

# **RDCO/WFN INCLUSIVE REGIONAL GOVERNANCE INITIATIVE**

Inclusive Governance Working Session  
March 13, 2024  
Summary Report



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Thank you to the participants of the Inclusive Regional Governance Working Session held in-camera on March 13, 2024:

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## 1. BACKGROUND

### 1.1. *Declaration on the Rights of Indigenous Peoples Act Action Plan 2022-2027*

The *Declaration on the Rights of Indigenous Peoples Act (DRIPA) Action Plan 2022-2027*<sup>1</sup> provides a province-wide, whole-of-government approach to achieve the objectives of the *United Nations Declaration on the Rights of Indigenous Peoples* (the “*UN Declaration*”) over time. Theme 1, which is focused on self-determination and the inherent right of self-government, foresees the following outcomes:

“A British Columbia where:

- Indigenous Peoples are fully supported in their work of freely determining and implementing their systems and institutions of government, through their internal processes of nation-rebuilding.
- Through their governments, Indigenous Peoples are recognized and engaged through formalized and predictable relationships with the Province and exercise their jurisdictions and laws.
- Indigenous Peoples exercise self-determination and self-government.
- Through their governments, Indigenous Peoples have open, respectful and productive working relationships with the Province that recognize legal pluralism and reflect cooperative federalism.
- Indigenous Peoples have the necessary legal space to strengthen the application of their Indigenous laws and legal orders in various areas not adequately addressed through the Canadian legal system.
- The overall emergency management structure and regime in B.C. is revised, in collaboration with the government of Canada and Indigenous Peoples, to enhance Indigenous Peoples’ emergency management outcomes through a strong tripartite approach.”

Accordingly, one of the actions which is to be taken by the Province of B.C. in consultation and cooperation with Indigenous Peoples, addresses the issue of inclusive regional Governance:

“Action 1.11 Support inclusive regional governance by advancing First Nations participation in regional district boards. (Ministry of Municipal Affairs).”

Canada has also passed legislation to implement the *UN Declaration* and to ensure the laws and policies of Canada are consistent with it. Further, the Supreme Court of Canada has recently found that the *UN Declaration* has significant implications for the interpretation and application of Canadian law and policy.

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<sup>1</sup> [https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)

In February 2024, the Supreme Court of Canada underscored the importance of the *UN Declaration* as the framework for reconciliation in Canada between the Crown and Indigenous nations. In *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families* (2024 SCC 5), which addressed recognition of the right of Indigenous peoples to govern child and family services, the Court noted that the *UN Declaration* has significant legal impact for the necessary work, as described in the decision as the “continuous transformation of relationships and a braiding together of distinct legal traditions and sources of power that exist.”

The *UN Declaration*, associated government workplans and rights recognition legislation, along with supporting decisions of the court are now beginning to lay a solid foundation for the work toward reconciliation. It further strengthens the need to review regional governance using a recognition of rights and reconciliation lens.

## **1.2. RDCO/WFN Inclusive Regional Governance Initiative**

The RDCO and WFN have expressed an interest in considering a more inclusive system of regional governance, including potential options for WFN to become a full voting member of the RDCO. This vision is set out in both the WFN Comprehensive Community Plan<sup>2</sup> and in the RDCO’s Regional Board Strategic Priorities 2023-2026.<sup>3</sup>

In recognition of the shared vision for more inclusive regional governance in the Central Okanagan, the JWR Business Group (“JWR Group”) was contracted by the RDCO to prepare a discussion paper. This work was funded through a grant provided by the Ministry of Municipal Affairs in March 2023.

The [Discussion Paper](#) was presented to the RDCO Board and WFN Chief and Council in January 2024, and provides some background on Indigenous and regional governance generally, and more specifically in respect of WFN and the RDCO.

Further, it considers some of the various governance arrangements that are already in place between local governments and self-governing First Nations in BC and the Yukon. The Discussion Paper then sets out several key considerations for the RDCO and WFN and finally provides some ideas regarding potential models of inclusive governance. The models presented were intended to provide a starting point for ongoing discussions and were not meant to be exhaustive. Variations or combinations of models could be contemplated, as well as innovative ideas outside of the models presented.

The RDCO and WFN participated in a workshop to further discuss the ideas raised in the Discussion Paper. This summary should be read in the context of the Discussion Paper.

