



YLUPC
YUKON LAND USE
PLANNING COUNCIL

Na-Cho Nyäk Dun
Regional Planning Commission
General Terms of Reference
(Recommended)

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Definitions

Aboriginal Rights As identified in Section 35 of the Constitution Act.

Canada Government of Canada

Commission Na-Cho Nyäk Dun Regional Planning Commission

Council Yukon Land Use Planning Council

Final Agreement *Na-Cho Nyäk Dun Final Agreement*

NND First Nation of Na-Cho Nyäk Dun

MOU Na-Cho Nyäk Dun Regional Land Use Planning Memorandum of Understanding, adopted by NND and YG on [date]

Plan Na-Cho Nyäk Dun Regional Land Use Plan

Planning Process The planning process to develop the Na-Cho Nyäk Dun Regional Land Use Plan

Planning Region Na-Cho Nyäk Dun Planning Region

TOR General Terms of Reference for the Na-Cho Nyäk Dun Regional Planning Commission

Traditional Knowledge

The understandings, skills and philosophies developed by Indigenous peoples and nations with long histories of interaction with their natural surroundings. It is generated, transmitted, and strengthened through rituals, metaphors, proverbs, songs, oral history, human interactions, ceremonies, languages, experiences and practices. Traditional Knowledge is at the core of Indigenous identity, culture and heritage around the world, and must be protected. It is the foundation of Indigenous peoples' identities, cultural heritage, civilizations, livelihoods and coping strategies over several centuries.

Treaty The *Na-Cho Nyäk Dun Final Agreement* and the *Na-Cho Nyäk Dun Self-Government Agreement* are together the "Treaty"

Western Science	Western Science knowledge is knowledge is based upon objective evidence and observations of natural phenomenon, without consideration of spiritual or non-material values associated with the natural phenomenon.
YESAB	Yukon Environmental and Socio-Economic Assessment Board
YG	Government of Yukon

1. Introduction and Background

- 1.1 NND signed its Final Agreement with the Canada and YG in 1993. In August 2022, YG and NND agreed to initiate the Planning Process for parts of the NND Traditional Territory and to establish the Commission in furtherance of the commitments and promises of the Final Agreement, including Chapter 11.
- 1.2 The Parties for the Plan are YG and NND. The Planning Process and the Commission's work will be guided by the MOU.
- 1.3 These TOR have been developed through consultation and consensus by the Council, YG, and NND.

2. Purpose of the Terms of Reference

- 2.1 The TOR provides direction to the Commission in preparing the Plan. The TOR describes 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. Roles and responsibilities among the Parties and/or Council may be further defined in other agreements, including the MOU.
- 2.2 In the event of any inconsistency between the TOR and the Final Agreement, the Final Agreement will prevail. If the Commission has questions about interpretation of the Final Agreement, it will direct those questions to the Senior Liaison Committee for resolution on behalf of the Parties. This correspondence will be copied to the Council.

3. Mandate of the Commission

- 3.1 Working with the Parties, and through public participation, the Commission will develop a regional land use plan for the Planning Region (including Settlement Land and Non-Settlement Land) that is consistent with Aboriginal Rights, and achieves, the spirit and intent of the Treaty, including, in particular, the objectives and commitments of Chapter 11 of the Final Agreement.

- 3.2 Subject to any agreements made by the Parties with respect to interim protections, the Commission will consider and recommend to the Parties appropriate interim protection measures to ensure the integrity and effectiveness of the Planning Process and the Plan.
- 3.3 The Commission will consider the climate emergency throughout its work and the Planning Process. The Commission will develop a climate-informed Plan that recognizes the existing and anticipated effects of climate change on the Planning Region, and the exercise of NND's Aboriginal and Treaty rights.
- 3.4 During the planning process, the Commission will:
 - 3.4.1 develop, prepare, and recommend to the Parties the Plan, in accordance with the MOU and this TOR;
 - 3.4.2 undertake the Planning Process in accordance with the commitments, spirit, and intent of the Treaty;
 - 3.4.3 consider areas to be designated as Special Management Areas, in accordance with Chapter 10 of the Final Agreement, or other conservation designations, particularly on Settlement Land;
 - 3.4.4 participate in the review of proposed Projects while the Commission is preparing the Plan as per Section 45 of the Yukon Environmental and Socio-Economic Assessment Act (YESAA) and 12.17.2 of the Final Agreement;
 - 3.4.5 maintain and keep safe its correspondence, records and documents, and the submissions and evidence it may receive, in accordance with First Nations' Principles of Ownership, Control, Access, and Possession (OCAP®) and Yukon Governments Access to Information and Protection of Privacy Act (ATIPP);
 - 3.4.6 provide both parties the spatial data set required to implement the Commission's recommendation and
 - 3.4.7 carry out such other duties, responsibilities, and functions as described in the TOR.
- 3.5 The Commission may develop precise terms of reference for its work, in accordance with section 11.4.5.2 of the Final Agreement.
- 3.6 Unless otherwise agreed upon by the Parties through annual work plans, the Commission, within the time frame provided in Section 13 and Appendix F, will make the best effort to forward a Recommended Plan within three (3) years of

appointment and, if required, a Final Recommended Plan within six (6) months after the Parties provide request for modification, to the Parties for their consideration.

