

KWANLIN DÜN FIRST NATION

Lands Act

March 2020

For the Third Reading by the Council
on this 3rd day of March 2020

Kwanlin Dün First Nation

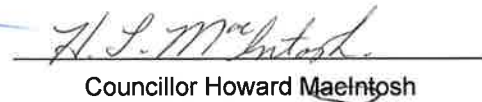
AN ACT TO REPEAL AND REPLACE THE LANDS AND RESOURCES ACT, 2014 is

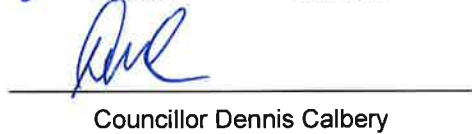
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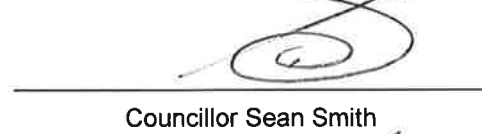
The Seal of the
Kwanlin Dün First Nation


Chief Doris-Bill


Councillor Jessie Dawson


Councillor Howard MacIntosh


Councillor Dennis Calbery


Councillor Sean Smith


Councillor Ray Sydney


Councillor Charles Chief

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The Council of the Kwanlin Dün First Nation hereby enacts as follows:

Preamble

A. The 2010 referendum authorized the Kwanlin Dun government to enact a Kwanlin Dün First Nations Lands Act to allow for the management of settlement land, including the use of interests in that land, and to provide for the proper care of settlement land for future generations. We acknowledge that this is our inherent right in governing our business as aboriginal people.

B. Together we are determined to maintain and preserve our relationship with the land, resources, and living things on the land in the Traditional Territory of the Kwanlin Dün First Nation, now and into the future. We are committed to managing the land in a respectful and sustainable way, allowing for the protection of Kwanlin Dun First Nation culture, traditions, values and way of life.

C. We will continue to respect the land and water, and all that is on the land and in the water.

D. While this law applies to all persons who use, access, possess or occupy settlement land, the Kwanlin Dün First Nation must implement and administer this Act in a manner that acknowledges and protects specific rights and interests of the beneficiaries as set out in the final agreement, while providing opportunities for our people to be out on the land to enjoy their traditional and cultural pursuits and finding our rightful place in the economy.

E. This Act is dedicated to all our Kwanlin Dün elders and all those individuals who worked tirelessly for our aboriginal rights and dedicated their lives to negotiating our final agreement and for their vision in the settlement land that we are working with today and will continue to enjoy and prosper from, for generations to come.

**PART 1
INTERPRETATION**

Definitions

1. In this Act

“allocation” means an interest granted as an allocation under Part 4;

“allocation holder” means a citizen or beneficiary that holds an allocation;

“applicant” in respect of an application for an interest or authorization under this Act, means the person who makes the application;

“authorization” means a licence, permit or other approval of a similar type that is issued under this Act but does not include an interest;

“beneficiary” means an individual enrolled under Chapter 3 of the final agreement;

“citizen” has the same meaning as in the Constitution;

“common-law partner” in relation to an individual means another individual who is cohabiting with the individual in a conjugal relationship having so cohabited for a period of at least one year;

“decision body” has the same meaning as in YESAA;

“decision document” has the same meaning as in YESAA;

“degrade”, in respect of settlement land, means to physically, aesthetically, or biologically damage, erode, alter or reduce in quality;

“department” means the Department of Heritage, Lands and Resources as established by section 132;

“designated waters” means the waters prescribed by regulation made under section 162;

“development” means an activity carried out on, over or under settlement land that changes the nature, purpose, or function of settlement land but does not include an activity that is a traditional activity;

“director” means the individual appointed under section 133 as the director;

“dispose”, of an interest in settlement land, means to grant in accordance with this Act;

“disposition”, of an interest in settlement land, means the granting of the interest in accordance with this Act;

“document” means a piece of written, printed, or electronic matter that provides information including but not limited to a book, journal, sound recording, video tape, film, photograph, chart, graph, map, plan, survey, model, report;

“easement” means an interest granted as an easement in accordance with Part 4;

“fee simple interest” means the following as referred to in Chapter 5 of the final agreement:

- (a) fee simple title; or
- (b) a right, obligation or liability equivalent to fee simple title;

“immediate family member” of an individual means the spouse, common-law partner, child, adopted child, stepchild, grandchild, parent, sibling or grandparent of the individual;

“inspector” means an individual appointed under section 140 as an inspector;

“instrument”, in respect of an interest, means the document setting out the interest that is granted and any terms or conditions to which the interest is subject;

“interest”, in respect of settlement land, means an interest in settlement land that is one of the following types:

- (a) fee simple,
- (b) allocation,
- (c) easement, or
- (d) lease;

“lands and resources register” means the lands and resources register established under section 110;

“land use plan” means a plan referred to in Schedule 2;

“lease” means an interest granted as a lease in accordance with Part 4;

“litter” includes any rubbish, refuse, garbage, paper, packaging, containers, bottles, cans, manure, human or animal excrement, sewage, the whole or part of an animal carcass, the whole or part of a vehicle or piece of machinery, construction material, or demolition waste that is abandoned or discarded and anything prescribed by regulation;

“minerals” has the same meaning as in Chapter 1 of the final agreement;

“mines” has the same meaning as in Chapter 1 of the final agreement;

“oil” has the same meaning as in Chapter 1 of the final agreement;

“parcel” means a portion of settlement land;

“personal information” means recorded information about an identifiable individual, including

- (a) the individual’s name, address, or telephone number,
- (b) the individual’s race, nationality or ethnic origin, colour, or religious or political beliefs or associations,
- (c) the individual’s age, sex, sexual orientation, marital status, or family status,
- (d) an identifying number, symbol, or other particular assigned to the individual,
- (e) the individual’s fingerprints, blood type, or inheritable characteristics,
- (f) information about the individual’s health care history, including a physical or mental disability,
- (g) information about the individual’s educational, financial, criminal, or employment history,
- (h) anyone else’s opinions about the individual, and
- (i) the individual’s personal views or opinions, except if they are about someone else;

“planned development parcel”, in respect of settlement land, means a parcel of settlement land for which monies have been expended to determine parcel boundaries, road access, provision of utilities or other similar types of costs related to the development of that parcel;

“possess”, in respect of an interest in settlement land, means to hold the interest;

“public purpose” means a public work, building or space of the Kwanlin Dün First Nation or another government;

“public work” means a construction project, including a building, roadway, dam, that is:

- (a) financed by Kwanlin Dün First Nation funds; and
- (b) constructed by Kwanlin Dün First Nation for the benefit or use of citizens and beneficiaries;

“registrar” means the individual appointed under section 111 as the registrar of the lands and resources register;

“registration” of an interest in settlement land, means

- (a) in the case of an interest to be registered in the lands and resources register, an instrument registered in accordance with Part 9 of this Act, or
- (b) in the case of an interest to be registered under the *Land Titles Act*, 2015 (Yukon), an instrument registered in accordance with Part 3 of that Act;

“self-government agreement” has the same meaning as the term “Kwanlin Dün First Nation Self-Government Agreement” in the Constitution;

“settlement land” means Category A Settlement Land, Category B Settlement land or fee simple settlement land as set out in the final agreement and the Old Village as set out in the self-government agreement;

“specified substances” has the same meaning as in Chapter 1 of the final agreement;

“subdivide” means the creation, adjustment, or realignment of a parcel of settlement land that requires registration of a legal plan of survey under the *Land Titles Act*, 2015 (Yukon);

“traditional activity” means a non-commercial activity, other than trapping, that

- (a) is undertaken by a citizen for food, water, subsistence or ceremonial purpose, or
- (b) strengthens or enhances social, educational, spiritual and cultural relationships and values between the citizen and another citizen or group of citizens;

“Type 2 parcel” means a parcel of settlement land referred to in section 28.1 of the self-government agreement;

“water” has the same meaning as in Chapter 14 of the final agreement;

“YESAA” means the *Yukon Environmental and Socio-economic Assessment Act*, 2003 (Canada); and

“zone”, in respect of an area of settlement land, means a set of restrictions or permitted uses established by a regulation or bylaw to the use of that area of settlement land.

Interpretive rules

2. The interpretive rules set out in Schedule 1 of this Act apply to the interpretation of the Act and regulations.

Common law

3. Unless a contrary intention appears in this Act, common law terms and concepts retain their common law meaning.

PART 2 PURPOSE AND APPLICATION

Purpose

4. The purpose of this Act is to provide for comprehensive and integrated decision-making about the use, management and disposition of interests in settlement land in a fair and efficient manner that includes full consideration of Kwanlin Dün First Nation economic, environmental, social, cultural, traditional and historic values.

Application of Act

5. (1) Subject to subsection (2), this Act applies to settlement land.

(2) In respect of the registration of settlement land, the provisions of the *Land Titles Act*, 2015 (Yukon) apply to settlement land registered under that Act.

Conflict of laws

6. If a provision of this Act is inconsistent with a provision of the final agreement or the self-government agreement, the provision of the final agreement or self-government agreement prevails to the extent of the inconsistency.

