

PROVINCE OF
MANITOBA

SIGNATORY
FIRST NATIONS

BROAD AREA PLANNING INITIATIVE
MEMORANDUM OF UNDERSTANDING

BETWEEN

THE SIGNATORY FIRST NATIONS LOCATED
WITHIN THE EAST SIDE PLANNING AREA
OF THE FIRST PART

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF MANITOBA AS REPRESENTED BY
THE MINISTER OF CONSERVATION

(Hereinafter Referred to as "The Province")

OF THE SECOND PART

WHEREAS, the parties agree to work together on a Protocol that parties will follow throughout the East Side Planning process and the implementation of recommendations arising out of the final report due in June, 2004. The protocol will serve as a foundation for First Nations communities within the east side to be involved in decisions that will affect their communities and traditional territories;

WHEREAS, in July 2000, the Province announced its acceptance of the *Consultation on Sustainable Development Implementation (COSDI)* Report which recommended, among other things, that the implementation of sustainable development include the creation of broad area plans in the province;

WHEREAS, on August 9, 2000 the Province announced that the government would initiate broad area planning on the east side of Lake Winnipeg as a pilot for broad area planning for the province;

WHEREAS, it is the objective of east side planning process to bring together local communities, First Nations, industry and environmental organizations to develop a vision for land and resource use in the area that respects both the value of the boreal forest and the needs of the local communities;

WHEREAS, the Final Report of Phase 1 of the East Side Lake Winnipeg Broad Area Planning Initiative recommends that the east side plan recognize, affirm and be in compliance with treaty obligations and aboriginal rights and be consistent with the consultation/protocol guideline recommendations of the *COSDI REPORT* respecting First Nation and Aboriginal peoples;

WHEREAS, the East Side First Nations Council was established to facilitate First Nations participation in the planning process;

WHEREAS, the planning area is within Treaty 1, 3, 5 and First Nations traditional territories;

WHEREAS, the members of the Council have approved Terms of Reference to guide their participation;

WHEREAS, the Province desires the First Nations to participate in the planning process;

THEREFORE, the parties agree to work together in a spirit of mutual recognition, respect and reconciliation to achieve the objectives and goals of the East Side Broad Area Use Planning Initiative.

1. PRINCIPLES

The Parties commit to each other to abide by the following principles:

- 1.1. the relationship is on a government to government basis;
- 1.2. the First Nations peoples are the original inhabitants of the area;
- 1.3. the planning area is within Treaty 1, Treaty 3 and Treaty 5; therefore the Province is bound by the terms of those Treaties and principles of treaty interpretation as enunciated by the courts;

- 1.4. according to the Elders, the First Nations by signing the Treaties agreed to share benefits from the land and share power on the land;
- 1.5. in addition to their treaty rights, the First Nations peoples living within the planning area have aboriginal rights that are inherent in them as First Nations peoples and as the original inhabitants of the area;
- 1.6. the First Nations peoples living in the planning area have traditional territories;
- 1.7. treaty and aboriginal rights are protected in s. 35 of the Constitution Act, 1982;
- 1.8. the First Nations assert that the Province has fiduciary obligations to First Nations peoples within their sphere of jurisdiction according to the Canadian constitutional framework;
- 1.9. based on developing case law relating to s. 35 of the Constitution Act, 1982, Manitoba recognizes that it has a duty to consult in a meaningful way with the First Nations peoples. This process does not replace the government's obligation to meaningfully consult with First Nations on any future developments in the East Side Planning Area;
- 1.10. by participating in this process, First Nations do not consent to future developments arising out of the recommendations and that this participation is neither intended nor should it be used to fulfill any legal obligations of the Province now or in the future;
- 1.11. certain First Nations living in the planning area have traditional uses and other interests in land outside the planning area;
- 1.12. the First Nations have acknowledged the shared responsibility of looking after the land in their territory;
- 1.13. both parties acknowledge and recognize the role of elders as carriers of the teachings and traditions of the First Nations;
- 1.14. according to the elders, one cannot separate the people from the land and the land from the people.

2. OBJECTIVE

- 2.1. The parties agree to work together on a Protocol that the parties will follow throughout the East Side planning process and the implementation of recommendations arising out of the final report. The protocol will serve as a foundation for First Nations communities within the east side to be involved in decisions that will affect their communities and traditional territories.

3. PROCESS

The Parties agree that:

- 3.1. a working group comprised of representatives of the First Nations Council and the Province of Manitoba has been established to develop a draft memorandum of understanding;
- 3.2. the First Nations representatives will convene a meeting of the First Nations Council to discuss the draft memorandum of understanding. Then each First Nations Council member will take the draft memorandum of understanding to their respective Chief and Councillors;
- 3.3. the Province of Manitoba representatives will submit the draft memorandum of understanding to Ministers.

- 3.4. the working group will convene to finalize the memorandum of understanding;
- 3.5. the working group will submit recommendations to Cabinet and to each Chief and Councillors.
- 3.6. the Province of Manitoba and the First Nations will meet to sign the Memorandum of Understanding.

4. TERM

- 4.1. The Parties agree that the term of this memorandum of understanding commences upon the signing of the memorandum of understanding by both Parties and unless terminated sooner, ends when a protocol is developed and agreed upon.

5. TERMINATION

- 5.1. This memorandum of understanding may be terminated by either Party by giving written notice of ninety (90) calendar days before the effective date of termination.

6. AMENDMENT

- 6.1. This memorandum of understanding may be amended by written agreement of the Parties.

7. NOTICE

- 7.1. Any notice given pursuant to this memorandum of understanding shall be made in writing to:

The Province:
Minister, Manitoba Conservation

First Nations Council:
To each signatory of this agreement

Signed this _____ day of _____, 2004.

FOR THE FIRST NATIONS COMMUNITY:

Chiefs, Signatory First Nations

Witness

FOR THE PROVINCE:

Minister, Manitoba Conservation

Witness