

Eabametoong & Mishkeegogamang First Nations

Community Based Land Use Plan: Taashikaywin

2013 Terms of Reference

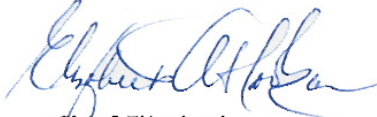
July 15, 2013

Eabametoong First Nation, Mshkeegogamang First Nation, and the Ministry of Natural Resources are pleased to sign the Terms of Reference for the Taashikaywin Community Based Land Use Plan. Approvals have been provided by:

- Eabametoong First Nation Band Council Resolution;
- Mshkeegogamang First Nation Band Council Resolution; and
- Ontario, by the Minister of Natural Resources administering the Far North Act.

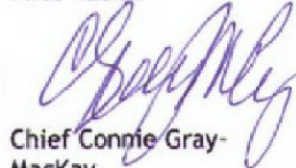
As we begin this planning process, Eabametoong First Nation, Mshkeegogamang First Nation and the Ministry of Natural Resources affirm our commitment to work together with mutual respect and in good faith.

On behalf of
Eabametoong
First Nation



Chief Elizabeth
Atlookan
Eabametoong First
Nation

On behalf of
Mishkeegogamang
First Nation



Chief Connie Gray-
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Mishkeegogamang
First Nation

On behalf of Ontario



Honourable
David Oraziotti
Minister of Natural
Resources

Community Based Land Use Plan: Taashikaywin

2013 Terms of Reference

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Foreword:

Eabametoong First Nation and Mishkeegogamang First Nation have prepared this Terms of Reference to guide the preparation of a Community Based Land Use Plan, a project jointly led by the First Nations working together with Ontario, as represented by the Ministry of Natural Resources (MNR) in the context of Ontario's Far North Land Use Planning Initiative. The First Nations have given the name Taa Shi Kay Win ('Taashikaywin') to the project, which translates to "our places on the Earth and in nature's realm", and/or "our environment" to this planning initiative.

This document is titled *Terms of Reference Taashikaywin 2013 ('Terms-2013')*. It is approved by the First Nations (via Band Council Resolution) and the Minister of Natural Resources under the *Far North Act*, effectively replacing a previously-approved Terms of Reference dated April 13, 2010. Commitments from the 2010-approved Terms are carried forward. The joint planning team has prepared *Terms-2013* and sought new approvals primarily to adopt and incorporate *Far North Act* provisions and requirements for planning that came into effect in 2011 and to revise the guidance for designation of a planning area. In addition, edits have been made where needed to ensure all contents are up to date.

The *Far North Act* is a key component of Ontario's Far North Land Use Planning Initiative as it provides a legal foundation for community based land use planning in the Far North that:

- sets out a joint planning process between the First Nations and Ontario;
- supports the environmental, social, and economic objectives for land use planning for the peoples of Ontario; and
- is done in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the *Constitution Act*, 1982, including the duty to consult.

Taashikaywin will be guided by the First Nations and by the emerging policies and processes established with the Far North Land Use Planning Initiative. Taashikaywin provides a framework for integrating economic, social and environmental values, and

will address all land use subjects within the communities' planning area. The resulting Community Based Land Use Plan ("The Plan") will be agreed to by the First Nations and Ontario. Nothing in this Community Based Land Use Plan shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal or treaty rights of the aboriginal people of Canada as recognized and affirmed in section 35 of the Constitution Act, 1982."



Figure 1: Taashikaywin Reference Map

The communities of Mishkeegogamang and Eabametoong First Nations are located in Northwestern Ontario as shown on the reference map, Figure 1

The planning partners of Mishkeegogamang, Eabametoong, and the MNR agree to work in good faith to provide a Community Based Land Use Plan following these Terms of Reference.

was 663 people. A nursing station, a community centre, and the Missabay Community School are components of the First Nation's infrastructure. Access to Mishkeegogamang is obtained from Highway 599, or the airport in Pickle Lake. Electricity is obtained from the provincial grid. Mishkeegogamang was the location of the initial signing of Treaty Nine in 1905.

