

July 18, 2000
GENERAL TERMS OF REFERENCE
for a
REGIONAL LAND USE PLANNING COMMISSION
for the
TESLIN PLANNING REGION

Introduction

Chapter 11 of the Land Claim Agreement of the Yukon First Nations states:

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).

The Parties (the Government of Canada, the Yukon Government and the Teslin Tlingit Council), based on the Recommendation of the Yukon Land Use Planning Council (the Council), approve this General Terms of Reference (GTOR) for the establishment of the **Teslin Planning Commission** (the Commission).

The provisions and requirements of the Teslin Tlingit Council Final Agreement shall be followed by the Commission throughout the planning process. In the event that any of the conditions contained within this GTOR conflict with the Teslin Tlingit Council Final Agreement, the Final Agreement shall prevail.

Purpose of the General Terms of Reference

The purpose of this GTOR is to provide direction to the Commission to prepare a Land Use Plan for the Teslin Planning Region in a manner consistent with the Final Agreement.

This document covers the following:

1. Mandate of the Commission
2. General Goals for the Land Use Plan
3. Boundary of the Planning Area
4. Representation on the Commission
5. Application of Planning
6. Roles
7. Planning Procedures, Process and Products
8. Data, Background and Research Information
9. Budget Considerations
10. Remuneration
11. Final Approval
12. Amendments to the GTOR

1. Mandate of the Commission

The Commission shall develop a Land Use Plan (Plan) and shall recommend the Plan to the Parties (11.4.1).

2. General Goals for the Land Use Plan

The Commission shall prepare a Plan that:

- promotes the well being of the Teslin Tlingit, other residents of the Planning Region, the communities and the Yukon as a whole, while having regard to the interest of other Canadians (11.4.5.7);
- recommends measures to minimize actual or potential land use conflicts throughout the Planning Region (11.4.5.4);
- recognizes and promotes the cultural values of the Teslin Tlingit as part of the Dàkh Ka Tlingit Nation (11.1.1.3);
- ensures that social, cultural, economic and environmental policies are applied to the management, protection and use of land, water and resources in an integrated and co-ordinated manner so as to ensure sustainable development (reference 11.1.1.6);
- promotes sustainable development (11.4.5.9);
- takes into account that the management of land, water and resources, including fish, wildlife, and their habitats, is to be integrated (11.4.5.8); and
- is 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 (11.2.1.2).

3. Boundary of the Planning Area

The boundary of the Teslin Planning Region is shown on Map 1 (attached). In general, the planning area is the traditional territory of the Teslin Tlingit Council (11.2.1.10), not including any overlaps with neighbouring Yukon First Nations.

For the purposes of resolving planning issues within the planning area, the gathering and analysis of information may extend beyond the Planning Region boundary. However, recommendations made by the Planning Commission within the Plan, will be limited to the planning boundary.

In the event that the Carcross/Tagish First Nation Land Claim Agreement is ratified during the planning process, the Commission shall make a Recommendation to the Parties regarding the feasibility of enlarging the Planning Region. Any changes to the boundaries requires agreement by the Parties and affected Yukon First Nations.

4. Representation on Planning Commission

The appointment of Commission members shall occur through the process defined in Chapter 11. The Commission shall also adhere to the provisions of section 2.12.2 of the Teslin Tlingit Council Final Agreement.

Based on 11.4.2 of the Teslin Tlingit Council Final Agreement, the Commission shall consist of six (6) members:

- two (2) members nominated by the Teslin Tlingit Council;
- two (2) members nominated by Governments: one (1) by Canada and one (1) by the Yukon Government; and
- two (2) members based on the demographic ratio of Yukon First Nations to the total population of the Planning Region. This has been agreed upon as one (1) member nominated by the Teslin Tlingit Council and one (1) member nominated jointly by the Yukon Government and Canada.

The majority of nominees of Yukon First Nations and the majority of nominees of Government on the Commission shall be Yukon residents with a long-term familiarity with the Region being planned (11.4.3). Any changes to Commission membership as a result of the expansion of the planning area shall be carried out in accordance with the terms and conditions of Yukon First Nation Final Agreements (2.12.2).