PART 3 PLANNING, ZONING AND ASSESSMENT

DIVISION 1 LAND USE PLANS

Process for development, review or amendment

7. The director must establish a process to be approved by the Council for the development, review or amendment of a land use plan.

Development, review or amendment of a land use plan

8. In accordance with the process established under section 7, the director may develop, review or amend a land use plan.

Adoption

9. (1) The director must submit a land use plan or an amendment of a land use plan to the Council for adoption.
- (2) Subject to subsection (3), the Council may adopt a land use plan or an amendment to a land use plan submitted to it by the director.
- (3) The Council must not adopt a land use plan or an amendment to a land use plan unless the process established under section 7 has been followed.

Additions to Schedule 2

10. Council may amend Schedule 2 by adding an adopted land use plan.

DIVISION 2 ZONING

Purposes of zoning regulation

11. Except in respect of Type 2 parcels, a zoning regulation may prohibit, regulate, and control the use and development of land and buildings situated on settlement land.

Zoning regulation must conform to land use plans

12. Council must not pass a zoning regulation nor any portion of or amendment to it that is inconsistent with a provision of a land use plan adopted pursuant to section 9.

Adoption of zoning regulation

13. If a land use plan or an amendment to a land use plan is adopted, Council must within one year of the date of adoption make, if necessary, a zoning regulation applicable to the settlement land affected by the land use plan or amendment.

DIVISION 3 ENVIRONMENTAL AND SOCIO-ECONOMIC ASSESSMENT

Director to exercise duties of a decision body

14. If Kwanlin Dün First Nation is a decision body under YESAA, the director must, on behalf of the Kwanlin Dün First Nation, exercise all of the duties and carry out all of the functions of the decision body.

No development without a decision document

15. If a development is subject to assessment under YESAA, a person must not undertake that development unless a decision document allowing the development to proceed has been issued under YESAA and an authorization allowing the development has been issued under this Act.

**PART 4
GRANTS OF INTERESTS IN SETTLEMENT LAND**

**DIVISION 1
PROHIBITION, WITHDRAWAL, EXCEPTIONS AND RESERVATIONS TO GRANTS**

Prohibition – no occupation

16. Except as provided in this Part or the *Land Titles Act*, 2015 (Yukon), a person must not occupy settlement land.

Exceptions and reservations from each grant of interest

17. Unless the instrument contains an express provision to the contrary, a grant of an interest under this Part does not convey any right, title, use or privilege in settlement land, including but not limited to:
- (a) mines and minerals on or within the land;
 - (b) right to work the mines and minerals referred to in subparagraph (a);
 - (c) oil and gas situated within the land;
 - (d) timber situated on the land;
 - (e) beds of bodies of water;
 - (f) land situated within the 30.48 meters of the ordinary high-water mark of all designated waters; and
 - (g) designated features that have been listed in accordance with subsection 134(3).

Withdrawal of lands

18. The Council may withdraw settlement land from disposition under this Act for any reason consistent with the public interest, including the use of that land by a government.

Interests must comply with the Act or *Land Titles Act*, 2015 (Yukon)

19. An interest in settlement land may only be created, granted, disposed of, assigned or transferred by an instrument issued in accordance with this Act or the *Land Titles Act*, 2015 (Yukon).

Interests not enforceable unless registered

20. An interest in settlement land is not enforceable unless and until it is registered in the lands and resources register or under the *Land Titles Act*, 2015 (Yukon).

Transactions only in accordance with the Act

21. Except as otherwise provided in this Act, a person who has the authority under this Act to grant, dispose of, assign or transfer an interest by means of creating or producing an instrument may only do so if

- (a) the instrument is in writing; and
- (b) the instrument is created or produced in accordance with this Act.

If error or fraud

22. The director may cancel or correct an interest in settlement land registered under this Act if the interest was granted in error, by mistake or by fraud.

Adverse possession

23. The common law doctrine of adverse possession does not apply to settlement land.

Title by prescription

24. Any existing method of acquiring a right or interest in or over land by prescription, including the common law doctrine of prescription and the doctrine of the lost modern grant does not apply to settlement land.

Retroactivity and limitation of action

25. (1) Sections 23 and 24 are retroactive and are deemed to have come into force on April 1, 2005.

(2) Notwithstanding the *Limitation of Actions Act, 2002* (Yukon) KDFN may commence proceedings at any time to recover settlement land.

DIVISION 2

FEE SIMPLE INTERESTS, ALLOCATIONS, LEASES AND EASEMENTS

Limited case of fee simple interest

26. Except in accordance with section 9.6.1 of the final agreement, Kwanlin Dün First Nation may grant, convey, or otherwise dispose of a fee simple interest in settlement land only to Kwanlin Dün First Nation.

Preference for beneficiaries and citizens

27. The director must offer beneficiaries and citizens the opportunity to apply for an interest in respect of a planned development parcel prior to offering the opportunity to non-beneficiaries and non-citizens.

Grant of interest to citizen or beneficiary - allocation

28. (1) Subject to section 33, the director may grant an allocation to a parcel of settlement land to a citizen or beneficiary:

- (a) who is 19 years of age or older; and
- (b) who meets all prescribed requirements.

(2) In the instrument granting an allocation of settlement land, the director

- (a) must set out the term of the allocation; and
- (b) may set out conditions to which the allocation is subject.

Certificate of Allocation

29. The director must issue a certificate of allocation in the form determined by the director, as evidence of the allocation interest.

Eligible citizen or beneficiary

30. A citizen or beneficiary may apply for an allocation only if the citizen or beneficiary:

- (a) is 19 years of age or older; and
- (b) meets all prescribed requirements.

Allocation holder rights

31. (1) Subject to section 17, a citizen or beneficiary who holds an allocation to a parcel of settlement land has the right to exclusive use and occupation of that parcel.
- (2) Subject to the approval of the director, a citizen or beneficiary may transfer, devise, or otherwise dispose of an allocation
- (a) to another citizen or beneficiary who meets the criteria in subsection 28(1); or
 - (b) in trust, to another citizen or beneficiary who is less than 19 years of age.

Purposes of allocations

32. An allocation may only be granted for one of the following purposes:

- (a) residential; or
- (b) traditional activities.

Maximum Number of Allocations

33. (1) A citizen or beneficiary may hold no more than one allocation for residential purposes.
- (2) A citizen or beneficiary may hold no more than one allocation for the purpose of pursuing traditional activities.
- (3) For greater certainty, a citizen or beneficiary may not hold two allocations for the same purpose at the same time.

Size of Allocations

34. An allocation for traditional activities must be a minimum of 0.4 hectares.

Conversion – residential allocations and leases

35. (1) The director may, in accordance with the regulations, approve a request to convert a residential allocation to a lease or to convert a lease to an allocation if

- (a) in the case where a notice of caveat is recorded against an instrument in accordance with Part 9, Division 3, the caveator consents to the conversion;
 - (b) in the case where a certificate of pending litigation is recorded against an instrument in accordance with Part 9, Division 3, the person who recorded the certificate consents to the conversion; or
 - (c) in the case where a certified copy of an order of a judge is recorded against an instrument in accordance with Part 9, Division 3, the person whose interest in the settlement land is affirmed by that order consents to the conversion.
- (2) The director must not approve a request to convert a residential allocation to a lease or to convert a lease to an allocation if the conversion is inconsistent with a certified copy of an order of a judge recorded against an instrument in accordance with Part 9, Division 3.
- (3) If the director approves a request to convert a residential allocation to a lease or to convert a lease to an allocation, the conversion is subject to a document recorded against an instrument in accordance with Part 9, Division 3.

No conversion – allocation for traditional activities

36. An allocation for traditional activities may not be converted to a lease.

Non-citizen or non-beneficiary

37. Subject to subsection 38(1) and section 42, a person who is not a citizen or who is not a beneficiary may not possess an allocation.

Life estate - non-citizen or non-beneficiary

38. (1) A non-citizen or non-beneficiary immediate family member of a citizen or beneficiary may obtain a life estate in an allocation through testamentary disposition by the citizen or beneficiary.

(2) Subject to paragraph 39(b), an allocation reverts to Kwanlin Dūn First Nation at the end of the life estate.

Life estate conditions

39. A life estate in an allocation

- (a) remains subject to all of the terms, conditions, exceptions and reservations to which the allocation was subject; and

- (b) subject to the approval of the director, may be transferred, devised or otherwise disposed of.

Transfer of life estate to citizen or beneficiary

40. If a life estate in an allocation is transferred, devised or otherwise disposed of to a citizen or beneficiary, the citizen or beneficiary acquires the rights set out in subsection 31(1) as if the interest being transferred, devised or otherwise disposed of had been an allocation.

Allocation holder dies intestate

41. (1) Subject to subsection (2), if an allocation holder dies intestate, the allocation must revert to Kwanlin Dün First Nation, free from any claim of the allocation holder.

(2) If the deceased holds the allocation in common with one or more other citizens or beneficiaries, those citizens or beneficiaries must be offered the right of first refusal to acquire the deceased's interest in the allocation, with the deceased's share to be divided equally between those citizens or beneficiaries as agreed.