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<sup>2</sup>WFN Comprehensive Community Plan (CCP), 2022. <https://www.wfn.ca/our-community/community-planning-projects/comprehensive-community-plan.htm>

<sup>3</sup>RDCO’s Regional Board Strategic Priorities 2023-2026, [https://issuu.com/regionaldistrictcentralokanagan/docs/2023\\_strategic\\_priorities\\_final\\_august\\_4\\_2023](https://issuu.com/regionaldistrictcentralokanagan/docs/2023_strategic_priorities_final_august_4_2023)

## **2. COMMITTEE OF THE WHOLE WORKING SESSION**

In March 2024, the Ministry of Municipal Affairs again provided funding to support the RDCO/WFN Inclusive Regional Governance Initiative. Through this funding the RDCO hired JWR Group to facilitate a working session and subsequently write an outcome report following the session.

### **2.1. Session Details**

The working session was held in-camera on March 13, 2024 at the Elders' Hall on Tsinstikeptum IR#9. At the start of the meeting, the history of the hall and its significance to the community was described.

The Elders' Hall is an important communal space for WFN. It is where the community gathers for celebrations, funerals, and important political meetings. In addition, the Hall is associated with WFN's first school and holds a special place in community, weaving a connection between those who have passed, those who are here, and those who are yet to come. For the first meeting of the inclusive governance initiative between the RDCO and WFN, meeting in the Elders' Hall appropriately marks the evolution of the relationship and the commitment to explore working through a more innovative lens and structure of governance.

The working session included the RDCO Board, WFN Chief and Council, as well as senior leaders from both governments, and consultants specializing in *DRIPA* and the *Local Government Act*. The meeting was facilitated by JWR Group, with support provided by Neilson Strategies Inc., working in collaboration with Urban Systems Ltd.. A full list of the attendees can be found on page 2 of this Report.

The objective of the meeting was to discuss the potential models and next steps, including key considerations such as decision-making criteria, communications, consultation, and approvals required. The objective of the RDCO and WFN with respect to inclusive governance is supported by the BC government's commitment to implementing the *UN Declaration* through the *DRIPA* Action Plan and specifically Action item 1.11.

With a goal of strengthening good governance, the RDCO & WFN leadership teams ("Leadership") discussed joint planning and collaboration, models of joint governance, and considerations moving forward.

### **2.2. Theme 1: Joint Planning and Collaboration**

The Leadership discussed the mechanisms that could be used to move the work forward. Options included establishing a working group, a protocol agreement, and a community agreement.

## **Establishment of the Inclusive Governance Working Group**

The Leadership agreed that a working group would be initiated and would operate with a set of shared priorities in order to focus their efforts. A key advantage of a working group is its ability to generate momentum and efficiently move issues forward, supported by specialists as needed.

### **Concerns Related to a Working Group**

The Leadership discussed the potential challenges of a working group. Without focus, the working group could be less efficient, and it was agreed that the Leadership will provide clear direction to the working group.

While not within control of the working group, the Leadership felt it should consider political timing. The term of each RDCO Board representative is four years, with the next local government elections in 2026. As well, the provincial election in 2024 and the WFN election in 2025 needed to be considered.

To fulfil its mandate, the working group will need to be appropriately resourced and supported from both the RDCO and WFN. In addition to the specific work required, skills and competencies will need to be identified, and appropriate members chosen to ensure the working group is adequately knowledgeable to carry out the duties appropriately.

### **Composition of the Working Group**

The Leadership discussed the composition of the working group. It was agreed that a blend of political leaders and staff would be ideal. It was suggested that the working group should include the Chief of WFN and the Chair of the Board of the RDCO, however, the Chief noted that he would defer to the WFN representative on the RDCO Board. It was proposed that the maximum members of the working group should be eight (four elected officials and four staff) with the objective to achieve consensus in decision-making. (See Section 3.1 and Appendices A & B of this report with recommendations regarding the working group composition and operations).

### **Working Group Operation**

The Leadership noted that WFN and the RDCO have a history of joint initiatives and that the best practices from past initiatives should be identified and adapted for the purposes of the working group. To be effective, the Leadership agreed that the working group needs to be empowered by the joint leadership.

