.1.6 provide for non-conforming uses and variance from approved regional land use plans in accordance with 12.17.0;

11.2.1.7 establish time limits for the carrying out of each stage of the process;

11.2.1.8 provide for public participation in the development of land use plans;

11.2.1.9 allow for the development of sub-regional and district land use plans;

11.2.1.10 provide for planning regions which, to the extent practicable, shall conform to the boundaries of Traditional Territories;

11.2.1.11 provide, to the extent practicable, for decisions of the Yukon Land Use Planning Council and the Regional Land Use Planning Commissions to be made by consensus; and

11.2.1.12 apply to the process of establishing or extending National Parks and national historic parks and commemorating new national historic sites.

7. Boundary and Application of the Plan

7.1 The boundary of the Dawson Planning Region is shown in Appendix E. In general, the planning area extends:

- north to the southern boundary of the North Yukon Planning Region, which includes the traditional territory area of overlap with VGFN¹;
- south to northern most point of the Selkirk First Nations traditional territory (see Selkirk Nation Final Agreement);
- east to the boundaries associated with the Peel Watershed Planning Region and the Overlap Agreement signed between the First Nation of Na-cho Nyak Dun and the Tr'ondëk Hwëch'in;
- west to Yukon/Alaska border.

7.2 The Regional Land Use Plan will apply to both Settlement Land and Non-Settlement Land throughout the region with the exception of lands referred to in 7.3.

7.3 The Regional Land Use Plan will not apply to:

- a) land within the City of Dawson municipal boundary;
- b) National Park Reserves established or National Historic Sites commemorated prior to Settlement Legislation, National Parks or National Historic Parks once established, or National Historic Sites once commemorated;
- c) established Special Management Areas that undergo planning under Chapter 10 of the Final Agreement (e.g. Tombstone Territorial Park);

¹ Once a contiguous boundary is established between Vuntut Gwitchin and Tr'ondek Hwech'in, that part of the overlap area which becomes Tr'ondek Hwech'in Traditional Territory shall become part of the Dawson Regional Land Use Planning Area, and that part of the overlap area which becomes Vuntut Gwitchin Traditional Territory shall become part of the North Yukon Regional Land Use Planning Area. This boundary adjustment will only take place after the Final Recommended Plan is approved.

c) areas subject to subdivision planning or local area planning outside of a community boundary (e.g. West Dawson, Sunnydale).

7.4 existing management plans in the region shall be considered in the development of the regional land use plan.

8. Membership of the Planning Commission

8.1 Based on 11.4.2 of the Yukon First Nation Final Agreements, the Commission will consist of six (6) members.

- Two (2) members nominated by the Tr'ondëk Hwëch'in
- Two (2) members nominated by Yukon Government
- Two (2) members nominated based on regional demographics: 1 (one) by the Yukon Government and 1 (one) by the Tr'ondëk Hwëch'in

8.2 The Vuntut Gwitchin First Nation will not be nominating a member to the Commission, however Vuntut Gwitchin First Nation will be an Approval Party for the regional plan, where it applies to Vuntut Gwitchin First Nation Settlement Land.

8.3 The majority of nominees shall be Yukon residents with a long-term familiarity with the region and shall be appointed by the responsible Minister.

8.4 The appointment of Commission members will occur as defined in Chapter 2 & 11 of the Yukon First Nation Final Agreements. The Commission will also adhere to the provisions of section 2.12.2 of the Tr'ondëk Hwëch'in and Vuntut Gwitchin Final Agreements and those relating to Regional Land Use Planning Commissions set out in Annex B of the Implementation Plans.

