

marsh lake

COOPERATIVE LOCAL AREA PLAN

2016



Yukon
Energy, Mines and Resources



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Prepared by:



Site | *Planning + GIS*

WELCOME TO THE PLAN

The Marsh Lake Cooperative Local Area Plan (Plan Marsh Lake) is a document that distills thousands of hours of community participation, consultation, information-gathering, and technical expertise to produce a roadmap that will help shape the Marsh Lake area over the next 20 years.

It is also the product of a cooperative partnership between the Government of Yukon and the Kwanlin Dün First Nation, as outlined under Kwanlin Dün First Nation Final and Self-Government Agreements. This partnership ensures that the Marsh Lake community, Kwanlin Dün First Nation citizens, and all Yukoners will benefit from this unique planning process, to which both First Nations and non-First Nations have been equal contributors.

The Marsh Lake Cooperative Local Area Plan was developed with the guidance of the Steering Committee. During the planning process the Steering Committee had the pleasure of hearing many unified views and also many unique and diverse perspectives. There were areas of clear agreement during the process and also areas where agreement was elusive. We believe we have developed a plan that reflects the core values of the community (as reflected in the Guiding Principles), protects sensitive wildlife habitat, reflects the Kwanlin Dün First Nation and Government of Yukon interests and mandate, and addresses expressed community needs.

No community is insusceptible to change and Marsh Lake is no exception. There are land use interests and land use conflicts that have existed for some time. In this plan we have made our best possible recommendations to address long-standing challenges while recognizing the desire of Marsh Lake residents to maintain their existing lifestyle.

The Marsh Lake plan area is a special place. It has a rural look, feel, and community spirit. It is rich with wildlife and is particularly important for caribou and migrating birds. Our hope for this plan is that it will be put to use in helping to strengthen the Marsh Lake community; and to support the development of the Marsh Lake area in ways that maintain the unique character of the area and its natural setting.



Figure 1: M'Clintock Bay and the Lewes River is a key spring staging area for Trumpeter Swans and other waterfowl. This area is adjacent to the plan area and under agreement as Lewes Marsh Habitat Protection Area.

EXECUTIVE SUMMARY

Background

For over a decade the Marsh Lake Local Advisory Council and area residents lobbied to see a local area plan completed for Marsh Lake. With the exception of M'Clintock Place, the area had no land use plan or zoning regulations to guide orderly development and to address land use conflicts that were arising.

The Kwanlin Dün First Nation Self-Government Agreement provides for partnership with the Government of Yukon to undertake a cooperative local area planning process. This is the first local area plan where a First Nation is the largest landholder in the area. Although each government has the right to make decisions independently on their own lands, it was recognized by both parties that there was great value in a joint planning process with a shared vision.

The Vision Statement

The Marsh Lake area is a rural community with clean water and healthy fish and wildlife populations. People enjoy the local environment, have a chance to work locally, and have access to basic local services. First Nation citizens have renewed their cultural ties to the area, while all residents are connected to the community and have a vibrant presence on the land.

Guiding Principles

The Guiding Principles were developed from the Vision Statement and will help direct the future development of the area. They are:

- **Care for the Environment:** Respect the natural environment and ecosystems.
- **Community Culture:** Foster and promote the rich First Nation history and traditional use of the area as well as the culture of the local community.
- **Rural Lifestyle:** Affirm and foster the unique rural lifestyle and community spirit.
- **Community Sustainability:** Promote the efficient use of global and local resources.
- **Self-Sufficiency:** Promote the production of local goods and services.

The Marsh Lake Community

The Marsh Lake community is a vibrant, inclusive, and supportive one with a shared love among residents of where they live. Residents cherish their community spirit, characterized by its close-knit nature, self-reliance, and self-determination. They also value the unique rural lifestyle, including the recreational opportunities, the quiet and solitude, the natural open spaces, and the wildlife. There are a rich First Nation history and strong First Nation ties and interests in the area.

Growth

Marsh Lake has experienced considerable growth over the last several decades as year-round primary residences replaced seasonal recreational cottages. Agricultural activities were introduced into the area and neighbourhoods grew. Public demand for land in the Marsh Lake area has been dealt with on an ad hoc basis through spot land applications, under pressure from an increasing Whitehorse population. The pressure has made it important to have a local area plan in place to ensure that growth takes place in a way that reflects the values of the community.

Kwanlin Dün Lands

The Kwanlin Dün First Nation Final Agreement and Self-Government Agreement were finalized in 2005. A large portion of the Settlement Land quantum available to Kwanlin Dün First Nation (KDFN) was applied to the Marsh Lake area. This is one indication of the importance of the area to the First Nation. In fact, 48.8% of the Marsh Lake planning area is KDFN Settlement Land. Over the past 16 years, KDFN has supported habitat assessment and monitoring work on the Michie – M’Clintock salmon run. It has participated in the Southern Lakes Caribou Recovery program, and more recently in the Southern Lakes Wildlife Coordination Committee. This work is done with a view to recover populations that have been relied on traditionally enabling members to continue subsistence use of the resource in the area. At the same time, some KDFN lands will support development and KDFN’s pursuit of economic opportunities. Participation in the Marsh Lake Cooperative Local Area Plan is a priority for KDFN in achieving this range of land use goals.

Land Designations

The main outcomes of a local area plan are land designations and policies that support each land designation.

Designation	Area (km²)	% of Total Area
Environmental Open Space 1 & 2	237.65	63.15
Open Space	92.34	24.53
Community Use	6.59	1.75
Residential 1, 2, Lakefront, & Marina	13.62	3.62
Commercial	0.07	0.01
Future Planning	9.28	2.47
Agriculture, Light Industrial, Public Infrastructure	20.39	6.25
Total	376.34 km²	100.00 %

Environmental Open Space 1 & 2, Open Space, and Community Use

Environmental Open Space 1, Environmental Open Space 2, Open Space, and Community Use designations protect key wildlife habitat areas such as: wildlife migration corridors, riparian areas (including salmon spawning creeks), and wetlands for migrating bird populations. These designations account for 88% of the total area and serve to maintain the area's rural character while providing opportunities for people to stay active and connected to their environment on the well-loved network of trails.

Residential

Existing privately owned residential lands have been designated as Residential. There are also several new residential areas that have been identified on Yukon government and KDFN settlement lands for future development. Sufficient land has been identified for development of approximately 4 new lots per year over the next 20 years. Policies in the Plan recommend a mix of lot sizes, including some larger lots to maintain the rural character of the area.

Residential – Long Term

KDFN has identified a number of areas for long-term growth planning for the needs of future generations beyond the next 20 years.

Agriculture

Existing agricultural lots have been designated Agriculture. In addition, several locations have been identified for future agricultural development. A large area with good potential for agricultural development exists up the M'Clintock Valley Road. However, it is also a key habitat area for wintering caribou. As a result, a large part of this area has also been designated as Environmental Open Space 1 and 2.

Light Industrial and Commercial

Commercial designations would increase self-sufficiency in the Marsh Lake area and reduce dependency on Whitehorse goods and services. The Commercial designations are: at the corner of Doehle Drive and the Alaska Highway in Judas Creek; at the corner of South M'Clintock Road and the Alaska Highway; the Marina; and in the M'Clintock Place subdivision.

Alaska Highway Pipeline Easement

The Alaska Highway Pipeline easement was registered in 1983. The Plan recognizes this status.

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Getting to Know the Plan

We invite you to get to know the Plan. Take the time to leaf through it and to familiarize yourself with the various sections. It has been organized to be as user-friendly as possible.

This Plan is a living document. It is designed to help strengthen the Marsh Lake community, and to support its development over the next 20 years in ways that maintain the unique character of the area and its natural setting.

Photographs in the Plan are contributed by Georgia Greetham, Kim Hardy, Len Parent, Simon Lapointe, and John Meikle.



Figure 2: The land includes the five Marsh Lake Local Advisory Council Wards, extends from Judas Creek to the Lewes River Bridge and from Marsh Lake to the mountains.

Acknowledgements

The development of the Marsh Lake Cooperative Local Area Plan was an in-depth community process that involved the time, effort, and support of many community members.

The consultants would particularly like to thank those of you who stayed with the process from start to finish, hosted meetings in your homes, bumped along the roads with us, and came out on cold, dark nights to public meetings.

The consultants wish to thank the members of the Steering Committee for their dedication to address the needs brought forward to them and reflect everything that we heard throughout the process. The Steering Committee included (in alphabetical order):

Deborah Fulmer, Government of Yukon community member appointee

Georgia Greetham, Chair and Government of Yukon community member appointee

Dave Sembsmoen, Kwanlin Dün First Nation appointee

Malcolm Taggart, Government of Yukon community member appointee

Les Wilson, Kwanlin Dün First Nation appointee

Yukon government staff at Land Planning and other branches and departments provided the expertise and information required for the Plan.

The consultants would also like to acknowledge all the work of Kwanlin Dün First Nation staff. In particular, the work they did to balance broader Marsh Lake community needs with Kwanlin Dün First Nation interests. Diane Smith was a key support in organizing the Elders' teas and providing insight into the First Nation connection to the Marsh Lake area.

We really enjoyed the opportunity to get to know this beautiful area of the Yukon better and meet so many interesting and friendly people.



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the unique qualities, common values, aspirations, and expectations of the Marsh Lake community, Kwanlin Dün citizens, and the Yukon public.

The Vision statement summarizes the kind of future the community wants over the next 20 years and the Guiding Principles provide direction on the core values that were followed in the development of the Plan. The Vision and Guiding Principles are the foundation of the Marsh Lake Cooperative Local Area Plan.

More information on how the Guiding Principles led to the creation of the Plan can be found in Section 6.

2. Introduction

2.1 Purpose of the Plan

The purpose of the Marsh Lake Cooperative Local Area Plan (“Plan”) is to guide land use and development for public, private, and First Nation Settlement Lands in the plan area. Local area plans provide guidelines and policies to minimize land use conflicts, and to make sure that future development and growth happen in an orderly manner. For Marsh Lake, the lack of a general standard for residential subdivision development was one of the primary reasons for developing a local area plan.

The planning process provided local residents the opportunity to influence decisions that were made about the use (and non-use) of the area while ensuring that broader public interests were considered, such as those identified through government and First Nation input. The Plan establishes a direction for how the community can support and enhance its community values while growing and changing over the next 20 years.

This Plan includes broad policies and land use designations. In the future, these will be used to guide the creation of area development (zoning) regulations, which provide more details on what can or cannot occur in each zone, including use and development of individual properties.

This Plan responds to the Marsh Lake Local Advisory Council, Yukon government (YG), and Kwanlin Dün First Nation’s (KDFN) desire to make land use decisions in a carefully considered and planned way, addressing existing and potential land use conflicts.

YG and KDFN were partners in the development of this Plan. They used a cooperative process in line with the KDFN Self-Government Agreement (SGA). According to the SGA, the purpose of cooperative land planning between YG and KDFN is to minimize actual or potential land use conflicts between Settlement Land and non-Settlement Land.

The Plan responds to:

- the opportunity to undertake joint planning of the Marsh Lake area, based on the KDFN Self-Government Agreement;
- an ongoing request by the Marsh Lake Local Advisory Council to complete a plan to ensure an organized and logical approach to local area development;
- public demand for land in the Marsh Lake area, which was previously being dealt with on an ad hoc basis through spot land applications;
- incompatible commercial and light industrial uses taking place within residential areas;
- pressure from the Yukon population increase, which grew by 11.6% in the five years between 2006 and 2011; This saw a substantial increase in demand for residential land in surrounding areas;
- the desire by KDFN to develop their Settlement Land parcels, which make up approximately 49% of the land base in the local planning area;

- a need to protect land values such as rare plant species, wildlife habitat, and surface water quality;
- the need for development controls that became apparent during the severe flood event in 2007; and
- the desire of residents to maintain the existing rural residential character of the area.

2.2 Agencies and Landowners

There are five government agencies that are involved in decision-making in the Marsh Lake area: YG, KDFN, Carcross/Tagish First Nation (CTFN), Ta'an Kwäch'än Council (TKC), and the Marsh Lake Local Advisory Council.

2.2.1 Marsh Lake Local Advisory Council

The Marsh Lake Local Advisory Council provides advice and recommendations to YG on matters such as regulations, plans, and services that are needed for the area. Local advisory councils are governed by the *Municipal Act* and are an advisory body with no decision-making powers. The Marsh Lake Local Advisory Council will advocate for conformity to the Plan and for development of zoning regulations and subsequent plans/studies, such as trail plans.

2.2.2 Carcross/Tagish First Nation

The CTFN Traditional Territory includes part of the Marsh Lake plan area. CTFN has nine Settlement Land parcels, which accounts for 0.19% of the total planning area. CTFN lands have not been included in this planning process. However, efforts were made to ensure that land use designations surrounding CTFN parcels are consistent with the current uses and that the Plan reflects CTFN subsistence use interests.

In June 2015, during the final stage of the planning process, CTFN expressed an interest in joining the planning process and having their Settlement Land designated along with other proposed land uses. Given the advanced stage of the plan and the support to move forward with approval, YG and KDFN proposed to incorporate CTFN Settlement Land through a comprehensive plan review process and initiate it within six months of the plan's adoption. This process is described in more detail in Section 10.

2.2.3 Ta'an Kwäch'än Council

The TKC Traditional Territory overlaps the north end of the Marsh Lake plan area. TKC has had the opportunity to contribute throughout the planning process; however they do not have any Settlement Land within the plan area.

2.3 Kwanlin Dün First Nation

With settlement lands encompassing 48.8% of the Marsh Lake area, KDFN owns the largest amount of land within the planning boundary. This is KDFN's first local area plan since finalizing its Self-Government and Land Claim (Final) agreements, and is the first local area plan developed in the Yukon where a First Nation owns the largest percentage of land. KDFN has chosen to plan its Settlement Lands jointly with the neighbouring Yukon land and private lands.

As a new government, KDFN is in the process of developing legislation and a land management system for their Settlement Lands. Although KDFN has not yet developed an overall vision for Settlement Lands within the Marsh Lake area, this Plan will provide flexibility for KDFN to clarify and modify land uses as a long-term vision is established.

The land use designations on KDFN land were developed through careful consideration of public input, technical information, interests of KDFN beneficiaries, and political direction. KDFN intends to encourage land use within these areas that is consistent with the designations. However, KDFN may want to make changes to the land use designations on Settlement Land. For example, if a beneficiary is interested in building on Settlement Land that is designated for future planning or long term residential, KDFN may support the beneficiary in doing so. The needs of KDFN and its beneficiaries will ultimately determine how and when KDFN Settlement Lands may be developed.

It is important to note that many of the Settlement Land parcels were negotiated for specific reasons that needed to be reflected in the Plan. For example, some lands were identified for commercial or residential use, due to family history and current use. KDFN is interested in accommodating the needs of the community where possible. KDFN encourages Marsh Lake residents to become familiar with KDFN Settlement Lands and all the rights associated with the use.

2.4 Yukon Government

Public lands (Yukon land) account for almost half of the planning area. YG is responsible for land use decision-making and management of Yukon lands and private land. The Yukon government has several decades of experience developing and implementing local area plans. The Plan is not a legally binding document, but it will direct YG decisions on land use and development of future regulations and plans (such as trail plans).

Table 1 Land Tenure Summary

	Area (km ²)	Area (% of total)
Kwanlin Dün First Nation Settlement Land	183.6	48.8
Public (Yukon) land& Private land	192.8	51.2
Total	376.4 km²	100 %

2.5 How the Plan Was Developed

As planning partners, YG and KDFN each appointed Steering Committee (SC) members. YG's appointees were from the Marsh Lake community.

The Steering Committee helped guide the planning process, direct and review development of the Plan, and recommend a final version to YG and KDFN. The Steering Committee was supported by YG, KDFN, Cambio Consulting, Urbinnovation, and Site Planning + GIS. Work on the project began in the summer of 2011 and was completed in 2014.

The planning process was divided into five phases.

The Steering Committee met more than 10 times during Plan development to review planning results and provide direction on the planning process.

Communication with the public included newsletters, mail-outs, newspaper ads, website posts (both planmarshlake.ca and KDFN) and Facebook postings. In addition to being on the website, newsletters and mail-outs were distributed to residents, property owners, KDFN citizens, and any individual who expressed an interest in the Plan. KDFN also provided information through KDFN newsletters.

There was significant public involvement during the planning process. The Steering Committee held a number of public workshops to gather necessary community feedback at key points during the preparation of the Plan. Most public meetings involved 20 to 50 people, while the kitchen table meetings drew 94 people. KDFN hosted two Elders' tea meetings.

The Committee used two public surveys, comment boxes, and a graffiti wall to gain input from community members and interested individuals. A total of 120 people participated in the summer 2011 survey, while 116 people participated in the fall 2012 survey. The results of each public event or activity were posted on the website within a few weeks. The Vision Statement, Guiding Principles and policies were developed based on this community input.



Figure 4: Community discussions took place from the spring of 2011 to the spring of 2013.

Marsh Lake Cooperative Local Area Planning Process



Phase 1 – Outreach

The Marsh Lake Cooperative Local Area Planning process was launched with a barbecue on June 11, 2011 at Army Beach. A website and Facebook page went live, and a newsletter was sent to all Marsh Lake residents. A series of newspaper ads invited all Yukoners to visit the website or contact the Steering Committee for more information.

Phase 2 – Information Gathering

During summer and fall of 2011, Marsh Lake residents, First Nation citizens, and interested Yukoners provided their perspectives on land uses and values of the Marsh Lake area through kitchen table meetings, a survey, Elders’ tea meetings, and a field trip.

Technical information gathering included a review of existing documents and meetings with relevant departments of both YG and KDFN. This information was summarized and presented through maps and text in the *Information Gathering* report. This background report was made available to the public through the Plan Marsh Lake website following Steering Committee review.

Phase 3 - Visioning

The youth and adult visioning workshop invited participants to share their ideas for the future of Marsh Lake. KDFN hosted an Elders’ tea. The Steering Committee used the themes that emerged from these workshops to develop a draft Vision Statement.

The draft Vision Statement was then circulated publicly through a newsletter and was adjusted based on feedback.

Phase 4 – Plan Development

A workshop was held to discuss key issues where there were different perspectives in the community or different approaches that could be taken. These topics included: shoreline, waterfront and flooding; commercial and industrial activity; motorized recreational vehicle use; and residential development and agriculture.

Based on the technical information and public input collected, the planning consultants developed three land use concept options, each reflecting the Vision and Guiding Principles of the Plan. A second workshop reviewed these options. Participants were asked to consider the

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land uses in each option and to make suggestions on different land designations.

KDFN reviewed the technical information, public input, and direction from KDFN leadership to identify possible land designations that would meet the requirements of their Final Agreements and their interests for future land use.

Phase 5 – Draft Plan

A draft land designation map was developed with draft policies establishing what types of land uses would be acceptable within each land use designation. In addition to a public meeting held on September 12, 2012, these materials were distributed to the public by mail, email, and a link to the website in the newspaper. A survey was carried out between October 31 and December 5, 2012, to invite more public feedback on the draft land designations.

Based on a technical review, the public meeting, and survey feedback, a draft Plan was written and presented to the public in winter of 2014/15.

Following the public meeting, CTFN expressed an interest in joining the planning process and having CTFN Settlement Land designated along with other proposed land uses. The final plan was prepared in the fall 2015 with policies to address the process for incorporating CTFN Settlement Land as part of a comprehensive plan review.

Phase 6 – Plan Approval

The Steering Committee will submit the final Plan to KDFN and YG for approval. Once the Plan is approved, its policies on non-Settlement Land will be implemented through new or revised area development (zoning) regulations. KDFN and the Land Planning Branch of YG will develop these zoning regulations together. Once KDFN develops its own land management legislation, they will be able to establish complementary zoning on Settlement Land.

2.6 How to Read This Plan

Section 1 of this document presents the Vision and Guiding Principles.

Section 2 explains the purpose of the Plan, the process that was used to develop the Plan, and the key players involved.

Section 3 includes background information about the historical and present characteristics of the Marsh Lake plan area, and the current land uses. This section can help the reader understand everything that was considered in developing this Plan.

Section 4 outlines how capability for various land uses within the Plan area were identified.

Section 5 explains how population growth was considered in the planning process and introduces all land use designations.

Section 6 goes through each of the Guiding Principles to clarify Plan objectives and has an explanation of how each Guiding Principle was addressed in the Plan.

Section 7 includes policies that apply throughout the planning area.

Section 8 includes the policies that relate to each of the land designations. The land use designation map shows where each land designation is located and what policies apply to which areas.

Sections 9, 10, and 11 describe the Plan's implementation, review and amendment processes.

The Glossary contains definitions for terms used throughout the plan.



3. Marsh Lake Area Characteristics

3.1 Location and Regional Context

The Marsh Lake plan area is approximately 376.4 km² (square kilometres) and is located south of Whitehorse in the Southern Lakes ecoregion and the Yukon River watershed. Its southern boundary is the shoreline of Marsh Lake. The planning area extends east to Judas Creek, north to Michie Creek, and west to the northern tip of the Lewes Marsh Habitat Protection Area. It constitutes part of the traditional territories of the Kwanlin Dün, Carcross/Tagish, and Ta'an Kwäch'än First Nations.

3.2 Land Ownership

Yukon government administers 192.8 km² (51.2%) of the planning area, including approximately 24.8 km² (6.6%) of privately titled land.