Transfer of allocation by will to non-citizen or non-beneficiary

42. If an allocation is devised by testamentary disposition to a non-citizen or non-beneficiary, the non-citizen or non-beneficiary devisee is deemed to have received a life estate in the allocation.

Grant of interest - lease

43. The director may grant to a person a lease of a parcel of settlement land in accordance with the criteria and procedure set out in the regulations.

Amendment or renewal of lease

44. The director may grant to a person an amendment to or a renewal of a lease of a parcel of settlement land in accordance with the criteria and procedure set out in the regulations.

Limitation on number of leases

45. The Council may limit the number, area or class of settlement land parcels that may be leased.

Grant of interest - easement

46. The director may grant to a person an easement over a parcel of settlement land in accordance with the criteria and procedure set out in the regulations.

Application for grant, amendment to or renewal of interest – not allocation

47. Subject to the regulations, a person may apply for an interest, other than an allocation, an amendment to or a renewal of an interest, other than an allocation, in settlement land by

- (a) submitting to the director an application containing the information prescribed by the regulations and in the form determined by the director;
- (b) paying to the director the prescribed fee for the application; and
- (c) providing further information to the director that the director determines is necessary for making a decision under section 50.

Applicant - no priority

48. A person who submits an application for an interest in settlement land does not have priority in respect of that interest by virtue of the submission of an application.

Withdrawal of application

49. If an applicant does not provide the information required in paragraph 47 (c) within six months after the day on which the request is made, the application is deemed to be withdrawn unless the director grants an extension of that period.

Decision – grant, amend or renew

50. Subject to section 52, on receiving an application from an applicant under section 47 the director must, in accordance with the criteria set out in regulations

- (a) grant, amend or renew an interest in settlement land;
- (b) grant, amend or renew an interest in settlement land subject to terms and conditions; or
- (c) refuse to grant, amend or renew an interest in settlement land.

Written reasons

51. The director must provide an applicant with written reasons for his decision under paragraph 50 (b) or (c).

Benefits agreement as condition of grant of interest

52. (1) If the director grants an interest in settlement land to an applicant, the director may as a condition to the grant, require the applicant to enter into a benefits agreement with Kwanlin Dün First Nation.

(2) If the director requires an applicant to enter into a benefits agreement in accordance with subsection (1) the benefits agreement must contain the prescribed terms and conditions required by the regulations or by the director.

(3) The terms and conditions of a benefits agreement are terms and conditions of the interest to which the benefits agreement relates.

Interest holder - registration

53. The holder of an interest in settlement land, other than settlement land this is registered under the *Land Titles Act*, 2015 (Yukon), must register the instrument in the lands and resources register.

Interest holder – taxes and fees

54. The holder of an interest in settlement land must pay all property taxes and fees lawfully imposed by a government.

Transfer or assignment of interest – not allocation

55. (1) Subject to subsection (2) and the regulations, the director may approve an assignment or transfer of an interest, other than an allocation, in settlement land.

(2) If a certified copy of an order of a judge is recorded against an instrument in accordance with Part 9, Division 3, the director must not approve a transfer or an assignment of the interest if the transfer or the assignment is inconsistent with the order.

(3) If the director approves a request to transfer or an assignment of an interest, the transfer or assignment is subject to a document recorded against an instrument in accordance with Part 9, Division 3.

Decision - Termination of interest

56. Subject to the regulations, the director may terminate an interest in settlement land that is registered under this Act.

Written reasons

57. The director must provide written reasons for the director's decision under section 56 to the person whose interest in settlement was terminated.

**PART 5
ACCESS TO AND USE OF SETTLEMENT LAND**

**DIVISION 1
PROHIBITIONS**

Prohibition – no access to or use of settlement land

58. A person must not access or use settlement land except in accordance with this Act.

Prohibition – specified substances

59. A person must not use a specified substance for commercial purposes except in accordance with an authorization.

Prohibition – no littering

60. A person must not abandon or discard litter on settlement land, except

- (a) in a litter receptacle placed for the purpose of collecting it;
- (b) in accordance with an interest or an authorization; or
- (c) in accordance with the regulations.

Prohibition – no degradation of settlement land

61. A person must not do a thing or allow a thing to be done that degrades or that might reasonably be expected to degrade settlement land, except

- (a) in accordance with an interest or an authorization; or
- (b) in accordance with the regulations.

Exception to prohibitions

62. Sections 58, 60 and 61 do not apply to a person employed or contracted by a government while the person is involved in the delivery of emergency services or emergency actions undertaken to protect public health, welfare or safety or to prevent significant harm to property or the environment.

Interpretation

63. Division 1 of this Part does not displace a Kwanlin Dün First Nation law or a law of general application that has as its objects the maintenance, preservation and management of the environment.

DIVISION 2 AUTHORIZATIONS

Access or use by citizens or beneficiaries for traditional activities

64. Subject to Parts 4 and 5, a citizen or beneficiary may access or use settlement land for the purpose of carrying out traditional activities.

Authorization

65. Subject to the regulations, the director may issue to a person an authorization to access, use or develop settlement land.

Application – authorization, amendment, renewal, assignment or cancellation

66. Subject to the regulations, a person may apply for an authorization, or the amendment, renewal, assignment or cancellation of an authorization to access, use or develop settlement land by
- (a) submitting to the director an application containing the information prescribed by the regulations and in the form determined by the director;
 - (b) paying to the director the prescribed fee for the application; and
 - (c) providing further information to the director that the director determines is necessary for making a decision under sections 69 or 70.

Applicant - no priority

67. A person who submits an application under section 66 does not have priority in respect of that authorization by virtue of the submission of an application.

Withdrawal of application

68. If an applicant does not provide the information required in paragraph 66(c) within six (6) months after the day on which the request is made, the application is deemed to be withdrawn unless the director grants an extension of that period.

Decision - issuance of authorization

69. Subject to section 73, on receiving an application from an applicant under section 66 the director must, in accordance with the criteria set out in regulations

- (a) issue an authorization;
- (b) issue an authorization subject to terms and conditions; or
- (c) refuse to issue an authorization.

Decision - amendment, renewal, assignment or cancellation

70. On receiving an application for the amendment, renewal, assignment or cancellation of an authorization under section 66 and in accordance with the criteria set out in regulations, the director must

- (a) approve an amendment, assignment, renewal or cancellation;
- (b) approve an amendment, assignment, or renewal subject to terms and conditions; or
- (c) refuse to approve an amendment, assignment, renewal or cancellation.

Written reasons

71. The director must provide an applicant with written reasons for the director's decision under paragraphs 69(b) or (c) or paragraphs 70(b) or (c).

Authorization holder - registration

72. An authorization holder must register the following authorizations in the lands and resources register:

- (a) an authorization issued under paragraphs 69(a) or (b) or paragraphs 86(a) or (b); or
- (b) an amendment, renewal, assignment or cancellation approved under paragraphs 70(a) or (b).

Benefits agreement as condition of authorization

73. (1) If the director issues an authorization to an applicant, the director may as a condition to the issuance of the authorization, require the applicant to enter into a benefits agreement with Kwanlin Dün First Nation.

(2) If the director requires an applicant to enter into a benefits agreement in accordance with subsection (1), the benefits agreement must contain the prescribed terms and conditions required by the regulations or by the director.

(3) The terms and conditions of a benefits agreement are terms and conditions of the authorization to which the benefits agreement relates.

Suspension or cancellation of authorization

74. Subject to the regulations, the director may suspend or cancel an authorization.

Authorization is void

75. An authorization is void if it is issued or granted based upon a false statement or false information given either orally or in writing.

No transfer of authorization

76. (1) Without the approval of the director, a person must not transfer an authorization to another person.

(2) If a person transfers an authorization to another person without the approval of the director, the transfer of the authorization is of no effect.

Authorization is personal

77. Without the approval of the director, a person must not exercise a right or privilege conferred by an authorization that is issued in the name of another person.

No duplication of authorizations

78. A person must not alter, imitate or duplicate an authorization.

Abandonment of authorization

79. Unless the director determines otherwise, if an authorization holder abandons an authorization, all structures, fixtures or chattels situated on settlement land become the property of Kwanlin Dün First Nation.

**PART 6
DEVELOPMENT AND SUBDIVISION**

Must have registered interest or authorization to develop

80. A person must not undertake development on settlement land unless

(a) the person has an interest registered in accordance with Part 9 of this Act or under the *Land Titles Act*, 2015 (Yukon) that authorizes the development; or

- (b) the person has an authorization issued in accordance with this Part.

Must have registered interest or approval to subdivide

81. A person must not subdivide settlement land unless

- (a) the person has an interest registered in accordance with Part 9 of this Act or under the *Land Titles Act*, 2015 (Yukon) that authorizes the subdivision; or
- (b) the person has received approval from the director to subdivide in accordance with this Part.

Authorization or approval

82. The director may

- (a) issue an authorization to undertake development on settlement land; or
- (b) approve a request to subdivide settlement land.

Developments to conform to land use plans and zoning regulations

83. Except as authorized by the director, development on settlement land is not allowed unless it conforms to the applicable land use plans and zoning requirements.