5. Application of Planning

Any Land Use Planning process in the Yukon shall:

- apply to both Settlement and Non-Settlement Land throughout the Teslin Planning Region (11.2.1.1); and
- apply to the process of establishing or extending National Parks and National Historic Parks and commemorating new National Historic Sites (11.2.1.12).

This Land Use Planning process shall not apply to:

- 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, and established Special Management Areas (11.2.2.1);
- subdivision planning or local area planning outside of a Community boundary (11.2.2.2); or
- land within a Community boundary (11.2.2.3).

6. Roles of Supporting Agencies

Yukon Land Use Planning Council (YLUPC): The YLUPC's Secretariat may assist the Regional Land Use Planning Commissions in carrying out their functions under Chapter 11 (11.3.4). The Council shall continue to make recommendations regarding Land Use Planning as defined in 11.3.0, including budget reviews as per 11.9.0. The YLUPC shall convene an Annual Meeting with the Chairpersons of all the Regional Land Use Planning Commissions to discuss Land Use Planning in the Yukon (11.3.5).

Yukon Development Assessment Board (YDAB): In general, the role of the Yukon Development Assessment Board with respect to Land Use Planning is defined in Chapter 12, Section 12.17.0. More specifically, YDAB, or a designated office, shall provide the Regional Land Use Planning Commission with any information it has on projects in the Planning Region and shall invite the Regional Land Use Planning Commission to make representations to the panel or the designated office (12.17.2). YDAB may review the Plan (12.8.1.5).

Support Committees:

Terms of reference for two support committees are appended to this General Terms of Reference, at the request of the Parties. The first committee is the Senior Liaison Committee (SLC); the second is the Technical Working Group (TWG). Their mandate, composition, and operation are outlined in their respective terms of reference.

7. Planning Procedures, Process and Products

7.1 Tasks

The Commission shall determine the specific planning process. At minimum, it is expected that the Commission shall:

1. provide a Precise Terms of Reference (PTOR) and detailed instructions necessary for identifying Land Use Planning issues, conducting data collection, performing analysis, producing maps and other materials, and preparing the Draft and Final Plan documents (11.4.5.2). The PTOR shall be completed within three months of the Commission being established;
2. produce a Communication and Consultation Strategy;
3. collect background and resource information and land use forecasts;
4. present options for the Plan (11.5.1) and for the process of issue resolution (11.4.5.4);
5. prepare a Draft Plan (11.4.5.2);
6. undertake consultation on the Draft Plan (11.6.1); and
7. prepare a Final Plan (11.6.5.1).

The Commission shall also produce other documents in support of the Land Use Plan.

The Commission shall provide for the Parties and the Council to be involved at key stages of the planning process. This includes providing periodic opportunities for consultation on issues, process, progress, draft products, linkages with other planning processes and receiving input any of the Parties may choose to make. Specifically, the Parties and the Council shall be given an opportunity to review the PTOR, planning issues and the Communication & Consultation Strategy before the Commission finalizes them.

For greater certainty, planning issues to be addressed in the Plan will include those relating to, but not limited to, traditional uses, renewable resource uses, oil and gas, mining and mineral exploration, transportation and communication, forestry, protected areas, recreation, waste management, tourism, heritage and culturally significant sites. The Commission shall identify specific issues in a timely fashion. These can be local, regional, national or international issues relevant to the Planning Region.

7.2 Planning Process

Throughout the planning process the Commission shall:

1. provide for meaningful involvement of the Parties;
2. ensure adequate opportunity for public, industry and stakeholder participation including a forum for Yukon-wide planning issues relevant to the Teslin Planning Region (11.4.5.3, 11.2.1.8);
3. consult with adjacent jurisdictions where trans-boundary issues and/or resources are identified (British Columbia, Taku River Tlingits, Kaska Tribal Council, Carcross/Tagish First Nations, Kwanlin Dun First Nation, Ta'an Kwach'an Council, Little Salmon/Carmacks First Nation);
4. give full and fair consideration to the oral forms of communication, traditional knowledge, traditional land knowledge and management practices of the Teslin Tlingit (11.4.5.5, 11.4.5.6);
5. utilize the knowledge and experience of other residents of the Planning Region (11.4.5.5);
6. develop working relationships with land and resource management agencies in the Planning Region and in adjacent areas that affect the Planning Region;
7. allow for land and resource use decisions to be made concurrent with the preparation of the Plan;
8. ensure the Land Use Planning process is linked with other land and water planning processes (11.4.5.8) and that the relationships between those processes are clearly described. Should any land and resource management planning process (i.e. National Park feasibility study, Protected Area Strategy, Regional Forest Management Plan, Fish and Wildlife Management Plan, etc.) proceed in the planning area, the RLUPC will review the Terms of Reference for such initiatives. Also, the PTOR should specify that

public consultation and information gathering will be as integrated as possible with other planning processes;