- 3.7 Once the Parties have approved the Plan, the Commission will monitor compliance and conformity with the approved Plan, in accordance with sections 11.2.1.3, 12.17.1, and 12.17.3 of the Final Agreement.

4. Purpose of the Plan

- 4.1 In accordance with Chapter 11, the purpose of a regional land use plan is to provide guidance for future land use and the desired future state of the region; to help create certainty for all land users, assessors and decision makers for the direction on the use of land, water, wetlands, wildlife and other renewable and non-renewable resources; and to assist in avoiding future land use conflicts.
- 4.2 The time horizon for these considerations should be no less than 50 years.
- 4.3 The Plan will be reviewed periodically by the Commission to accommodate new and changing land uses, interests, and information. Such reviews will consider evolving norms, best practices, and legal frameworks regarding respect for Aboriginal and Treaty rights, the climate crisis, and environmental science, and what, if any, amendments to the Plan may be required to address the foregoing.

5. Boundary and Application of the Plan

- 5.1 The boundary of the Planning Region is shown in Appendix E. In general, as applicable to the region:
 - 5.1.1 The northern boundary of the Planning Region is the southern boundary of the Peel Watershed planning region, as modified to exclude the Tsé Tagé (Beaver River) Planning Region;
 - 5.1.2 The western boundary of the Planning Region is the eastern boundary of the Dawson planning region;
 - 5.1.3 The eastern boundary of the Planning Region is the border of the Northwest Territories; and
 - 5.1.4 The southern boundary of the Planning Region is the northern boundary of the overlapping area between the NND Traditional Territory and the Traditional Territory of the Ross River Dena Council and Selkirk First Nation. Unless otherwise agreed, NND will be a Party to any subsequent land use planning process for the overlap areas.

- 5.2 The Commission understands the Parties are engaged in other land use planning processes, including the Tsé Tagé (Beaver River) Land Use Planning process. Upon the request of a Party, the Parties will consider whether and how other land use planning processes can best be integrated into the Planning Process and/or Plan, as appropriate, and direct the Commission accordingly.
- 5.3 As per section 11.2.1.1 of the Final Agreement, the Regional Land Use Plan will apply to both Settlement Land and Non-Settlement Land throughout the planning region.
- 5.4 As per section 11.2.2 of the Final Agreement, the Regional Land Use Plan will not apply to land within Village of Mayo.
- 5.5 Existing management plans in the region will be considered in the development of the regional land use plan.

6. Traditional Knowledge and Western Scientific Knowledge

- 6.1 The Commission will recommend a Regional Land Use Plan that recognizes and respects the special relationship between the Na-Cho Nyäk Dun and the lands and waters of the planning region, and the cultures, traditions, health and lifestyles of the Na-Cho Nyäk Dun. .
- 6.2 In conducting its business and preparing the Draft, Recommended and if necessary Final Recommended Plans, the Commission will give equal weight to Traditional Knowledge and Western Science.
 - 6.2.1 The Commission will incorporate Traditional Knowledge in all of the Commission's planning products, including the Draft Plan, Recommended Plan, and if necessary, the Final Recommended Plan.
- 6.3 The Commission will respect the protocols of Na-Cho Nyäk Dun and other Affected First Nations regarding Traditional Knowledge, including rights of ownership, use and distribution.
- 6.4 When requested by the Na-Cho Nyäk Dun or other Affected First Nations, the Commission will respect the confidentiality of Traditional Knowledge.

7. Commission Operating Procedures

- 7.1 The Commission will adhere to the provisions of section 2.12.2 of the Final Agreement.

- 7.2 The Commission will adopt Policy and Procedures. The Council will provide YLUPC's Policies and Procedures with any recommended changes applicable for the Commission.
- 7.3 Commission meetings and business will be carried out in an open and accountable manner. Notwithstanding the above, the Commission may close a meeting to the public during a discussion on a matter that relates to the following:
 - 7.3.1 Traditional Knowledge which NND seeks to maintain in confidence;
 - 7.3.2 information received in confidence or otherwise which, if disclosed, would likely be prejudicial to the Planning Process or parties involved;
 - 7.3.3 personal information;
 - 7.3.4 the salary, benefits and any performance appraisal of an employee;
 - 7.3.5 a matter still under consideration and on which the commission has not yet publicly announced a decision and about which discussion in public would likely prejudice the Commission's ability to carry out its activities or negotiations; and
 - 7.3.6 the conduct of existing or anticipated legal proceedings.
- 7.4 Honoraria rates will be consistent with the rates identified for YG boards and committees.
- 7.5 Remuneration rates for food, accommodations, and other costs associated with travel and meetings may not exceed the rates for such costs used by YG in respect of its employees and as may be amended from time to time.
- 7.6 The Commission will consist of six (6) members, and Quorum for Commission meetings will be four (4) members.
- 7.7 Decisions of the Commission will be made by consensus whenever possible and be guided by the "Protocols for Decision Making" (Appendix D).
- 7.8 If a Commission member has been absent without reasonable cause for two (2) consecutive Commission meetings, this absence may be considered grounds for the Commission requesting the resignation of the member.
- 7.9 In the event that a Commission member resigns, the Commission Chair will confirm the resignation with the Minister in writing.