Subdivision must comply with Act and *Land Titles Act*, 2015 (Yukon)

84. A subdivision of settlement land is not valid unless it is made in accordance with this Act and the *Land Titles Act*, 2015 (Yukon).

Application for authorization to develop

85. Subject to the regulations, a person may apply for an authorization to undertake development on settlement land by

- (a) submitting to the director an application containing the information prescribed by the regulations and in the form determined by the director;
- (b) paying to the director the prescribed fee for the application; and
- (c) providing further information to the director that the director determines is necessary for making a decision under section 86.

Decision - authorization to develop

86. On receiving an application from an applicant under section 85 and in accordance with the criteria set out in the regulations, the director must:

- (a) issue an authorization;
- (b) issue an authorization subject to terms and conditions; or
- (c) refuse to issue an authorization.

Request for approval to subdivide

87. A person may make a request to the director to subdivide settlement land by

- (a) submitting to the director a request containing the information prescribed by the rules or regulations and in the form determined by the director; and
- (b) providing further information to the director that the director determines is necessary for making a decision under section 88.

Decision - approval to subdivide

88. On receiving a request from an applicant under section 87 and in accordance with the criteria set out in the regulations, the director must:

- (a) approve a request;
- (b) approve a request subject to terms and conditions; or
- (c) refuse to approve a request.

Revocation of authorization to develop

89. Subject to the regulations, the director may revoke an authorization to undertake development on settlement land.

Revocation of approval to subdivide

90. Subject to the regulations, the director may revoke an approval to subdivide settlement land.

Written Reasons

91. The director must provide

- (a) an applicant written reasons for the director's decision under paragraphs 86(b) and (c) and 88(b) and (c);
- (b) an authorization holder written reasons for the director's decision under section 89; or
- (c) a holder of a subdivision approval written reasons for the director's decision under section 90.

**PART 7
SECURITY**

Director may require security

92. (1) The director may require an applicant or an interest or authorization holder to provide financial security in an amount specified in, or determined in accordance with the regulations, and in a form prescribed by regulation

- (a) to ensure the performance or completion of the obligations set out in an authorization or an instrument; or
- (b) if there is a risk of adverse environmental effects as a result of the issuance of an authorization or the granting of an interest.

(2) Security provided under paragraph(1)(a) or (b) may be applied by the director to reimburse Kwanlin Dün First Nation, either wholly or partially, for reasonable costs incurred by Kwanlin Dün First Nation to carry out remedial or preventative work to protect, conserve, restore or rehabilitate settlement land.

(3) If the director is satisfied that a person has performed or completed all of the obligations set out in an authorization or an instrument, the director must return the portion of security that will not be required under subsection (2).

(4) If the director is satisfied that the risk of adverse environmental effects no longer exists, the director must return the portion of security that will not be required under subsection (2).

(5) If an interest has been transferred or an authorization has been assigned, the director must return the portion of security that will not be required under subsection (2) to the transferor or assignor.

Director may amend security

93. Subject to the regulations, the director may amend the amount of security to be paid under subsection 92(1).

PART 8
EXPROPRIATION OF INTERESTS IN SETTLEMENT LAND

Authority to expropriate

94. An interest in settlement land that, in the opinion of the Council, is required by Kwanlin Dün First Nation for a public work or other public purpose may be expropriated by Kwanlin Dün First Nation in accordance with this Part.

Notice of intention to expropriate

95. (1) If, in the opinion of the Council, an interest in settlement land is required by Kwanlin Dün First Nation for a public work or other public purpose, the Council must register a notice of intention to expropriate the interest or right, signed by the Council, setting out

(a) a description of the land;

(b) the nature of the interest or right intended to be expropriated and whether the interest or right is intended to be subject to an existing interest in land or immovable real right;

(c) an indication of the public work or other public purpose for which the interest or right is required; and

(d) a statement that it is intended that the interest or right be expropriated by Kwanlin Dün First Nation.

(2) The registrar must provide the director with a report setting out the names and latest known addresses, if any, of the persons appearing, according to the records of the registrar, to have any interest, right or claimed right in the land referred to in paragraph (1)(a).

Registration of notice

96. On receiving from the Council a notice of intention to expropriate the registrar must register the notice in the lands and resources register, together with a plan of the land to which the notice relates, after conducting any investigations and searches respecting the state of the title to the land that appear to him to be necessary or desirable.

Validity of notice — nature of the interest or right

97. A notice registered under section 96 is not invalid by reason only that it does not set out the nature of the interest or right intended to be expropriated and, in that case, the interest or right intended to be expropriated includes all the interests in the land or rights to which the notice relates.

Validity of notice — existing interest in land

98. A notice registered under section 96 is not invalid by reason only that it does not set out whether the interest or right intended to be expropriated is intended to be subject to an existing interest in land or right to which the notice relates, and, if it does not do so, the interest or right intended to be expropriated is not subject to that existing interest or right.

Publication of notice

99. If a notice of intention to expropriate an interest in land has been registered, the director must

(a) publish a copy of the notice in at least one issue of a publication, if any, in general circulation within the area in which the land is situated, within thirty days after the registration of the notice; and

(b) send a copy of the notice to each person whose name is set out in the report of the registrar referred to in subsection 95(2), as soon as practicable after the registration of the notice.

Statement regarding right to object

100. A notice published or copy sent as described in paragraphs 99(a) or (b) must include a statement that indicates that a person has a right to object to the intended expropriation.

Objections

101. A person who objects to the intended expropriation of an interest in land to which a notice of intention relates may, within 30 calendar days after the day on which the notice is given, serve on the director an objection in writing stating:

(a) the name and address of that person;

(b) the nature of the objection;

(c) the grounds on which the objection is based; and

(d) the nature of the interest of that person in the matter of the intended expropriation.

Copy of reasons to be sent

102. If the Council, after receiving and considering an objection served on the director by a person under section 101, has confirmed an intention to expropriate an interest in land, or a more limited interest or right in it the Council must, if effect was not given to the objection, send a copy of the reasons that the director had for not giving it effect to the person.

Registration of notice of confirmation to expropriate

103. (1) On receiving from the Council, a notice of confirmation to expropriate, the registrar must register the notice of confirmation together with any revised plan of the land.

(2) If the land to which the notice of confirmation relates has been altered from the land described in the notice of intention, the director must revise the plan of the land to which the notice of confirmation relates and submit the revised plan to the registrar to be registered with the notice of confirmation.

Effect of registration of notice

104. On the registration of a notice of confirmation

(a) the interest or right confirmed to be expropriated becomes and is absolutely vested in Kwanlin Dün First Nation; and

(b) any other interest or right is, as against Kwanlin Dün First Nation or any person claiming on behalf of or under the direction of Kwanlin Dün First Nation, thereby lost to the extent that the interest or right is inconsistent with the interest or right confirmed to be expropriated.

Copies to be sent

105. When a notice of confirmation to expropriate has been registered, the director must, immediately after the registration of the notice, send a copy of the notice to each person then appearing to have any interest or right in the land, so far as the records of the registrar indicate, and to each other person who served an objection on the director under section 101.

Offer of full compensation to be made

106. (1) Within 90 calendar days after the day on which the notice is registered, the director must make to each person who is entitled to compensation, in respect of an expropriated interest or right to which the notice of confirmation relates, an offer in writing of compensation, in an amount estimated by the director to be equal to the compensation to which that person is then entitled in respect of that interest or right, not conditional on the provision by that person of any release or releases and without prejudice to the right of that person, if the person accepts the offer, to claim additional compensation in respect thereof.

(2) An offer of compensation made to a person under this section in respect of an expropriated interest or right shall be based on a written appraisal of the value of that interest or right, and a copy of the appraisal shall be sent to that person at the time of the making of the offer.

Offer accepted

107. If an offer of compensation has been made to a person under section 106, the full amount of the offer must, on the acceptance of the offer, be paid to that person immediately.

Right to compensation

108. Compensation is to be paid by Kwanlin Dün First Nation to each person who, immediately before the registration of a notice of confirmation, was the owner or holder of an interest or right

in the land to which the notice relates, to the extent of their expropriated interest or right, the amount of which compensation is equal to the aggregate of

- (a) the value of the expropriated interest or right at the time of its taking, and
- (b) the amount of any decrease in value of the remaining property of the owner or holder.

Permanent preservation

109. The registrar must permanently preserve in the land and resources register any notices and plans that the Council has registered pursuant to this Part and must note on the notices and plans the day, hour and minute when they were received as the time of registration and make entries in the records or register that will make their registration public.

PART 9 LANDS AND RESOURCES REGISTER

DIVISION 1 LANDS AND RESOURCES REGISTER AND REGISTRAR

Establishment of lands and resources register

110. The lands and resources register is established and must contain:

- (a) every application approved under this Act;
- (b) every certificate of allocation issued or revoked under this Act;
- (c) every instrument issued under this Act;
- (d) every document recorded under this Act;
- (e) every authorization issued, cancelled or revoked under this Act;
- (f) every request for approval or revocation of approval under this Act;
- (g) every notice of intent to expropriate;
- (h) every notice of confirmation of expropriation;
- (i) a record of all settlement lands expropriated by Kwanlin Dün First Nation;

- (j) a record of all settlement lands withdrawn by Kwanlin Dün First Nation and the purpose for the withdrawals;
- (k) a record of all settlement lands held by Kwanlin Dün First Nation for public purposes;
- (l) a record of all reservations and exceptions as set out in 5.4.2 of the final agreement; and
- (m) any other document required to be recorded or registered under this Act.