9. provide to the Parties draft products and opportunities for review and comments; and
10. ensure that issues that are important to the Parties are addressed in the Plan. Each of the Parties will provide a detailed list of issues to the Commission. The Commission will ensure that they are adequately addressed.

7.3 Product

The Final Plan:

1. shall provide for monitoring of compliance with approved Plans (11.4.5.10);
2. shall provide for non-conforming uses in accordance with applicable Yukon First Nation Final Agreements (11.2.1.6);
3. shall provide for procedures to amend the Plan (11.2.1.5); and
4. may provide for Recommendations for priority areas for Sub-regional and District Land Use Plans (11.2.1.9).

8. Data, Background and Research Information

The Parties shall make their best effort to provide the Commission, in a timely manner, existing available information that the Commission requires or requests. The Commission may also undertake its own studies and data collection.

9. Budget Considerations

The Commission will receive interim funding for development of the PTOR, then will prepare a budget for completion of the Plan for submission with their PTOR. It is anticipated that it will take 24 to 36 months to prepare the Plan for Recommendation to the Parties (11.4.4).

The Commission, after consultation with the affected Yukon First Nations, shall prepare a budget for the preparation of the Plan and for carrying out its functions under Chapter 11 and shall submit that budget to the Council (11.9.1).

The Commission:

- within its approved budget, may engage and contract technical or special experts for assistance and may establish a Secretariat to assist it in carrying out its functions under this Chapter (11.4.5.1);
- shall develop financial and administrative policies (2.12.2.10);

- may monitor the implementation of the approved Plan and assess the level to which the Plan is being followed. The Plan shall include Recommendations regarding Plan review and a process for this review (11.4.5.10).

10. Remuneration

The Commission Chair shall receive \$300.00 (three hundred) per day and other Commission members shall receive \$200.00 per day (two hundred). The Commission shall develop remuneration rates for food, accommodations and other costs associated with travel and meetings, using the Teslin Tlingits' Implementation Plan as a guideline. These rates may be adjusted, based on the costs of goods and services in the region.

11. Final Approval

The approval process for the Recommended Plan shall be as described in Section 11.6.0 of the Final Agreements of affected Yukon First Nations.

12. Amendments to the GTOR

This GTOR may be amended in writing by the Parties, following consultation with the Council and, if established, the Commission.

Recommendation #00-001

A Recommendation regarding a Regional Land Use Planning Commission for the Teslin Planning Region.

The Yukon Land Use Planning Council recommends that the Governments of the Yukon, Canada and the affected Yukon First Nation of Teslin Tlingit Council adopt the following Recommendation:

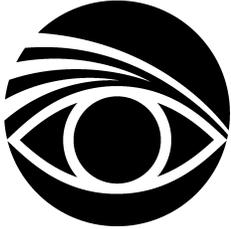
The Yukon Government, the Government of Canada and the affected First Nation of Teslin Tlingit Council agree to establish a Regional Land Use Planning Commission based upon the General Terms of Reference for the Teslin Planning Region.

Yukon Land Use Planning Council (date)

Indian & Northern Affairs Canada (date)
(Government of Canada)

Yukon Government (date)

Teslin Tlingit Council (date)



YUKON LAND USE PLANNING COUNCIL

A Recommendation Regarding a Regional Land Use Planning Commission for the Teslin Planning Region

Recommendation #00-001

Clause Reference: 11.2.3, 11.4.1 Umbrella Final Agreement

To: Yukon Government
Indian & Northern Affairs Canada
Teslin Tlingit Council

Motion passed: July 18, 2000

Date of Release: July 18, 2000

Related Recommendations: Response Protocol Recommendation #99-001
North Yukon Regional Land Use Planning Commission #99-002