The Leadership agreed that the working group would be governed by terms of reference. The terms of reference could build on past joint work, or similar terms of reference from WFN or the RDCO. As well, the working group will need to identify action items and goals, with clear

timelines. The working group will then develop plans with steps to complete the work. At a minimum, the working group will report quarterly to the elected officials, with the potential for monthly reporting.

Initial action items for the working group include developing terms of reference, goals, roles, and timelines.

### **2.3. Theme 2: Potential Models**

In this part of the meeting, the Leadership specifically discussed potential models for inclusive governance and the necessary mechanisms to achieve it. The Discussion Paper set out five models. These are summarized below. It was noted that these models represent potential models and elements from any of the models could be combined or blended in multiple ways to suit the needs of the RDCO and WFN or new ideas incorporated. For a more fulsome description see the RDCO/WFN Inclusive Regional Governance Discussion Paper.

**Model One:** Continue WFN participation through the WFN/RDCO Local Services Agreement.

The “**status quo plus**” model. In accordance with the Local Services Agreement, WFN to continue, by resolution, to appoint a representative of Council to attend meetings of the District Board and to participate as a non-voting member. New tools to be established such as a Community Accord or a Protocol for Communication and Cooperation.

**Model Two:** Participate as a non-voting Member through a mechanism separate and apart from the Local Services Agreement.

The “**expanded agreement**” model. A new agreement to be negotiated between the RDCO/WFN (BC may need to be a party) where WFN is made a permanent non-voting member of the RDCO and where participation is not tied to the Local Services Agreement. Agreement would expand on the provision in section 7 of the Local Services Agreement with new tools to be established such as a Community Accord or a Protocol for Communication and Cooperation. The RDCO may need to change its bylaws as did the Capital Regional District (“CRD”). There may be a desire or need to make amendments to the *Local Government Act* as has been recommended by the CRD.

**Model Three:** WFN to become a full member of the RDCO and for this purpose be deemed a “Municipality” like a Treaty First Nation under the *Local Government Act*.

The “**modern treaty**” model. WFN would become a full member of the RDCO as a “municipality” including for weighting of votes, decision-making, etc. WFN would appoint a member(s) of its governing body (Chief and Council) to be a board member(s) of the RDCO. Self-Governing Indigenous Governments (SGIGs) that have modern treaties in BC (Treaty First Nations) can participate in a regional district in accordance with their Final Agreements and Part 7 of the BC *Local Government Act*.



While WFN is an SGIG, it is not a Treaty First Nation and so the provisions in Part 7 BC *Local Government Act* do not apply. An agreement with BC would be required along with amendments to the *Local Government Act*. This may require WFN pass a law to delegate powers (from Chief and Council) as may be needed for the WFN representative to participate fully in the RDCO (e.g., in bylaw/law making functions as part of the RDCO Board).

**Model 4** – The establishment of a separate WFN (Local) Government District as a quasi-municipal government to participate fully in the RDCO.

The “**shísháhlh**” model. A separate and distinct WFN (local) Government District would be established that would be a full member of the RDCO with all the same rights and responsibilities as a “municipality,” including for weighting of votes, decision-making, etc. The new WFN (Local) Government District would appoint a member(s) of its Council to be a board member(s) of RDCO. Would require agreement with BC and use of provincial legislation (and possibly regulations). May require new stand-alone legislation/regulations (as was done for shísháhlh Nation) or potentially coming under Part 3 (Indian District Enabling Provisions) of the *Indian Self-Government Enabling Act* (which itself may need to be amended). WFN would continue to purchase services from the RDCO. The RDCO would recover them from WFN as is done with a municipality. WFN representative to participate in bylaw/law making functions as part of RDCO Board.

**Model 5** – WFN to become a full member of the RDCO and to participate as a “Municipality” through new arrangements to be negotiated with BC.

A new “**WFN/RDCO**” model. WFN would become a full member as an SGIG with all the same rights and responsibilities as a “municipality”, including for weighting of votes, decision-making, etcetera. WFN would appoint a member(s) of its governing body (Chief and Council) to be a Board member(s) of the RDCO. Would require an agreement with BC and provincial legislation (and possibly regulations) that reflect the structure and intent of the WFN SGA. This could be through an amendment to the *Local Government Act* (distinct from the “Treaty First Nation Membership and Services” provisions) or stand-alone. The provincial legislation/regulations would provide that WFN can appoint a member(s) of its governing body as defined under the WFN Constitution to the Board and that WFN would be deemed a municipality for certain sections of the *Local Government Act*. WFN would continue to purchase services from the RDCO. The RDCO would recover them from WFN as is done with a municipality. May require WFN to pass a law to delegate powers (from Chief and Council) to allow for a WFN representative to participate in bylaw/law making functions as part of the RDCO Board.