- 7.10 A vacancy which arises in the Commission will be filled within 90 days by way of replacement nomination by the Party whose original nominee is no longer able to serve. A replacement nominee may attend and participate in the proceedings of the Commission *ex-officio*, pending their appointment to the Commission.
- 7.11 Commission members will exhibit respect towards one another and all involved people for the duration of their service to the Commission. The Commission may choose to develop a Code of Conduct.
- 7.12 Whenever possible, the work of the Commission will take place within the Planning Region.
- 7.13 The Commission will recognize its relationship with the land by holding at least one meeting, activity or event on the land each year.
- 7.14 The Commission will use culturally-appropriate ceremony at meetings and to celebrate milestones in the process.

8. Administration of Commission Budget and Workplan

- 8.1 The overall 36-month budget is \$1.9 M, benchmarked to address inflation, for the fiscal year 2023-24. The Commission will operate on a fiscal calendar commencing on April 1 and ending on March 31.
- 8.2 The Council may provide funds prior to the Commission's budget approval for the fiscal year 2023-24 and into part of 2024-25. Those funds shall be reimbursed to the Council once the Commission has received its funding.
- 8.3 The Commission, after consultation with the Parties, will prepare an annual and multi-year budget/workplan each fiscal year for the preparation of the Plan, and for carrying out its functions under Chapter 11 of the Final Agreement, and will submit that budget/workplan to the Council for review. The Commission may request assistance from the Council in preparing the budget/workplan.
- 8.4 This proposed budget/workplan will ensure the Planning Commission has the resources and capacity required to make representations to YESAB on projects in the Planning Region during the Planning Process, in accordance with section 12.17.2 of the Final Agreement. Such representations will include potential impacts of a proposed project on the ability of the Planning Process and the Plan to achieve its objectives, if any.
- 8.5 The proposed budget/workplan will include funding to the Commission for cross-cultural orientation and education, including on NND's Aboriginal and Treaty rights, in accordance with section 2.12.2.9 of the Final Agreement.

- 8.6 The proposed budget/workplan will ensure the Commission has financial resources adequate to discharge its mandate and carry out its functions. The amount of such financial resources will be commensurate with:
- 8.6.1 honouring the obligations, spirit, and intent of the Treaty;
 - 8.6.2 the need for the Commission to provide for, and to facilitate, consultation and submissions from the public, other affected First Nations, and the Parties toward the development of the Plan; and
- 8.7 Funds provided to the Commission in any fiscal year may be carried forward in accordance with the Funding Agreement and applied by the Commission to its activities and requirements in the subsequent fiscal year.
- 8.8 This proposed budget/workplan will be submitted to the Council by the dates identified in the funding agreements and will address funding and activities for the following fiscal year. The budget and workplan will be consistent with the MOU, this Terms of Reference, and the Final Agreement.
- 8.9 The Council, after consultation with the Commission, will recommend the budget/workplan to the Parties. On approval of the budget and workplan by the Parties, the budget and workplan will be attached to the funding agreement and signed at the appropriate approval level. Joint meetings may be organized to streamline the workplan/budget production and approval process.
- 8.10 The Commission will make best efforts to adhere to the approved workplan, timelines, and budget. The Council and the Parties will take action to support the Commission's effort to adhere to the workplan and budget.

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

- 9.1 The Commission will use a Technical Working Group ("TWG") as the primary means of obtaining information on technical matters. TWG members will also facilitate the provision of information from their respective governments to the Commission. The Terms of Reference for the TWG are outlined in Appendix B.
- 9.2 The Commission will use a Senior Liaison Committee ("SLC") as the primary means of obtaining and clarifying policy advice from the Parties. The Terms of Reference for the SLC are outlined in Appendix C.
- 9.3 Sub-committees may be established by the Parties or by the Commission to further discussion of other strategic or technical matters.
- 9.4 The Parties, via the SLC and TWG, will have opportunities to make presentations at Commission meetings, as needed.

- 9.5 The Commission will ensure the Council and the Parties are involved throughout the Planning Process. The Commission should strive for consensus with the Parties, whenever possible, on key plan directions.
- 9.6 Periodic reviews of draft products by the 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.
- 9.7 The Commission will keep the Council and the Parties apprised of its activities and progress throughout the Planning Process. This will be accomplished by distributing meeting agendas and meeting minutes, submission of progress reports relative to the timelines identified in the Terms of Reference, submission of annual reports relative to the timelines identified in the workplan, and by any other means the Parties and/or the Council may request.
- 9.8 Each Party will be transparent with the other Party regarding its communications with the Commission. To that end, a Party that sends written correspondence to the Commission will simultaneously provide a copy of that correspondence to the other Party.
- 9.9 The TWG may attend, upon request and as needed, any Commission meetings and offer planning advice and area specific information to aid the Commission in the Planning Process.
- 9.10 The Council secretariat will provide various forms of support for the completion of the Plan based upon a Memorandum of Understanding between the Commission and the Council ("Commission-Council MOU"). The Commission-Council MOU will define financial arrangements, roles, responsibilities, and reporting relationships. The Commission-Council MOU will be shared with the Parties, and will not conflict with this TOR nor the MOU between the Parties.
- 9.11 In the event that disagreements arise between Commission members, or between the Commission, the Council, and the Technical Working Group that cannot be resolved, the SLC may initiate a dispute resolution process.