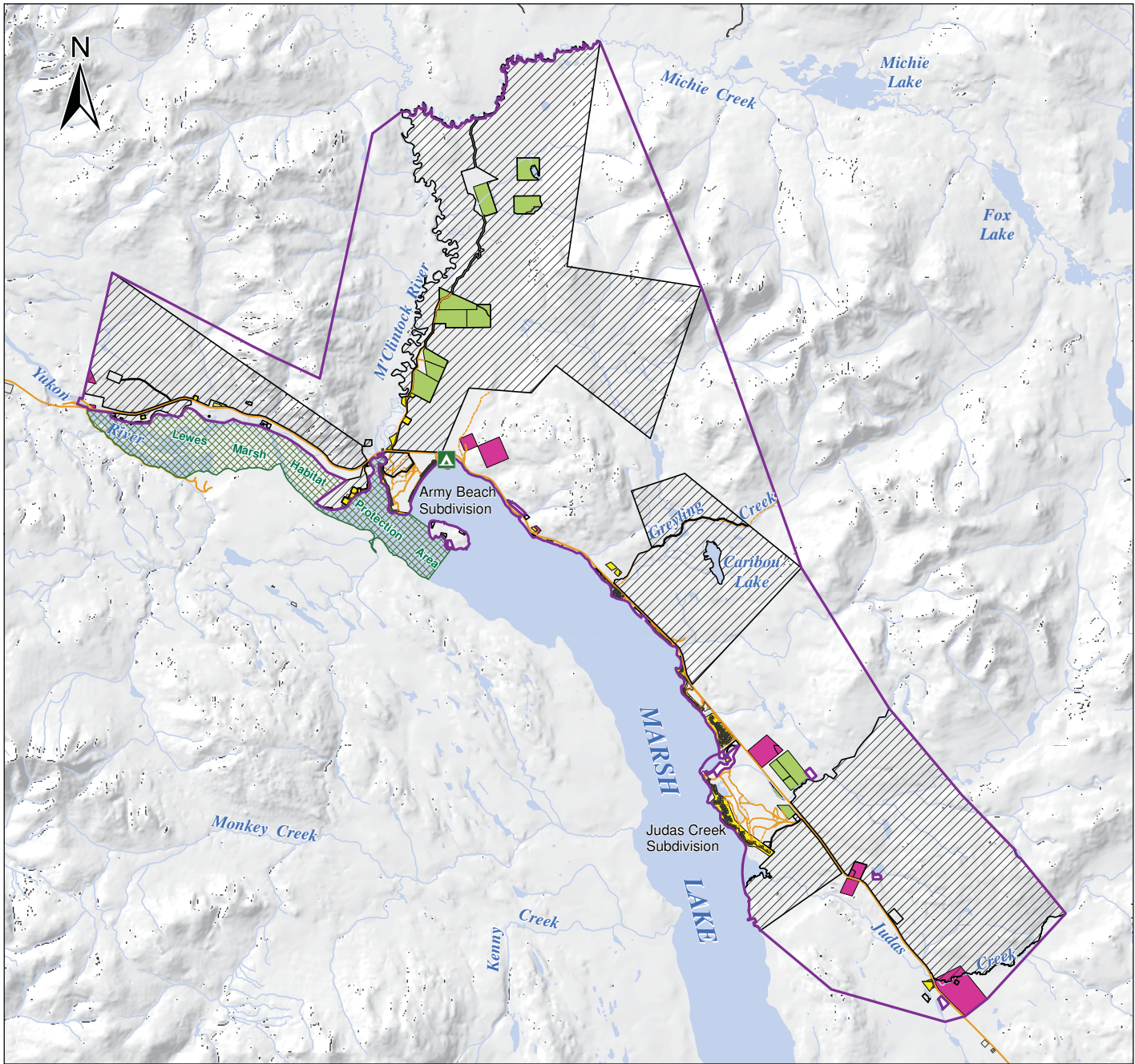
KDFN First Nations Settlement Lands account for 183.6 km² (48.8%) of the planning area, and include both Category A and B lands. This includes 30 Settlement Land parcels, most of which are undeveloped:

- Seven Rural Blocks for a total of approximately 180.5 km², or 18,052.9 ha (hectares) of Category A Settlement Lands;
- Three Rural Blocks for a total of approximately 247 ha of Category B Settlement Lands;
- 21 Site Specific selections for a total of 68.8 ha.

CTFN has nine Settlement Land parcels adding up to 0.71 km², which are not subject to the policies of the plan. Ta'an Kwäch'än Council (TKC) does not have any Settlement Land in the area.

The planning area includes a number of vibrant residential neighbourhoods located along Marsh Lake. These neighbourhoods are divided into five wards: Judas Creek, New Constabulary, Old Constabulary, Army Beach/South M'Clintock, and M'Clintock Valley/North M'Clintock. Current development footprints are concentrated at Army Beach and Judas Creek subdivisions and along the lake front and M'Clintock Valley as shown on Map 1.











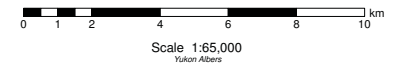
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MARSH LAKE LOCAL AREA PLAN

Map 1 - Existing Land Use

LEGEND

-  Planning Area
-  Special Management Area
-  Residential & Commercial
-  Agricultural
-  Industrial & Infrastructure
-  Kwanlin Dün FN Settlement Land
-  Carcross/Tagish FN Settlement Land



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3.3 Natural Environment

3.3.1 Hydrology

The high water mark along the east shore of Marsh Lake forms the southwestern boundary of the plan area. About 6.5 km² (1.7%) of the planning area is covered by water. Small water bodies include Caribou Lake and Bob Lake. The main rivers and tributaries include the M'Clintock River, Michie Creek, Greyling Creek, and Judas Creek.

From the 1920s onwards, man-made obstructions to the Yukon River have created fluctuating water levels on Marsh Lake. The ecosystem in the area is therefore in an altered state. In 1957 the Whitehorse dam was constructed. Throughout 1958 the dam completely blocked the passage of salmon upriver. By the time a fish ladder was built in the following year, there was already a significant impact on the M'Clintock River salmon fishery. A small population of spawning salmon up M'Clintock River and Michie Creek has been sustained; however, how people utilize salmon, the lake and its resources has changed as the dam blocked salmon.

3.3.2 Landforms and Ecosystem Types

The planning area has a wild and varied terrain. Landforms range from low-lying areas to prominent mountain tops, long ridges to wide-open slopes and broad valleys. There are five main landforms: valleys, floodplains, open slopes, canyons, and ridges and mountain tops (Map 2).

Much of the land lies between 650 m (metres) and 1,500 m in elevation. Most areas are at mid to low elevations (97.8% of the planning area), with a few areas at higher elevation in the alpine (0.04%) and sub-alpine (2.1%).

Most of the areas along floodplains and gullies (Marsh Lake, M'Clintock River valley, Greyling Creek, Lewes Marsh, Army Beach, and Judas Creek) are wet and poorly drained.

Forested areas are mostly found below 1,100 m. Common tree species include white spruce, pine, and aspen, and are found throughout the planning area, as shown on Map 3. There are pockets of old-growth forest between 80-120 years old located along the M'Clintock River and Judas Creek.

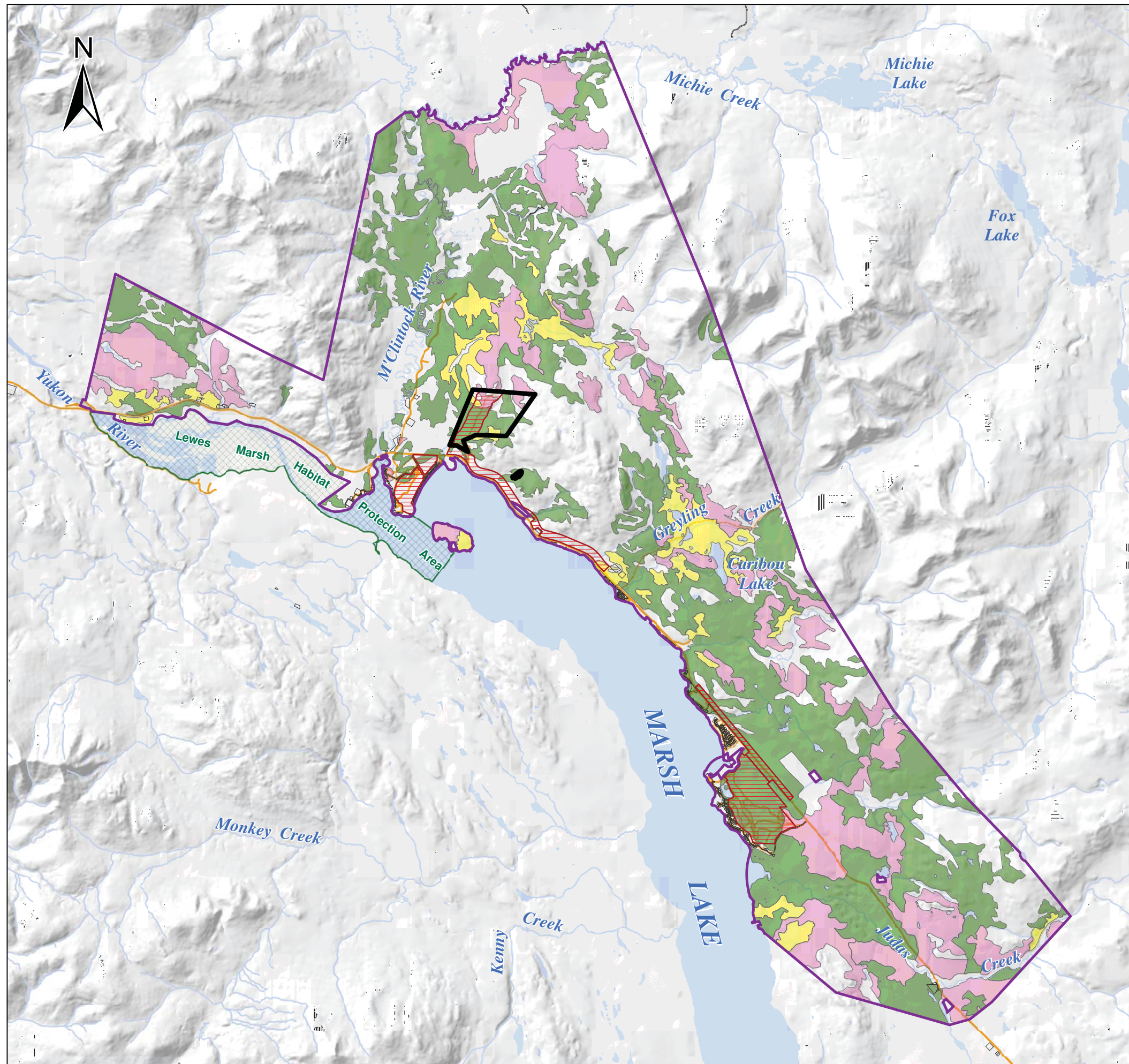
3.3.3 Unique Ecosystem Features

Unique ecosystem features include wetlands, saline meadows, grasslands, south facing bluffs, and riparian habitat along rivers and waterways.

Figure 5: Marsh Lake wetlands are important spring staging areas for migratory waterfowl. Small wetlands and lakes support breeding for ducks, with many small migratory birds nesting in adjacent shrub and forest habitats.



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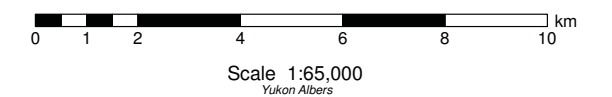
plan marsh lake

MARSH LAKE LOCAL AREA PLAN

Map 2 - Leading Tree Species

LEGEND

-  Planning Area
 -  Personal Use Firewood Area
 -  Timber Harvest Plan
 -  Special Management Area
- Leading Tree Species**
-  Aspen
 -  Pine
 -  Spruce



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3.3.3.1 Wetlands

Wetlands are significant as they include some of the most biologically and culturally important values in the planning area. They account for about 10.42 km² or 2.7% of the planning area (Ta'an Kwächän Council, 2012).

The wetlands in the area include three different types: shallow water, swamps, and marshes and fens. All are important for wildlife, but shallow water is the most important wetland area for birds. Shallow water wetlands are the transition zones from marshes to deeper aquatic ecosystems such as lakes or rivers, shallow lakes and ponds, and areas found beside rivers and shorelines. Wetlands and watershed boundaries are shown on Map 4.

Swamps and marshes along the shores of Marsh Lake, Lewes Marsh, and the lower reaches of the M'Clintock River have been altered from their historical state by water level manipulation associated with the current Marsh Lake dam and its predecessors. The exact nature and extent of this alteration is difficult to measure, owing to the lack of detailed information available from before the dams were constructed. The current water management regime maintains unnaturally high water levels through the fall and most of the winter to provide water storage for the hydroelectric generating facility at the Whitehorse Rapids Dam.

Fens are not common within the Marsh Lake area but are present. They are peatlands that are influenced by flowing surface water or discharged groundwater (Ducks Unlimited, 2007).

The Judas Creek wetland is a diverse mosaic of wetland, riparian, lakeshore, and forest habitats at the outflow of Judas Creek on Marsh Lake. The area is well known for its importance to breeding and migratory birds. During spring migration, the wetland hosts an unparalleled diversity of bird species, especially shorebirds, and waterfowl. Over 165 species of birds have been recorded using the area, and a one-day high count numbered 95 species. It is one of only two sites in the Yukon where Short-billed dowitchers nest. (Yukon Wetlands Technical Committee)

3.3.3.2 Grasslands

Grasslands communities are also present in the planning area, but are limited and generally occur on south facing slopes. Most grassland communities can be found along the Alaska Highway.

3.3.3.3 South-Facing Bluffs

The south facing bluffs north of the Alaska Highway are the first places to become snow-free and green in the spring. They are used in spring by both black and grizzly bears. These slopes are also used by mule deer, most likely for late winter-spring use, and are home to a number of plants that make their northern range into the area (*Woodsia scopulina*, *Collinsia parviflora*, *Poa cusickii*, *Artemisia michauxiana*). These areas have a rich diversity of butterflies and are important for birds in the spring: Shrikes, Northern harrier, Bohemian waxwings and Bluebirds.

3.3.4 Wildlife

The diversity of ecosystems and numerous water bodies account for the high diversity of fish

and wildlife populations in the area. The Southern Lakes Ecoregion supports the highest mammalian diversity in the Yukon with at least 50 or more species, including grizzly bear, woodland caribou, moose, wolf, coyote, wolverine, and fox. (Smith, Meikle, & Roots, 2004) According to the Birds of Yukon Database, approximately 150 species of birds occupy the area on a seasonal or annual basis.

The long-term sustainability of wildlife populations in the Marsh Lake area is of primary concern to Marsh Lake residents and KDFN citizens. It is the presence of wildlife that contributes to the quality of life Marsh Lake residents and visitors appreciate.

The Southern Lakes Wildlife Coordinating Committee (SLWCC) was established in 2008, as agreed to in the Kwanlin Dün and Carcross/Tagish First Nations' Final Agreements. The SLWCC was a multi-party initiative, which included six First Nations, Yukon government, Province of British Columbia, and Canada. In 2012 the SLWCC completed their mandate by publishing the Regional Assessment of Wildlife in the Yukon Southern Lakes Area, Volumes 1 and 2 (Southern Lakes Wildlife Coordinating Committee, 2012). Volume 1 contains the SLWCC's recommendations to management agencies, and Volume 2 is a comprehensive compilation of current and relevant wildlife knowledge and concerns.

3.3.4.1 Species at Risk

There are a few rare plants, birds, mammals, and one insect considered at risk within the Marsh Lake area. Rare plant species include the Rocky Mountain Woodsia fern and forb, *Crassula aquatica*, and Michaux wormwood. Species of conservation concern include the Little brown bat, which is considered endangered. Bird species assessed at risk include the Buff-breasted Sandpiper (special concern), the Common night hawk (threatened) and the Olive-sided flycatcher (threatened). A known insect species of conservation concern is the Muskeg emerald dragonfly.

The grizzly bear, wolverine, and caribou are found in the Marsh Lake area and have been assessed as 'special concern' by the Committee on the Status of Endangered Wildlife in Canada. Caribou are also found throughout the area and described in more detail in the next section.



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MARSH LAKE LOCAL AREA PLAN

Map 3 - Wetlands and Watersheds

LEGEND

-  Planning Area
-  Wetlands
-  South-Yukon Watersheds
-  Special Management Area



Scale 1:65,000
Yukon Albers

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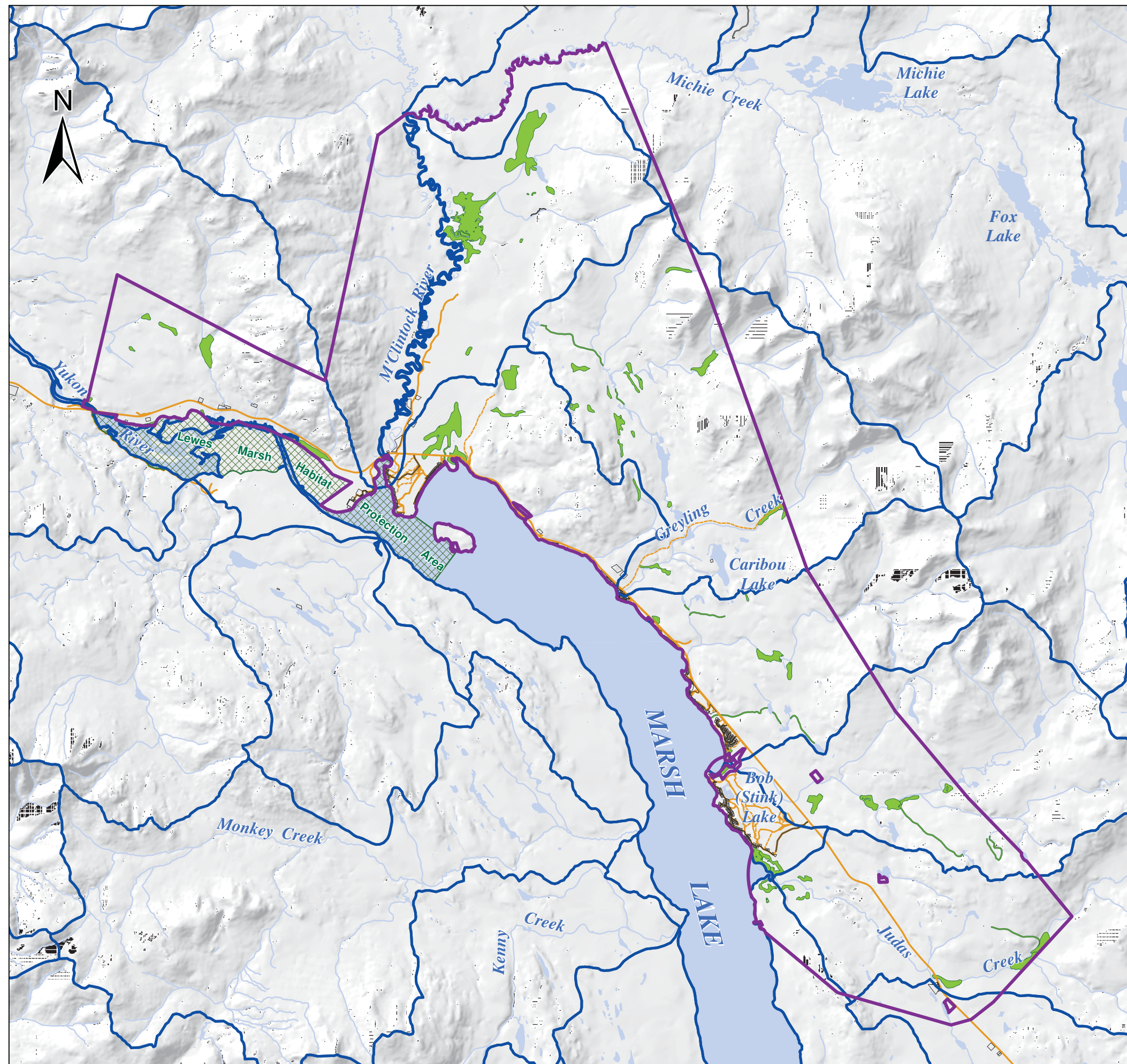
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3.3.4.2 Caribou

The caribou found in the Marsh Lake area are part of the Carcross Caribou herd, one of three herds referred to as Southern Lakes caribou. They were once plentiful in number and a staple food for First Nations in the area. Due to development within their habitat as well as hunting, predation, and disease, their numbers declined. In 1993, the Southern Lakes Caribou Recovery Program (SLCRP) was established to restore the herd population. The SLCRP was a multi-party initiative that included six First Nations, local residents, and YG. Since then, licensed harvest of the Southern Lakes caribou has been banned and First Nations have adhered to a voluntary harvesting ban. The SLWCC built on successes of the SLCRP, with an expanded mandate that included all wildlife species and their habitats. However, despite substantial conservation efforts and a small increase in the population, it has never recovered to historic levels. The SLWCC's caribou recommendations highlight the importance of managing human use of caribou habitats, with particular emphasis on limiting access, development and human disturbance in important caribou habitat through land use planning processes.

Currently, the most significant source of human-caused mortality to the Carcross Caribou herd is fatalities resulting from vehicle collisions on the Alaska Highway, especially near Judas Creek.

According to a survey done by Environment Yukon in 2008, the Carcross herd population was estimated at 775 animals. Ongoing studies show that there are healthy bull and calf numbers, indicating the population is currently low but stable. First Nations and YG continue to work together to rebuild this once abundant herd.

Woodland caribou spend their non-winter months in alpine areas, and migrate into coniferous forests in the valleys for the winter due to deep snow and lack of food at high elevations. The entire planning area falls within the winter range of this caribou herd. Winter range is generally occupied by the Carcross herd from early December to late April, and is characterized by open pine forest, with lichen groundcover, their primary winter food source. Caribou are susceptible to disturbances associated with human activity, and require large tracts of intact habitat to access and move between patches of lichen. Important caribou habitat within the planning area

Figure 6: The plan area is central to the range of the Carcross Caribou herd. Long-term efforts by the Yukon government and First Nations to recover this population through hunting restrictions can be complemented by habitat measures, such as those included in this plan.