Registrar and deputy registrar

111. (1) The director may appoint a registrar and a deputy registrar of the register of lands and resources.
- (2) The deputy registrar will have all the functions and powers of the registrar in the absence of the registrar or in the event of the registrar's inability to act.
- (3) The registrar may delegate some or all of her powers and responsibilities under this Act to a person or class of persons.

Prohibited activities

112. The registrar must not directly or indirectly act as the agent of any person investing money in settlement land or taking securities on settlement land.

Duties of the registrar

113. The registrar must perform the following duties:
- (a) maintain the lands and resources register;
 - (b) register and record documents in accordance with this Act; and
 - (c) provide for the security of the information contained in the lands and resources register.

Inventory to be kept by registrar

114. The registrar must keep an inventory of all documents set out in section 110.

Public Information

115. Subject to section 117, an instrument registered or document recorded in the lands and resources register is public information.

Copies of documents

116. Subject to section 117, the registrar must provide a copy of or make available for viewing an instrument registered or document recorded in the lands and resources register within 5 business days of receipt of

- (a) a request made to the registrar in the prescribed form; and
- (b) payment of the applicable fees.

Confidential information

117. Without the approval of the director, the registrar must not disclose personal information or information that may be harmful to the financial interests of a person.

DIVISION 2 REGISTRATION OF DOCUMENTS

Assignment of numbers

118. For each application, certificate of allocation, lease, easement, authorization or other instrument registered in the lands and resources register, the registrar must

- (a) assign a number to the application, certificate of allocation, lease, easement, authorization, or other instrument; and
- (b) note on the application, certificate of allocation, lease, easement, authorization or other instrument the number assigned in paragraph (a).

Time of receipt to be noted on an instrument

119. The registrar must note on an instrument submitted for registration the day, hour and minute the instrument was received by the registrar.

Registration of an instrument

120. (1) An instrument is registered in the lands and resources register when the registrar:

- (a) notes the number on the instrument;
- (b) notes the day, hour and minute the instrument was received on the instrument; and
- (c) records the number of the instrument in the lands and resources register.

Effect of registration

121. An instrument becomes operative according to its terms when it is registered in the lands and resources register, and on registration it creates, transfers or surrenders as the case may be, the land or interest mentioned in the instrument.

DIVISION 3 RECORDING OF DOCUMENTS

Registrar must record

122. Upon submission, in the prescribed form, by a person and subject to section 123 the registrar must record in the lands and resources register the following documents relating to an instrument registered in the lands and resources register:

- (a) a notice of caveat;
- (b) a notice of certificate of pending litigation;
- (c) a notice of certified copy of an order of a judge;
- (d) a notice of request to strike caveat or certificate of pending litigation; or
- (e) another document that must or may be recorded under a KDFN law.

Registrar must not record – notice of caveat

123. (1) The registrar must not record a notice of caveat relating to an instrument registered in the lands and resources register if

- (a) a notice of caveat relating to the same claim has at any time been recorded against the instrument; and
- (b) the requirements of subsection (2) are not met.

(2) A notice of caveat submitted for recording must

- (a) claim an interest in the settlement land granted by the instrument which is the subject of the notice of caveat;
- (b) state the nature of the claimed interest in the settlement land and the grounds on which the claim is based;
- (c) be verified by an affidavit, in the prescribed form, of the caveator or the caveator's agent; and

- (d) include the name, mailing address and telephone number of the caveator.

Recording of document

124. A document submitted under subsection 122 is recorded in the lands and resources register when the registrar

- (a) assigns a number to the document;
- (b) notes the number of the document assigned under paragraph (a) on the instrument to which the document relates; and
- (c) notes on the document
 - (i) the date and time on which the document was received by the registrar;
 - (ii) the instrument to which the document relates; and
 - (iii) the name, mailing address and telephone number of the person who submitted the document for recording.

Effect of recording

125. (1) A person is deemed to have notice of a document recorded under section 122 as of the date and time the document is recorded by the registrar.

(2) The recording of a notice of caveat against an instrument is not a determination by the registrar of any of the rights asserted in that notice of caveat.

Registrar to serve notice – notice of caveat

126. Upon recording a notice of caveat, the registrar must serve, by registered mail, notice of the recorded notice of caveat to the instrument holder at the address noted on the affected instrument.

Notice to prove interest

127. (1) A person who holds an interest in settlement land that is subject to a recorded notice of caveat may serve on the caveator a notice in the prescribed form requiring the caveator to prove the caveator's interest before a judge.

(2) A judge may, on proof that the caveator has been served and on evidence the judge requires, make an order in respect of the notice of caveat that the judge considers appropriate.

Striking notice of caveat

128. (1) The registrar must strike a notice of caveat from the lands and resources register if
- (a) a notice of request to strike in the prescribed form is recorded against the instrument to which the notice of caveat relates no sooner than thirty (30) days after the day on which a notice under subsection 127(1) was served on the caveator; and
 - (b) no notice of certificate of pending litigation in relation to the notice of caveat is recorded.
- (2) Service of a notice in accordance with subsection 127(1) must be proved to the satisfaction of the registrar.
- (3) The registrar must not record a notice of request to strike from the lands and resources register if a notice of certificate of pending litigation is already recorded against the instrument.
- (4) The registrar must strike a notice of caveat and a related certificate of pending litigation from the lands and resources register if the caveator requests that the notice of caveat be struck.
- (5) The registrar must strike a notice of caveat and a related certificate of pending litigation if an order has been recorded pursuant to subsection 127(2) that determines the claims made in that notice of caveat.

Effect of striking

129. On the date the registrar strikes a notice of caveat from the lands and resources register, the notice of caveat shall have no further force or effect.

Court orders

130. (1) In proceedings respecting settlement land registered in the lands and resources register, a judge may, by order, direct the registrar to do any act necessary to give effect to the order.
- (2) If a certified copy of an order of a judge is submitted for recording, the registrar must
- (a) record the order in accordance with section 124; and
 - (b) implement a direction contained in the order.
- (3) The registrar may apply to a judge for further directions respecting an order made pursuant to subsection (1).

Category A or Category B settlement land

131. (1) The director may apply to have a parcel of Category A or Category B settlement land brought under the *Land Titles Act*, 2015 (Yukon).

**PART 10
ADMINISTRATION**

Department of Heritage, Lands and Resources

132. The Department of Heritage, Lands and Resources of the Kwanlin Dün First Nation is established and will be directed by the Council.

Appointment of director

133. The Council must appoint a director to exercise the powers granted to and perform the duties required of the director by this Act.

Responsibilities of director

134. (1) The director is the head of the department and is responsible for the administration of this Act, regulations and rules.

(2) The director may, subject to terms and conditions that the director considers appropriate, delegate in writing any of his powers, duties or functions to:

- (a) a manager of the Department of Heritage, Lands and Resources;
- (b) a director employed by Kwanlin Dün First Nation; or
- (c) the head of a Kwanlin Dün First Nation economic development corporation.

(3) The director may develop, revise or amend a list of designated features to be excepted or reserved from a grant of interest in settlement land.

Rule making

135. The director may make rules

- (a) prescribing the form for a certificate, instrument, notice, permit, request or other document that may be issued, registered, recorded or made under this Act;
- (b) prescribing the information to be included in a certificate, instrument, notice, permit or other document that may be issued, registered, recorded or made under this Act;
- (c) prescribing the information to be submitted in connection with an application;

- (d) prescribing the standards and requirements for land surveys, plan preparation and monumentation for the purpose of delineating and describing the boundary, area, and dimensions of a parcel or part of a parcel;
- (e) prescribing the terms and conditions of interests and authorizations;
- (f) prescribing the criteria for the waiver of fees under section 137; and
- (g) respecting the procedures related to
 - (i) an application for an interest or authorization;
 - (ii) a request for subdivision;
 - (iii) the management of the register;
 - (iv) the submission of an instrument or notice;
 - (v) the registration of an instrument;
 - (vi) the recording of a notice or a document;
 - (vii) the withdrawal of a notice or a document recorded;
 - (viii) the creation of electronic documents or records permitted under this Act;
 - (ix) changing the name of a person in the records of the register;
 - (x) the cancellation of an interest or authorization;
 - (xi) the registration of an interest or authorization;
 - (xii) the registration of a withdrawal of an instrument registered under this Act; and
 - (xiii) the recording of a power of attorney.

Authorization and publication of rules

136. Immediately after a rule is made, the director must sign, date and publish it on the official Kwanlin Dün First Nation website.

Waiver of fees or rents

137. In accordance with the rules, the director may waive a prescribed fee or rent.

Agreements with other governments

138. Subject to the approval of the Council, the director may enter into an agreement related to planning, zoning, development, subdivision, and local government services with another government.

Agreements with other persons

139. Subject to the approval of the Council, the director may enter into a land development agreement with another person.