10. Participation and Engagement

- 10.1 As per 11.2.1.8 of the Final Agreement, public participation is a requirement of the Planning Process. Throughout the Planning Process, the Commission will:
 - 10.1.1 ensure the active and sustained involvement of NND citizens in the development of the Plan;
 - 10.1.2 seek views of adjacent jurisdictions where trans-boundary issues and/or resources are identified.

- 10.1.3 participate in the YESAB assessment of proposed Projects occurring in the Planning Region while land use planning is in progress.
 - 10.1.4 seek and consider the views of land and resource management departments and agencies including Mayo Renewable Resources Council, YESAB, Fish and Wildlife Management Board, and Salmon Sub-Committee and other groups that are relevant in the Planning Region and in adjacent areas that affect the Planning Region.
 - 10.1.5 engage with the communities of Keno City, Mayo, Stewart Crossing, Pelly Crossing, Ross River, Whitehorse, and Dawson City and other residents of the planning region.
 - 10.1.6 strive for open and representative public engagement processes using transparent engagement strategies.
- 10.2 The Commission will release its reports or Plan, including the recommended Plan, to the public at least 15 days after such material has been presented to the Parties.

11. Planning Inputs from the Parties

The Parties will prepare the following inputs as soon as possible in the planning process:

- Parties' shared goals and objectives for the region
- Priority issues to be addressed (preference for consensus among Parties)
- Interests where the Parties differ
- Protocols for intellectual property and privacy
- Public engagement protocols/expectations
- Surface disturbance and linear density levels/status and other potential cumulative effects indicators
- Climate change forecasts
- Cumulative effects of land use on the exercise of NND's Aboriginal and Treaty rights and ways of living throughout the NND Traditional Territory
- Effects of climate change on the exercise of NND's Aboriginal and Treaty rights and ways of living
- Existing and draft policies for considerations
- Resource assessments
- Interim measure options

- Indigenous/Traditional Knowledge
- Beaver River Land Use Planning documents
- Peel and Dawson regional land use plans and related documents

12. Planning Products

- 12.1 The Commission will produce a number of products to fulfill its planning and public engagement responsibilities:
- 12.1.1 Vision Statement and Planning Principles.
 - 12.1.2 Issues and Interests Report.
 - 12.1.3 Resource Assessment Report.
 - 12.1.4 Report on Cumulative Effects of Prior, Existing, and Future Land Use in the Planning Region:
 - 12.1.5 Report on Climate Change, describing existing and anticipated effects of climate change in the Planning Region, including on the exercise of NND's Aboriginal and Treaty rights and ways of living thereon, and exploring measures to reduce and slow further effects.
 - 12.1.6 Draft Plan, a complete regional land use plan that is comprised of concepts developed during internal discussions and input from the Parties and the public.
 - 12.1.6.1 The Commission is responsible for public engagement/consultation on the Draft Plan.
 - 12.1.6.2 The Draft Plan should include a Cumulative Effects Framework and should demonstrate how it addresses the existing and anticipated effects of climate change in the region.
 - 12.1.6.3 Draft plan should demonstrate how it used or considered Traditional Knowledge and planning and how it seeks to protect and advance NND's Aboriginal and Treaty rights
 - 12.1.6.4 Consultation Report, which summarizes the Parties' and public's input on the Draft Plan and the Commission's response to such input.

- 12.1.7 Recommended Plan, a complete regional land use plan that represents the Commission's recommendation for a Na-Cho Nyäk Dun Regional Land Use Plan, based upon the Commission's vision and values, the objectives and spirit and intent of the Treaty, and upon feedback on the Draft Plan from the public and the Parties.
 - 12.1.7.1 The Parties, in collaboration with the Commission, are responsible for community Consultation on the Recommended Plan.
- 12.1.8 A Final Recommended Plan, if needed, in response to proposed modifications and written reasons provided by YG and/or NND. The Commission will reconsider the plan and make a final recommendation for a regional land use plan to the Parties, in accordance with the Final Agreement.
 - 12.1.8.1 The Parties are responsible for Consultation on the Final Recommended Plan.
- 12.1.9 Plain Language Summary Documents of the Draft Plan, Recommended Plan, and if needed, the Final Recommended Plan.
- 12.1.10 Optional methodology report for the Draft, Recommended and if needed the Final Recommended Plan describing the methods and processes that the Commission used in the development of the Draft Plan and the Recommended Plan.
- 12.1.11 Recommended conservation priorities or areas.