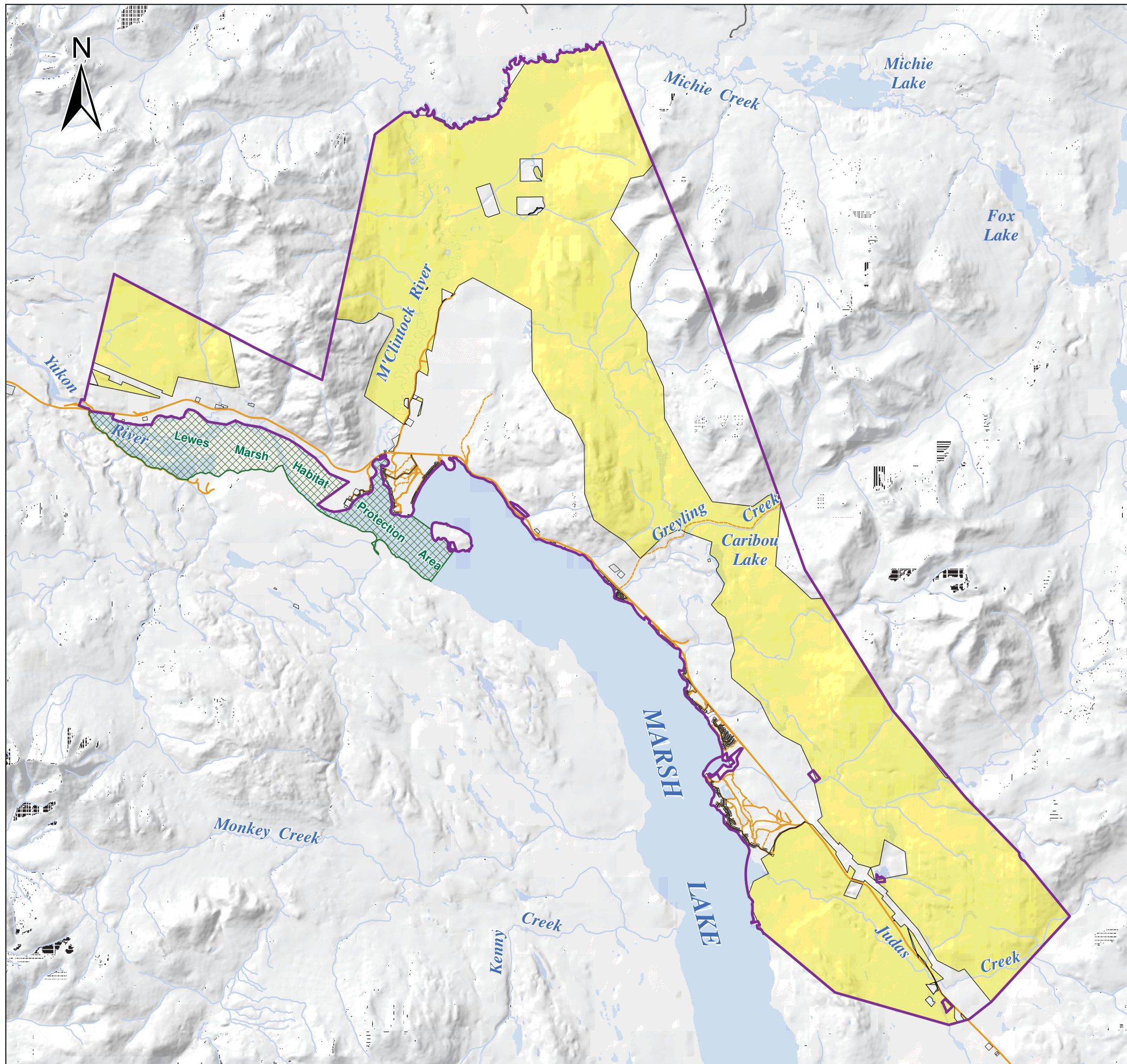


is found in the Mount Michie area south to Judas Creek, Michie Creek to Cap Mountain, the mouth of M'Clintock River, and the area north of the Lewes Marsh Habitat Protection Area near the Lewes River Bridge. Preferred caribou winter habitat within the planning area boundaries, as illustrated on Map 5, show a concentration of winter use to the south along the Judas Creek watershed and to the north along Michie Creek and up M'Clintock Valley behind Cap Mountain.

The area north of Greyling Creek is significant fall rut caribou habitat.

3.3.4.3 Moose

Moose occupy most of the plan area. A moose census by Environment Yukon in 2011 in the M'Clintock area showed an estimated population of 1,405 ($\pm 20\%$). The estimated density was 280 moose per 1,000 km², and there were 90 adult bulls for every 100 adult cows. Calf and yearling recruitment, coupled with the increased population estimate, suggest the moose population in this area has been stable or slowly increasing since the last population estimate in 1999. (Department of Environment, YG)






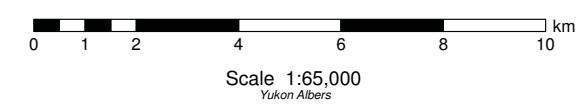
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MARSH LAKE LOCAL AREA PLAN

Map 4 - Carcross Caribou Herd Winter Habitat

LEGEND

-  Planning Area
-  Special Management Area
-  Carcross Caribou Winter Habitat



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3.3.4.4 Birds

According to the Canadian Wildlife Service Birds of Yukon database, about 150 species of birds use the Marsh Lake area, either seasonally or year-round. The area's varied habitat and the presence of wetlands and riparian habitats provide important food and shelter for many bird species.

Marsh Lake has a high number of songbirds due to the diversity of habitat in the area, but the area is most recognized for its importance to migrating waterfowl. The entire shoreline of Marsh Lake is a significant area for waterfowl year-round. Long-time residents feel that waterfowl used the area in fall much more before the reconstruction of the Marsh Lake Dam in 1976. There is very little quantitative information from those earlier times.

M'Clintock Bay is important because it is one of the first few ice-free areas in the Yukon capable of providing migrating waterfowl with rest and refueling on their journey north. There is shallow water that allows swans and other waterfowl access to the roots of aquatic plants, their main food source during migration. In addition, exposed mudflats provide feeding areas for many species of shorebirds during their northward migration. The bay also provides good visibility, which makes it a safe place from predators. It consistently hosts the largest numbers of waterfowl of all similar spring migration areas in the Southern Lakes (Tagish River, Teslin Lake outlet, Nares Lake), and the numbers are even more dominant when Lewes Marsh is included. A public bird-viewing centre, Swan Haven, has been established on M'Clintock Bay because of the significant number of waterfowl that stop within view of the shore.



Figure 7: In addition to staging habitat, numerous migratory bird species nest in the area, such as the Arctic Tern shown on a nest at the Marsh Lake marina.



Figure 8: During spring migration, extensive mud flats along the lake shore, and in Judas Creek and Lewes Marsh, are important staging habitat for shorebirds such as the Pectoral Sandpiper photographed at Lewes Marsh.

The Judas Creek wetland is another important migratory bird habitat. It attracts a wide range of species, including several rare bird species.

The Marsh Lake area is also an important area for raptors. Two major wetlands, Lewes Marsh and Judas Creek marsh, as well as Judas Creek neighbourhood and the shoreline of New Constabulary, are significant summer nesting areas for bald eagles. Parts of the upland ridges and slopes west of M'Clintock River are also identified as important summer nesting areas. Wildlife Key Areas for waterfowls and raptors are shown on Map 5.

3.3.4.5 Fish

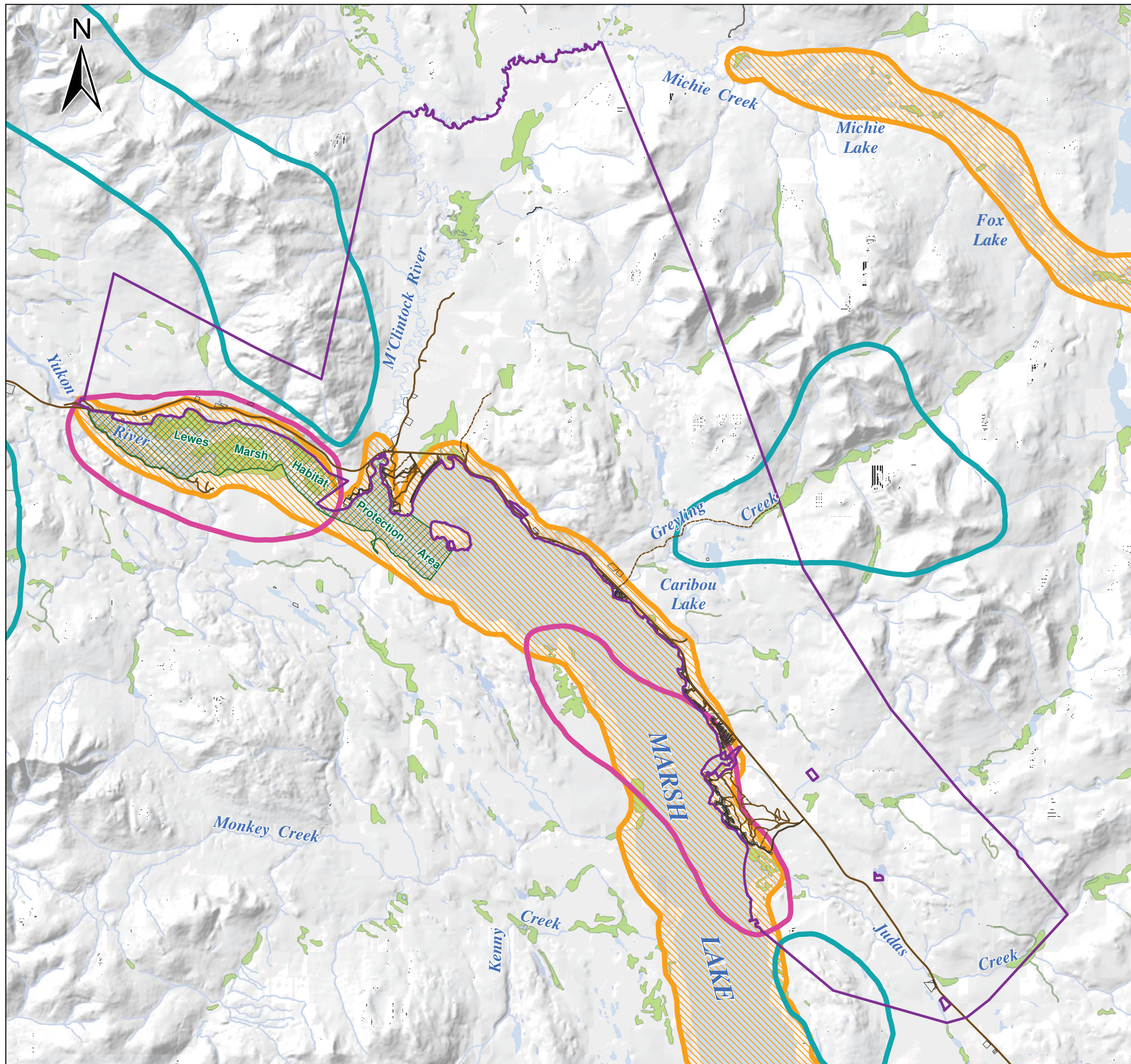
Marsh Lake and the surrounding waters contain valuable fish and fish habitat that support local recreational and subsistence fisheries. Waters of particular importance within or bordering the planning area are Lewes Marsh, M'Clintock River, Michie Creek, Greyling Creek, Truck Trap Creek, Judas Creek, Judas Lake, Caribou Lake, and Marsh Lake. These waters serve various seasonal needs of fish such as spawning, rearing, feeding, or overwintering. Fish species present include chinook salmon, arctic grayling, lake trout, northern pike, least cisco and lake whitefish, among others.

Before the building of the Alaska Highway, First Nations throughout southern Yukon would congregate seasonally in the Marsh Lake area to harvest fish. Elders who lived in the area especially remember the gatherings of people for the grayling run on Greyling Creek and the salmon migrating on the Lewes River and M'Clintock Rivers.¹

First Nation oral history speaks to a vibrant salmon population that had their spawning migrations up the Lewes and M'Clintock River. Early explorers also noted the abundant salmon of the area in the late 1800s (Dawson, 1887); (Cox, 1999); and (Graff, 2014). Over the last 100 years the salmon population has declined. Some of the reasons for this decline include overharvesting, habitat disruption, the Whitehorse Rapids Dam, and other global factors (Kwanlin Dün First Nation, 2013) (Graff, 2014).

KDFN, with assistance from Department of Fisheries and Oceans, has been involved in a salmon monitoring and habitat enhancement project on Michie Creek since 1998. The length of this project reflects the importance KDFN places on re-establishing a healthy salmon population.

¹ *“They build a bigger dam at Whitehorse. There used to be big salmon come up through here. Used to be a salmon camp near here and all Indians used to come there to dry salmon for winter. We had two big long traps. One time we got fifty salmon in one night. It was like Klukshu”.* (John Joe, p.164, McCandless, Yukon Wildlife: A social History)



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MARSH LAKE LOCAL AREA PLAN

Map 5 - Wildlife Key Areas Waterfowl & Raptors

LEGEND

Planning Area

Special Management Area

Wetlands

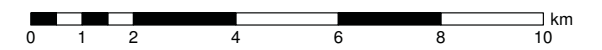
Waterfowl Key Areas

Various seasons & functions

Raptor Key Areas (Summer Nesting)

Golden Eagle

Bald Eagle



Scale 1:65,000
Yukon Albers

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3.4 History

There is a long history of First Nation use of the Marsh Lake area. Archaeological work in the M'Clintock River and Michie Creek areas has identified more than 75 heritage sites². M'Clintock River and Army Beach were village locations and gathering points for First Nations.

The people who lived in the Marsh Lake area were the Tagish Kwan. Marsh Lake was also a gathering place and one of Yukon's main trading areas for First Nations throughout the area. First Nations came as far away as the Alaskan coast to trade on the shores of Marsh Lake.

The mouth of Judas Creek was a meeting spot for First Nations travelling towards the Whitehorse area from Atlin and Teslin lakes. First Nation citizens recounted that you could always be sure to meet up with people at Judas Creek.

The Marsh Lake area offered ample opportunity for harvesting salmon, caribou, moose, swan, muskrats, and other species. M'Clintock River in particular drew large numbers of people for the seasonal migration of salmon.

This First Nation occupation and use of the area began to change over time with the influx of traders, prospectors, and missionaries. While many left, some First Nation families still live in the Marsh Lake area and KDFN is committed to providing more opportunities for their citizens to return to the area.³

In 1942, thousands of U.S. Army and civilian personnel arrived in the Yukon to build the Alaska Highway. The Tagish Kwan people lost villages, gathering places, and fish camps in the process.

In the 1950s, the Federal government began leasing lots for seasonal use. Army Beach, once a main camp for the area's First Nation people, became a recreation site.

Throughout the 1960s, Marsh Lake developed as a cottage community.



² "One of the original ancestors of today's Tagish Kwan people was Chief Gunatuk (also known as Marsh Lake Jackie). One of Chief Gunatuk's grand-daughters was Julia. Julia married John Joe and their descendants continue to live in Marsh Lake to this day." (source unknown)

³ "There are a number of Kwanlin Dün families who live in Marsh Lake and have family ties that go way back. In 1994, Kwanlin Dün First Nation carried out a genealogy chart that identified over 650 living descendants of Chief Gunatuk." (source unknown)

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Improved access to Whitehorse and the provision of electricity in the late 1970s drew more people to the area.

In the 1980s, fee simple title was granted to those who had leases and people began converting seasonal cabins into permanent homes. The increasing population brought more services and greater opportunities for a comfortable permanent residence in the Marsh Lake area. The area also began to attract an increasing number of non-residents to the Swan Haven Interpretive Centre as well as to the beach, trails, and campground. In recent years, Marsh Lake has become a bedroom community of Whitehorse.

3.5 Population

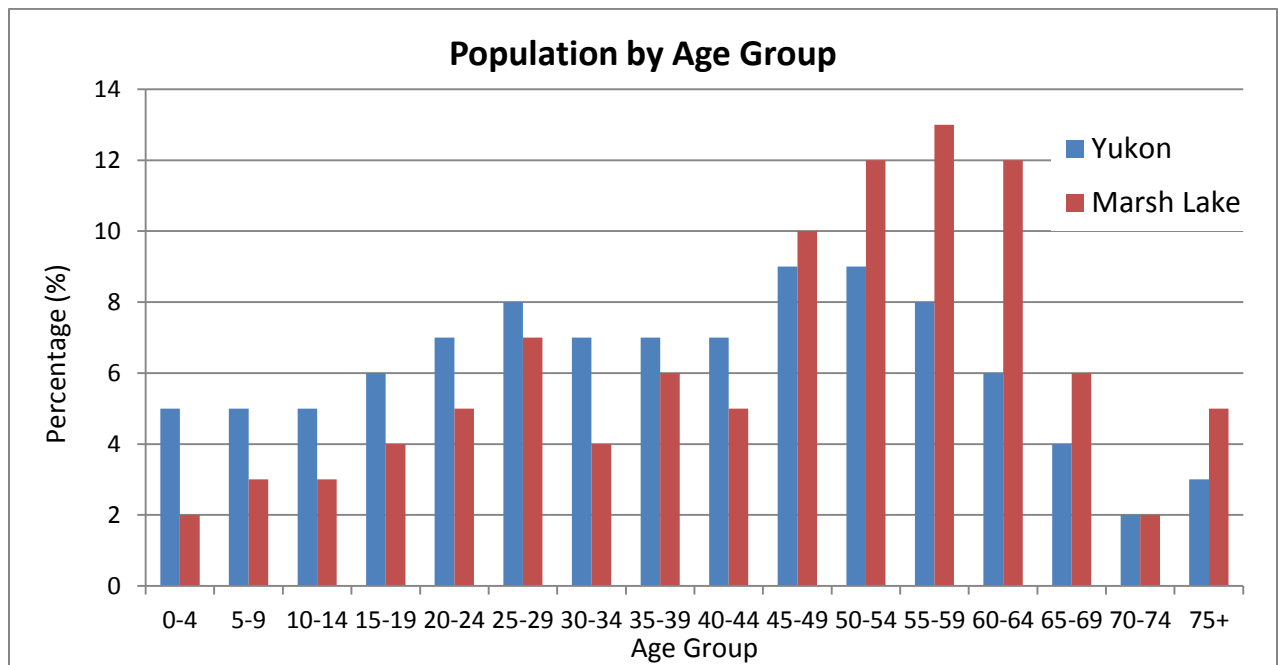
The 2011 census recorded 619 people living in Marsh Lake in May. The 2006 census recorded a population of 538 people in the community, indicating a substantial population growth of 15.1% between 2006 and 2011. The Yukon Bureau of Statistics, using the number of people with health care cards at Marsh Lake addresses as the basis, estimates the June 2012 population at 511. Many Marsh Lake residents feel that the population is actually higher and the census lends support to this view.

The 2006 and 2011 census both found the same number of private dwellings in the community, 438. However, the number of dwellings occupied by their year-round residents was 253 in 2006 (58% of the total) but rose to 305 in 2011 (70% of the total). These numbers indicate that Marsh Lake continues to have significant numbers of unoccupied dwellings (e.g., recreational properties) but that more and more of these are being converted to full-time residential use. The census numbers show that Marsh Lake has an average of 2.0 people per occupied dwelling, slightly lower than the average in Whitehorse.

The results of the first survey show a very stable population. Five percent (5%) of survey respondents who live in the area were renters. 84% have lived or owned property in Marsh Lake for longer than six years and 63% for over ten years.

Compared to the rest of the Yukon, Marsh Lake has a high number of retirees (see Figure 2) and a lower number of young families. Only 13.8% of residents who participated in the survey had three or more people living in their residences.

Figure 2 Marsh Lake and Yukon Population by Age Group



3.6 Current Land Use

3.6.1 Residential

Residential development currently accounts for about 356 ha (0.95% of the planning area).

There are 12 residential areas, divided into five community wards:

- Ward 1: Judas Creek
- Ward 2: New Constabulary
- Ward 3: Old Constabulary
 - Johnson Road
 - Old Constabulary
 - Lone Moose Lane
 - Michie Place
 - M'Clintock Place
 - Greyling Place
- Ward 4: Army Beach/South M'Clintock
- Ward 5: M'Clintock Valley/North M'Clintock

Lot sizes vary, but as many were originally established as leases for small recreational cottages, they tend to be small by rural residential standards. Lots range from 0.1 ha to 2 ha except in the M'Clintock Valley/North M'Clintock area, where the average lot size is 20 ha and the largest lot is 71 ha.

Between 2006 and 2011, there were 25 applications for lot enlargements and 8 applications for lot consolidations, indicating that property owners have built or are planning larger homes on lots originally intended for seasonal cottages. The area's demographics, together with input throughout the planning process, suggest that many of these larger homes are retirement homes. The small lots that were originally created for seasonal cottages do not meet the growing demand for permanent residency.



3.6.2 Commercial

According to the Assessment and Taxation Branch of the Department of Community Services, 15 properties in Marsh Lake are assessed as commercial on the latest tax roll. Apart from three corporate landowners who own six properties, the remainder are tourism enterprises and small home-based businesses.

Many Marsh Lake residents work in Whitehorse, and all residents are reliant on Whitehorse services. 98% of survey respondents drive to and from Whitehorse at least once a week, and 41% drive to Whitehorse on average five times a week.

3.6.3 Industrial

Light industrial operations in the Marsh Lake area include wood shops, general contracting, building companies, and heavy equipment services. Currently there are a number of residents who have shops and heavy equipment on their residential lots. While many of these services are appreciated, these activities impact the noise, traffic and rural look of residential areas.

3.6.4. Mining

Mining activities in the planning area (as of January 10, 2012) consist of 78 active quartz claims.

The *Yukon Quartz Mining Act* and the *Placer Mining Act* allow individuals to stake mineral claims on public land, private land, and certain First Nation Settlement Lands (Category B and fee simple). Mineral claims cannot be staked on First Nation Category A Settlement Land, as the subsurface right belongs to the First Nation.

The Yukon government is responsible for regulating mining activities. Some activities associated with mining are also subject to this Plan and future zoning and development regulations. (Department of Energy Mines and Resources, YG, 2010)

Map 7 shows the existing placer and quartz claims; agriculture soil types; existing timber harvesting plan areas; and personal fuelwood harvesting areas.

3.6.5 First Nation Subsistence Use

KDFN, CTFN and TKC beneficiaries all have subsistence harvesting rights⁴ within their Traditional Territories. Section 21.1.0 of the Final Agreements allows for cabins, camps, tent frames, cache, fish racks, or other structures, which are used primarily for trapping or non-commercial wildlife harvesting or other traditional purposes, to be constructed without being considered an 'improvement'. These can be established anywhere on Settlement Land.