**PART 11
ENFORCEMENT AND COMPLIANCE**

**DIVISION 1
COMPLIANCE**

Inspectors

140. For the purposes of the administration and enforcement of this Act, the Council must appoint an individual as an inspector to exercise powers or perform functions in relation to any matter referred to in the appointment.

Agreements with other governments

141. (1) The Council may enter in an agreement with another government

(a) to allow an inspector appointed under this Act to enforce legislation enacted by the other government; or

(b) to allow an individual or a class of individuals employed by the other government to be appointed as an inspector for the purposes of this Act.

(2) While an appointment under paragraph 141(1)(b) is in effect, the appointee is an inspector for the purposes of this Act and has all the powers and protections that an inspector has under this Act, subject to any conditions imposed on the appointment.

Certificate to be produced

142. An inspector must be given a certificate in a form established by the director attesting to the inspector's appointment and, on entering a place pursuant to subsection 144(1), an inspector must, if so required, produce the certificate to the person in charge of that place.

Immunity

143. An inspector is not personally liable for anything he does or omits to do in good faith while carrying out duties or exercising powers under this Act, including any failure to exercise a discretionary authority.

Powers of inspectors

144. (1) Subject to subsection (2), for the purposes of this Act and regulations, an inspector may, at any reasonable time enter and inspect a place for the purpose of ensuring compliance with this Act and the inspector may
- (a) open or cause to be opened any container that the inspector believes, on reasonable grounds, contains a thing or document to which the provisions of this Act apply and
 - (i) inspect the thing and take samples free of charge; and
 - (ii) copy the document, in whole or in part free of charge;
 - (b) require any person to produce documents for inspection or copying, in whole or in part;
 - (c) conduct any tests or analyses and take any measurements;
 - (d) use or cause to be used a computer system at the place to examine data contained in or available to the computer system and reproduce in any form data contained in or available to the computer system; or
 - (e) use copying equipment at the place to make copies of a record or document.
- (2) An inspector may, without a warrant, seize a thing that is produced to the inspector or that is in plain view during an inspection under subsection (1) if the inspector reasonably believes that there has been a contravention of this Act and that the thing will afford evidence of the contravention.
- (3) If a place mentioned in subsection (1) is a dwelling-house, an inspector may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (4).
- (4) If on application by an inspector, without notice to another person, a justice of the peace may issue a warrant authorizing the inspector to enter that dwelling-house subject to such conditions as may be specified in the warrant, if the justice is satisfied by information on oath
- (a) that the conditions for entry described in subsection (1) exist in relation to a dwelling-house;

(b) that entry to the dwelling-house is necessary for a purpose relating to the administration or enforcement of this Act; and

(c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry to the dwelling-house will be refused.

(5) If on application by an inspector, without notice to another person, a justice of the peace may issue a warrant authorizing the inspector to conduct an inspection of the place, subject to any conditions that may be specified in the warrant, and authorizing another person named in the warrant to accompany the inspector and exercise a power specified in the warrant, if satisfied by information on oath

(a) the conditions for entry described in subsection (1) exist in relation to a place other than a private dwelling-place;

(b) entry to that place is necessary for any purpose relating to the administration of this Act;

(c) entry to that place has been refused, the inspector was not able to enter without the use of force or the place was abandoned; and

(d) subject to subsection (6), all reasonable attempts were made to notify the owner, operator or person in charge of the place.

(6) The justice may waive the requirement to give notice referred to in subsection (5) where the justice is satisfied that attempts to give the notice would be unsuccessful because the owner, operator or person in charge is absent from the jurisdiction of the justice or that it is not in the public interest to give the notice.

(7) In executing a warrant issued under subsection (4) or (5), an inspector must not use force unless the use of force has been specifically authorized in the warrant.

Production of documents

145. (1) The Council may, for the purposes of this Act and the regulations, require a person to produce at a place specified by the Council a thing referred to in subsection 144(2) within a reasonable time and in a reasonable manner.

(2) A person who is required to produce a thing under subsection (1) must, despite any other law to the contrary, do so as required.

Authority to issue warrant for search and seizure

146. (1) If on application by an inspector, without notice to another person, a justice of the peace may issue a warrant authorizing an inspector, or authorizing another person named in the warrant, to enter and search the place and to seize a thing referred to in paragraphs (a) or (b)

subject to conditions that may be specified in the warrant, if the justice is satisfied by information on oath that there are reasonable grounds to believe that there is in a place

- (a) a thing by means of or in relation to which a provision of this Act or the regulations has been contravened; or
- (b) a thing that there are reasonable grounds to believe will afford evidence with respect to the commission of an offence under this Act.

(2) A person authorized by a warrant issued under subsection (1) may

- (a) at a reasonable time enter and search a place referred to in the warrant;
- (b) seize and detain a thing referred to in the warrant; and
- (c) exercise the powers described in subsection 144(1).

(3) An inspector may exercise the powers described in subsection (2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(4) For greater certainty, exigent circumstances include circumstances in which the delay necessary to obtain a warrant under subsection (1) would result in danger to human life or the environment or the loss or destruction of evidence.

Posting of signs and notices

147. (1) An inspector may post signs or notices on settlement land in order to carry out the provisions of this Act.

(2) A person must not, without lawful authority, remove, alter, destroy or damage a sign or notice posted under the authority of this Act.

Obstruction

148. A person must not hinder or obstruct an inspector or an individual who has been appointed by the Council to enforce or administer this Act, if such individual is exercising powers or carrying out functions and duties under this Act.

Production of authorization

149. A person who is a holder of an authorization or is exercising a right or privilege granted by an authorization must show the authorization to an inspector upon request.

False statements

150. A person must not knowingly make a false or misleading statement, either orally or in writing, to an inspector or to the director.

DIVISION 2 ENFORCEMENT

Notice of non-compliance

151. (1) An inspector may issue a notice of non-compliance to a person when the inspector believes that the person, or a development under the person's control, is not in compliance with this Act.
- (2) A notice under subsection (1) must state:
- (a) the nature of the non-compliance;
 - (b) a request for compliance;
 - (c) the steps which must be taken to achieve compliance; and
 - (d) the date by which compliance must be effected.
- (3) If an inspector is satisfied that a person to whom a notice of non-compliance was issued has effected compliance as set out in the notice, the inspector must withdraw the notice.
- (4) A person must comply with a notice of non-compliance issued under subsection (1).
- (5) If a person to whom a notice of non-compliance is given under this section does not comply with notice, an inspector may take the measures set out in the notice and may for that purpose enter a place, subject to subsection 144(3).

Order by inspector

152. In addition to an applicable fine, penalty or remedy, an inspector may by written order:
- (a) revoke or temporarily suspend an authorization if the inspector is of the opinion that the terms and conditions of an authorization have not been complied with by the holder of the authorization;
 - (b) require that a person stop carrying out an activity, use or development if that person has not received authorization under this Act;
 - (c) direct a person to remove a structure, work or installation;
 - (d) direct the registered owner, occupant or tenant of a property to clean up the property; or

- (e) stop a person from accessing settlement land in contravention of this Act.

Non-degradation order

153. (1) If an inspector is satisfied on reasonable grounds that a substance is degrading settlement land, the inspector may order the following persons to do the things referred to in subsection (2):

- (a) a person who had possession, charge or control of a substance at the time it was introduced or escaped onto settlement land;
- (b) a person who owns or occupies the land on which the substance is located or on which the substance was located immediately before it was introduced onto settlement land; or
- (c) a person who caused or authorized the degradation.

(2) An order under subsection (1) must be served on the person to whom it applies and may require that person, at his expense, to do one or more of the following:

- (a) provide to the inspector information that the inspector requests relating to the degradation;
- (b) undertake investigations, tests, surveys and another action the inspector considers necessary to determine the extent and effects of the degradation and to report the results to the inspector;
- (c) acquire, construct or carry out any works or measures that are reasonably necessary to control, abate or stop the degradation;
- (d) adjust, repair or alter a structure, facility, building, or installation to the extent reasonably necessary to control, abate or stop the degradation;
- (e) abate the degradation; or
- (f) carry out remediation in accordance with criteria established by the director.

(3) An order under subsection (1) may authorize a person designated by the inspector to enter land for the purpose of controlling, abating or stopping the degradation or to carry out remediation.

Amendment or cancellation of order

154. An inspector may amend or cancel an order made under this Division.

**PART 12
OFFENCES AND PENALTIES
DIVISION 1**

OFFENCES

Offences

155. A person commits an offence who

- (a) contravenes a prohibition arising from this Act;
- (b) contravenes a condition of a permission granted under this Act;
- (c) contravenes or fails to comply with an order, direction or notice given under this Act;
- (d) negligently or knowingly, with respect to a matter related to this Act, provides a person with false or misleading information, results or samples; or
- (e) negligently or knowingly, with respect to a matter related to this Act, files a document that contains false or misleading information.

Continuing offence

156. If a person commits an offence referred to in section 155 on more than one day consecutively, each day that the person commits the offence constitutes a separate offence.

Offences by corporations

157. If a corporation commits an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the penalty provided under this Act, whether or not the corporation has been prosecuted.