### **Preferred Models**

The Leadership agreed that models 1, 2 and 3 did not need to be discussed in any detail. The preference is for model 4 or 5, or a new model with elements of each. Accordingly, the discussion focused on models 4 and 5.

## **Contextual Aspects**

It was noted that models 1-4, being largely based on existing models, reflect the context and policy direction of the time and place in which they were developed. For example, model 4 was developed in order to enable a First Nation with a self-government arrangement similar to shíshálh to participate in the regional district as though it was a municipality. This model required a number of legislative tools to be used. Model 3 was designed to support modern treaty First Nations participation within regional governance for certain purposes and reflects the uniqueness of the BC treaty model. The mechanisms for participation were mostly built into the treaty.

The current context's evolution is driven by the *UN Declaration*, the reality of self-government and other constructive arrangements outside of modern treaty, as well as the need for BC to potentially consider delegating more powers to a regional district so that a district is able to exercise more autonomy over matters within its jurisdiction. At the same time, while there are different existing models and new models for inclusive governance developing, there is an acknowledgement that regional governance models should be reasonably consistent.

The Leadership agreed that because model 5 is new and more flexible it could be used as a base and modified through the ongoing work of the initiative, in order to best meet the needs of both the RDCO and WFN.

## **Limitations of Existing Models**

It was noted that the existing examples of First Nation participation on regional boards do not fully consider what, in theory, Indigenous governance could bring to regional governance. For example, model 4 created an Indian district to be recognized as a municipal district but did not provide for the sharing of powers an Indigenous government has within the regional district structure. In this way, the existing models do not fully contemplate a mutual exchange and overall strengthening of regional governance. Additional information related to Indigenous governance is set out in the [Discussion Paper](#).

## **Potential Best Practices**

While model 4 does not meet all the needs of the RDCO and WFN, it does offer insights into how an Indigenous government is currently working with a regional district. shíshálh has worked with the Sunshine Coast Regional District for nearly four decades as a full member of the regional board with voting rights. Some considerations that could be explored include identifying the services that the First Nation participates in and votes on, and how the voting works. Best practices from model 4 could also be identified and potentially adopted.

## Opportunities with Model 5

While new, the Leadership agreed that model 5 would be more respectful of a new partnership. At the same time, model 5 could be customized to the needs of WFN and the RDCO, offering more flexibility. This approach would not require WFN to fit into or seek a particular type or agreement in order to be part of the Regional District. Instead, there is an opportunity to bring Indigenous governance into the federative model of regional governance. This will be an important conversation in the discussions of the working group.

## Direct Quotes from the Working Session Regarding Models

*“I don’t see us working towards getting one party or the other to fit in the system – I see us as coming together in a collaborative fashion and that means building a whole new model because it begins with a whole new understanding, collaboration, and respect.”*

*“If you are building a foundation for a house, the foundation has to be solid, you don’t want to put in a patch for the foundation because it will eventually collapse. Model 5 is about building it right and not a patch.”*

### 2.3 Theme 3: Key Considerations & Related Matters

Following the discussion on models, the group focussed its attention on some of the key considerations and related matters moving forward with the initiative. The Leadership discussed several issues that will need to be examined in more depth as work to bring together the two governments moves forward.

#### Scope of Decision-Making

It was acknowledged that while the two governance systems have common interests, the regional district governance system and the First Nations governance system are distinct. (Please note that the comparison of RDCO and WFN powers and authorities are set out in Appendix B of the January 2024 [Discussion Paper](#)). Regional districts are a creature of the Province, with delegated authority and specific legal powers and responsibilities. First Nations governance is based on inherent authorities that are being recognized and implemented. There are geographical considerations with respect to the scope of decision-making powers for both systems. Ensuring an inclusive governance system requires both governments to understand what the differences are, and with that, the extent to which either system may need to change in order to accommodate more inclusive decision-making, and over what matters.