3.6.6 Hunting and Trapping

3.6.6.1 Hunting

The Marsh Lake planning area falls within Game Management Zones 8 and 9; and Game Management Sub-Zones 814, 816, 901, and 904.

⁴ The KDFN Final Agreement defines the terms "Subsistence" "Harvesting," and "Use." The definitions are included in Glossary of this Plan.

Under the *Wildlife Act*, hunting is not permitted within one kilometre of a residential area unless the landowner(s) gives permission. If the residential use of Marsh Lake grows, the area for hunting will decrease. In addition, more people moving to Marsh Lake could increase hunting activity and increase pressure on some wildlife populations.

3.6.6.2 Trapping

The Marsh Lake planning area falls within five registered trapping concessions: 290, 291, 296, 302, and 303. Under the *Wildlife Act*, trapping within one kilometre of an occupied dwelling is not allowed unless the affected landowner(s) provides permission. Trappers may place traps or snares on the travelled portion of any trails they created. They may not place traps or snares on the travelled portion of a public trail, but can place traps beside such trails. Any proposed development will have to carefully consider existing trapping concessions.

3.6.7 Agriculture

Agricultural development accounts for about 633 ha (1.7% of the planning area).

Most agricultural land is located on the M’Clintock Valley Road. There are 13 existing agricultural lots within the Marsh Lake area, two active agriculture dispositions on the M’Clintock Valley Road, two in New Constabulary, and one pending application in 2012.

Table 2 Agriculture Land Types

Agriculture Land Use	Number of Lots	Total Area (ha)
Existing Agriculture	13	633.19
Active Disposition Application	4	27.55
Pending Application	1	62.27
Total	18 lots	723.01 ha

The majority of agricultural activities are intensive garden operations. There is one hay farm and one poultry operation.

The Agriculture Branch, Department of Energy, Mines and Resources, accepts applications for soil-based agriculture (e.g., hay crop, market garden). The minimum parcel size for an agriculture application is 6 ha and the maximum is 65 ha.

Non-soil based agricultural lots are only made available through a planned agricultural subdivision process as required by the 2006 Agriculture Policy Framework.

There are currently no regular opportunities for the purchase of agricultural products in the Marsh Lake area. Both Marsh Lake residents and KDFN elders expressed an interest during public consultation in growing, purchasing, and selling local produce.

3.6.8 Tourism and Recreation

Marsh Lake residents are active year round both outdoors and in the Marsh Lake Community Centre. It is a popular recreation area for people from Whitehorse in summer and on

weekends. Army Beach offers lakeside picnicking and swimming, while the Swan Haven interpretative site attracts hundreds of visitors during the annual migratory return of tundra and trumpeter swans each spring. There are also boat launches, a marina, extensive ski and walking trails, a Girl Guides camp, and a public campground. The campground faces increased demand from tourists and Whitehorse residents.

Bed and breakfast facilities provide accommodation in many of the neighbourhoods. The Inn on the Lake offers year-round accommodation to travelers and Yukoners alike.

3.6.9 Trails

Traditionally, Marsh Lake was part of an important system of First Nation seasonal camps and trails. These trails radiate in all directions, providing physical evidence of important routes travelled by First Nations. They include both small game trails and longer ones that were used for travel, trade, hunting, and trapping. First Nations participating in the planning process are interested in having access to these trails and finding out which ones are now on private property.

Today, Marsh Lake residents extensively use, love and cherish their trails. Throughout the planning process residents identified the network of motorized and non-motorized trails as a significant value. There are approximately 130 km of trails in the area, connecting neighbourhoods to the hinterland.

Several trails are well marked and groomed while others are less obvious and not maintained. Three trail networks are specifically designated for cross-country skiing: North M'Clintock, Army Beach, and Judas Creek. For the enjoyment of all, trails are packed and groomed on a regular basis by volunteers. Several high-use corridors for motorized vehicles also exist.

The area has a series of old roads, traplines, ATV trails, and single-track trails that allow residents to travel into the valleys and mountains beyond Marsh Lake.

3.6.10 Motorized and Non-Motorized Trail Use

There is a mix of motorized and non-motorized trail use throughout the Marsh Lake area. Trail use activities such as skiing, dog-walking, walking, and motorized recreation often come into conflict in these public areas and on high-use trails. Irresponsible use by a few off-road vehicle users is leading to the degradation of natural areas and established trails.



3.6.11 Parks and Protected Areas

Reserves

Yukon Parks set aside several parcels of land as reserves that serve as recreational sites for residents and visitors. The following is a list of reserves in the planning area:

- Lots 265 and 266 (Kilometre 1366.5, Alaska Highway; 1.1 ha);
- Marsh Lake Campground (Lot 362; 17.4 ha);
- Marsh Lake Recreation Site (Blocks A, H, and J; 2.08 ha); and
- Lewes River Bridge (directly east of bridge, on the edge of planning area; 30 ha).

Lewes Marsh Habitat Protection Area

The Lewes Marsh Habitat Protection Area is 20 km² that includes the migratory bird staging area in front of Swan Haven and protects important migratory bird habitat throughout the Lewes River Marsh. It is next to the Marsh Lake planning area, but is outside the boundary.

3.6.12 Forestry

Harvesting timber on Yukon land for personal and commercial use requires a licence or permit from Forest Management Branch, Department of Energy, Mines and Resources, YG. The *Forest Resources Act, Regulations* and policies administered by Yukon government's Forest Management Branch identify required consultation on personal fuel wood harvesting and commercial timber harvest plans and projects. Any potential effects to environmental values and mitigations to prevent such effects are addressed through these consultation processes.

There is an active Timber Harvest Plan (THP) of about 364 ha in the M'Clintock Valley area (Map 2). Harvesting methods include selective cutting, patch cuts, and leaving key tree species in place for regrowth. Only selective cutting will be done in key areas used by wildlife or where other non-timber values, such as recreation and heritage values, are important. Outside of the plan area, just south of Army Beach, there is a THP for a research project.

Five areas have been set aside for harvesting fuel wood for personal use. There are two in the M'Clintock/Army Beach area, two in the Judas Creek area, and one near the Marsh Lake dump. The total area set aside for fuel wood harvesting is about 1,000 ha. Currently, KDFN does not issue land use authorizations for woodcutting on Settlement Land.

The FireSmart program has been implemented in different areas of the community over the years. Residents have expressed a strong interest in the FireSmart program for a number of KDFN Settlement Lands that surround or are next to residential areas.

3.6.13 Highways, Roads, and Trails

There are about 223.2 km of highways, roads, and trails in the planning area, covering a total of 974.4 ha. About 44.5 km of the Alaska Highway passes through the planning area, covering about 511 ha. Secondary roads cover 243 ha and trails cover 199.6 ha. Logging roads cover 19.9 ha.

3.6.14 Alaska Highway Gas Pipeline Easement

A large strip of land along Alaska Highway in the planning area is reserved for the potential Alaska Highway Pipeline Project as an easement. It takes up about 1,260 ha (44.5 km). In addition to the pipeline easement itself, a number of parcels have been identified as reservations for supporting activities such as gravel extraction, work camps, pressure stations, and equipment staging areas.

3.7 Existing Regulations

Area development regulations are in place for M'Clintock Place. The adoption of the Plan will likely lead to further regulations being developed and put into place reflecting the land designation policies and the overall vision of the Plan.

The *M'Clintock Place Development Area Regulation* was created in 1996 under the *Area Development Act*. It was developed in response to neighbourhood concerns, and as an effort to balance the residential use of the area with its original commercial uses such as a lodge and other businesses. Some land owners wanted to carry out commercial activities while others wanted to have the area be strictly residential.

The regulation identifies four zones, including Cottage Residential Zone, Recreation Vehicle Campground Zone, Tourist Lodging Zone, and Public Open Space Zone. The regulation establishes permitted principal uses, accessory uses, minimum lot sizes, minimum yard requirements, and special provisions for certain zones.

Some residents have expressed concern that the existing zoning regulations are not effectively addressing current land use issues in the area. For example, it has been suggested that there is a need to provide a greater distinction on what would be considered short term rental or tourism accommodations versus long term rental activities when describing the types of permitted use that may be allowed on recreational properties.

3.8 Climate Change

There are no climate data for the planning area; the closest weather station is in Whitehorse. Based on Whitehorse data, the mean annual temperature is about -1 °C, while the mean winter temperatures are around -16 °C. Annual precipitation is about 268 mm. Due to ice cover, spring can be delayed up to two weeks near large lakes. (Smith, Meikle, & Roots, 2004)

By 2050, Whitehorse climate projections suggest warmer and wetter conditions with rising temperatures of 3.3 °C to 5.4 °C and rising precipitation of 268 mm to 327 mm (Hennesey & Streicker, 2011). Climate change in the region may affect ecosystems, infrastructure, economies, and communities. Among other effects, the Marsh Lake planning area could expect an increase in flooding of low-lying areas, forest fires, wind, and invasive species. The health and distribution of wildlife populations will be affected by climate change.

3.9 Flooding

In 2007, the Marsh Lake area experienced a major flood that was just 0.20 m below the

estimated 200-year flood level of 657.54 m (EBA Engineering Consultants Ltd., 2008)). The cost of repairs to buildings, contents, and infrastructure was estimated between \$1,354,000 and \$1,966,000.

Some property owners have since taken measures to control potential flood damage risk.

In 2014, Yukon Energy made an application to the Yukon Water Board to raise the water storage level of Marsh Lake by 30 cm during the winter months. This proposed change would not affect the 1:100 year flood level. The application is under review and public consultation is underway at the time of this Plan preparation.

3.10 Heritage and Cultural Resources

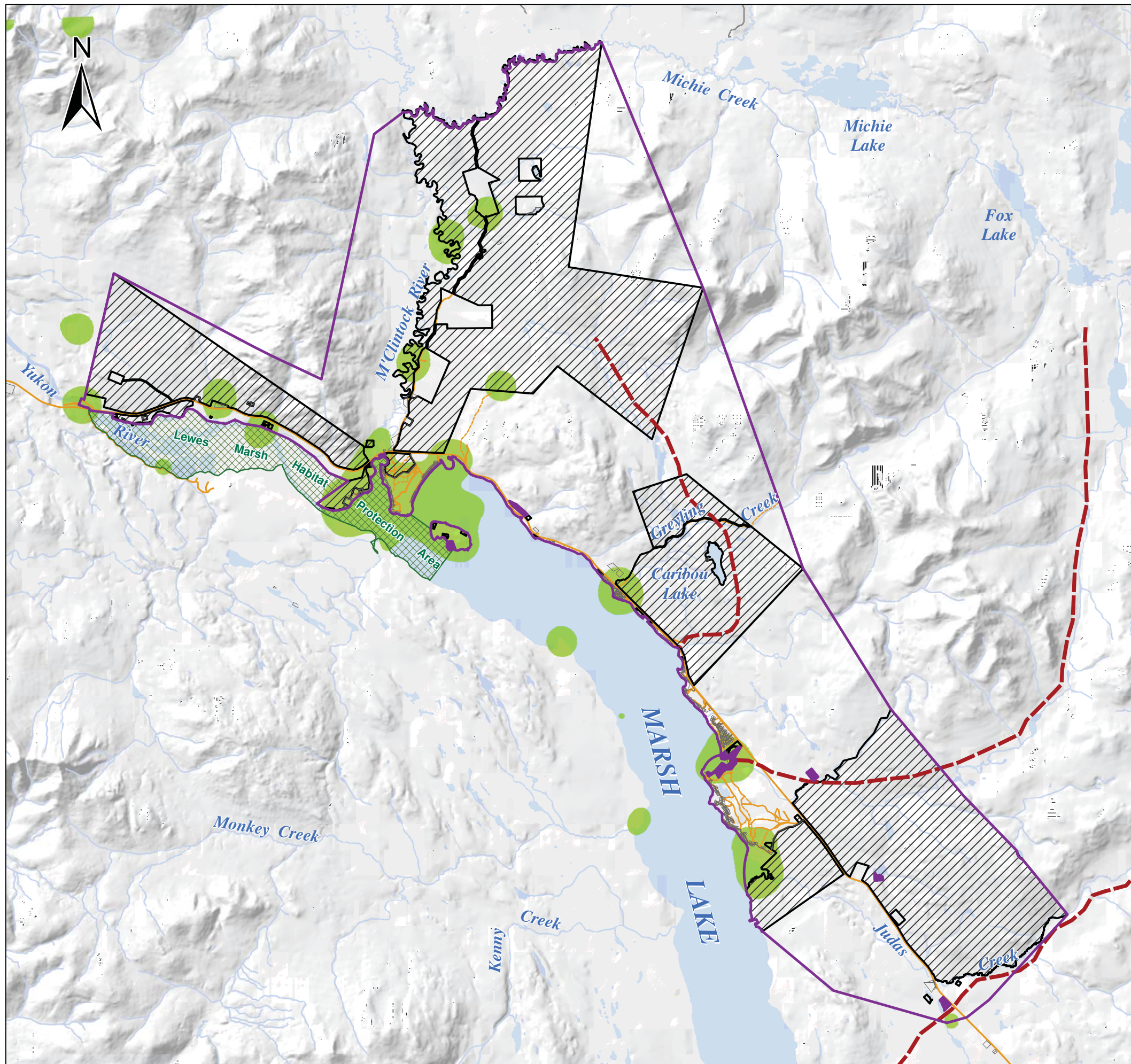
Marsh Lake has a high density of First Nation heritage sites. These include fish camps, berry picking spots, birth sites, burial sites, a cemetery, cabins, camps, longhouses, and trails. Most of the sites pre-date the construction of the Alaska Highway. CTFN has three heritage trails in the planning area.

There are also a number of historical locations considered significant to the community as well as areas of current importance. These include picnicking areas, old cabins, mining remains, island in the Marsh Lake, and remnants of other physical structures.

Map 6 shows clusters of First Nation and general heritage and cultural features. The exact location of the features was masked in order to protect the confidential nature of some of the cultural sites.



Figure 9: The M'Clintock Area is one of the most important and well used areas within the Kwanlin Dün First Nation Traditional Territory. The most visible cultural site today is the M'Clintock Cemetery.









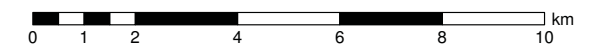
plan marsh lake

MARSH LAKE LOCAL AREA PLAN

Map 6 - Cultural and Heritage Resources

LEGEND

-  Planning Area
-  Special Management Area
-  Kwanlin Dün FN Settlement Land
-  Carcross/Tagish FN Settlement Land
-  First Nation Heritage Trail
-  Areas of Heritage Values



Scale 1:65,000
Yukon Albers

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3.11 Public Services

3.11.1 Drinking Water

Marsh Lake residents rely on the following sources for drinking water:

- Private onsite water systems;
- The Judas Creek Fire Department fill point; and
- The Army Beach water treatment facility.

Private on-site water systems include either collected surface water or an onsite well. Chlorinated drinking water is available through the Judas Creek Fire Department fill point. Yukon government operates the Army Beach water treatment facility. Water is free for local residents who pick it up themselves or a fee is paid for commercial water delivery.

3.11.2 Wastewater

Wastewater is held in tanks and septic fields on individual properties. The wastewater is removed by private education truck to a septic pit operated by the Yukon government located across from the Judas Creek subdivision. Area residents pay a fee for this service. Wastewater may be removed once or twice a year, or depending on the size of the septic fields, not at all.

3.11.3 Solid Waste

Marsh Lake has a supervised transfer station open to the public and operated under a contribution agreement by the Marsh Lake Solid Waste Society. The facility provides full service and accepts domestic and construction waste, as well as some forms of metal and special waste. It has recycling containers and a free store. Domestic waste is shipped to Whitehorse.

3.11.4 Fire Protection

Marsh Lake has a volunteer fire and ambulance service as well as a fire hall. The Judas Creek Fire Department has a Mutual Aid Fire Protection Agreement with the City of Whitehorse and the Yukon government.

Fire Marshall's office is considering relocating the fire hall in Judas Creek to somewhere along Alaska Highway in response to a request from Army Beach residents. A new location would provide better access and improved fire protection to the entire Plan area, which has evolved into a year round residential community from a seasonal cottage area.

3.11.5 Other Community Assets

Marsh Lake has a community centre, a library, a skating rink, and ski trails in Judas Creek. There are also groomed ski trails at Army Beach and a playground in New Constabulary.

4. Land Capability

Overall capability for various land uses within the study area is primarily reflective of natural conditions. Land capability is reviewed principally for residential, commercial, and agricultural use since they are the prime activities. Generally, the Marsh Lake area offers good development opportunities. However, the waterfront offers very little potential for further development; as it is limited by existing development and physical constraints such as steep slope, presence of bedrock and flooding potential.

4.1 Agricultural Viability

Agriculture capability is derived from the Soil and Soil Suitability Information Series (Indian and Northern Affairs, 1977). Most of the soils in the planning area have an agricultural capability rating of class 5 Soil. Class 5 soils are moderately decomposed and present limitations for field crops and are typically only suitable for seeded forages. Soils rated as class 3 are considered suitable for grain crops. Soils rated as class 4 are marginally suitable for grain crops. Soils rated as class 6 are considered suitable for native grazing and soils rated class 7 are not considered suitable for agricultural activities. Class 5 soils are further divided into three sub-types: 5CH, 5M and 5MT as shown on Map 7. Class 5CH soils have a short frost-free season. Class 5M has low moisture holding capacity. Class 5MT soils have low moisture holding capacity and are located on steep slopes.

Most of the M'Clintock river valley is classified as either 5CH or 5M except for an alluvial channel along the river. The area around Judas Creek subdivision shows the location of class 5M and 5MT soils. Additionally, the area south of Judas Creek includes small pockets of soil classified as 5M and 5MT. However, the area also acts as key wildlife habitats and contains several important corridors for woodland caribou.

The greatest agricultural potential is on KDFN Settlement Land, with the exception of a 216 hectare parcel of public land behind the Marsh Lake dump (Murray, 2010). However, the Marsh Lake Dump Timber Harvesting Plan (THP) is currently in place and limits future agricultural use of this area.

4.2 Residential/Commercial Suitability

Development suitability is examined first by looking at different aspects of the landscape such as steepness of steep slope, presence of bedrock, soil composition, flooding potential, and landforms. After identifying the areas of physical constraints, the second step was to identify areas with ecological or cultural values that would be compromised by development in or near the area. These values included:

- sensitive habitat such as wetlands and riparian corridors;
- habitat that supports fish and wildlife movement (for example, migrating waterfowl staging areas and salmon bearing streams);

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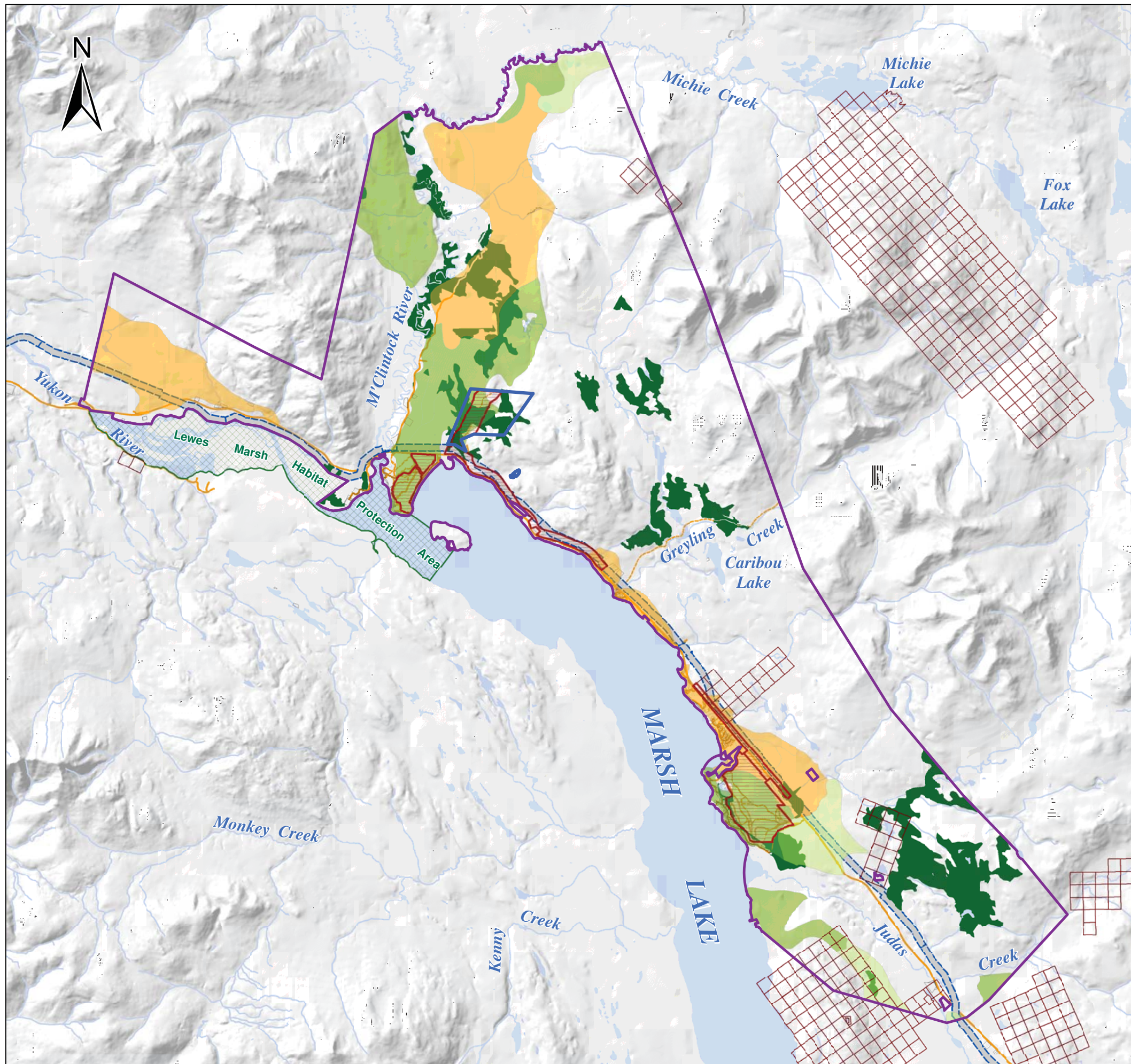
- trails, wildlife, special places, and culturally significant areas; and
- areas with wildlife and cultural values identified by Marsh Lake residents and First Nation elders and citizens.

