

# YESAA Forum

## Terms of Reference

*Updated as of September 11, 2019*

### **1. Context**

- 1.1 The Yukon First Nation Final Agreements required the completion of a comprehensive review of the development assessment process within five years of the enactment of the *Yukon Environmental and Socio-economic Assessment Act* (the “YESAA”). This was completed through the YESAA Five-year Review, which established a body called the YESAA Forum (the “Forum”) to implement recommendations flowing from that review. An initial Forum event was held in April 2012 and events continued bi-annually over the next several years.
- 1.2 Although the Forum has been inactive since March 2016, the outcomes of the YESAA Reset MOU and the establishment of the YESAA Oversight Group (the “Oversight Group”) have encouraged a revitalization of the Forum as a key priority moving forward. The Forum will remain a place to facilitate the cooperative improvement of the YESAA process for all Yukoners, consistent with the objectives of Chapter 12 of the Yukon First Nation Final Agreements and the YESAA.

### **2. Purpose of the Forum**

- 2.1 The purpose of the Forum is to create a community of practice for YESAA practitioners to engage in discussion, analysis and training, and to develop recommendations to address a range of YESAA-related topics. This may include topics from the YESAA Five-year Review, further exploration of previous Forum event topics, and priority areas identified by the Oversight Group, such as:
- a. Cumulative Effects
  - b. Traditional Knowledge
  - c. Training
  - d. Consultation and Engagement
  - e. Mitigative Measures
  - f. Proving Economic Potential and Benefits
  - g. Improving Communications of Pre-Submission Requirements
  - h. Other Priority Areas Identified by the Oversight Group
- 2.2 The Forum will work to formulate a range of outcomes on these topics, which may include:
- a. Providing recommendations to the Oversight Group for the purpose of improving the YESAA process;
  - b. Undertaking strategic analysis of issues;
  - c. Continued monitoring and discussion to ensure issues are effectively addressed;

- d. Continued learning about environmental and socio-economic effects assessment, as well as creating and providing YESAA specific training;
  - e. Discussing strategic or policy issues.
- 2.3 Forum events, which may include meetings, workshops and/or training, will support the Forum in achieving its purpose and goals. Forum events are not intended to provide for debate on specific projects that are undergoing or have completed their YESAA assessments.

### **3. Goals**

- 3.1 Provide recommendations to the Oversight Group to support the ongoing improvement of the YESAA process.
- 3.2 A strong development assessment knowledge base amongst Forum Members.
- 3.3 A clear understanding of roles and responsibilities throughout the YESAA process.
- 3.4 Effective communication and cooperation between Forum Members.

### **4. Membership**

- 4.1 Membership to participate in the Forum is open to representatives of any of the following organizations:
  - Government of Canada
  - Yukon First Nation Governments
  - First Nations based in or outside of Yukon and have asserted rights in Yukon, with or without Settled Land Claims
  - Government of Yukon
  - Council of Yukon First Nations (CYFN)
  - Yukon Environmental and Socio-economic Assessment Board (YESAB)
- 4.2 Associate Member status is open to representatives of a non-governmental or industry organization with interest in the YESAA process, as agreed to by the Steering Committee. Best efforts will be made to include representatives of organizations as Associate Members that may have an interest or expertise related to specific Forum topics.
- 4.3 Guests, experts, presenters or others may be invited from time to time as agreed to by the Steering Committee, with input from Forum Members.

### **5. Steering Committee**

- 5.1 The Steering Committee will consist of – at minimum – one representative each from Canada, Yukon, Yukon First Nation Governments, CYFN and YESAB. It will consist of a maximum of eight representatives in total.
- 5.2 The Steering Committee will appoint a Chair on an annual basis to coordinate and manage Steering Committee meetings and responsibilities.
- 5.3 A Steering Committee Member will commit to a two-year term, subject to changes in employment.

- 5.4 Representation on the Steering Committee will be determined by the individual members' organization.
- 5.5 Representatives need to have the authority to represent the priorities of their organization(s).

## **6. Structure**

- 6.1 **The Oversight Group** will provide guidance and direction to the Steering Committee, receive recommendations from the Steering Committee, and provide direction and recommendation back to their respective governments, as per the Oversight Group Terms of Reference.
- 6.2 **The Steering Committee** translates the Oversight Group's priorities into actionable meetings and plans for Forum events. The Steering Committee will in turn provide feedback, results and recommendations to the Oversight Group. The Steering Committee will provide corporate policy and strategic direction on issues discussed at Forum events.
- 6.3 **Forum Members** (being the large body of members who attend Forum events) participate in solutions-driven discussions and help construct the recommendations that will inform the Steering Committee on reporting back to the Oversight Group.