13. Planning Process

In preparing the plan, the Commission will follow the steps as outlined below with the expectation of the Parties that the Recommended Plan would be produced within three (3) years of the first meeting of the Commission.

A detailed recommended timeline is attached in Appendix F: Work Plan. The Planning Process will include the following stages.

Commission Start-up Period:

- 13.1 The Commission will convene its first meeting as soon as practicable and within six weeks of being established. The initial meeting of the Commission should be convened by the members with organizational assistance from the Council.

- 13.2 The Council will provide an extensive start-up training program, and subsequent training modules as needed for the remainder of the Planning Process. The Commission orientation and training will be consistent with the training outlined in the First Nation Final Agreement Implementation Plan, Annex B, Part 2; and will include training on NND's Aboriginal and Treaty rights.
- 13.3 The Commission will receive logistical and planning support from the Council secretariat. The recruitment process for Commission staff should be consistent with the norms of a public recruitment process, with an emphasis on knowledge of Aboriginal and Treaty rights, interests, and ways of living.
- 13.4 The Commission will have a public ceremony celebrating their start of planning.
- 13.5 The Commission will host a meeting, activity or event on the land in the Region within the first six months of being established.

Plan Development Stage:

- 13.6 The Plan will address the requirements outlined in Chapter 11 of the Final Agreement and will provide:
 - 13.6.1 an introduction to the Planning Region and a description of the Planning Process used in the production of the Plan;
 - 13.6.2 Plan goals and objectives;
 - 13.6.3 a regional land designation system throughout the Planning Region, including Special Management Areas in accordance with Chapter 10 of the Final Agreement;
 - 13.6.3.1 Recommendations for Special Management Area(s) will consider any conservation priorities if submitted by the Parties, and
 - 13.6.3.2 Recommendations for Special Management Area(s) will be provided to the Parties at least 4 months prior to the public release of Draft, Recommended and Final Recommended Plans
 - 13.6.4 regional management direction, including specific recommendations for various land use sectors;
 - 13.6.5 as determined/recommended by the Parties, consideration and/or integration of the Tsé Tagé (Beaver River) Land Use Plan; and

- 13.6.6 mechanisms and triggers for plan variance, amendments, and reviews.
- 13.7 The Plan may also include recommendations for: the identification of priority areas for sub-regional and local area development plans; implementation; periodic review of the approved Plan; procedures to amend the approved Plan; addressing non-conforming uses and variance from the approved Plan in accordance with 12.17.0 of the Final Agreements; and monitoring compliance with the Plan as approved.
- 13.8 In addition to the planning products outlined above, the Commission, with the assistance of the Council, will produce and submit administrative documents to the Parties, including draft workplans and draft budgets, activity reports, and year-end reports as detailed in its funding agreement. They may also participate in hiring processes, if needed.

Post-Plan Approval Stage:

- 13.9 Once the Parties have approved the Plan, the Commission will monitor compliance and conformity with the approved Plan, in accordance with sections 11.2.1.3, 12.17.1, and 12.17.3 of the Final Agreement.

14. Traditional Knowledge, Data, Background, and Research Information

- 14.1 The Commission will use the best available information for the production of the plans.
- 14.2 The Commission will ensure information regarding NND's traditional land use and management practices is gathered and informs the development of the Plan. Such information gathering should involve direct engagement with NND's knowledge keepers to understand the past, and present, ways NND exercised and will exercise in foreseeable future their Aboriginal and Treaty rights throughout the Traditional Territory
- 14.3 NND will facilitate convening of Elders and Youth circles at least twice prior to the Draft Plan, and once each prior to the Recommended and (if needed) Final Recommended Plans.
- 14.4 The Parties will provide all available information, data and analyses that they jointly deem relevant or feasible to the Commission at the request of the Commission, except information considered confidential. In accordance with annual workplans and budgets, the Commission may also undertake its own studies, data collection, and analysis where information gaps are identified.
- 14.5 Information requests from the Commission to the Parties will be made through the Technical Working Group. Parties will make their best effort to provide

information to the Commission in a timely manner. The Parties recognize that delays in providing information to the Commission will result in delays in the Commission's workplan.

- 14.6 Data and other information may be housed by the Commission, Council, or another entity, to help ensure consistent information management. The Commission will develop information governance protocols that comply with OCAP®.

15. Plan Approval and Implementation

- 15.1 The approval parties for the Plan are YG and NND. The process for approving the Recommended Plan is provided in section 11.6.0 of the Final Agreement.
- 15.2 Once the Parties have approved the Plan, the Commission will monitor compliance and conformity with the approved Plan, in accordance with sections 11.2.1.3, 12.17.1, and 12.17.3 of the Final Agreement.

16. Amending and Monitoring the Terms of Reference

The TOR may be amended by agreement in writing between YLUPC, YG and NND. The Commission may propose to the Parties amendments the Commission deems conducive to the better definition of its responsibilities, duties, and functions. The Parties, as well as the Commission and the Council, will monitor compliance with the TOR.

Signature Page

Parties

Signed at _____, Yukon this _____ day of _____.