The areas identified in these steps were used to establish land use designations. Pockets of high development potential are spread throughout the M'Clintock River, Old Constabulary and Judas Creek subdivisions. South of Judas Creek subdivision also provides good opportunities for development. However, the area is key wildlife habitat and also part of an important winter habitat and travel corridor for woodland caribou (Carcross Herd). The detailed land use policies in Sections 7 and 8 address the activities within high-valued caribou habitat.

The extent of flood prone areas (EBA Engineering Consultants Ltd., 2008) could not be accurately shown on the Land Use Designation Map due to the map scale difference. However, the 1:100 year flood elevation (657.39 m) from the study will be used for the area development regulations.

As more detailed contour data and flood elevation data becomes available, such information will be incorporated and identified on the Land Use Designation Map through amendment process.

Map 7 Resource Potential



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MARSH LAKE LOCAL AREA PLAN

Map 7 - Resource Tenure & Potential

LEGEND

Planning Area

Special Management Area

Agriculture Capability

Considered acceptable for seeded forage

5CH - Short Frost Season

5M - Low moisture holding capacity

5MT - Low moisture and steep slopes

Resource Tenure (as of Sept. 8, 2014)

Active Quartz Claims

Alaska HWY Pipeline Easement/Reserve

Timber Harvest Plan

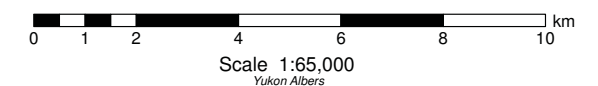
Personal Use Fuelwood

Merchantable Timber *

Height of Tree (m)

Tallest Trees (1986)

* Height of tree is an indicator of volume. In Marsh Lake Study Area, the trees are small in height. Areas where tree height is between 15-20 metres, the volume will be greater. The leading species in the area are White Spruce and Pine.



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5. Growth Management

5.1 The Need for Managing Growth

This Plan establishes policies to manage growth in a way that meets the Guiding Principles, while responding to both YG commitments and KDFN interests. Both KDFN and YG are responsible for providing residential opportunities to their citizens and they have distinct governance models, procedures, and community needs and desires. Therefore, it is important that residential lands are designated on both Settlement and non-Settlement Land.

Marsh Lake has experienced considerable growth over the last several decades. The seasonal cottage use of the area has transformed into a community of year-round primary residences. And Marsh Lake has become the seventh largest community in the Yukon. Over the last several decades, public demand for land in the Marsh Lake area has been handled through spot land applications on a case by case basis.

Growth did not happen in an orderly way. Many residences were built on lots too small to accommodate septic field needs. Others were built within high flood-risk areas without flood protection measures. Still others were built in areas that were previously undeveloped. Neighbourhoods within the Marsh Lake area formed and grew.

The pressure for growth and the emergence of land use conflicts has continued. Between 2006 and 2011, the population of the Yukon grew by 11.6%. Though YG has a commitment to make rural residential lots available to Yukon residents, the demand is not being met.

In 2005, with the signing of their Final Agreement, KDFN assumed responsibility for 48% of the Marsh Lake local planning area. Throughout land claim negotiations and now with self-government, KDFN aspires to have their people return to the Marsh Lake area, preserve their subsistence use, preserve the fish and wildlife values, and pursue the area's economic opportunities.

A recent study completed for the Department of Community Services suggests that the population of the City of Whitehorse and its periphery is expected to grow by almost 32% over the next 25 years at a rate between 0.7% to 1.1% per year (O2 Planning + Design Inc., 2012), which works out to an average of 4 lots per year. Based on these figure, the population of Marsh Lake is estimated to increase by approximately 160 (80 new houses based on two persons per household) over the next 20 years.

5.2 Development on KDFN Settlement Land

KDFN signed its Final and Self-Government Agreements in 2005. KDFN began negotiations for their Settlement Lands decades before that. During negotiations, KDFN identified four types of areas: lands that were traditionally used by KDFN citizens, lands that were of special value to KDFN citizens, lands that had opportunities for residential development, and lands with opportunities for economic growth.

KDFN is interested in providing opportunities for its beneficiaries to live in the Marsh Lake area.

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In addition, KDFN is interested in economic development opportunities through residential land and commercial properties. People interested in KDFN residential or commercial lands will likely be given a long-term lease and will not have the option of purchasing parcels of KDFN Settlement Lands.

The Marsh Lake planning area includes 30% of KDFN's total Settlement Lands. It was historically an area of great importance to the First Nation and continued to be so during and after land claim negotiations. Particular areas or parcels were negotiated specifically for their residential and commercial development potential. In the Marsh Lake area, there are three commercial and/or residential land use designation areas written into the Self-Government Agreement.

KDFN has identified opportunities for both short-term and long-term residential growth. The short-term residential designations on KDFN Settlement Lands form part of the total anticipated growth rate for the area over the next 20 years. The long-term residential area includes lands identified for the use of future generations.

5.5% of KDFN total Settlement Lands within the planning area have been allocated for long-term residential (designated as Residential - Long Term), and 0.68% is allocated for short term residential development (designated Residential), as shown on Map 11.

In addition to KDFN's interest in residential development, KDFN maintains a firm commitment to stewardship of the land, fish, and wildlife. Balancing their identification of areas for residential, commercial, and light industrial development, 52% of KDFN Settlement Lands have been designated as Open Space. An additional 34% of Settlement Land has been designated as Environmental Open Space 1 and 2.

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MARSH LAKE LOCAL AREA PLAN

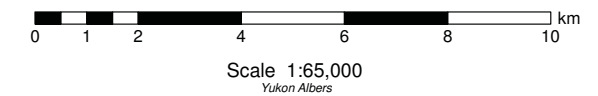
Map 8 - Growth Strategy (Overall Map)

LEGEND

- Planning Area
- Special Management Area
- Kwanlin Dün FN Settlement Land
- Carcross/Tagish FN Settlement Land

Residential Designations

- Existing
- Future - Short Term
- Future - Long Term



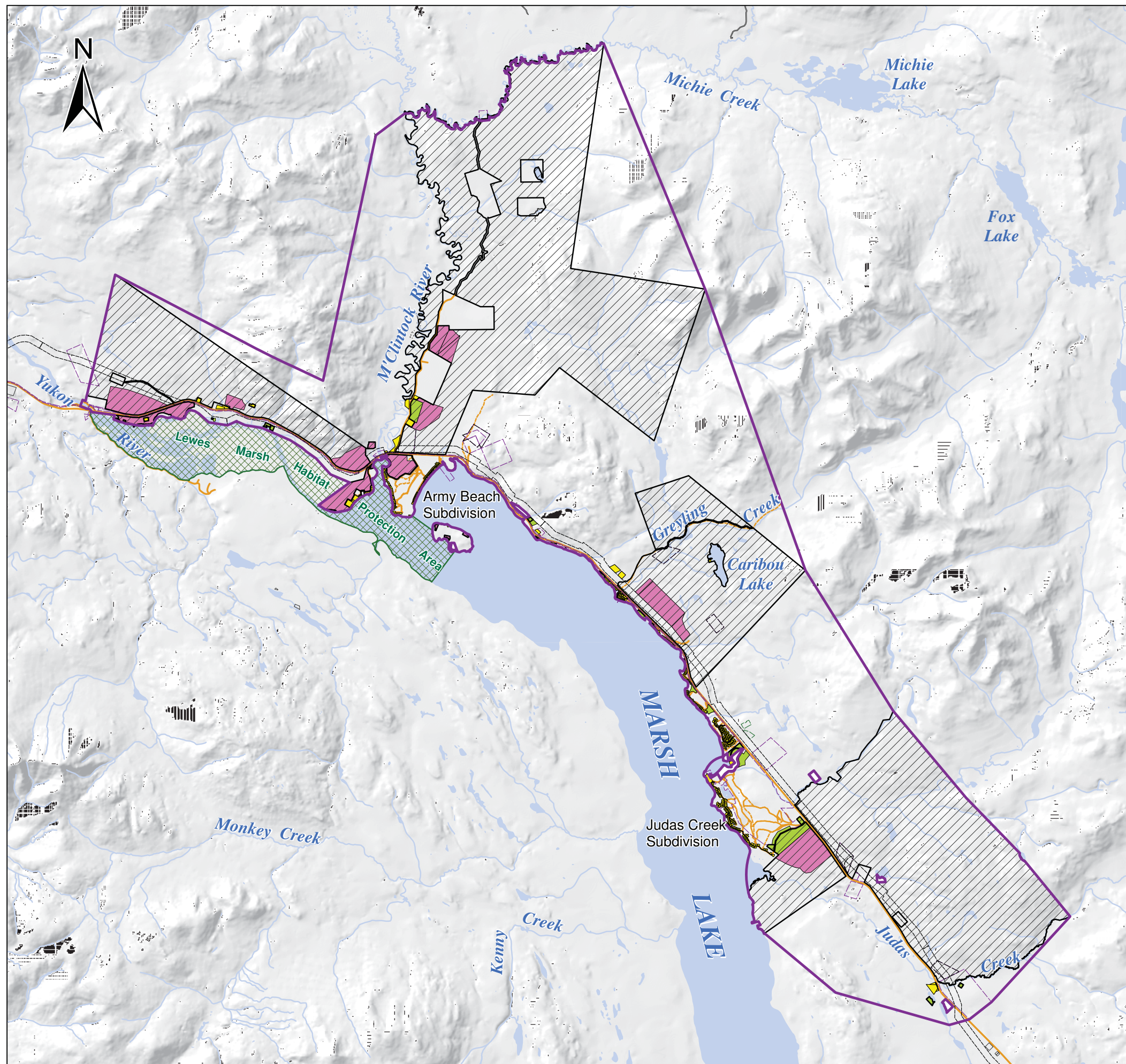
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MARSH LAKE LOCAL AREA PLAN

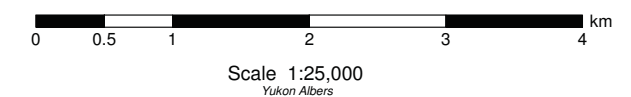
Map 8 - Growth Strategy (Detail Map)

LEGEND

-  Planning Area
-  Special Management Area
-  Kwanlin Dün FN Settlement Land
-  Carcross/Tagish FN Settlement Land

Residential Designations

-  Existing
-  Future - Short Term
-  Future - Long Term



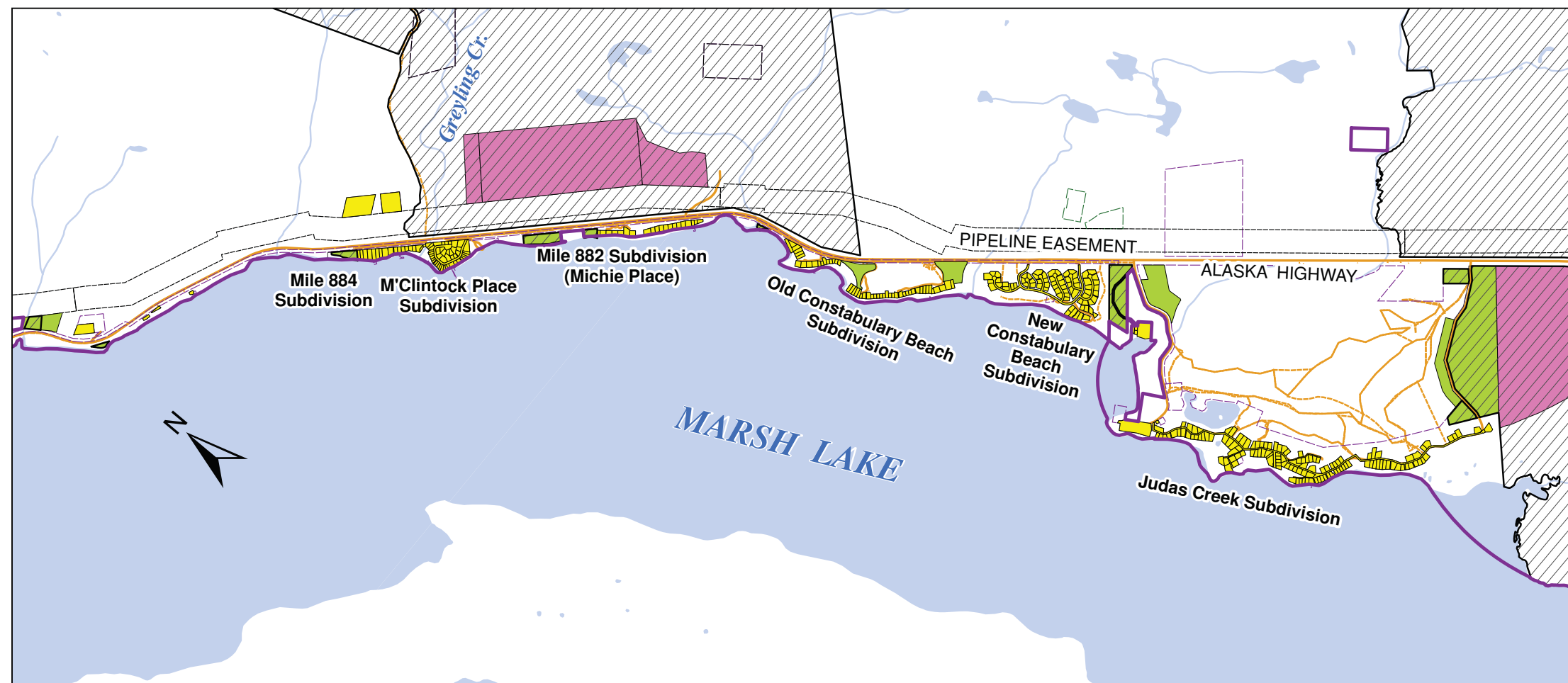
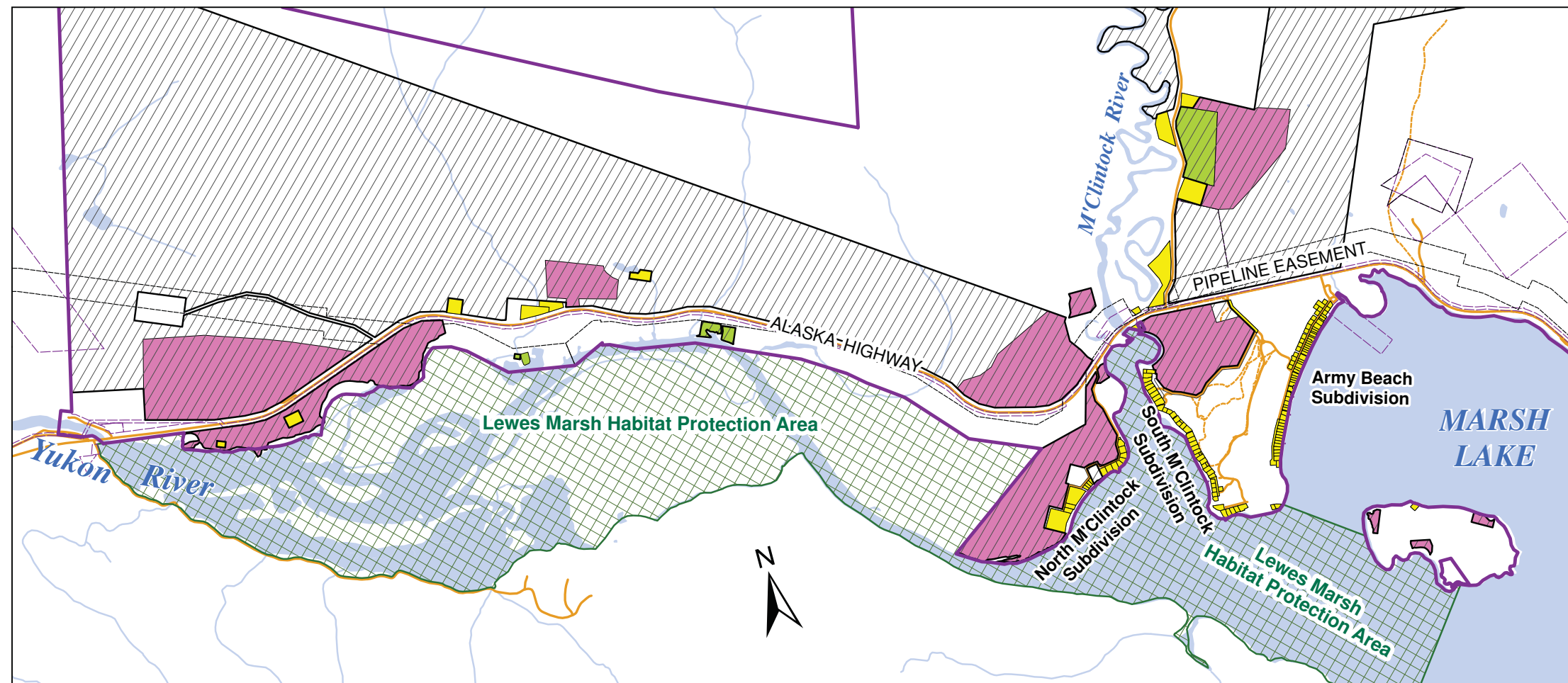
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5.4 Land Use Designations

The land use designations included in this Plan and the amount and percentage of land designated for each of the uses are shown in the table below. The total does not include the roads and CTFN lands.

5.4.1 Environmental Open Space 1 & 2, Open Space and Community Use

These designations account for 87% of the Marsh Lake planning area. They are designed to ensure that the Marsh Lake area maintains interconnected ecosystems while providing opportunities for the protection and use of these areas.

Many, including off-road vehicle users, are concerned about the impact of the use of off-road vehicles, especially in public recreation areas such as Army Beach and the campground. People want to encourage responsible use in highly used public areas such as Army Beach and the campground, and limit motorized use in areas of high ecological sensitivity.

5.4.2 Residential

The Plan intends to maintain the rural lifestyle of the area and support the rural attributes of quiet, solitude, and stargazing. The Plan expects to accommodate a growth of 25% over a 20-year period for residential areas. This equates to the development of four new lots per year. Should the demand or average growth rate be higher, or the areas identified for short-term growth prove to be undevelopable, expansion into the areas identified for long-term growth, redevelopment of existing lots, or the development of existing vacant lots may be required.

5.4.3 Commercial

Community residents identified a strong desire to be more self-sufficient. Although not everyone agrees about what level of commercial development would be acceptable, services such as groceries, gas station, coffee shop, Canada Post, fresh local produce, business services, health services, carpentry, and heavy equipment services were mentioned.

The public meetings and survey results also indicated a high level of support for home-based businesses as long as issues of traffic, parking, and noise are addressed.

5.4.4 Future Planning

KDFN has not identified what use they would like to see for the Settlement Land identified as “Future Planning”. These areas have no defined use and are being held for further consideration and dialogue regarding future use.

5.4.5 Agriculture

There are several existing agricultural operations within the Marsh Lake area. There is interest in access to additional areas, but areas with suitable soil for agriculture are limited. Although the area behind the dump (waste transfer station) has good potential, it is under an active timber harvesting plan that precludes agriculture development. No KDNF land has been designated for agriculture use despite some of the areas high agricultural potential. Agriculture potential has not been discussed in KDFN so far.

5.4.6 Light Industrial

A number of light industrial activities already exist in the Marsh Lake area, but conflicts have arisen as a result of the incompatibility between these land uses and the residential nature of the area. Many residents expressed great appreciation for the services. At the same time, some raised the concerns that many light industrial activities did not belong in residential areas and that these operations detracted from the area’s rural characteristics.

Marsh Lake survey and workshop participants do not support heavy industrial activities, although most recognize that the pipeline easement could bring some heavy industrial activities with it.

5.4.7 Public Infrastructure and Alaska Highway Pipeline Easement

Public Infrastructure designation applies to existing facilities such as water fill station, septic pit, transfer station, gravel pit, reservation sites for Alaska Highway Pipeline Project, and other similar uses.

As Alaska Highway Pipeline easement cannot be developed, these parcels are excluded from the future development considerations except for the pipeline reservation that overlaps with areas designated for Public Infrastructure (e.g. government gravel pit, etc.).

Table 3 Land Use Designations

Designation	Area (km ²)	% of Total Area
Environmental Open Space 1	139.55	37.08
Environmental Open Space 2	98.10	26.07
Open Space	92.34	24.53
Community Use	6.59	1.75
Residential 1	5.18	1.38
Residential 2	2.07	0.55
Residential Lakefront	6.33	1.68
Residential Marina	0.04	0.01
Commercial	0.07	0.01
Future Planning	9.28	2.47
Agriculture	9.42	2.50
Light Industrial	0.90	0.24
Public Infrastructure	6.54	1.74
Total	376.34 km²	100.00 %

6. Guiding Principles and Plan Objectives

The Plan's Guiding Principles helped to determine the location and type of land use designation and to develop the policies for the Marsh Lake planning area. The Guiding Principles will also help determine future decision-making within the area, including trail planning, area development regulation, and development proposals.

The principles were developed based on the following:

1. Public input;
2. Literature scan of publications for current national and global planning standards and best practices;
3. Lessons learned from existing local area plans in Yukon; and
4. *Energy Strategy for Yukon* (Department of Energy, Mines and Resources, YG, 2009); and *Climate Change Action Plan* (Department of Environment, YG, 2009).

The following section outlines how the Guiding Principles were used to develop the Plan.

6.1 Principle #1 - Care for the Environment: Respect the natural environment and ecosystems

Marsh Lake is a largely natural area with significant and sensitive fish and wildlife habitat, including salmon, migratory birds, caribou, and wetlands. The relationship between the developed and natural environment must be carefully considered and planned, as it is key to the quality of life that residents value.

6.1.1 Objective #1 – Manage environmentally sensitive areas in a manner that protects significant values

Wetlands

The Marsh Lake area includes many wetlands that are important to wildlife, including migratory waterfowl and song birds, moose, and fur bearers such as muskrat and mink. Wetlands throughout Marsh Lake were identified and classified as Environmental Open Space 1 due to their sensitivity to human use and the significance as habitat to fish and wildlife species.