8.5 Re-appointment of the Commission, if required, will be dependent on achieving satisfactory progress on a draft plan.

9. Operating Procedures for the Commission

- 9.1 At a minimum, the Commission will utilize the Policy and Procedures handbook provided by the Yukon Land Use Planning Council.
- 9.2 Any variance from the Policy and Procedures handbook deemed necessary by the Commission will occur through consultation with the Council and the Parties. Policy and procedures must be consistent with the Tr'ondëk Hwëch'in and Vuntut Gwitchin Final Agreements and these Terms of Reference.
- 9.3 Commission meetings and business will be carried out in an open and accountable manner in recognition that it is an organization funded by the public treasury.
- 9.4 Honoraria rates are to be consistent with the rates associated with those identified by the Minister for Umbrella Final Agreement boards and committees found in the Yukon Government General Administration Manual.
- 9.5 Remuneration rates for food, accommodations and other costs associated with travel and meetings may not exceed the rates for such costs used by the Yukon Government in respect of its employees, as may be amended from time to time.
- 9.6 Quorum for Commission meetings will be no less than four. Decisions of the Commission will be made by consensus, and be guided by the "Protocols for Decision Making" (Appendix C).
- 9.7 If a Commission member has been absent without reasonable cause for two (2) consecutive Commission meetings, this absence may be considered grounds for requesting the resignation of the member.
- 9.8 In the event that a Commission member resigns, the Commission Chair will confirm the resignation with the Minister in writing.
- 9.9 The Minister will take the necessary steps with the other Parties to replace the Commission member at the earliest opportunity.
- 9.10 Commission members will exhibit respect towards one another and towards their staff for the duration of their service to the Commission.
- 9.11 Conflict of interest assessments will be done for each commission member during the orientation period.
- 9.12 Wherever possible, the work of the Commission will take place within the planning region.

10. Commission Budget /Work Plan Considerations

- 10.1 The overall 3-year budget for the production of the recommended plan is \$935,000. The budget attached in Appendix D is a draft for consideration by the Commission. The Commission will operate on a fiscal calendar.
- 10.2 The Council will secure funds for the period between the start of the Commission and the submission of an annual workplan/budget submission by the Commission.
- 10.3 The Commission, after collaboration with the Parties, will prepare a budget/work plan each fiscal year for the preparation of the Plan and for carrying out its functions under Chapter 11 and will submit that budget/work plan to the Council.
- 10.4 This budget/work plan will be submitted to the Council by January 15 of each year and will address funding and activities for the following fiscal year. The budget/work plan will be consistent with this Terms of Reference and the First Nations Final Agreement.
- 10.5 The Council, after consultation with the Commission on the budget/work plan submission, will submit to the Parties a budget/work plan that it recommends. Upon approval of the budget/work plan, the budget and work plan will be submitted for Ministerial approval.
- 10.6 It is expected that once approved, the workplan will be delivered on time and on budget. The budget is approved in association with the workplan commitments. The Council and the Parties will monitor compliance with the workplan.
- 10.7 The Commission and the Council will sign a funding agreement. The agreement will specify conditions by which funding will be provided to the Commission, such as financial reporting requirements, accounting requirements, and proof of sound decision-making on financial matters. The Council and the Parties will monitor compliance with the funding agreement.

11. Relationships between the Commission, the Council and the Parties.

- 11.1 The Commission will use the Technical Working Group (TWG) as the primary means of facilitating communications regarding technical matters and existing policy matters among the Commission, the Council and the Parties. TWG members will also facilitate the provision of information from their respective government to the Commission. The Terms of Reference for the TWG are outlined in Appendix A.
- 11.2 The Parties will use the Senior Liaison Committee (SLC) as the primary means of communication for overarching policy direction. The Terms of Reference for the SLC are outlined in Appendix B.
- 11.3 The Commission will ensure the Council and the Parties are involved at key stages of the planning process. This includes providing periodic opportunities for consultation on issues, process, progress, and draft products. Periodic reviews by Council and the Parties are

intended to assist the Commission in fulfilling its mandate and are to be completed in a timely manner so as to not delay the Commission's progress.