First Nation of Na-Cho Nyäk Dun

Chief Dawna Hope

Signed at _____, Yukon this _____ day of _____.

Government of Yukon

Ranj Pillai,
Premier of Yukon

Commission Members

In signing this Terms of Reference, Commission members acknowledge that they have read, understood, and agreed to the terms of the Na-Cho Nyäk Dun Regional Land Use Planning Process, and their associated roles, relationships, and responsibilities.

Na-Cho Nyäk Dun Regional Land Use Planning Commission:

NNDRLUPC Member

NNDRLUPC Member

NNDRLUPC Member

NNDRLUPC Member

NNDRLUPC Member

NNDRLUPC Member

Yukon Land Use Planning Council

YLUPC Chair

YLUPC Member

YLUPC Member

Appendix A

Mandate of the Yukon Land Use Planning Council

A.1 Mandate

- A.1.1 The mandate of the Yukon Land Use Planning Council (the “Council”) is to make recommendations to Government and each affected Yukon First Nation regarding:
- A.1.1.1 land use planning, including policies, goals and priorities;
 - A.1.1.2 identification of planning regions and priorities for regional land use plans;
 - A.1.1.3 the general terms of reference for each Regional Land Use Planning Commission;
 - A.1.1.4 the boundary of each planning region; and
 - A.1.1.5 such other matters as Government and the affected Yukon First Nation agree.
- A.1.2 The Council reviews and recommends the workplan and budgets of regional planning commissions to Yukon.

A.2 Composition

- A.2.1 The Council is made up of three people, one nominated by the Council of Yukon First Nations, one nominated by Yukon, and one nominated by Canada.

A.3 Operating Procedures

- A.3.1 The Council operates under the policies defined in Yukon Land Use Planning Council Policy and Procedures.

A.4 Assistance to be provided to the Commission

- A.4.1 The Council will provide the following assistance to the Commission:
- A.4.1.1 orientation and ongoing training;
 - A.4.1.2 a template for the Commission’s policies and procedures;
 - A.4.1.3 the human resources services and financial administration services. This will be identified in a Memorandum of Understanding between the Commission and the Council; and

- A.4.1.4 will participate on the Technical Working Group and Senior Liaison Committee (when asked to do so).
- A.4.2 The Council will review and recommend the annual workplan/budget for the Commission.
- A.4.3 The Council will enter into a financial agreement with the Commission and the Parties for the Commission's funding.

Appendix B

Terms of Reference: Technical Working Group

B.1 Mandate

- B.1.1 The mandate of the Technical Working Group (“TWG”) is to provide coordinated technical information and support to the Commission. This includes:
- B.1.1.1 acting as the primary point of contact between the Commission and Parties on technical matters related to the preparation of the Plan;
 - B.1.1.2 providing technical input and advice to the Commission regarding relevant YG issues, policies, programs, and initiatives for consideration in the preparation of the Plan;
 - B.1.1.3 providing technical input and advice to the Commission regarding relevant NND rights, interests, ways of living, issues, policies, programs, and initiatives for consideration in the preparation of the Plan;
 - B.1.1.4 providing technical input and advice to the Commission regarding cumulative effects of prior, ongoing, and foreseeable development on the Planning Region, particularly as it affects the exercise of NND rights and ways of living thereupon;
 - B.1.1.5 providing technical input and advice to the Commission regarding the existing and foreseeable effects of climate change on the Planning Region, particularly as it affects the exercise of NND rights and ways of living thereupon;
 - B.1.1.6 coordinating delivery of information to and from the Parties;
 - B.1.1.7 making determinations on the ability for the Parties to respond to information requests from the Commission; and
 - B.1.1.8 seeking direction from the Senior Liaison Committee on key policy items.
 - B.1.1.9 providing input and advice to the Commission regarding cumulative effects of prior, ongoing, and foreseeable development on the Planning Region, particularly as it affects the exercise of NND rights and ways of living;
 - B.1.1.10 providing input and advice to the Commission regarding the existing and foreseeable effects of climate change on the Planning Region, particularly as it affects the exercise of NND rights and ways of living;
- B.1.2 In the event that anything in this Terms of Reference conflicts with the Final Agreement, the Final Agreement will prevail.

B.2 Composition

- B.2.1 The TWG will be comprised of the Senior Planner for the Commission, one representative from the Council, one representative from Department of Energy, Mines and Resources, one representative from Department of Environment, and two representatives from NND. Other supporting staff or representatives from the Parties or federal representatives with interests and mandates in the Planning Region may also be invited to participate, *ex officio*.

B.3 Operating Procedures:

- B.3.1 The TWG will be chaired by the Senior Planner for the Commission, or in the absence of the Senior Planner, one of the other participants;
- B.3.2 Meetings will occur at the request of the Parties or the Commission;
- B.3.3 The TWG will make the best efforts to operate on the basis of consensus;
- B.3.4 The TWG will attend all Commission meetings as a resource and to facilitate communication between the Commission and the Parties;
- B.3.5 The secretariat services for the TWG will rotate among the members;
- B.3.6 Each member organization will be responsible for covering its own costs for participating on the TWG;
- B.3.7 TWG members will represent the technical and policy interests of their respective governments;
- B.3.8 Members will keep their respective governments informed of the key issues and items discussed during TWG business; and
- B.3.9 The TWG will remain in effect until the Parties agree otherwise.