Due diligence

158. A person must not be convicted of an offence under this Act if the person establishes that the person:

- (a) exercised all due diligence to prevent the commission of the offence; or
- (b) reasonably and honestly believed in the existence of facts that, if true, would render the person's conduct innocent.

DIVISION 2 PENALTIES

Penalties

159. A person who commits an offence under section 155 is liable on summary conviction

- (a) for a first offence, to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding six months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding \$300,000 or to imprisonment for a term of not more than six months, or to both.

Orders upon conviction

160. If a person is convicted of an offence under this Act the court may make an order that the court considers appropriate in the circumstances and, without limiting the foregoing, may be directed at

- (a) achieving compliance or avoiding further non-compliance;
- (b) making restitution; or
- (c) rehabilitation.

Tickets

161. If an inspector believes on reasonable grounds that a person has committed an offence under this Act, the inspector may issue a ticket against the alleged offender in the following amount:

- (a) for a first offence, up to \$500 and, in the case of a continuing offence, to a further penalty of up to \$500 for each day or part of a day during which the offence continues after the first day; and
- (b) for a second or subsequent offence, up to \$1,000 and, in the case of a continuing offence, to a further penalty of up to \$1,000 for each day or part of a day during which the offence continues after the first day.

Ticket endorsement

162. A ticket issued in respect of an offence under this Act must bear the following endorsement: "A conviction arising from the issuance of this ticket may constitute a prior conviction for the purposes of imposing a higher penalty for any subsequent conviction under the *Lands Act, 2020*".

Limitation period

163. Proceedings under this Act relating to an offence must not be commenced later than two years after the later of:

- (a) the day on which the offence was committed; or

- (b) the day on which evidence of the offence sufficient to justify a prosecution for the offence first came to the knowledge of an inspector.

Judicial notice

164. In a proceeding taken under this Act, judicial notice must be taken of:

- (a) a notice of non-compliance issued by an inspector under section 151; and
- (b) an order made by an inspector under section 152 directing a person to stop all work or carry out measures to mitigate the effects of non-compliance.

Remedies preserved

165. A person is not relieved of other liability if the person is subject to a proceeding, conviction or penalty for an offence under this Act.

Injunctions

166. The Council may apply to a judge of the Yukon Supreme Court for and the judge may grant an injunction enjoining any person from continuing conduct that is in contravention of this Act.

PART 13 RECONSIDERATION AND REVIEW

Right to reconsideration

167. A person directly affected by a director's decision that must be accompanied by written reasons may, within thirty (30) days from the date of the decision, request that the director reconsider the decision.

Content of request

168. A request made under section 167 must include:

- (a) a written statement setting out the grounds on which the request is based;
- (b) the information or documents that support the request; and
- (c) further information that the director determines is necessary for making a decision about the request.

Effect of request

169. If a request is made under section 167, no person may take any action in reliance on the decision that is the subject of the request.

Reconsideration

170. If the director reconsiders a decision and issues a new decision, the director may exercise the powers and must perform the duties that the director has in relation to applications.

Review by Judicial Council

171. (1) Subject to subsection (2), on application for judicial review, the Judicial Council may
- (a) order the registrar or the director to do an act or thing that the registrar or director has unlawfully failed or refused to do or has unreasonably delayed in doing;
 - (b) order the Council to do an act or thing that the Council has unlawfully failed or refused to do or has unreasonably delayed in doing; or
 - (c) prohibit, restrain, declare invalid or unlawful, quash, set aside and refer back for determination in accordance with directions it considers appropriate, any decision, order, act or proceeding of the registrar, director or the Council.
- (2) A person may not make an application under subsection (1) unless that person has first made a request under section 167.

PART 14 MISCELLANEOUS

Immunity

172. No action for damages lies or may be instituted against Kwanlin Dün First Nation, or a director, manager, officer, employee, servant or agent of Kwanlin Dün First Nation:
- (a) for anything said or done or omitted to be said or done by that person in the performance or intended performance of the person's duty, or the exercise of the person's authority; or
 - (b) for any alleged neglect or default in the performance or intended performance of the person's duty or the exercise of the person's authority.

No Immunity

173. Section 172 does not provide a defence if:

- (a) Kwanlin Dün First Nation, or a manager, member, employee, servant or agent of Kwanlin Dün First Nation, has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
- (b) the cause of action is libel or slander.

Limitation of Liability

174. Kwanlin Dün First Nation, or a director, manager, member, employee, servant or agent of Kwanlin Dün First Nation, is not liable for damages or other loss, including economic loss, sustained by a person, or to the property of a person, as a result of their neglect or failure, for any reason, to discover or detect any contraventions of this Act, or from the neglect or failure, for any reason or in any manner, to enforce this Act.

Limitation Period

175. An action against Kwanlin Dün First Nation for the unlawful doing of a thing that:
- (a) is purported to have been done by Kwanlin Dün First Nation under the powers conferred by this Act, and
 - (b) might have been lawfully done by Kwanlin Dün First Nation if acting in the manner established by law,

must be commenced within six months after the cause of action first arose, or within a further period designated by the Council in a particular case, but not afterwards.

Service

176. (1) Unless otherwise set out in the Act, an order, a notice or another document that must be served under this Act, may be served by
- (a) personally giving the order, notice or other document to the person to whom it is directed;
 - (b) mailing the order, notice or other document, by registered mail, to the person to whom it is directed to the last known address for that person; or
 - (c) if the person is unknown, affixing the order, notice or other document in a conspicuous location where the development or other activity of concern is occurring.
- (2) An order, notice or another document sent by registered mail is deemed to have been served on the person to whom it is directed on the 10th day after it was mailed if it was served to an address identified by that person in a document registered or recorded in the lands and resources register.

(3) An order, notice or another document affixed under paragraph (1)(c) is deemed to have been served on the 15th day after it was affixed.

PART 15 REGULATIONS

177. The Council may make regulations

- (a) prescribing the criteria for the disposition of settlement land;
- (b) setting out the procedure to be followed for the disposition of settlement land;
- (c) prescribing the information to be submitted to the director in connection with an application;
- (d) prescribing the criteria for the revocation of an interest in settlement land;
- (e) prescribing the criteria for access to, use and development of settlement land;
- (f) prescribing terms and conditions of interests and authorizations;
- (g) prescribing the criteria for the conversion of an allocation to a lease or the conversion of a lease to an allocation;
- (h) respecting the amount of security that may be required to be furnished under section 92;
- (i) determining the different classes of settlement land;
- (j) prescribing the criteria for different classes of settlement land;
- (k) determining the designated waters under paragraph 17(g);
- (l) determining the designated features under paragraph 17(f);
- (m) governing the location, size and shape of lots and other areas of settlement land to be created or subdivided;
- (n) controlling the subdivision of settlement land;
- (o) identifying contraventions of the regulations as offences and establishing applicable penalties;

- (p) prescribing the content of zoning;
- (q) relating to Part 5 respecting any matter which the Council considers necessary to carry out the provisions that Part;
- (r) determining the fees to be paid
 - (i) for registration of an instrument under this Act;
 - (ii) for filing of an application with the director;
 - (iii) for inspection of the register maintained pursuant to section 110;
 - (iv) for leases or allocations issued under this Act;
 - (v) for rents required under this Act;
 - (vi) for cost recovery under this Act; and
 - (vii) for any land use authorized under this Act;
- (s) establishing requirements to be met in respect of
 - (i) the issuance of a certificate of allocation;
 - (ii) an instrument submitted for registration;
 - (iii) a document submitted for recording;
 - (iv) the registration of an instrument;
 - (v) the recording of a document;
 - (vi) the creation of electronic documents or records permitted under this Act;
 - (vii) changing the name of a person in the records of the register;
 - (viii) the cancellation of a certificate of allocation;
 - (ix) the registration of a development authorization;

- (x) the registration of withdrawal of an instrument registered under this Act; and
- (xi) the recording of a power of attorney;
- (t) the recording or cancellation of a certificate of pending litigation; and
- (u) generally, for carrying out the purposes and provisions of this Act.

PART 16 TRANSITIONAL PROVISIONS

Existing land use plan

178. A land use plan that is in effect on the day that this Act is commenced is continued in force.

Existing interests must be registered

179. An interest in settlement land, other than an interest registered under the *Land Titles Act*, 2015 (Yukon), that is in effect on the day that this Act is commenced must be registered in the lands and resources register within six (6) months of the day that this Act is commenced.

Existing interests

180. (1) Subject to section (2) an interest in settlement land that is in effect on the day that this Act is commenced is, subject to this Act, continued in force in accordance with the terms and conditions of that interest.

(2) An interest in settlement land, other than an interest registered under the *Land Titles Act*, 2015 (Yukon), that is not registered in the lands and resources register within six (6) months of the day that this Act is commenced is invalid.