The Eabametoong First Nation inhabits Fort Hope Reserve 64, which is located 362 kilometres north of Thunder Bay on Eabamet Lake, a portion of the Albany River. In March 2007, the on-reserve population was 1,178 people, while the off-reserve population was 1,006 people. Access to the First Nation is obtained year round by aircraft and seasonally using winter roads. A library, a community centre, a nursing station, and the John C. Yesno Education Centre are components of the First Nation's infrastructure. Electricity is obtained from the diesel generators. Treaty Nine was signed at Eabametoong in 1905.

Eabametoong First Nation and Mishkeegogamang First Nation are members of the Nishnawbe Aski Nation. Eabametoong First Nation and Mishkeegogamang First Nation are members of the Matawa First Nation Tribal Council and the Independent First Nations Alliance, respectively.

Pickle Lake, an incorporated municipality with 425 residents according to the 2011 Census, is located entirely within the planning area. Pickle Lake is serviced by an airport and offers some services to the Mishkeegogamang First Nation. As well, Pickle Lake is an important winter road and air transportation centre for several First Nations located to the north.

A dialogue with Pickle Lake Mayor and council has been established to support the exchange of information and provide opportunities for involvement in the planning process. The Municipality of Pickle Lake has an Official Plan. Direction for Crown lands adjacent to the municipality will seek to complement the direction for Crown lands within the municipality.

While community based land use planning will focus on the traditional territories of Eabametoong First Nation and Mishkeegogamang First Nation, additional consideration will be given for landscape/eco-region planning and provincial context planning.

- Input from a provincial perspective will provide the communities with views on the broader economic, social and environmental implications of recommendations arising from the land use plan. As previously noted, the *Far North Act* provides objectives for planning. Additionally, the province will provide input and advice about local and broad-scale matters such as conservation of ecological features and functions, species at risk, networking of protected areas, strategies for maintaining carbon storage and sequestration functions, transmission and road corridors, and areas of high resource and economic development opportunities.
- The planning area lies within Eco-Region 3S and Eco-District 3S-4, and Ecoregion 2W and Ecodistrict 2W-3 following the Ontario's Ecological Land Classification system. The eco-regions are defined by distinct geological and geographical features and themes, with each eco-region having a particular combination of climate, topography, land forms and soil.