B.4 Amendment

- B.4.1 The Parties may amend Appendix B containing the TWG Terms of Reference by agreement in writing.

Appendix C

Terms of Reference: Senior Liaison Committee

C.1 Mandate

- C.1.1 The mandate of the SLC is to provide coordinated, senior level, governmental input, advice, and support to the Commission as may be required to address issues in the preparation of the Plan. This includes:
- C.1.1.1 acting as the primary conduit between the Commission and Parties on political matters related to the preparation of the Plan;
 - C.1.1.2 providing input and advice to the Commission regarding interim protection and measures the Parties can consider adopting to uphold the integrity and efficacy of the Planning Process;
 - C.1.1.3 providing input and advice to the Commission regarding relevant rights, interests, ways of living, issues, policies, programs, and initiatives for consideration in the preparation of the Plan;
 - C.1.1.4 responding to any questions the Commission may have on policy matters;
 - C.1.1.5 providing overarching policy advice;
 - C.1.1.6 developing joint public communications regarding the Planning Process and Plan with input from TWG; and
 - C.1.1.7 assisting the Commission to meet its obligations and timelines under its TOR and funding agreements.
- C.1.2 The SLC will make best efforts to operate on a consensus basis regarding the advice it provides to the Commission.
- C.1.3 In the event that anything in this Terms of Reference conflicts with the Final Agreement, the Final Agreement will prevail.

C.2 Composition

- C.2.1 The SLC will be comprised of one senior representative of Yukon Energy, Mines and Resources, one senior representative of Yukon Environment, and two senior representatives of NND. SLC members will be formally designated by each Party. The Chair and Senior Planner of the Commission will be invited to participate in SLC meetings, *ex officio*. Federal representatives with interest and mandates in

the Planning Region may also be invited to participate, as may representatives of the Council, affected First Nations, the Commission, and the TWG.

C.3 Operating Procedures

- C.3.1 The SLC will meet monthly or as required, to receive updates on planning progress, provide input and advice and work towards Parties' consensus on planning issues, including but not limited to:
 - C.3.1.1 development of the Commission's budget/workplan;
 - C.3.1.2 Planning Region issues and interests;
 - C.3.1.3 interim protection and other interim measures for the Planning Region;
 - C.3.1.4 resource assessments and reports;
 - C.3.1.5 planning products;
 - C.3.1.6 responses to the Recommended Plan; and
 - C.3.1.7 responses to the Final Recommended Plan (if necessary).
- C.3.2 Each Party or invited participant will be responsible for covering its own costs for participating on the SLC.
- C.3.3 YG will provide secretariat services for the SLC.
- C.3.4 Meetings will be chaired by each member on a rotating basis.
- C.3.5 SLC members will represent the broad interests of their respective governments and will be responsible for keeping their governments informed of the key issues encountered during the Planning Process.

C.4 Amendment

- C.4.1 The Parties may amend Appendix C containing the SLC Terms of Reference by agreement in writing.