Salmon

Salmon numbers have never recuperated from those prior to the building of the Whitehorse dam. Efforts by KDFN and Department of Fisheries and Oceans have included habitat enhancement and annual releases of Chinook salmon fry on Michie Creek and M'Clintock River. Creeks and streams and a 100-metre setback will be designated through the area development (zoning) regulation to maintain a natural state which can support the return of salmon on an ongoing basis.

Caribou

The Carcross Caribou herd has undergone significant study and has been under licensed hunting restrictions, as well as a volunteer hunting ban by the First Nations for the last several decades as part of ongoing efforts to rebuild the herd. Many Yukoners have worked tirelessly to ensure this caribou herd is part of the landscape for generations to come. The Marsh Lake area includes large tracts of preferred winter habitat for the herd, which travels throughout the area. In recognition of herd recovery initiatives, and the value of these caribou to local residents, efforts were made in the planning process to avoid opening up new areas for development. Instead, new development will focus on areas where there is existing disturbance and infrastructure.

Old-growth Forest

There are two significant areas of old-growth forest: one in the M'Clintock River area and one in the Judas Creek area. Significant portions of these areas have been designated as Open Space, with sections identified as Environmental Open Space 1 and 2.

6.1.2 Objective #2 – Minimize the impact of development and land use on fish, wildlife, and their habitat

Undeveloped land throughout the Marsh Lake area provides habitat for a various fish and wildlife species. In addition to caribou, the area supports moose, deer, bear, and a number of fur bearers. The creeks and lakes in the area support spawning grayling and other freshwater species as well as Chinook salmon.

The land designations of Open Space and Environmental Open Space 1 and 2 help to ensure that fish, wildlife, and natural habitat are maintained. The Community Use designation also supports natural habitat by recognizing existing trails. In addition, the Residential designation includes policies that minimize the potential negative effects of developments.

6.1.3 Objective #3 – Consider land use and development in the context of potential climate change

Climate change increases the risk of floods, invasive species and wind. Climate change projections for the Whitehorse area include increased flooding in low-lying areas, more forest fires, increased wind, and an increased diversity and population of invasive species. The Plan encourages FireSmart initiatives throughout the Marsh Lake area, in particular around residential areas and in the pipeline easement. The Plan also includes policies for flood damage prevention and flood-proofing, and has identified new areas for development that are mainly on high ground and will not be affected by flood waters.

The Open Space and Environmental Open Space 1 and 2 designations provide sufficient area to support native species and ensure their resiliency against invasive species.

The possibility of increased winds is dealt with through restricting the types of development allowed in the Marsh Lake area. The Plan does not promote cleared subdivisions and open tracks of land. Forested subdivisions are to be maintained to preserve the rural and wilderness

character of the area, and to minimize the impact of strong winds.

6.1.4 Objective #4 – Ensure water quality is maintained at a level that supports all life

The Plan recognizes the importance of maintaining the water quality found in the Marsh Lake area today. This objective is reflected in the decision to maintain a 100-metre setback from the shores of all streams and creeks.

6.1.5 Objective #5 – Support uses adjacent to the Lewes Marsh Habitat Protection Area that are consistent with the objectives established in the Kwanlin Dün First Nation Final Agreement

The Lewes Marsh Habitat Protection Area (HPA)⁵ includes the migratory bird staging area in front of Swan Haven and along the north eastern boundary of the Marsh Lake area. There are two long-term residential areas that have been designated on KDFN Settlement Land and are adjacent to the HPA. Any development that takes place in these areas must not cause undue effects on wildlife habitat, fish, and wildlife within the HPA.

6.2 Principle #2 – Community Culture: Foster and promote the rich First Nation history and traditional use of the area as well as the culture of the local community

Marsh Lake is home to, and has traditionally been used by, First Nations from time immemorial. KDFN beneficiaries should be living in the area and practicing subsistence use of the area. There should be a visual presence of KDFN in the area in order to raise the awareness and understanding of non-First Nation residents, as well as to support a strong sense of identity among KDFN citizens.

The current Marsh Lake community is a vibrant one with a shared love of where they live. The community culture is one of inclusiveness and support for each other. Communication and decision-making about development should reflect the importance around building relationships and supporting existing relationships.

6.2.1 Objective #6 – Acknowledge and strengthen the First Nation culture and presence in the Marsh Lake area

Many First Nation families currently live in the Marsh Lake area and are part of the community fabric. Further, a new generation of KDFN people want to return to their roots at Marsh Lake and reconnect with the land and water. Other First Nations citizens, both resident and non-resident, want their history and current relationship to the Marsh Lake area respected. This history and connection of First Nations people to the Marsh Lake area is not well known by the broader Yukon public.

⁵ Lewes Mars Habitat Protection Area is outside of the Plan area. The HPA is established as a Special Management Area in Chapter 10 of KDFN Final Agreement. Schedule B of Chapter 10, KDFN Final Agreement outlines the framework of the HPA.

KDFN may choose to develop culturally significant structures, such as a gathering place for the KDFN General Assembly, in the Marsh Lake area. KDFN, CTFN and TKC may choose to establish signage that informs the general public of the historical and present-day use of the area.

This Plan was developed through open dialogue between KDFN and YG. This provides a foundation for ongoing, open communication that is beneficial to both parties and the community members of Marsh Lake.

6.2.2 Objective #7 – Protect sites and structures of cultural importance to First Nations and to all Marsh Lake residents

During the planning process, the consultant compiled sites of cultural importance throughout the Marsh Lake area. There are a number of First Nation sites, including fish camps, berry picking spots, birth sites, burial sites, a cemetery, cabins, camps, longhouses, and trails. In addition, there are locations considered significant to the community that reflect more recent history and current cultural uses, including picnicking areas, old cabins, mining remains, islands, and remnants of other physical structures.

The Plan ensures that residential development does not take place where areas of cultural importance are located. It also requires all development to identify and mitigate any potential negative effects on cultural sites or structures in the Marsh Lake area.

6.2.3 Objective #8 – Employ traditional knowledge to inform land use and development strategies

Traditional knowledge was of primary importance in identifying the values and land designations for the plan.

6.2.4 Objective #9 – Uphold the culture of the local community when considering land use and development opportunities

The Marsh Lake Local Advisory Council includes representatives from each ward, creating an advisory body that makes decisions/recommendations on issues such that reflect the whole community. There are also unifying bonds within each neighbourhood, where people look out for each other and share a common love of their rural lifestyle.

However, the needs and interests of the residents on the north end, near the Lewes River Dam, are distinct from those who live in Judas Creek. Since Judas Creek is half an hour away from the north end—the same distance as driving to Whitehorse—few residents of northern Marsh Lake speak of using the Judas Creek Community Centre, which is open and available to all. They do, however, feel a tie and a connection to their fellow community members.

The community is therefore spatially dispersed yet unified. Residents share a love of the rural lifestyle and the natural environment, an enthusiastic community spirit, and a desire to help one another. The Plan reflects this unique community culture through policies that maintain the rural nature of the community and support the geographically dispersed opportunities for services throughout the planning area.

6.3 Principle #3 – Rural Lifestyle: Affirm and foster the unique rural lifestyle and community spirit

Residents describe the quiet and solitude, recreational opportunities, open natural spaces, and community spirit that characterize the rural lifestyle of the Marsh Lake area. Community spirit in Marsh Lake has been described as the close-knit nature of the community, self-reliance, and self-determination. It is these characteristics that draw people to Marsh Lake and keep them there.

The Plan does provide new opportunities for residential development within the Marsh Lake area. This reflects KDFN's interest in providing their citizens with opportunities to live there and their interest in the economic opportunities of their Settlement Land. It also reflects YG's commitment to providing rural residential opportunities for Yukoners who have a common desire to live a rural lifestyle.

The following objectives speak to the ways in which the Plan supports development that upholds these values and community spirit.

6.3.1 Objective #10 – Support and enhance the rich diversity of recreational opportunities for local and Yukon populations

Marsh Lake is a place with great recreational opportunities. There are ski trails, biking trails, a gymnasium in the community centre, several wildlife viewing stations, a bird watching facility, two children's playgrounds, and several boat launches. It is a place where ski races, bike races, yoga classes, sailing camps, and many unorganized recreational activities take place. There is also a lively pub culture by night that converts to a knitting circle during the day at the Judas Creek Community Centre.

The Plan acknowledges the vital role that these recreational activities play for Marsh Lake residents and visitors. It recognizes existing recreation areas and contains policies to maintain and support new opportunities for recreation infrastructure. The Plan also maintains the natural characteristics of the Marsh Lake area, which are keys to many of its recreational opportunities.

6.3.2 Objective #11 – Maintain and enhance the trail and open space networks

The Plan recognizes the importance of the Marsh Lake trail system, and recognizes that there are some conflicts between motorized and non-motorized uses of certain trails. Increased traffic should not be encouraged on trails within sensitive habitat. There is a lack of clarity about which trails are on public versus private lands.

The Plan includes a recommendation that the community considers developing a trail plan for the area that would speak to these needs. The Plan also includes provisions to ensure that any new development be designed to accommodate established trails and maintain a buffer where possible. In addition, three areas were designated as Community Use to reflect the trail networks in these areas.

6.3.3 Objective #12 – Consider the rural attributes of quiet, solitude, and stargazing in the design and development of land and structures

Residents in Marsh Lake have chosen to get away from the lights, noise, pace, and urban/suburban lifestyle of Whitehorse. Marsh Lake currently offers peace, quiet, and solitude.

The Plan includes policies in the Residential and Commercial land use designations for the conformity of any home-based or commercial business to maintain the rural character of the area and address issues of noise, light, and traffic.

The Plan recommends a mix of lot sizes, including some large lots to maintain the rural nature of the community and opportunities for solitude. In addition, the Residential designation includes provisions for subdivision design to address issues of noise, light, and traffic.

6.3.4 Objective #13 – Wherever possible, provide opportunity for strengthening community spirit and social connections through the promotion of public infrastructure and developments that provide a sense of place or community identity

The Plan includes policies that allow for the development of public recreational infrastructure and facilities such as warming huts and ski trail lights. It also provides the opportunity for KDFN to build infrastructure for gatherings such as their General Assembly, which would bring KDFN citizens back to the Marsh Lake area for special events.

6.3.5 Objective #14 – Maintain a rural feel and character in the design and development of land and structures

There are several new areas identified as Residential in the Marsh Lake plan. These areas are mainly located on KDFN Settlement Lands. Some Yukon lands are also identified to provide rural living opportunities. It is the intent of the Plan to provide these new opportunities in a way that maintains the rural feel and character of the area.

The Residential designation includes policies that outline elements to be considered in any subdivision design reflecting the rural feel and character of the area. In addition, the Open Space and Environmental Open Space 1 and 2 designations ensure that the naturally forested and vegetated areas of Marsh Lake are maintained.

6.4 Principle #4 – Community Sustainability: Promote the efficient use of global and local resources

This principle focuses on sustainable management and efficient use of resources such as air, water and land. Reducing the footprint of the community and building its self-reliance is key to the community's sustainability. This principle includes consideration for reducing the energy used in homes; minimizing the use of fossil fuels to drive cars; and making decisions about investments in local infrastructure that are consistent with sustainability goals. Focusing on sustainability allows decision making that considers and benefits future generations.

6.4.1 Objective #15 – Support growth that achieves the vision of the community and considers land supply and demand in relation to Whitehorse and other peripheral communities and Settlement Lands

Both KDFN and YG are responsible for providing residential opportunities for the citizens they govern. The Plan accommodates overall demand of roughly 79 new lots at 2.0 persons per household; approximately 4 new lots per year over the next 20-year period.

6.4.2 Objective #16 – Promote strategies that minimize greenhouse gas emissions with all uses, developments, and structures

The Plan includes opportunities for home-based businesses and for local commercial development. These opportunities will reduce the need for residents to travel to Whitehorse and will allow them to conduct their work and access services in the Marsh Lake area. While this may reduce trips to Whitehorse, it is inevitable that people will continue to work in Whitehorse and access Whitehorse services.

6.4.3 Objective #17 – Focus growth in areas with existing infrastructure

Each road built and power line developed uses considerable resources. The Plan emphasizes development opportunities where residential areas already exist in order to capitalize on the existing roads and services in the area.

6.4.4 Objective #18 – Encourage the consideration of appropriate design principles in the design and development of land and structures

The Yukon is characterized by its cold environment and long, dark winters. Housing and subdivision designs using WinterCity Design principles address those factors. Strategies such as orientation and design for maximum sun exposure can greatly reduce electricity consumption and also improve the quality of life for residents.

Subdivisions, houses, and any type of development should be designed to address the local constraints and characteristics of the area. Policies are included to ensure that measures such as flood-proofing and flood damage prevention are addressed.

6.5 Principle #5 – Self-sufficiency: Promote the production of local goods and services

Survey results during the planning process indicated that Marsh Lake residents make approximately four trips to Whitehorse per week. Many stated that they would decrease the number of trips and their reliance on Whitehorse if there was a local source of fuel, basic grocery supplies, and basic services. No commercial businesses that provide basic supplies currently operate in the Marsh Lake area, although these have existed in the past and are remembered fondly. While there is interest in being able to start up and access commercial services, community members are clear that they do not want to sacrifice the rural nature of the community. Any commercial activity must maintain the rural character described in Guiding Principle #3 above.

Marsh Lake has an established network of local producers of goods and services. This network

has potential to contribute to the self-sufficiency of the community.

6.5.1 Objective #19 – Promote opportunities for self-sufficiency through opportunities for agricultural development

The Plan has given the Agriculture designation to all existing agricultural parcels. In addition, several areas have been designated for possible expansion of agricultural activities. There is a considerable amount of KDFN Settlement Land with good agricultural potential. However, some of this land includes important caribou habitat and wetlands and has been designated as Environmental Open Space 1. Other portions have been identified as Environmental Open Space 2 and Open Space to reflect the value of keeping these areas in their natural state.

Those engaged in agricultural activities in the area are encouraged to continue to explore opportunities for local sale of the products. Residents are encouraged to support their local farmers.

There is also a sizeable area of KDFN Settlement Land with agriculture potential that has been designated Future Planning. KDFN has not yet made any decisions on how they would use this land. It will require a future planning process to determine what land uses will be supported in that area.

6.5.2 Objective #20 – Encourage sustainable forestry opportunities and management

Sustainable forestry opportunities include personal fuel wood harvesting, FireSmart, and small-scale commercial forestry. Forest Management policies set out provisions for sustainable forestry practices within the Marsh Lake area.

6.5.3 Objective #21 – Promote home-based businesses and commercial uses and development that maintain the unique rural lifestyle

The Plan includes several lots with commercial opportunities. In addition, home-based businesses are encouraged as long as they respect concerns about noise, appearance, and traffic. The Residential and the Commercial designations contain policies that speak to these opportunities while maintaining the unique rural culture and characteristics of the area.

6.5.4 Objective #22 – Provide the opportunity for light industrial services while respecting the nature of the rural residential areas

During the planning process, Marsh Lake residents expressed the value of having light industrial services in the area such as access to gravel, a used car lot, road clearing, and heavy equipment services. However, residents also discussed the challenges of having heavy equipment sites and other light industrial activities mixed in with residential areas. Concerns were raised around noise and unsightliness.

The Plan includes a Light Industrial designation that provides a separate location for heavy equipment and other light industrial activities. Existing light industrial sites outside residential areas have also been designated as Light Industrial.

7. Area Wide Policies

First Nations

1. In accordance with KDFN Final and Self-Government Agreements, KDFN beneficiaries have a right to pursue **subsistence use activities** within the Marsh Lake planning area. This also applies to the Carcross/Tagish First Nation (CTFN) and Ta'an Kwäch'än Council (TKC) beneficiaries in their respective Traditional Territories.
2. First Nations have a right to use or develop areas of **cultural significance** in accordance with their Final Agreements. This right applies to the culturally significant areas regardless of the land use designation.
3. Any future decision-making related to Plan amendments, development strategies, or land use should make use of the **traditional knowledge** in the area.

The areas of cultural significance have not been designated on the Land Use Designation Map due to their sensitive nature.

Growth Management

4. The Plan encourages the development of sites that are **adjacent or close to existing built-up areas** before developing undisturbed areas that are designated Residential.
5. A distinction between short- and long-term residential land shown on Map 9 is as follows:
 - a. Short-term residential land is intended to accommodate development for the next 20 years and characterized by and supported for the following:
 - i. The sites are suitable for development in terms of slope, topographical features, and sensitive habitat;
 - ii. The sites have an existing developed access and are located near existing infrastructure and services;
 - iii. Development costs will be relatively low due to existing access and other infrastructure; and
 - iv. The sites preserve a larger amount of public land and minimize the overall human footprint by concentrating development in existing residential areas.
 - b. Long-term residential land is intended to serve as a reserve or land bank to ensure future residential land and accommodate long-term growth (beyond 20 years) in the Marsh Lake area.
6. Should the residential development demand be higher than the expected growth rate outlined in the Growth Management section; or the areas identified for short-term growth prove to be undevelopable or reach the capacity, the demand may be

accommodated by:

- a. Development of the long-term residential areas closer to Whitehorse and as **planned subdivision**; or
- b. the redevelopment of existing lots or the development of vacant lots.

Subdivision Development

7. The Plan encourages the following process and design considerations for a **subdivision design** in the Marsh Lake planning area:
 - a. Public input;
 - b. WinterCity design principles (e.g. south-facing building orientation to maximize passive solar heating);
 - c. Consideration of climate change effects such as increased risk of flooding, wind, and forest fire;
 - d. Lighting, with the objective of minimizing light pollution;
 - e. Noise, with the objective of minimizing noise pollution;
 - f. Traffic, with the objective of minimizing traffic congestion and maintaining pedestrian safety;
 - g. Mitigation of any possible effects of development and related use on Environmental Open Space 1 and 2 and the Lewes Marsh Habitat Protection Area;
 - h. Retention of vegetation and wildlife corridors and high value caribou habitat;
 - i. Consideration of existing trails/trail connections/trail access through subdivisions;
 - j. Consideration of compatibility of adjacent uses and environmentally sensitive lands when locating public infrastructure;
 - k. Storm drainage;
 - l. Sewage collection and disposal;
 - m. Potable water; and
 - n. Geotechnical study to confirm the lot sizes are appropriate to support on-site septic systems.
8. **Spot land applications** for residential purpose will not be accepted. Opportunities for new residential lots will be provided through planned subdivision development.
9. **Lot enlargement** applications may be considered under the following circumstances:
 - a. The enlargement of existing residential lots may be considered in all designations subject to the requirements of the *Residential and Recreational Lot Enlargement Policy* (Land Management Branch, Energy, Mines and Resources, YG). The policy criteria includes the need to address public health and safety concerns (e.g. additional land for septic field);
 - b. A lot may be enlarged for the purpose of meeting the minimum lot size

requirements for the respective residential zone. In cases where meeting the minimum lot size is not possible due to the geographical or environmental features, the lot may be enlarged to the greatest extent possible to fulfill the intended purpose of the enlargement;

- c. Lot enlargement applications involving expansions into the Environmental Open Space 1 and 2 designations may be considered subject to rezoning and the completion of associated public consultation process;
 - d. Where a lot enlargement application is likely to create a subsequent demand for similar types of applications within a particular developed area, applications should be grouped and/or reviewed in a comprehensive manner having regard for social, economic and environmental considerations; and
 - e. Lot enlargements into established **public beach accesses** will not be considered unless it is supported in a comprehensive neighbourhood planning study, similar to the Army Beach Land Use Study (Inukshuk Planning & Development, 2002).
10. Existing use, buildings, or other structures that do not meet the Plan's policies may continue as a **non-conforming** use or building until such time as they can be brought into conformity in accordance with the area development regulation.

Trails

The existence of trails for both motorized and non-motorized pursuits are integral to maintaining the Marsh Lake rural lifestyle. In order to achieve Plan's Objectives under Principle #1 and #3, an off-road vehicle management area may be established, in accordance with the *Territorial Lands (Yukon) Act* and associated regulations.

11. Every effort will be made to maintain important and established trails and trail networks throughout the planning area.
12. Preparing a **master trail plan** for the Marsh Lake planning area may be beneficial for future trail use and development. In developing a master trail plan, the following components should be considered:
 - a. Public engagement;
 - b. Trail mapping;
 - c. Single and/or multi-purpose motorized/non-motorized trail access;
 - d. Educational and recreational enhancement opportunities;
 - e. Trail routes, beach access, connections, and closures;
 - f. Signage; and
 - g. Planning trail use to minimize disturbance to preferred caribou habitat.

Caribou Habitat

The entire planning area falls within the winter range of the Carcross Caribou herd. Winter range is generally occupied by the Carcross herd from early December to late April, and is characterized by open pine forest, with lichen groundcover. Caribou are susceptible to

disturbances associated with human activity, and require large tracts of intact habitat to access and move between patches of lichen, their primary winter food source. The identified preferred caribou winter habitat (Map 4) was created using the most current range use information available for the Carcross Caribou herd.

The Whitehorse-Southern Lakes Forest Resources Management Plan (FRMP) is being prepared. In order to keep the policies between this Plan and Whitehorse-Southern Lakes FRMP, this Plan may be amended, if necessary, to reflect any changes to the policy direction about caribou habitat and forest resources management.

13. In accordance with the Southern Lakes Wildlife Coordinating Committee’s 2012 recommendations in the *Regional Assessment of Wildlife in the Yukon Southern Lakes Area*, protection of important Carcross Caribou herd habitats (preferred winter habitat and travel corridors as shown on Map 4), is a key consideration of any land development and land use planning processes.

14. In the event of natural large scale habitat alteration (e.g. forest fire, epidemic insect outbreak, etc.), the Carcross Caribou Herd Winter Habitat map (Map 4) and open space boundaries and policies will be reviewed and the Plan will be updated as necessary.

15. Caribou winter range use may shift over time as conditions change. The Carcross Caribou Herd Winter Habitat map (Map 4) and open space designation boundaries will be reviewed and may be adjusted if a shift in winter habitat is identified.

16. The change to the caribou habitat area boundaries and designation boundaries will be incorporated at the time of comprehensive Plan review.