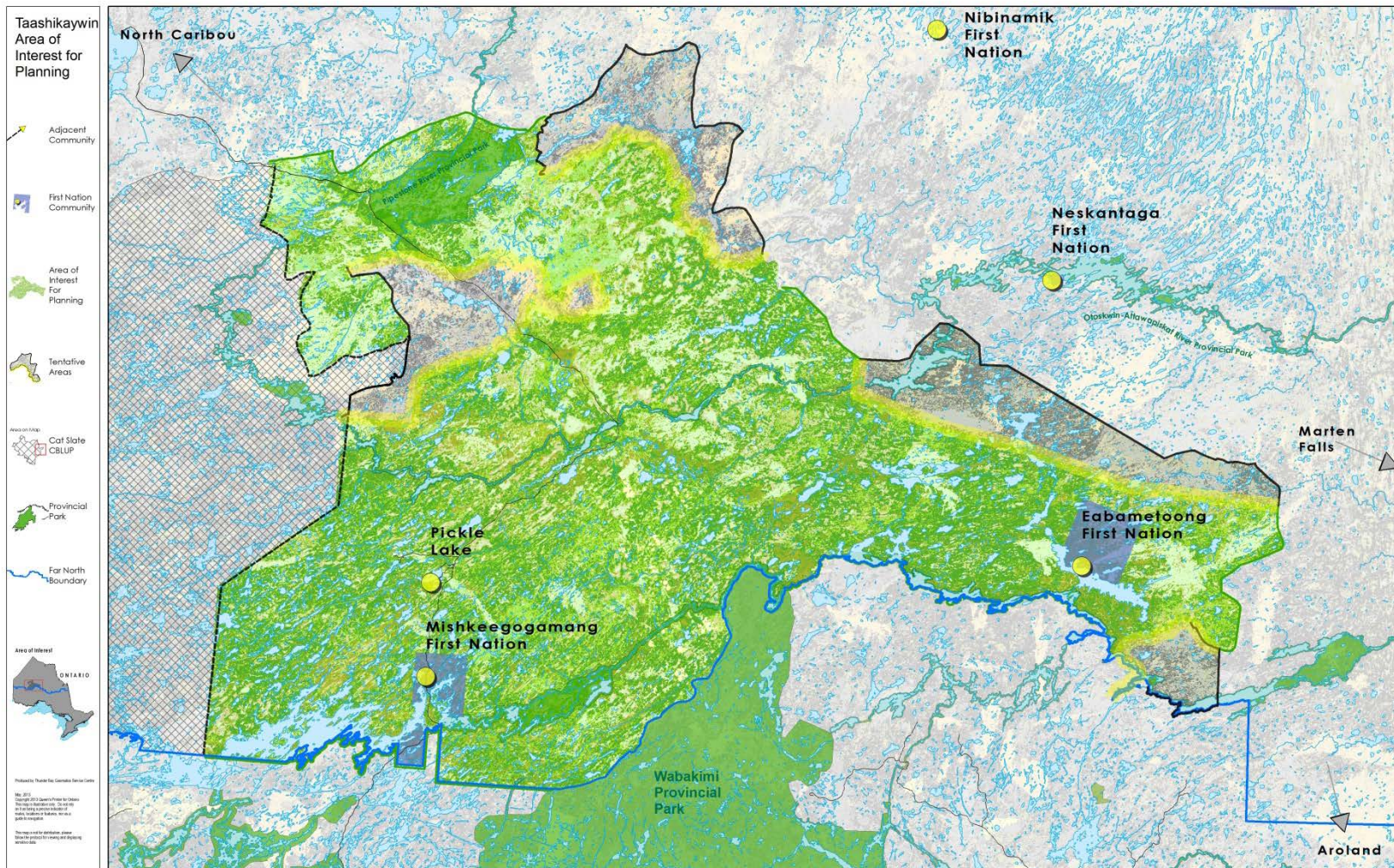


Figure 2: Taashikaywin Area of Interest for Planning

4.0 Desired outcomes for the Taa Shi Kay Win Land Use Plan

The Taa Shi Kay Win land use plan will provide goals, objectives, principles and direction that address the following land use subjects and outcomes:

- **Traditional and Customary Use:** Traditional and customary use information will be provided via both cultural inventory and input from the First Nations planning team members. Expected outcomes are:
 - Documentation of information and knowledge
 - Identification and protection of old grave sites and other sensitive traditional areas
 - Principles to guide land and resource use decisions.
- **Conservation and Protection:** The two First Nation communities have lived with and on this land area for uncounted generations and view themselves as the custodians of it. They will lead the process that describes the conservation and protection measures for the area, working together with Ontario. Conservation and protection measures will take into account the objectives for planning expressed in the *Far North Act* including for protection of areas of cultural value and the protection of ecological systems, the maintenance of biodiversity, ecological processes and functions, including protection of species at risk and their habitat and the storage and sequestration of carbon. The expected conservation and protection outcomes for *Taa Shi Kay Win* are:
 - Mapping of areas with high conservation/protection interest, including emphasis on areas of cultural importance and valued ecological systems
 - Strategic direction regarding the areas and manner in which they must be conserved and/or protected
 - Identification of areas and provision of management strategies for conservation and/or protection of their traditional and sustaining land base
 - Identification of one or more protected areas (e.g., Dedicated Protected Areas, Parks or Conservation Reserves) based upon Aboriginal traditional knowledge, design principles, landform/vegetation complex representation, and additional analysis or tools provided by broad scale policy direction
 - Recognition of existing protected areas (e.g., Albany River Park) and review within the planning process to determine potential recommendations concerning permitted uses and existing boundaries
 - Recognition and respect for traditional uses protected by Aboriginal and treaty rights
 - Provisions that will contribute to protection of Species at Risk, including woodland caribou, wolverine and lake sturgeon e.g. critical habitat protection.