Appendix D

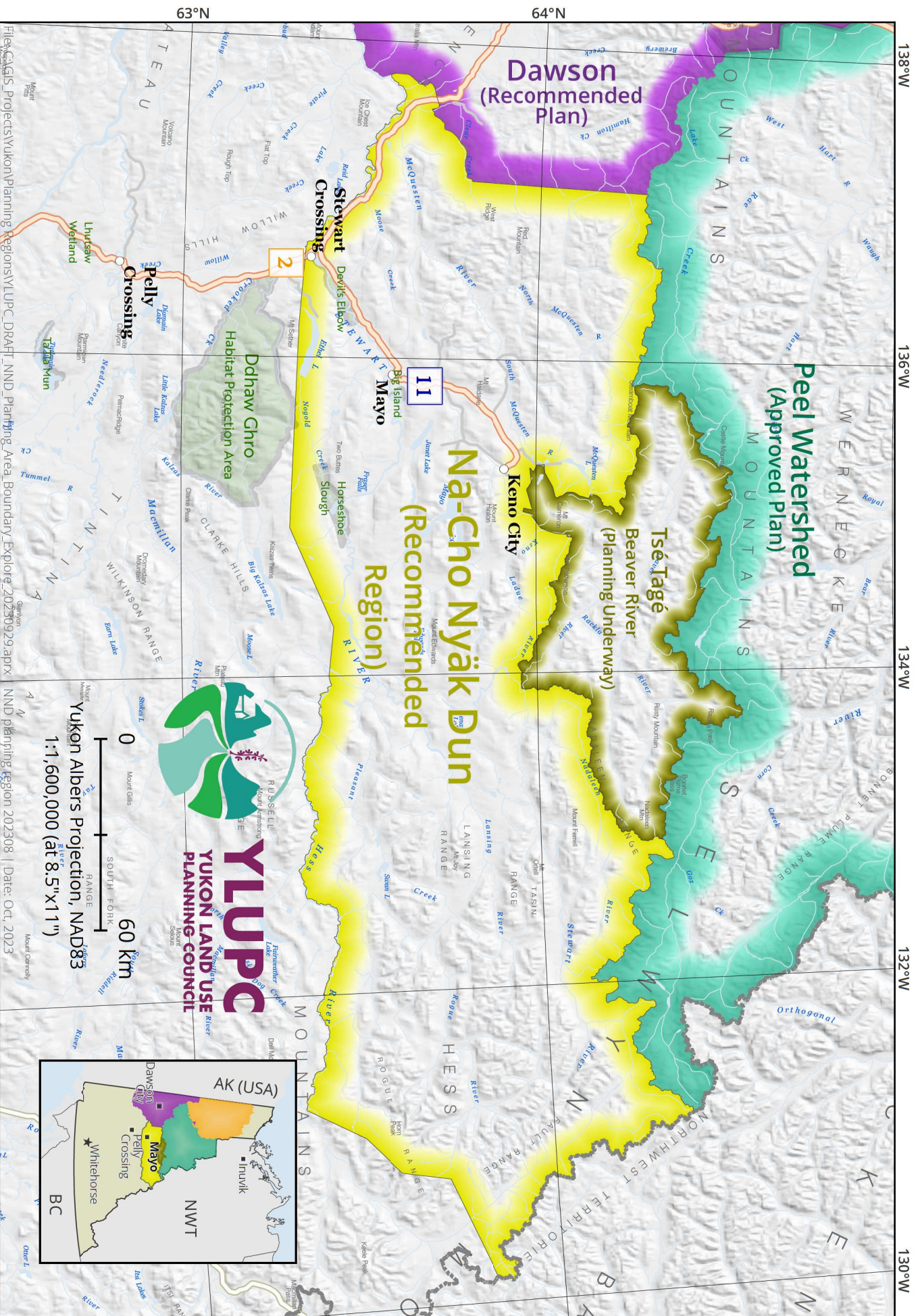
Protocols for the Commission's Decision Making

- D.1.1 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.
- D.1.2 Within a consensus-based decision-making environment, Commission members have the responsibility to:
 - D.1.2.1 be committed to relying upon the agreed upon consensus process to construct the decision;
 - D.1.2.2 ensure that all members are adequately informed and knowledgeable of the issues and rights surrounding the decision;
 - D.1.2.3 ensure all members' interests, values, and concerns are openly articulated and understood; and
 - D.1.2.4 ensure all members' interests, values, and concerns are addressed and reflected in the decision;
- D.1.3 In order to create and maintain a consensus-based decision-making environment, the following techniques should be used:
 - D.1.3.1 All members need to invite, welcome, and respect the interests, values, and concerns of each Commission member;
 - D.1.3.2 The Commission must ensure, through flexible arrangements and other measures, that all members participate in all phases of constructing the decision.
- D.1.4 Examples of consensus-based techniques include:
 - D.1.4.1 exploring many options and solutions;
 - D.1.4.2 determining the underlying issues, rights, and interests;
 - D.1.4.3 providing new or additional information to illuminate interests, values, or concerns;
 - D.1.4.4 separating personal conflict from decision-making;
 - D.1.4.5 assessing level of agreement among members;
 - D.1.4.6 avoiding taking hard and fast positions;
 - D.1.4.7 deciding when to postpone a decision for future discussion;
 - D.1.4.8 deferring making a decision until interests, values, and concerns are addressed;

- D.1.4.9 re-configuring the issue or question;
 - D.1.4.10 seeking alternative solutions to a problem;
 - D.1.4.11 making incremental decisions rather than addressing large questions all at once; and
 - D.1.4.12 inviting and encouraging independent advisors, mediators, and experts to facilitate understanding or to assist in the construction of a decision.
- D.1.5 For clarity, the following should be noted:
- D.1.5.1 Decisions made when all members are not informed and educated on a matter is not consensus;
 - D.1.5.2 Decisions made by individuals or by less than quorum is not consensus;
 - D.1.5.3 Decisions made by a simple vote without seeking and exhausting more acceptable alternatives is not consensus; and
 - D.1.5.4 Decisions made by voting is a fundamentally different decision-making process than making decisions by consensus. Voting is not consistent with a consensus-based decision-making process.
- D.1.6 When internal efforts have not provided for a decision to be made by consensus, the Commission should invite, and welcome, other resources to enable a consensus to be reached. These other resources may include:
- D.1.6.1 employing a facilitator from outside the Commission;
 - D.1.6.2 seeking guidance about an issue through public consultation; and
 - D.1.6.3 seeking guidance from the Parties, Council, or a knowledge holder(s).
- D.1.7 The Commission will accord substantial weight to consensus positions of the Parties.
- D.1.8 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 with written reasons, and that a vote occurred. Minutes should also record where conditions or limitations have been placed on an action or decision

Appendix E: Map of the Na-Cho Nyäk Dun Planning Region

Fall 2023



Appendix F: Work Plan