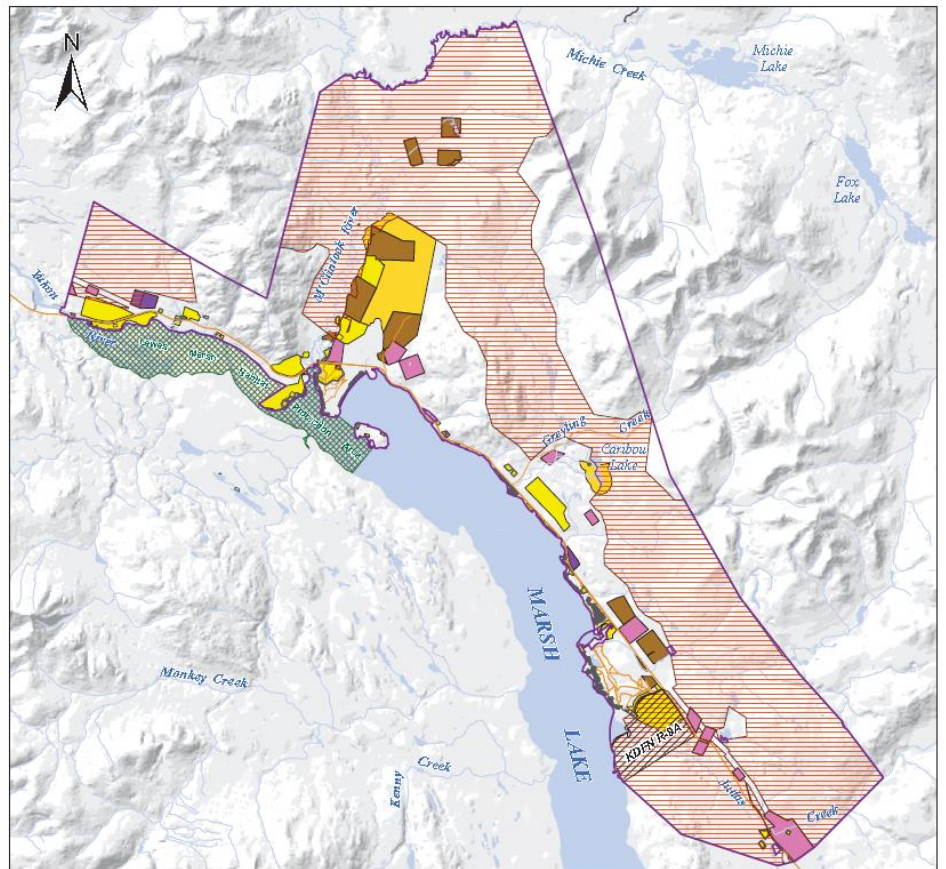


Figure 10: Some existing and proposed land uses overlap with the Carcross caribou herd’s preferred winter habitat (shown as red hatch).

Forest Resources Management

17. Authorization for any timber harvesting is required from the Forest Management Branch, Energy Mines and Resources on Yukon public land and from the KDFN on Settlement Land.
18. Carefully managed forest resource harvesting and fuel abatement activities may be permitted in the caribou habitat identified on Map 4. Such activities shall be undertaken in and integrated manner with consideration of preferred winter habitat, wildlife corridors and habitat connectivity⁶.
19. All merchantable timber should be salvaged to the extent possible as a condition of agricultural land disposition and planned residential subdivision development.
20. This Plan may be amended, if necessary, to reflect any changes to the policy direction once the **Whitehorse-Southern Lakes Forest Resources Management Plan** is complete.

Shoreline and Riparian Areas Protection

21. **100-metre development setback** from the limit of the bank (ordinary high water mark) around a water body is protected from any new development:
 - a. The setback may be reduced where wildlife values will not be adversely affected and where further studies or site analysis suggests that new development will not be impacted by flooding and erosion hazards.
 - b. Notwithstanding above, no new lots shall be created within 30.48 metres from the ordinary high water mark.
 - c. Removal of trees within the riparian setback is discouraged unless otherwise provided for in the Plan policies and permitted by the Forest Management Branch.
22. New development is not permitted in areas of environmental significance or hazard prone areas.
23. Motorized activity is discouraged in the riparian areas where there is a concern regarding the damage to the vegetation and habitat.

Other

24. The Plan encourages exhausted gravel resource areas to be reclaimed to a use that is suitable to existing site conditions and compatible with adjacent land uses.
25. Where possible, the community is encouraged to consider transportation options such as carpooling or supporting any entrepreneurial transit ideas.

⁶ Mitigation measures may include seasonal access restrictions or harvesting methods and Environment Yukon's biologist should be consulted to provide recommendations when establishing new harvesting areas or issuing new permits in preferred caribou winter habitat.

8. Land Use Designations and Policies

The following policies apply to each of the land designations identified for the Marsh Lake area, as shown on Map 10 and Map 11. As described in the Growth Management section, each land use designation was established through careful examination of the values and interests in the area and in alignment with the Guiding Principles for the Plan.

8.1 Environmental Open Space 1

The purpose of the Environmental Open Space 1 designation is to protect and preserve areas of environmental, recreational and cultural significance from incompatible development. Values that are focused on here are derived from the Guiding Principles and Plan Objectives, in particular, Principle, 1, and Objective 1, which states: Manage environmentally sensitive areas in a manner that protects significant values. These values are defined as wetlands, salmon, caribou and old-growth forest. Implementing the Southern Lakes Wildlife Coordinating Committee's recommendations is highlighted in area-wide policies, 6.13. The key recommendation listed is the protection of Carcross Caribou herd winter and movement corridor habitats. These values are aggregated in four areas within the planning area. From south to north they are: Judas Creek; Caribou Lakes and wetlands to the north; a small wetland north of Army Beach; and the M'Clintock River.

Additionally, the area-wide policies direct the designation of areas of environmental significance or hazard-prone areas as Environmental Open Space 1. In the planning area, this is understood to be areas adjacent to water that have high environmental value and are prone to flooding.

Areas designated as Environmental Open Space 1 include wetlands, areas prone to flooding and natural hazards, and areas having sensitive or specific habitat requirements. Lands used for recreational or cultural purposes within the Environmental Open Space 1 designation shall be kept primarily in their natural state except where modifications are necessary to facilitate recreational or cultural development, environmental conservation and public safety. Wildlife corridors will be maintained to allow for the movement of wildlife through the planning area.

1. Development in Environmental Open Space 1 is not permitted unless otherwise provided for in the Plan policies or by other Acts and regulations⁷.
2. **Personal fuelwood harvesting** and fuel abatement activities may be permitted subject to:
 - a. the requirements of the *Forest Resources Act* and *Regulations*;
 - b. the mitigation of any impacts on wildlife values;

⁷ If there is a claim in good standing granted through the Yukon Quartz Act and regulations or Yukon Placer Mining Act and regulations, that right has to be respected but the right also has to respect the planning regimes that have been put in place.

- c. consideration of **preferred caribou winter habitat**, wildlife corridors and habitat connectivity, as outlined in Area Wide Policy 18; and
 - d. non-designated personal fuelwood harvesting is not allowed.
3. Personal fuelwood harvesting activities should be integrated with fuel abatement objectives and programs (e.g. FireSmart).
4. **Commercial timber harvesting** and a large scale personal use fuelwood harvesting⁸ is not permitted, except in response to natural large scale habitat alteration (e.g. forest fire, epidemic insect outbreak, etc.) and subject to:
 - a. the requirements of the *Forest Resources Act and Regulations*⁹;
 - b. the mitigation of any impacts on wildlife values; and
 - c. consideration of preferred caribou winter range shown on Map 4, wildlife corridors and habitat connectivity, as outline in Area Wide Policy.
5. Limited development to support cultural or public recreational use, education, habitat rehabilitation or enhancement such as establishment of **new trails** may be permitted as a discretionary use. Development is subject to public consultation and the protection or mitigation of any impacts on wildlife values, including, but not limited to, impacts on preferred caribou winter habitat shown on Map 4.
6. Hunting and trapping may continue and new trapping areas are permitted, in accordance with s.13 (1) of the *Wildlife Act*¹⁰.
7. Motorized recreational activity is discouraged in Environmental Open Space 1.

8.2 Environmental Open Space 2

The purpose of the Environmental Open Space 2 designation is to protect preferred winter habitat values for caribou while accommodating the other resource related activities, including forest resources harvesting opportunities. This designation provides a balance between the high degree of protection provided in the Environmental Open Space 1 and more relaxed management of the Open Space designations.

1. Development in Environmental Open Space 2 is not permitted unless otherwise provided for in the Plan policies or by other Acts and regulations¹¹.

⁸ If harvesting over 25 m³ (11 cords) for personal use, harvesting must happen within a timber harvesting plan area. Additional permit and fees will be required.

⁹ Completion of a Timber Harvesting Plan (THP) is required. The THP preparation process includes community notification.

¹⁰ Hunting and trapping is not permitted within one kilometre of a residential area unless the landowner(s) give permission.

¹¹ If there is a claim in good standing granted through the Yukon Quartz Act and regulations or Yukon Placer Mining Act and regulations, that right has to be respected but the right also has to respect the planning regimes that have been put in place.

2. **Personal fuelwood harvesting** and fuel abatement activities may be permitted subject to:
 - a. the requirements of the *Forest Resources Act* and *Regulations*;
 - b. **the mitigation of any impacts** on wildlife values;
 - c. consideration of preferred caribou winter habitat shown on Map 4, wildlife corridors and habitat connectivity, as outlined in Area Wide Policy 18; and
 - d. non-designated personal fuelwood harvesting may be permitted subject to the mitigation of any impacts on wildlife, preferred Carcross Caribou herd winter habitat, wildlife corridors, habitat connectivity and recreation values.
3. Personal fuelwood harvesting activities should be integrated with fire abatement objectives and programs.
4. **Commercial timber harvesting**, a large scale personal use fuelwood harvesting, and fuel abatement activities may be permitted subject to:
 - a. the requirements of the *Forest Resources Act* and *Regulations*;
 - b. the mitigation of any impacts on wildlife values; and
 - c. consideration of preferred caribou winter range shown on Map 4, wildlife corridors and habitat connectivity, as outline in Area Wide Policy.
5. Existing access should be used for timber harvesting where possible. The use of established recreational trails should be avoided. If a recreational trail is used or disturbed for timber harvesting, the trail must be rehabilitated by the proponent.
6. Limited development to support cultural or public recreational use, education, habitat rehabilitation or enhancement such as establishment of new trails may be permitted as a discretionary use subject to public consultation and the protection or mitigation of any impacts on wildlife values, including, but not limited to, impacts on preferred Carcross Caribou herd winter habitat shown on Map 4.
7. Hunting and trapping may continue and new trapping areas are permitted, in accordance with s.13 (1) of the *Wildlife Act*.
8. Motorized recreational activity is discouraged between December 1 and April 30.

8.3 Open Space

The purpose of the Open Space designation is to keep areas of vacant land for the recreational enjoyment of the public, subsistence use, personal fuelwood and commercial timber harvesting, hunting and trapping; and to ensure lands are planned and developed in an orderly manner subject to the management and mitigation of any impacts on wildlife values.

1. Development in the Open Space area is not permitted unless otherwise provided for in the Plan policies or by other Acts and regulations¹².

¹² If there is a claim in good standing granted through the Yukon Quartz Act and regulations or Yukon Placer Mining Act and regulations, that right has to be respected but the right also has to respect the planning regimes that have been put in place.

2. **Limited development** to support cultural or public recreational use, education, habitat rehabilitation or enhancement such as establishment of **new trails** may be permitted as a discretionary use subject to public consultation and the protection or mitigation of any impacts on wildlife values, including but not limited to impacts on preferred caribou winter habitat shown on Map 4.
3. Hunting and trapping may continue and new trapping areas are permitted, in accordance with s.13 (1) of the *Wildlife Act*.
4. Other uses may be considered, subject to a public review process and an amendment to the Plan.
5. **Personal fuelwood harvesting** and fuel abatement activities are permitted subject to the requirements of the Forest Resources Act and Regulations.
6. **Commercial timber harvesting**, a large scale personal use fuelwood harvesting, and **fuel abatement activities** is permitted subject to:
 - a. the requirements of the *Forest Resources Act and Regulations*; and
 - b. the mitigation of any impacts on wildlife, preferred caribou winter habitat, wildlife corridors, habitat connectivity and recreation values.
7. For timber harvesting, **existing access** should be used where possible and the use of established recreational trails should be avoided. If a recreational trail is used or disturbed for timber harvesting, the trail must be rehabilitated by the proponent.
8. Timber harvesting activities should be integrated with fire abatement objectives and programs.

8.4 Community Use

The areas designated as Community Use in Marsh Lake are significant for adding value to the rural residential lifestyle by providing local area residents and visitors opportunities to enjoy the planning area in a natural setting. The purpose of this designation is to maintain the natural character of the area while providing recreational opportunities as well as public facilities like community centre. Existing ski and bike trails, community parks, playground, cemeteries, government campground and day use area, and Swan Haven are designated as Community Use.

1. Development for the purposes of enhancing the recreational resource is permitted, but not to the detriment of ecological values such as caribou habitat.
2. Motorized recreational activity is discouraged where public safety and/or the environment may be compromised.
3. Uses such as new trail development, FireSmart activities, facility for low impact recreational and public facilities such as a warming hut or trail lighting may be considered.

8.5 Residential

The purpose of the Residential designation is to acknowledge the existing residential patterns and to identify new areas for potential residential development. The Residential designation includes both lands that are currently used as residential and new areas on YG and KDFN lands

that can accommodate the anticipated growth of 25% over the next 20 years. In addition, a number of Long Term Residential areas have been identified on KDFN land to account for the interests of future generations.

1. The primary purpose of residential land is to provide areas for permanent single-family dwellings and/or recreational properties that may be seasonally occupied.
2. Maintaining access to existing recreational trails is a priority. Existing trails will be identified and accommodated within any future residential development to the extent possible.
3. Any residential development near the Judas Creek ski trails will be done in such a way that access to trails is not blocked.
4. Industrial uses which may carry out a portion of their operations outdoors or require outdoor storage are not permitted within the residential area.
5. The location of any proposed new residential development is to be considered relative to the location of existing hunting and trapping areas in accordance with s. 13 (1) of the *Wildlife Act*.
6. Residential designation boundaries may be modified during detailed design following further environmental and geotechnical assessment.
7. For residential development south of the Judas Creek subdivision within the KDFN R-9A in preferred Carcross Caribou herd winter habitat shown on Map 4, conservation and protection of significant identified caribou habitat values must be accommodated through future planning and project assessment processes.
8. The *M'Clintock Place Development Area Regulation* (O.I.C 1996/145) should be reviewed and amended to reflect current land use issues. This would include the need to better distinguish the types of uses permitted on recreational properties from those used for commercial purposes (e.g. tourism accommodations).
9. Home-based businesses are supported within the Residential designation, provided that:
 - a. the rural character of the neighbourhood is maintained;
 - b. the business activity is secondary and subordinate to the residential function in size and scale of operation;
 - c. the business activity does not create undue nuisances, such as excessive traffic, noise, light, noxious odours, or unsightly signage; and
 - d. the size and scale of an operation conforms with the Guiding Principles set out in the Plan.
10. Bed-and-breakfast operations are permitted on land designated Residential, provided that:

- a. the rural character of the area is maintained;
 - b. parking is contained on-site; and
 - c. nuisances such as noise and traffic, and septic system capacity, are considered when setting the number of rooms.
11. Land designated as Residential is divided into four categories: Residential 1, Residential 2, Lakefront Residential, and Marina Residential.

Residential 1 (R1)

The purpose of R1 is to establish a zone for residences located on the east side of the Alaska Highway.

- a. The recommended minimum lot area is 1.0 hectare.
- b. The primary use of the property is residential. One primary residence is permitted.
- c. One secondary residence (that is smaller in terms of building area, height, and occupant capacity relative to the primary residence) is permitted.

Residential 2 (R2)

The purpose of R2 is to establish a zone for large residential lots that are compatible, in terms of density and intensity of use, with adjacent or surrounding agriculture uses, in particular on M'Clintock Valley Road.

- a. The recommended minimum lot area is 3.0 ha.
- b. The primary use of the property is residential. One primary residence is permitted.
- c. One secondary residence (in terms of building area, height, and occupant capacity relative to the primary residence) is permitted.
- d. Minor agricultural pursuits are permitted, including small-scale commercial or personal agricultural operations that can be carried out on a small tract and are compatible with residential use. Typical uses include, but are not limited to, nurseries, greenhouses, market gardens, beekeeping, and keeping livestock for personal use.

Lakefront Residential/Recreational

The purpose of the Lakefront Residential/Recreational designation is to establish a zone for existing and new lakefront residential development. These lots account for most of the lots on the west side of the Alaska Highway. Special consideration was given to the risk of flood and erosion, as well as public access to Marsh Lake.

- a. The recommended minimum lot area is 0.5 hectare.

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- b. The primary use of the property is residential. One primary residence is permitted.
- c. The following requirements for flood damage mitigation apply to residential and accessory structures. Land within 30.48 m of the ordinary high water mark is crown land:
 - i. Construct liveable space or space for storage of goods damageable by flooding above the 100-year flood elevation levels.
 - ii. Undertake adequate flood damage protection and/or flood-proofing measures. This could include building on fill, provided such fill does not interfere with flood flows of the watercourse or affect neighbouring properties, and is adequately protected against floodwater erosion, using structural means to raise the building, such as foundation walls, columns, etc., or a combination of fill and structural means.
- d. Plans for flood damage protection and flood-proofing measures should be provided during the development permit process.
- e. Existing properties within an identified flood risk area are encouraged to consider flood damage mitigation measures when renovating or altering property.
- f. Public access to the shoreline must be maintained at all times. Private use of the public area between the shoreline and residential properties for docks or any other structure that inhibits through access is not allowed.
- g. Closure of a public access to Marsh Lake for any purpose must be carefully considered in the context of alternative accesses that are close to surrounding properties. If none exist, the access will remain open.
- h. Lake front property owners are encouraged to maintain as much vegetation as possible to help mitigate the erosion of the lakeshore. Land within 30.48 m of the ordinary high water mark is crown land and any timber harvesting in this area can only be done in accordance with the *Forest Resources Act* and related policies.

Marina Residential

The purpose of the Marina Residential designation is to encourage the long-term success of the marina as a facility.

The marina is considered an asset to the community and people want it to remain as a community fixture. This designation allows a variety of uses and higher density development that may provide an incentive to re-develop the property and marina.

- a. A mixed-use commercial/residential land use is allowed. These uses could include high-density multi-family residential, hotel, condo-hotel, and a range of commercial uses that are consistent with that of a marina.
- b. This site is recommended to be regulated as a Comprehensive Development Zone (CD), which provides for the development or redevelopment of a larger site, allowing a variety of land uses and development approaches as part of a comprehensive development plan.

Careful consideration of water and sewer services will be a major component of any project proposing higher density development and may be the determining factor in the allowable density.

8.6 Commercial

During the public process there were a number of different interests expressed regarding commercial development. There were others that felt residents could continue to access services and goods by commuting back and forth to Whitehorse. The balance that is presented in this Plan is to provide small commercial nodes on the highway: one in Judas Creek; and one in South M'Clintock. The Marina has also been designated Commercial, with opportunities to diversify development opportunities there. Policy has been developed to provide opportunities throughout the Residential designations for home-based businesses and bed-and-breakfast operations.

1. Commercial designations on the Alaska Highway are intended for convenient services for the local and travelling public (e.g., a grocery store, gas bar, eating and drinking establishments, postal services, and office supplies).
 - a. The recommended minimum lot area is 1.0 hectare.
 - b. One residence is permitted as a secondary use to the principal commercial development. The commercial development must be established before residential use is permitted.
2. The plan recognizes the existing zoning provisions that apply to commercial development on CTL-Tourist Lodge Zone and CRV-Recreational Vehicle Campground Zone properties in the M'Clintock Place Development Area Regulation.
3. Commercial developments should consider the area's rural character in terms of building material, colours, form and scale, and site development.

8.7 Future Planning

The Future Planning designation is located on KDFN Settlement Land in the M'Clintock Valley Road area and around Caribou Lake. The land in the M'Clintock Valley Road area is suitable for both agricultural and residential development. It also has current wildlife habitat and subsistence use values. There are existing agricultural leases and residential lots within and neighbouring the area.

1. Development will be discouraged on lands designated Future Planning until the area is re-designated through the Plan amendment process or the next comprehensive review of the Plan. Any development proposals on lands designated for future development will require public review and consultation.
2. Future Planning areas may be considered for future agricultural, residential, community use, and cultural uses based on known values. Other compatible uses may also be explored.
3. Existing outdoor recreational activities are permitted to continue until the area is designated for a specific use.
4. The installation of public utilities and FireSmart activities may be permitted.
5. Any development proposals on lands designated for future development must demonstrate compatibility with surrounding land uses.
6. Protection of preferred caribou winter habitat and travel corridors must be a key consideration in future land use decisions.

8.8 Agriculture

The purpose of the Agricultural designation is to identify existing agricultural areas and operations and ensure that their agricultural use is maintained. In addition, the designation recognizes new areas with soil-based agricultural potential except for one area designated Agriculture with low soil capability

1. Land designated as Agriculture may be used for soil and non-soil based agriculture.
2. A maximum of two dwelling units per lot may be permitted in this designation as an accessory or secondary use.
3. The lot size for soil based agriculture may range from three to 65 ha.
4. The lot size for non-soil based agriculture may range from three ha to six ha.
5. Non-soil based agriculture will:
 - a. not be considered on land identified as having a high capability for soil-based production;
 - b. only be allowed within the planned agriculture subdivisions; and
 - c. must be for commercially viable farm operations.
6. Subdivision of agriculture properties that meet the home site severance criteria set out in the *Subdivision Act* and *Regulations* is supported.
7. Accessory or Secondary uses, such as home-based businesses, bed-and-breakfasts, and agri-tourism, are supported on lands designated as Agriculture.
8. Commercial dog kennels may be permitted as a discretionary use where it has been

determined through a public consultation review process that the proposed activity will not be incompatible with surrounding agriculture or residential uses.