- 11.4 The Commission will keep the Parties and the Council apprised of its activities and progress throughout the planning process. This is to be accomplished through the distribution of agendas for meetings, submission of progress reports relative to the timelines identified in the TOR, forwarding Parties and the Council minutes of meetings, annual reports and by any other means the Parties and/or the Council may request.
- 11.5 A Memorandum of Understanding (MOU) may be developed to further delineate the roles between the Commission and the Council, should the Commission deem it necessary. It may include further detail on the assistance that the Council will provide with regard to work plans, budgets, staffing, and other human resource issues. Should an MOU be agreed to, it should be shared with the Parties, and not conflict with this Terms of Reference.

12. Participation and Engagement

12.1 Throughout the planning process the Commission will:

- Ensure adequate opportunity for public and stakeholder participation including a forum for Yukon-wide planning issues relevant to the Dawson planning region;
- Seek views of adjacent jurisdictions where trans-boundary issues and/or resources are identified;
- Utilize the knowledge and experience of residents of the planning region, including the traditional experience, traditional knowledge and traditional land management practices of the First Nations;
- Recognize that land use decisions and permitting by the Parties will be concurrent with the land use planning process;
- Recognize that the Commission will have opportunities to present its views while land use planning is in progress;
- Seek views of land and resource management agencies (e.g. Dawson District Renewable Resources Council, Porcupine Caribou Management Board) that are active in the planning region and in adjacent areas that affect the planning region.

13. Planning Process and Products

In preparing the Plan, the Commission will follow the basic steps as outlined below. The associated budget is shown in Appendix D.

Dawson Regional Land Use Planning Timeline												
	Year 1				Year 2				Year 3			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
STARTUP COMMISSION												
Participate in training/policies and procedures	■	■										
Complete hiring of staff				■								
Establish Dawson office				■								
PREPARE DRAFT PLAN												
Conduct issues and interests gathering		■										
Write issues and interest summary			■									
Produce goals statement / Plan Direction				■								
Produce Resource Assessment Reports		■	■	■	■	■						
Develop scenarios						■	■	■				
Review scenarios with public/stakeholders								■				
Develop draft plan								■	■	■		
Conduct public review											■	
RECOMMEND PLAN AND APPROVAL												
Revise Draft plan to Recommended Plan											■	
Submit Final Recommended Plan												■

At minimum, the planning process will include the following activities:

Commission Start-up Period and Information Gathering Stage:

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- The Commission will convene its first meeting as soon as practicable, within the six weeks of being established. The initial meeting of the Commission should be convened by the members with such organizational assistance from the Council as may be required. The Commission Orientation and Training will be consistent with the training outlined in the First Nation Final Agreement Implementation Plan, Annex B, Part 2;

- The Commission will receive logistical support from the Council secretariat prior to establishing its own secretariat. The Commission will hire the Senior Land Use Planner within 30 days of the Commission's establishment. The recruitment process for Commission staff should be consistent with the norms of a public recruitment process. An office in Dawson City will be established by the first quarter of the 2nd year;
- The Commission will identify regional issues and interests through public forums in Dawson and Whitehorse. For greater certainty, planning issues that may be addressed in the Plan will include those relating to, but not limited to, traditional uses, land surface tenure, renewable resource uses, oil and gas, mining and mineral exploration, water resources, agriculture, climate change, transportation, communication, waste management, tourism, recreation, heritage and culturally significant sites. Commission will prepare and present the results in a public document;
-
- A Resource Assessment Report is to be prepared that summarizes the valued resources of the region. It shall examine renewable and non-renewable resource uses. The Commission will produce summary maps that represent a consolidation of the values of the region. In addition, the Commission will identify areas where regional land use conflicts are occurring or may occur.

Products: Issues and Interests Summary, Goals Statement, Resource Assessment Report and Summary Maps

Plan Development Stage:

The Land Use Plan will address the requirements outlined in Chapter 11 of the TH Final Agreement and will include:

- an introduction to the planning region and the planning process used in its production;
- plan goals and objectives;
- Regional management direction and specific recommendations for various land use sectors;
- The application of a regional land designation system throughout the planning region, which includes the identification of priority areas for ecological conservation and land development;

It may also include;

- Recommendations for the identification of priority areas for Sub-regional and local area development plans and recommendations for implementation planning.