PART 17 COMING INTO FORCE AND REPEAL

Repeal

181. The *Lands and Resources Act, 2014* is repealed on the day this Act comes into force.

Coming into force

182. This Act or any provision of it comes into force on a day or days to be fixed by the Council.

SCHEDULE 1

INTERPRETIVE RULES

Interpretation

1. (1) Unless a contrary intention appears in the Act

"an Act" means an Act enacted by the Council in accordance with the Constitution;

"this Act" or "the Act" means the *Lands Act*;

"business day" means a day other than Saturday, Sunday or a day that is a holiday;

"calendar day" includes Saturday, Sunday and a day that is a holiday;

"Constitution" means the *Constitution of the Kwanlin Dün First Nation*;

"Council" has the same definition as in the Constitution;

"court" means the Supreme Court of Yukon, the Territorial Court of Yukon or other court having jurisdiction, as appropriate;

"enactment" means any of the following:

- (a) an Act;
- (b) a regulation made under an Act; or
- (c) a portion of an Act or a regulation;

"final agreement" has the same meaning as in the Constitution;

"federal law" means an enactment of the Parliament of Canada;

"government" includes a department, agency or crown corporation of a government;

"holiday" means any of the following:

- (a) New Year's Day
- (b) Heritage Day
- (c) Good Friday
- (d) Easter Monday
- (e) Victoria Day
- (f) National Indigenous Peoples Day
- (g) Canada Day
- (h) Discovery Day
- (i) Labour Day

- (j) Thanksgiving Day
- (k) Remembrance Day
- (l) Christmas Day
- (m) Boxing Day
- (n) Another day as determined by Council;

"in this Act" includes a reference to the regulations made under the Act;

"Judicial Council" has the same meaning as in the Constitution;

"KDFN" means Kwanlin Dün First Nation;

"KDFN law" means an enactment of the Kwanlin Dün First Nation Council;

"or" includes "and";

"person" includes a body corporate;

"regulation" includes a rule, rule of court, order prescribing regulations, tariff of costs or fees, form, resolution, or order made in the execution of a power given by an enactment but does not include an order of a court made in the course of an action or an order made by a public officer or administrative tribunal in a dispute between 2 or more persons;

"self-government agreement" has the same meaning as the term "Kwanlin Dün First Nation Self-Government Agreement" in the Constitution;

"statutory instrument" means any of the following:

- (a) regulation; or
- (b) an order (except an order of a court or an order made with respect to the resolution of a dispute between two or more persons), rule, form, fee, bylaw or other similar type of instrument made under an Act;

"territorial law" means an enactment of the Yukon Legislative Assembly;

"under an Act" or "under this Act" means under the authority of that Act.

(2) Unless a contrary intention appears in the Act, each provision of this Schedule applies to the Act.

(3) The provisions of this Schedule, including the rules set out in section 1, apply to the interpretation of this Schedule.

(4) For greater certainty, nothing in this Schedule displaces the application of a rule of construction that applies to the Act and is not inconsistent with it.

Preambles and reference aids

2. (1) In this section, "section heading" means a heading that appears in the Act immediately above or beside a section or a provision of a section.

(2) The following are part of the Act:

- (a) the title;
- (b) a preamble;
- (c) headings other than section headings.

(3) The following are not part of the Act and are to be considered to have been included editorially and for convenience of reference only:

- (a) section headings;
- (b) tables of contents;
- (c) information notes providing legislative history;
- (d) information notes providing text as an alternative for non-text content.

Enactment applies in the present

3. An enactment is to be construed as applying to circumstances as they arise.

Enactment remedial

4. (1) The words of an Act and its regulations are to be read in their entire context and in their grammatical and ordinary sense, harmoniously with the scheme of the Act, the object of the Act and the intention of the Council.

(2) An Act and its regulations are to be construed as being remedial and are to be given the fair, large and liberal interpretation that best ensures the attainment of their objects.

(3) Definitions or rules of interpretation in the Act apply to all the provisions of the Act, including the provisions that contain those definitions or rules of interpretation.

Appointments

5. (1) Authority under an Act to appoint an individual to an office includes the authority to

- (a) appoint the individual either for a fixed term or during pleasure of the Council;
- (b) provide for the individual's remuneration;

- (c) provide for payment of the individuals expenses;
 - (d) remove or suspend the individual;
 - (e) reappoint or reinstate the individual as appointee;
 - (f) appoint a deputy who has the same powers as the individual
 - (i) subject to the conditions; or
 - (ii) with the limitation of powers as may be specified in the appointment; and
 - (g) temporarily appoint another individual to act in the office if
 - (i) the office is vacant;
 - (ii) the individual is absent or unable to act for any reason, including, without limitation, illness or incapacity or a conflict of interest in respect of a matter; or
 - (iii) the individual gives prior notice of a temporary absence or resignation, such appointment to take effect on the office becoming vacant.
- (2) An appointment at pleasure of the Council may be revoked at any time without cause or notice.
- (3) An appointment is effective
- (a) upon acceptance by the appointee; and
 - (b) at the beginning of the day on which the appointment is to take effect.
- (4) Subject to subsection (5), an appointment for a term that is to conclude, expire or otherwise come to an end on a specified day includes that day.
- (5) An appointment that is terminated, revoked or rescinded effective on a specified day is effective at the beginning of the specified day.

Generally included powers

6. (1) If an Act confers a power, all the powers that are necessary to exercise the power are also conferred.

(2) In an Act

- (a) if a power is conferred on a person or body, the person or body may exercise the power from time to time;

(b) if a power is conferred on a person or body to make regulations, the power must be construed as including the power to rescind, revoke, amend, or vary the regulations and make others;

(c) when a word is defined, other parts of speech and tenses of that word have corresponding meanings; and

(d) when the time limited for the doing of anything expires or falls on a holiday, the time so limited extends to and the thing may be done on the first following day that is not a holiday.

Gender specific references

7. In an Act, gender-specific words refer to any gender.

Number specific references

8. In an Act, words in the singular include the plural and words in the plural include the singular.

Delegation

9. (1) If the Act authorizes the holder of an office or position to delegate a power granted or a duty imposed on the office or position, the holder, despite any delegation made, may exercise the power or perform the duty.

(2) A delegation made under the Act remains valid and in effect until the delegation is revoked or expires unless

(a) the Act provides that the delegated power or duty is repealed or so changed in substance that the power or duty is not substantially the same; or

(b) the Act is repealed or so changed in substance that the delegation is no longer authorized.

(3) An authority conferred by the Act to delegate a power or duty does not include the power to delegate a power to make regulations unless specifically authorized.

Computation of time

10.(1) A period of time expressed in days and described as beginning or ending on, at or with a specified day includes the specified day.

(2) A period of time expressed in days and described as beginning before, after or from a specified day excludes the specified day.

(3) A period of time described by reference to a number of days between two events excludes the day on which the first event happens and includes the day on which the second event happens.

(4) Subsections (1), (2) and (3) apply even if the period is expressed as “at least” or “not less than” a number of days or as requiring clear days.

(5) A time limit for the doing of anything that falls or expires on a holiday is extended to include the next day that is not a holiday.

(6) A time limit, for registering or filing documents or for doing anything else, that falls or expires on a day on which the place for doing so is not open during its regular hours of business is extended to include the next day the place is open during its regular hours of business.

(7) A period of time expressed as one or more consecutive months beginning or ending on, at, with, before, after or from a specified day, is counted to the date numerically corresponding to the date of the specified day in the last or first month of the period, as the case requires.

(8) A period of time expressed as one or more consecutive years beginning or ending on, at, with, before, after or from a specified day, is counted to the same date as the specified day in the last or first year of the period, as the case requires.

(9) If a period of time would end on a date in a month that has no date numerically corresponding to the first date in the period, the period ends on the first day of the next month.

(10) A person reaches a particular age expressed in years at the beginning of the relevant anniversary of his or her birth date.

Citation of an Act and other enactments

11. In an Act and each other enactment

(a) a KDFN law may be cited by reference to

(i) its title only; or

(ii) its title immediately followed by “KDFN” in parenthesis;

(b) a federal law may be cited by reference to

(i) its title only; or

(ii) its title immediately followed by “Canada” in parenthesis;

(c) a territorial law may be cited by reference to

(i) its title only; or

- (ii) its title immediately followed by “Yukon” in parenthesis.

Citation includes amendment

12. Unless the contrary intention appears, a citation or reference to the Act, another enactment, a territorial law or a federal law is considered to include each citation or reference to the Act, other enactment, territorial law or federal law, as amended.

Reference to regulations

13. A reference in the Act or another enactment to regulations is to be read as a reference to regulations made under the Act or other enactment in which the reference occurs.

Terms used in statutory instruments

14. Unless a contrary intention appears in a statutory instrument, a word or expression used in a statutory instrument has the same meaning as in the Act or other enactment authorizing the statutory instrument, whether or not the word or expression is defined in the Act.

Power to differentiate

15. The Council’s power to make a regulation under the Act includes the power to make regulations that

- (a) are general or particular in application;
- (b) are different for different classes; and
- (c) establish classes for the purposes of paragraph (b).

Defined terms

16. If a word or expression is defined in the Act, other parts of speech and grammatical forms of the same word or expression have corresponding meanings.

Common names

17. If the name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing is used in an enactment, that name means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied, even though that name is not the formal or extended designation of it.

**SCHEDULE 2
LAND USE PLANS**

Traditional Territory Land Vision

Community Lands Plan