9. The installation of public utilities and FireSmart activities may be permitted.
10. Agricultural land disposition within the active Timber Harvesting Plan north of the dump will not occur until the area is redesignated for Agriculture.

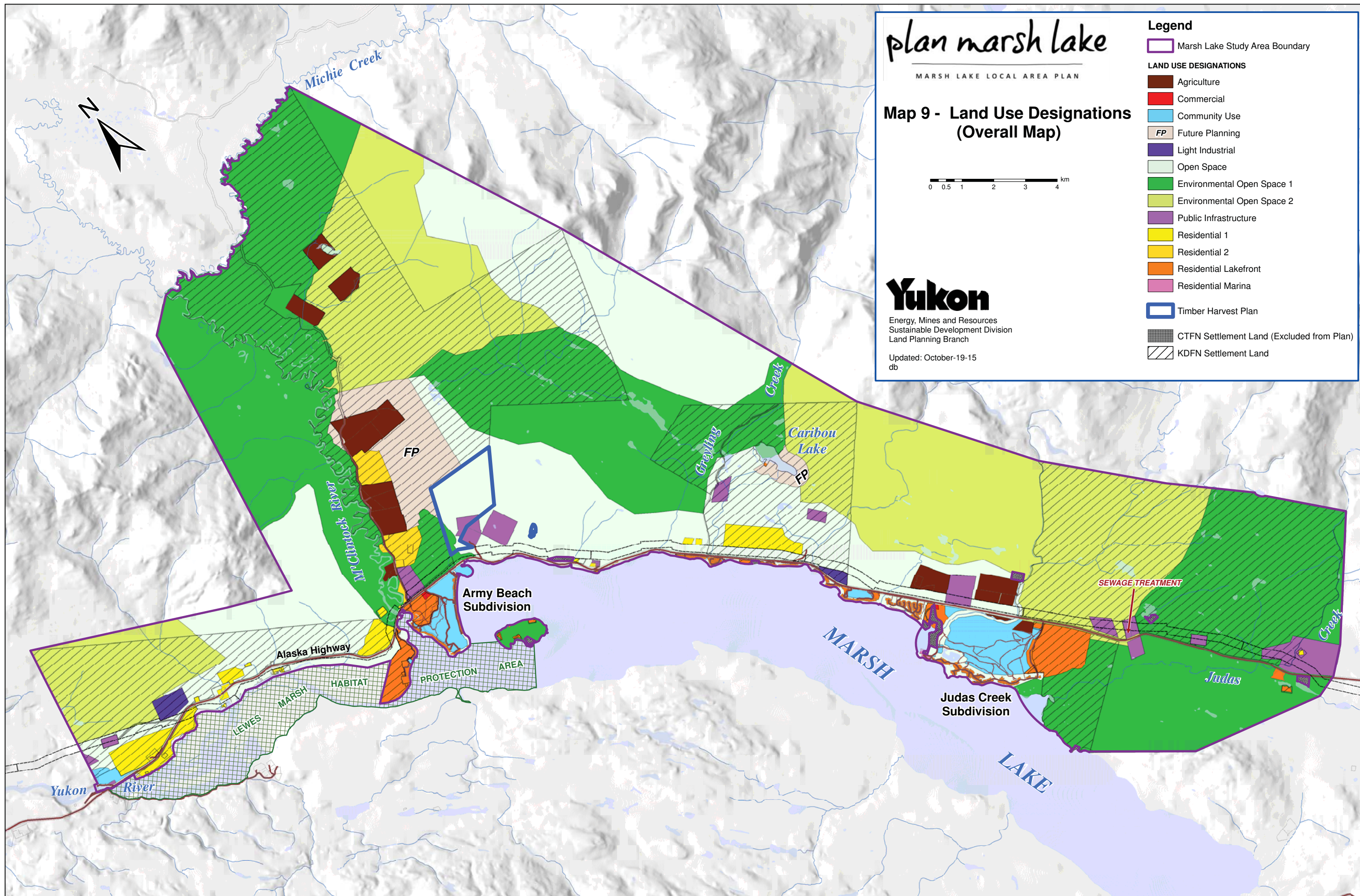
8.9 Light Industrial

Two Light Industrial designations have been identified. One is a pre-existing site, currently used as a scrap yard, along the highway. The other provides new opportunities for individuals in the area to locate their light industrial activities. The main purpose of the Light Industrial designation is to encourage both services and liveability by providing an alternative location for operations that are not compatible with residential neighbourhoods.

1. Land designated as Light Industrial provides an area for a mix of industrial uses including manufacturing, processing, assembly, distribution, service, repair, as well as public facility like a fire hall. Such light industrial uses may carry out a portion of their operations outdoors or require outdoor storage.
2. The recommended minimum lot area is 1.0 hectare.
3. One residence is permitted as a secondary use to the principal industrial operation. The industrial development must be established before the residential use is permitted.
4. Where a Light Industrial use is planned adjacent to the Alaska Highway, a minimum 30-metre setback shall be maintained along the Highway in the planned subdivision.
5. Access to the Light Industrial subdivision shall be by way of one access road or a frontage road.

8.10 Public Infrastructure

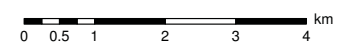
1. The Plan supports current and new public infrastructure (i.e., water, power, roads, and telecommunications) throughout the planning area.
2. A new infrastructure proposal will be evaluated for its consistency with the Plan's Guiding Principles and its compatibility with the surrounding uses.



plan marsh lake

MARSH LAKE LOCAL AREA PLAN

Map 9 - Land Use Designations (Overall Map)



Yukon

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Land Planning Branch

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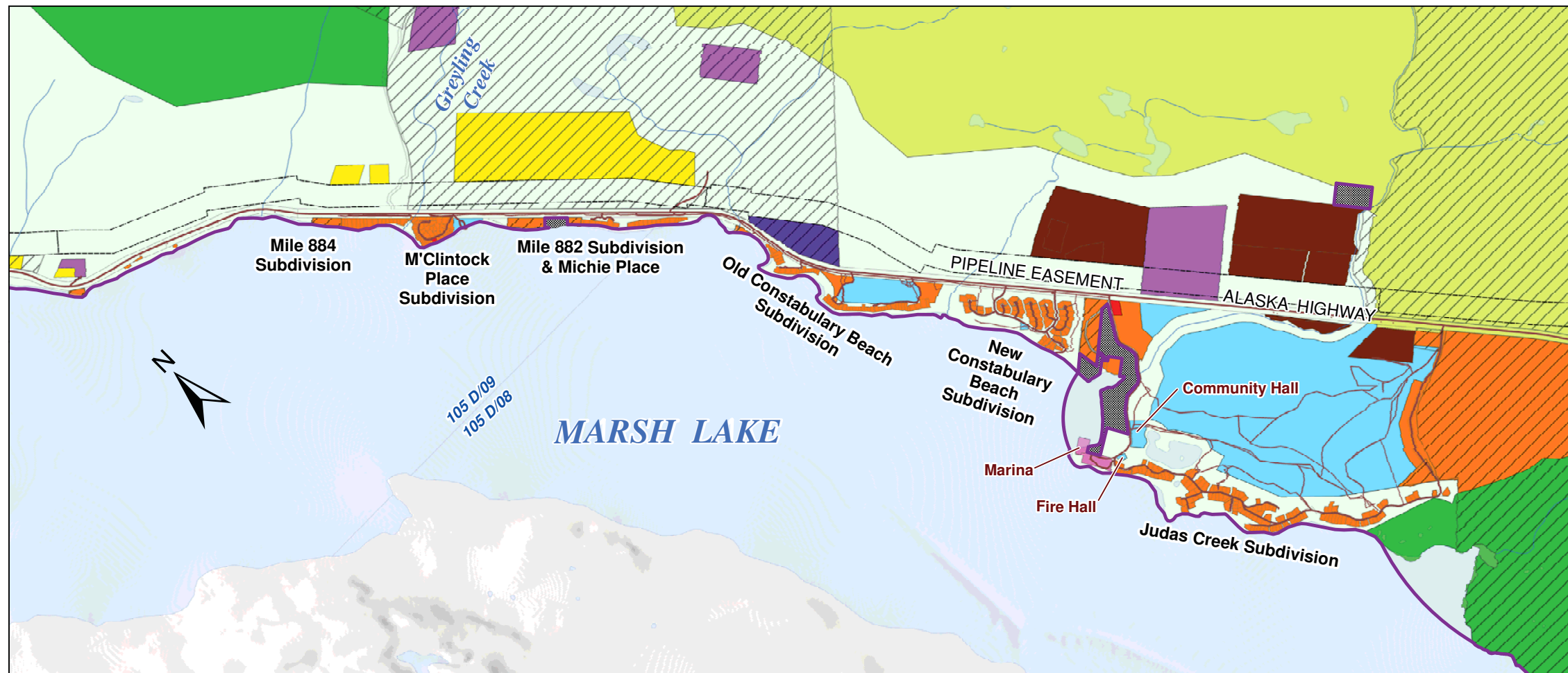
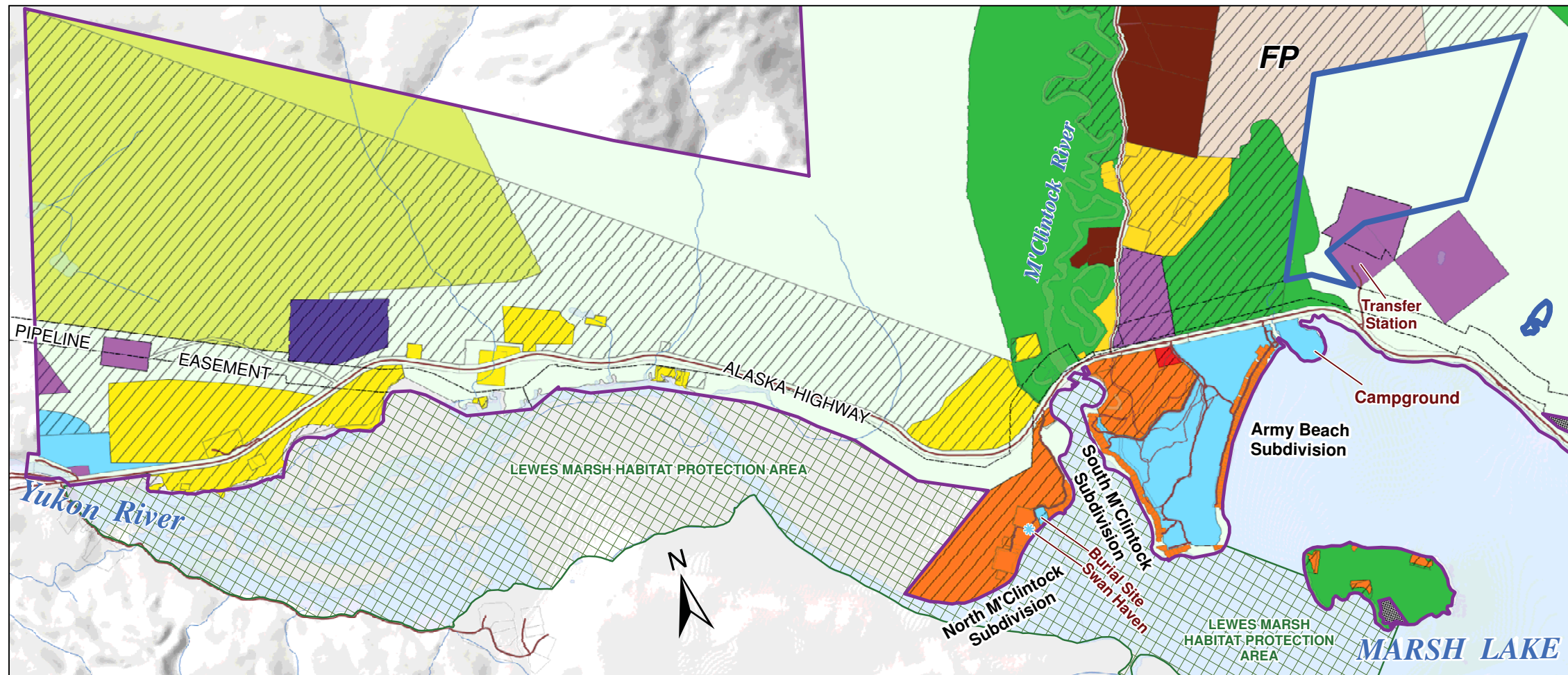
- Marsh Lake Study Area Boundary
- LAND USE DESIGNATIONS**
- Agriculture
- Commercial
- Community Use
- Future Planning
- Light Industrial
- Open Space
- Environmental Open Space 1
- Environmental Open Space 2
- Public Infrastructure
- Residential 1
- Residential 2
- Residential Lakefront
- Residential Marina
- Timber Harvest Plan
- CTFN Settlement Land (Excluded from Plan)
- KDFN Settlement Land

Map 9 Land Use Designations

plan marsh lake

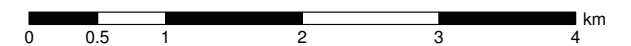
MARSH LAKE LOCAL AREA PLAN

Map 9 - Land Use Designations (Detail Map)



Legend

- Marsh Lake Study Area Boundary
- LAND USE DESIGNATIONS**
- Agriculture
- Commercial
- Community Use
- Future Planning
- Light Industrial
- Open Space
- Environmental Open Space 1
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- Residential 1
- Residential 2
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- Timber Harvest Plan
- CTFN Settlement Land (Excluded from Plan)
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9. Implementation

9.1 Preparation of Area Development (Zoning) Regulations

Developing a consistent set of standard regulations that applies to the Marsh Lake planning area is the first step and top priority in Plan implementation.

KDFN has adopted its Lands Act in February 2014 however it is yet to be enacted and does not have accompanying regulations to implement it at the time of the Plan writing.

1. **Area development (zoning) regulations** should be prepared for the Marsh Lake local planning area to implement the intent of the policies outlined in this Plan.
2. The regulation should address in detail the minimum lot size, the type and nature of land uses allowed, and the rules applicable to rezoning and subdivision processes.
3. The regulations should clarify any other matters related to land management to ensure land use compatibility.

9.2 Preparation of Trail Plan

Use of a motorized vehicle in environmentally sensitive areas can cause irreparable damage. At the same time, Marsh Lake is a rural community that values the opportunity to explore open spaces using motorized recreational vehicles. This opportunity is part of what attracts people to Marsh Lake. Merely restricting access to certain areas does not adequately reflect the full breadth of local community values.

1. A broader trail planning process can be used to design a trail system for all users while protecting values such as sensitive and unique habitats.
2. A trail plan may be initiated by the Community and should involve input from community members, KDFN, and YG.
3. Recreational vehicle use restrictions may be implemented through the off-road vehicle (ORV) management areas under *Territorial Lands (Yukon) Act*. However, emphasis must be placed first on the public education and raising awareness through signage etc. prior to establishing the ORV management areas.
4. Other topics related to trails may include beach access, ski trail maintenance and enhancement, important trail networks, viewpoints, heritage, and signage.

9.3 Land Use Designation Boundary

The land use designation boundaries are for general land use planning policy purposes only. These boundaries were based on aerial photography, resource mapping at different scales, visible site conditions, and legal plan of survey. In order to provide flexibility and avoid triggering Plan amendments where the proposed land use is consistent with the Plan's intent.

1. Final land use designation boundary determination occurs during subdivision.

2. After a detailed site inspection, a proponent, or the government with approving authority, may request a “minor administrative boundary adjustment”:
 - a. to accommodate discrepancies between the Plan map and the ground conditions such as environmentally sensitive lands, topography, parcel configuration, and similar matters; or
 - b. for resolution or mitigation of minor land use conflicts. Notice of requests for such amendments will be posted on the lands in question and advertised publicly.
3. Minor administrative boundary adjustments cannot be applied to Settlement Land boundaries¹³.
4. The Plan does not envisage any boundary adjustments where the 100-metre setback requirement from the water body is reduced to 30.48 metres.¹⁴

9.4 Coordination with other Department

1. Prior to establishing new timber harvesting areas within the Environmental Open Space 1 or Environmental Open Space 2, Forest Management Branch should consult with the Department of Environment to consider caribou winter habitat values.
2. When a new development application for a discretionary use triggers public consultation through other agencies’ review process (e.g. YESAB, etc.), the public consultation for the development permit review may be waived.



¹³ Settlement Land boundaries are defined by the particular land claim agreement.

¹⁴ Land within 30.48 m from the ordinary high water mark is reserved as public land.

10. Plan Review

Generally, Plan reviews are undertaken within 5 to 10 years depending on the level of land development activity or the number of requests for Area Development Regulation amendments. However, recognizing CTFN's interest in joining the planning process, it is recommended that a joint comprehensive review of the plan be initiated within six months of the plan's adoption by KDFN, YG and CTFN for the purpose of working towards the proposed incorporation of CTFN Settlement Land. Area Development Regulations are the primary method for implementing the direction and policies set out in a local area plan. They must be consistent with the approved Plan. If a requested regulation amendment is inconsistent with the Plan, the Plan needs to be amended first or approved concurrently with the proposed zoning amendment.

During the final consultation, CTFN expressed interests in incorporating its Settlement Land parcels in the Marsh Lake Local Area Plan. However, given the advanced stage of the planning process and the community's and KDFN's support for moving forward with the plan approval, it is proposed that a comprehensive plan review to take place soon after the plan's adoption.

The following policies provide guidance for review of the Plan:

1. The Plan will be revised to incorporate CTFN Settlement Land parcels within the Plan area. The review process should commence within six months from the adoption of the plan.
2. Subject to funding and the level of land development activities in the plan area, the Plan will undergo a comprehensive review within 5 to 10 years of adoption to confirm that the vision, goals, and objectives, and the subsequent land use designation and policy are current and relative. Comprehensive review of the Plan involves all the plan partners, stakeholders, and public.
3. To assist with the review, it is recommended that KDFN, CTFN, YG and the Marsh Lake Local Advisory Council meet annually to discuss such issues as, but not limited to:
 - a. any new information, data, or scientific evidence;
 - b. the number and content of Plan amendment applications;
 - c. public input from the community regarding the effectiveness of the Plan; and
 - d. new resource proposals not originally considered in the Plan process.
4. It is recommended that the information from the annual meeting be used for comprehensive review purposes.

11. Plan Amendment

Plan amendment is a process to change the designation of an area identified on the land use designation map and/or a change to the land use designation policy.

1. A proposal to change land use will result in application to amend the Plan.
2. The Plan amendment process should include public notification, government-to-government consultation between KDFN, CTFN, and YG, a public meeting, and a minimum 30-day comment period.
3. Where the proposed amendment affects only Settlement Land or non-Settlement Land, the government with jurisdiction of the lands in question is the decision-making authority. The appropriate government will notify the applicant, the other government, and residents of the planning area of the decision reached.
4. Where the consequences of an amendment request affect both governments, best efforts will be made during the review process to arrive at a consensus.

Glossary

Discretionary use: A use that may be permitted at the discretion of development officer following a public consultation process.

Development Area Regulations: Guidelines and standards for how land can be used and developed in the Yukon, outside of a municipality.

First Nation Settlement Land: Land that is owned and managed by a self-governing First Nation including: Category A Settlement Land (which includes both surface and sub-surface rights), Category B Settlement Land (which include surface rights), or Fee Simple Settlement Land.

KDFN Beneficiary: A person enrolled under Chapter 3 of KDFN's Final Agreement. (Constitution of Kwanlin Dün First nation)

KDFN Citizen: A person who is entitled to Citizenship under Chapter 2, and who has been enrolled as a Citizen under Chapter 2 and Kwanlin Dün First Nation law. (Constitution of Kwanlin Dün First nation)

Land designation: A method of categorizing land into different uses. For example, residential, commercial, and industrial are land designations.

Non-conforming use: A use of land that does not conform to the development area regulation.

Non-soil based agriculture: Agricultural pursuits that do not require soil 'in situ' for production. Examples include greenhouse production and intensive small-scale livestock, such as laying hens or broilers and swine.

Non-Settlement Land: All land and water in the Yukon other than First Nation Settlement Land.

Ordinary High Water Mark: Of a body of water, means the limit or edge of a water bed. In the case of non-tidal waters, it may be called "the bank" or "the limit of the bank."

Potable water: Drinking water that is safe for human consumption.

Riparian area: The interface between land and a river or stream.

Traditional Territory: The geographic area within the Yukon identified as a Yukon First Nation's Traditional Territory, subject to a Yukon First Nation Final Agreement.

Water Body: An inland water feature, up to the limit of the bank, in a liquid or frozen state, including a swamp, marsh, bog, fen, reservoir, and any other land that is covered by water during at least three consecutive months of the year, but does not include a sewage or waste treatment lagoon, a dugout to hold water for livestock, or a mine tailings pond (YESAA).

Watercourse: A natural waterway, water body, or water supply, including one that contains water intermittently, and including groundwater, springs, swamps, and gulches (YESAA).

Wetland: For this Plan, wetlands are defined as all open-water aquatic environments, both still water (lentic) and moving water (lotic) features, or concentrations of those features, and their

adjacent environments.

Wetland Complex: A concentrated geographic grouping of individual wetlands. Wetland complexes may include both wetland and non-wetland biophysical landscape types. Wetland complexes function as an integrated hydrologic system.

WinterCity or WinterCities: A concept for communities in the northern latitudes that encourages them to plan their transportation systems, buildings, and recreation projects around the idea of using their infrastructure during all four seasons.

Definitions from the Kwanlin Dün First Nation Final Agreement

Harvesting: gathering, hunting, trapping or fishing in accordance with a settlement agreement.

Use: includes both Harvesting and non-consumptive activities.

Subsistence:

(a) the use of Edible Fish and Wildlife Products by a Yukon Indian Person for subsistence and for food for traditional ceremonial purposes including potlatches; and

(b) the use by a Yukon Indian Person of Non-Edible By-Products of harvest under (a) for such domestic purposes as clothing, shelter or medicine, and for domestic, spiritual and cultural purposes; but

(c) except for traditional production of handicrafts and implements by a Yukon Indian Person, does not include commercial uses of Edible Fish or Wildlife Products or Non-Edible By-Products”.

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