- Forest Management (commercial forestry):
 - Provision of Forest Resource Inventory to support planning decisions and future resource management planning
 - Direction for areas desired and suitable for forest management
 - Strategic level direction guiding the manner in which forestry is to proceed (with details to be determined through *Environmental Assessment Act* coverage and forest management planning).

- Forest Management (non-timber forest products):
 - Provision of Forest Resource Inventory to support planning decisions and future resource management planning
 - Direction for areas desired and suitable for non-timber forest management
 - Strategic direction guiding the manner in which non-timber forest resource use is to proceed.

- Tourism (and Eco-tourism):
 - Mapping of existing tourism operations
 - Information on potential tourism opportunities
 - Strategic direction guiding tourism as a land use
 - Direction regarding overlapping uses/interests and the protection of tourism interests.

- Geoscience and the Mineral Sector (exploration and mining)
 - Information relevant to mineral exploration and development (e.g., maps of bedrock geology / areas of significant mineral potential)
 - Identification of existing mining claims
 - Explanations of mineral exploration and development (the mining sequence) and the implications of Mining Act modernization for future activities
 - Options for possible future mineral sector activities
 - Information relevant to public health and safety; the current state of the environment; infrastructure needs; and economic opportunities (e.g., environmental base-line data, and maps of surficial geology / aggregate resources)
 - Guidance for land use areas providing a balance of areas with access to mining sector opportunities and protected areas requiring withdrawal of mining sector activities.

- Recreation:
 - Mapping of recreation potential and interests
 - Strategic direction regarding the manner in which recreation interests will proceed
 - Provision of land use areas supporting recreation activities.

- Water Conservation and Protection:
 - Mapping of waterways and current and projected waterway developments (including, but not limited to hydroelectric power developments)
 - Strategic direction regarding the manner in which water use interests will proceed
 - Direction regarding overlapping uses/interests and the conservation and protection of water and waterways.

- Renewable Energy:
 - Identification of potential and land use designations to support community and/or provincial interests in opportunities that may include hydroelectric power development (see water conservation and protection) and wind power.

- Access and Infrastructure:
 - Mapping of existing access and infrastructure (e.g. transmission corridors)
 - Recognition of overlapping, broader access and infrastructure initiatives
 - Strategic direction guiding access and infrastructure interests
 - Identification and safeguarding of the important relationships that exist between access and infrastructure and current and future land use.

- Climate Change:
 - Consideration of opportunities to contribute to the adaptation to and mitigation of climate change, including the identification of areas that are important sources of carbon storage.

- Fire Management:
 - An understanding of the relationship between the Ontario Fire Management Strategy and existing or proposed land use activities
 - Land use direction and priorities for fire management (consideration of amendment(s) to the Ontario Fire Management Strategy may be needed).

5.0 Process and Phases

A planning process has been designed to support the preparation of this land use plan, incorporating the principles of fairness, openness and respect. The planning partners of Mishkeegogamang First Nation, Eabametoong First Nation, and MNR will strive to reach consensus on recommendations, building from the information, input and opinion provided during consultation opportunities. The planning process will proceed with respect for Aboriginal and treaty rights.

In addition to preparing and organizing for planning, there are three formal planning phases. In all planning phases, community dialogue and meetings will take place as needed for communities to build consensus and determine readiness to move forward. As well, MNR will facilitate dialogue within the ministry and with other agencies as needed to build a provincial consensus to move forward in each phase. The planning phases are:

Phase 1: Winter 2009/Spring 2013

- Prepare and approve Terms of Reference
- Assemble background information
- Prepare vision and goal statements
- Invitation to participate for adjacent communities
- Invitation to participate, sharing Terms, notification of process and public consultation opportunities on Environmental Registry posting and mail-outs
- 1st open houses and dialogue opportunities.

Phase 2: Fall/Winter 2013/14

- Prepare objectives and opportunities analysis
- Continue dialogue with adjacent communities
- Confirm final planning area
- Prepare Draft Land Use Plan

- Notice of public consultation opportunities on Environmental Registry posting update and mail outs
- 2nd open houses and dialogue opportunities
- Recommend designation of confirmed planning area.