Products: Scenarios Paper, Scenario Evaluation criteria, Draft Plan, Recommended Plan, Final Recommended Plan, Methods Reports

Other Considerations:

The Commission will be required to produce other documents, such as draft work plans and draft budgets, activity reports and year-end reports as detailed in their funding agreement. A Final Recommended Plan may not be needed if the Parties agree to approve the Recommended Plan.

14. Data, Background and Research Information

The Commission will collect and use the best available information for the production of the plans. The Parties and the Council will provide existing information to the Commission's planner. The Commission may also undertake its own studies, data collection and analysis where information gaps are identified and as approved in the annual work plans and budgets. Information requests from the Commission will be vetted through the Technical Working Group. Parties will make their best effort to provide information to the Commission, in a timely manner. The Parties will recognize that delays in providing information to the Commission will result in delays in the Commission's work plan.

15. Plan Approval

The Approval Parties for the plan are the Yukon Government, the Tr'ondëk Hwëch'in and the Vuntut Gwitchin. The process for approving the recommended regional land use plans is provided for in 11.6.0 of the Tr'ondëk Hwëch'in Final Agreement.

16. Amending and Monitoring the TOR

This TOR may be amended, through a process of consultation and consensus by the Yukon Land Use Planning Council, Yukon Government, the Tr'ondëk Hwëch'in, and the Vuntut Gwitchin. Any of the Parties may propose amendments. The Council will recommend the amendments before approval. All of the Parties described above, as well as the Commission and the Council, will monitor compliance with the Terms of Reference.

Appendix A
Terms of Reference
Technical Working Group

Mandate:

The mandate of the Technical Working Group (TWG) is to provide coordinated technical information and support to the Dawson Regional Planning Commission (the Commission). The key responsibility of each TWG member is to be a conduit to their respective governments. This includes:

- Acting as the primary point of contact between the Commission and governments on technical matters related to the preparation of the land use plan.
- Providing technical input and advice to the Commission regarding relevant Yukon Government issues, policies, programs and initiatives for consideration in the preparation of the plan.
- Providing technical input and advice to the Commission regarding relevant Tr'ondëk Hwëch'in issues, policies, programs and initiatives for consideration in the preparation of the plan.
- Coordinating delivery of information to and from the Parties.
- Making determinations on the ability for the Parties to respond to information requests from the Commission.

The TWG's role may be of an advisory or task orientated nature, depending upon the needs of the planning process. The Senior Planner for the Commission will act as chair for the meetings.

In the event that any of the conditions contained within this TWG TOR conflict with the Final Agreements of the Affected First Nations, those Agreements will prevail.

Composition:

TWG will be comprised of the Senior Planner from the Commission staff and one representative from Council staff and each of the Parties. The TWG will be chaired by the Senior Planner on the Commission.

Canada may participate at the request of the Commission Chair. Other staff or consultants from each organization may participate as required to address the matters being dealt with.

Operation Procedures:

Meetings will occur at the request of the Parties or the Senior Planner. The Senior Planner shall call the meeting. The TWG will make the best efforts to operate on the basis of consensus.

Each member organization will be responsible for covering its own costs for participating on the TWG.

The TWG will remain in effect until the Parties agree otherwise.

Appendix B
Terms of Reference
Senior Liaison Committee

Mandate:

The mandate of the Senior Liaison Committee (SLC) is to provide co-ordinated, senior level, intergovernmental (territorial, First Nation) input, advice and support to Dawson Regional Planning Commission at key stages in the planning process as may be required to address issues in the preparation of the plan. This includes:

- Providing input and advice to the Commission regarding relevant government issues, policies, programs and initiatives for consideration in the preparation of the plan.
- Responding to any questions the Commission may have on policy matters.
- Providing overarching policy direction

The SLC will make best efforts to operate on a consensus basis regarding the advice it provides to the Commission.

In the event that any of the conditions contained within this TOR conflict with the Final Agreements of the Affected First Nations, those Agreements will prevail.