## **7. Roles and Responsibilities**

### **7.1 Oversight Group:**

- The Oversight Group will provide guidance and direction to the Forum through the Steering Committee and any technical working groups it establishes in accordance with the Oversight Group Terms of Reference.
- In providing direction to the Forum, the Oversight Group will not delegate, transfer or otherwise affect any legal power, duty discretion or responsibility of any party.

### **7.2 Steering Committee:**

- The Steering Committee will make best efforts to meet a minimum of two times per year, with additional meetings as needed and agreed to by Steering Committee Members.
- Maintain a record of Steering Committee meeting notes, outcomes, action items and other related documents and distribute to all Steering Committee Members as appropriate.
- Maintain an updated Forum Member list and contact information.
- Periodically review the Forum Terms of Reference and recommend any required changes to the Oversight Group.
- Implement the Oversight Group's guidance and direction for the Forum, including the development and monitoring of work plans to guide agendas, activities and topics for discussion at Forum events.

- Effectively monitor and support implementation of action items and outcomes agreed to by the Forum at Forum events, including support to Forum Members to ensure action items and outcomes are clear and there is sufficient capacity to undertake these items.
- Contact Forum Members 6-8 weeks prior to each Forum event, with the draft agenda, seeking to identify additional items for discussion. Produce a final agenda and distribute one month prior to each Forum event.
- Confirm host, location and timing for each Forum event.
- Be responsible for their respective costs to participate on the Steering Committee.

### **7.3 Forum Members:**

- Make every effort to provide consistency in representation and provide for smooth member transition as required.
- Provide input in a timely manner.
- Be respectful of the goals and actively work towards achieving these goals.
- Participate in the analysis and strategic discussions intended to provide options for resolving issues related to the YESAA process.
- Provide information and issues (agenda items) for Forum events and contribute to resolution of issues.
- Review Forum event notes and follow up on action items.
- Promote and communicate the implementation of process improvements within and between their organizations.
- Be responsible for their respective costs to participate in the Forum and Forum events.
- Participate in Forum events in person or by conference call, or by other means as technology allows.
- Strive to achieve consensus on recommendations whenever possible, but recognize that consensus may not be possible in all cases, in which case the differing options will be part of the Forum event outcomes.
- Present Forum event outcomes and options to their organizations.
- Report back to the Forum, any response, comments, and/or actions taken as a result of a Forum event outcome.

### **7.4 Forum Event Host:**

- Best efforts will be made to alternate hosting responsibilities for Forum events between Forum Members.
- Coordinate logistics for the Forum event with the Steering Committee, including: securing a facility, identifying a facilitator with input from the Steering Committee, arranging for note taking, and ensuring the necessary facilities and equipment are available based on needs for the specific event.

- Hospitality for the Forum event will be provided at the discretion of the Host. The agenda will indicate the level of hospitality to be provided.
- Provide Forum event notes to the Steering Committee in a timely manner.

#### **7.5 Forum Event Facilitator:**

- Each Forum event will have a Facilitator.
- Be familiar with the Forum event agenda and plan.
- Discuss the focus for the Forum event with the Steering Committee and the Forum event Host.
- Keep the discussion on task, while ensuring that all viewpoints are taken into consideration.
- Confirm decisions made and actions committed to during the Forum event.
- Make best efforts to provide opportunities for all attendees to participate.

#### **7.6 Forum Event Costs:**

- The responsibility for the costs of each Forum event will be discussed and agreed to by the Oversight Group.

### **8. Operational Guidelines**

#### **8.1 Forum Event Frequency/Location:**

- Best efforts will be made to hold a Forum event a minimum of two times per year, with additional dates to be scheduled as needed and agreed to by Forum Members.
- Best efforts will be made to hold one Forum event per year in a community outside of Whitehorse, bearing in mind the costs to Forum Members.

#### **8.2 Forum Event Reporting:**

A status/progress report will be written by the Steering Committee in consultation with the Forum event Host and, if applicable, the facilitator, following each Forum event. The report will be delivered to the Oversight Group to describe the outcomes of each Forum event and will be shared with Forum Members as appropriate. The report should contain the following:

- A summary of the Forum event;
- A record of the issues addressed and the positions put forward by Forum Members, which may include recommendations to improve the YESAA;
- A record of action items or decisions resulting from the Forum event;
- A summary of implementation activities and options where appropriate; and
- Recommendations for improving the effectiveness of the Forum based on Forum Member evaluations.