Phase 3: Spring/Summer 2014

- Prepare summary of input received on Draft Plan
- Prepare Final Land Use Plan
- Recommend Final Land Use Plan for approval by the councils of Eabametoong and Mishkeegogamang First Nations and the Minister of Natural Resources
- Decision notice provided on Environmental Registry including summary of response to public input.

The planning process is supported by a decision-making framework of planning teams, a timeline and step-wise process and a number of protocols regarding information and liaison with various interests or agencies. Consultation is an essential element of the planning process.

Planning Teams:

The framework for planning includes a primary planning team and a planning support group:

- **Primary Planning Team** – community representatives of Eabametoong First Nation and Mishkeegogamang First Nation. Membership is composed of:
 - Eabametoong First Nation – six members
 - Mishkeegogamang First Nation – six members
 - Project Management/Facilitation Consultant
 - MNR/Far North Planners – Sioux Lookout District, Nipigon District
 - MNR Far North Senior Planner – Northwest Region
- **Planning Support Group** (provides background and information support and services for the planning team). Membership is composed of:
 - Eabametoong First Nation, project representative
 - Mishkeegogamang First Nation, project representative
 - Project Management/Facilitation Consultant
 - MNR District representatives

- Sioux Lookout District, Area Supervisor
- Nipigon District, Area Supervisor
- Far North Planning Manager – Northwest Region
- MNDM Representatives –
 - Northwest Regional Land Use Geologist
 - Northwest Regional Manager
- MNR Natural Heritage Specialist, Northwest Region

Responsibilities:

Eabametoong First Nation and Mishkeegogamang First Nation have planning responsibilities that include the following:

- Leading planning dialogue
- Supporting opportunity for community engagement in planning and decisions
- Facilitating the understanding of, information on, and direction for traditional use, traditional Aboriginal knowledge and cross-cultural dialogue with agencies, stakeholders and the public.

MNR has planning responsibilities including:

- Facilitating discussion on lands and resources capabilities
- Discussing integrated resource management principles
- Facilitating consultation opportunities in the context of community based land use planning. Ontario respects and will address its requirements for consultation with First Nations.
- Addressing policy and legislation requirements associated with the *Far North Act*.

MNDM has planning responsibilities including:

- Providing information related to geoscience, including mineral potential, in the planning area
- Describing the mining sequence, and identifying areas of past and current mineral sector activity
- Giving advice on using this data to identify areas that may have social or environmental implications, or offer economic opportunities
- Assessing proposals for land use designations.

Authority:

The *Far North Act* identifies the requirements and authority for formal joint First Nation - Ontario approvals, including for:

- Terms of Reference; and
- Final Land Use Plan.

Joint approvals for each of the above are required by:

- Eabametoong First Nation Chief and Council;
- Mishkeegogamang First Nation Chief and Council; and
- Minister of Natural Resources.

Approval of the Final Plan will be by Minister's Order under the *Far North Act, 2010* and by First Nation Band Council Resolution from each First Nation.

Prior to seeking approval of the Final Plan, the planning team will request that the planning area be designated under the *Far North Act* via Minister's Order.

These terms of reference can be amended if required, in accordance with the *Far North Act*.

The Eabametoong First Nation and Mishkeegogamang First Nation relationship to the lands and resources will continue and will be reaffirmed through this process.

Once a land use plan is in place, activities on the landscape must be consistent with the plan's land use designations.

Following approval of the Community Based Land Use Plan, the planning partners will address community and provincial obligations required to implement direction and activities.

Dispute Resolution

The land use planning process has been structured to incorporate on-going dialogue and feedback throughout the process. This offers a means to resolve issues and disputes concerning planning matters.

The approach to deliberate and offer solutions to resolve issues identified by parties external to the planning team or to resolve disagreements within the planning team, will be a step-wise process including a review of the issue by:

- The respective Chiefs of Mishkeegogamang and Eabametoong First Nations; and
- The respective District Managers of Sioux Lookout and Nipigon Districts.