Composition:

SLC will be comprised of one senior representative from each of the Parties. Federal representatives with interest and mandates in the planning region will be invited to participate by SLC as deemed appropriate. Appointments to SLC will be made by the respective Minister, Chief or Director General, as appropriate. The Yukon Land Use Planning Council may be invited to attend SLC meetings.

Operating Procedures:

SLC will call a meeting with the Commission as required to gain work plan updates and provide input and guidance during key phases of the planning process, including but not limited to:

1) development of the Commission's budget/work plan, 2) Planning Region Issues and Interests, 3) Resource Assessments and Reports, 4) Plan Scenarios and 5) the Draft Plan. Each member organization will be responsible for covering its own costs for participating on the SLC.

SLC members will be expected to represent the broad corporate interests of their respective governments. Members will also be expected to keep their respective governments adequately informed of the key issues and items discussed during SLC business.

To facilitate effective communications and informed discussion, representatives from the affected First Nations, the Council, the Commission and the Technical Working Group (TWG) may be invited by SLC to participate in and /or attend SLC meetings as appropriate.

Appendix C
Protocols for Decision Making

1. The Commission, to the extent practicable, will make decisions by consensus. Consensus-based decision-making is a process of arriving at a decision that reflects and relies upon satisfying the interests, values and concerns of the whole group responsible for making the decision.
2. Within a consensus-based decision-making environment, Commission members have the responsibility to:
 - Be committed to relying upon the agreed upon consensus process to construct the decision.
 - Ensure that all members are adequately informed and knowledgeable of the issues surrounding the decision.
 - Ensure all members' interests, values and concerns are openly articulated and understood.
 - Ensure all members' interests, values and concerns are addressed and reflected in the decision.
3. In order to create and maintain a consensus-based decision-making environment, the following techniques should be used:
 - All members need to invite, welcome and respect the interests, values and concerns of each Commission member.
 - All members must understand that decisions reached will rely upon, and be constructed from, understanding and satisfying the interests, values and concerns of each Commission member.
 - All members must take responsibility for satisfying the interests, values and concerns expressed by others.
 - The Commission must ensure, through flexible arrangements and other measures that all decision-makers participate in all phases of constructing the decision.
4. Examples of consensus-based techniques include:
 - Exploring many options and solutions
 - Determining the underlying issues and interests
 - Providing new or additional information to illuminate interests, values or concerns
 - Separating personal conflict from decision-making
 - Assessing level of agreement among members
 - Avoiding taking hard and fast positions
 - Deciding when to postpone a decision for future discussion

- Defer construction of a decision until interests, values and concerns are addressed
 - Re-configuring the issue or question
 - Seeking alternative solutions to a problem
 - Making incremental decisions rather than addressing large questions all at once
 - Invite and encourage independent advisors, mediators and experts to facilitate understanding, or to assist in the construction of a decision
5. For clarity, the following should be noted:
- Decisions made when all members are not informed and educated on a matter is not consensus.
 - Decisions made by individuals or by less than quorum is not consensus.
 - A decision made by a simple vote without seeking and exhausting more acceptable alternatives is not consensus.
 - Voting is a fundamentally different decision-making process than making decisions by consensus. Voting is not consistent with a consensus-based decision making process.
6. When internal efforts have not provided for a decision to be made by consensus, a Commission should invite, and welcome, other resources to enable a consensus to be reached. These other resources may include:
- Employing a facilitator from outside the Commission
 - Seeking guidance about an issue through public consultation
 - Seeking guidance from the Parties, Council or a knowledgeable Elder

7. Decisions and resolutions must be recorded in the minutes with a clear indication that consensus has been reached. In the event that other decision-making measures are used, such as majority voting, minutes should indicate that consensus was attempted, failed and that a vote occurred. Minutes should also record where conditions or limitations have been placed on an action or decision.

Signed at Dawson City, Yukon, the __ day of April, 2009

Dawson Regional Planning Commission:

Witness:

DRPC Member

DRPC Member

DRPC Member

DRPC Member

DRPC Member

DRPC Member