A party bringing forward a dispute or issue shall provide it in writing, with a recommended solution. The Chief of each community will meet with the MNR District Managers to review and develop responses. A response may be expected within 30 days following the review of the dispute or issue.

Consultation

Consultation will be addressed by engaging all interested people and organizations in a dialogue on land use planning through a variety of mechanisms that include: meetings, environmental registry postings, open houses and mail outs. Initial efforts to invite consultation with other local First Nation communities, resource users (tourist operators, anglers, hunters, forest industry, mineral exploration/mining industry), government, municipalities and the general public having an interest in the planning area will occur by giving direct written notice of the intent to prepare this strategic land use direction. People not included on the initial mailing list, but who wish to become involved in the planning process, will at their request have their names added to the mail out list.

A general Public Notice will be placed in the local newspapers including: Sioux Lookout Bulletin, Times Star Geraldton, Thunder Bay Chronicle-Journal and Wawatay Newspaper.

The land use plan will be a policy posting on the Environmental Bill of Rights (EBR) Environmental Registry, beginning with a proposal at the invitation to participate stage, updating at Draft Plan stage, and concluding with a decision upon approval of the Final Plan. Additionally, the Terms, Draft Plan and Final Plan will be posted on the Far North website.

After the mail outs are distributed, meetings will be held to provide information on each phase of the planning process and to solicit input into the land use plan. Comments and submissions will be collected and the requirements of the following pieces of legislation will be met: *Far North Act*, the *Environmental Bill of Rights*, and the *Freedom of Information and Protection of Privacy Act*. Advance notice of Open Houses will be mailed to all names on the mail out list. Documents that are produced through this planning exercise will be made available for public review and comment. A summary of comments will be available to the public at appropriate locations.

Open Houses will be held in both Eabametoong First Nation and Mishkeegogamang First Nation (including the Municipality of Pickle Lake) and Thunder Bay. These Open Houses will provide both local and regional access to the consultation opportunities.

Interim Measures

The *Far North Act* provides for orderly development in the Far North. Under the *Far North Act*, Community Based Land Use Plans must be completed before most major development begins, including commercial timber harvest or opening a new mine. The Act does allow certain types of development to proceed in advance of a plan, provided certain criteria are met. A development may also be allowed to proceed if it is determined to be predominantly for community use or if it contributes directly to meeting community needs of the First Nations and takes into account the objectives of the Act.

While the Community Based Land Use Plan initiative is underway, MNR, and Mishkeegogamang and Eabametoong First Nations would expect that joint planning team input would be invited to the consideration of development proposals and that decisions would be consistent with the provisions of the Far North Act.

Information Management:

The planning process will require consideration of all available information to help support and inform joint planning discussions while respecting and protecting Indigenous Knowledge. A joint protocol between the community and MNR will be established that will outline what information will be brought forward by each party and how it will be used in the community based land use planning process.

All information provided by community members to support community input to the planning process (i.e., Aboriginal Traditional Knowledge) will remain with the community unless the community deems it shareable with the Province of Ontario.

Ontario will provide and support the planning team with its best available information and data, to be used for the purpose of community based land use planning.

In addition, the joint planning team will identify appropriate information management strategies for the information used to support the development of the CBLUP.

MNR will work with the joint planning team to ensure compliance with requirements for information under the authority of the *Far North Act*, *Freedom of Information and Protection of Privacy Act* and the *Archives and Recordkeeping Act*. Notices required for public consultation purposes under the *Far North Act* and the Environmental Bill of Rights will be the primary responsibility of the MNR. The subjects and results of all consultation will be considered by the planning team and incorporated into the planning process.

The joint planning team will oversee communications and delegate as required, including developing and ensuring public notices are submitted as required, compile the appropriate mailing list, initiate mail out of planning phase information, provide notice of meetings, and any other information deemed appropriate.

All formal input and comments received during the planning process will be documented and available as an official planning record. Copies of all formal input and comments received during the process will be provided to the joint planning team.

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