As a first step, it was suggested that the full range of governance decisions that the RDCO makes should be discussed at the working group and then recommendations can be made to WFN and the RDCO about which decisions could be made jointly. For example, what should be the extent of joint decision-making related to regional planning and through the regional growth strategy? Should land use planning and development be part of joint decision-making?

It was discussed that it may be helpful to develop a chart of decisions that the Regional District makes and a chart of decisions that the WFN makes in order to understand better the scope of each governments decision-making powers and where, to the extent desired, decision-making can be aligned and therefore integrated.

### **Service Participation**

Currently, WFN purchases services from the RDCO under a local service agreement. It was noted that should WFN become a full member of the RDCO, a number of questions related to the existing service arrangements arise. Aside from a few services that are mandatory, members of regional districts can choose the regional district services in which the members wish to participate — that is, choose which regional district services to receive. Members participate in decision-making for the services they receive, participate in paying for the services, and share liability for the services. In the new model, one consideration is how will the existing services that WFN purchases be addressed. Some questions that the working group will need to consider is would the WFN become a full participant in the service, participating alongside other member jurisdictions in service governance, service funding and service liability? Would WFN, similar to all RDCO members, participate in the few mandatory services (in addition to others that WFN may choose to receive), including general government and solid waste management Planning?

In addition, members of a regional district can exit from a service, and with exiting from a service, a member can rescind the authority it lends to a regional district. Some services, like general governance and regional parks cannot be exited. Given how these terms would impact WFN, it was recognized that the initiative will need to identify the services that would be automatic for WFN and the services that would be optional and related responsibilities and liabilities.

### **Voting Structure and Strength**

In model 5 as contemplated, the appointed WFN representative from council would represent all persons living on Westbank Lands (i.e., both WFN members and non-WFN members). It was discussed how this would impact weighted votes as every representative has a specific number of votes based on the population represented. WFN would be representing approximately 12,000 people. Based on the current formula, this means that WFN's representative at the RDCO Board would automatically have three votes at the regional board table.

### **Non-Member Representation on WFN lands**

It was also discussed that while today IR#9 and IR#10 are a part of Electoral Area West, the 12,000 residents are not currently represented, even though they vote for the director. The new model would address this issue and would increase the responsibilities as well as the voting strength of the WFN representative for IR#9 and IR#10. However, the question of the residents not voting for their representative – the person being appointed from the WFN

Council – was also raised as a consideration. It was agreed that the working group should consider this issue.

### **Financial Considerations**

It was noted that because services are cost-shared within the District, an area with a greater population will have increased costs. Currently, the cost for the services WFN purchases from the RDCO is calculated using assessed land values in the same manner as is done for members. It was suggested that with greater representation and participation, WFN's cost sharing for some services may change and that the financial impacts of participation will need to be examined.

Another financial consideration relates to borrowing capital funds. A regional district raises capital through the Municipal Finance Authority of BC (MFA). Based on regional joint and several liability, the debt of one municipality or regional service is guaranteed by the entire regional district. For example, if a municipality defaults on a debt payment, the entire regional district will cover the debt payments. This provides greater assurance against default risk to bond holders, makes it easier for municipalities to secure capital, and supports a AAA credit rating. It is not expected that WFN would share in the financial and legal liability for all the district's debt or that the RDCO would share liability with respect to WFN's long term debt for capital purposes. It was also noted that there is a national First Nations Finance Authority that provides similar services to First Nations that the MFA provides to local government in BC. The question of liability for debt will need to be examined carefully in developing model 5.

### **Engaging with the Province**

As the Leadership is planning to move forward with a unique model of regional governance, the group discussed how the Ministry of Municipal Affairs can be more deeply engaged. Although the Ministry is aware of the work the RDCO and WFN have undertaken and is receiving regular updates, the Leadership considered inviting a provincial official to participate on the working G-group.

The Leadership is also mindful of the likely legislative changes required to implement more inclusive regional governance, and consequently the need to work with the province at an early stage.

### **WFN's Powers, Authorities and Traditional Territory**

It was discussed how given regional districts borrow authorities from its members, RDCO could potentially gain more authorities as WFN becomes a full member. At the same time, the Leadership agreed that any impacts on WFN will need to be understood. These will be important considerations for discussion by the working group.

It was noted that WFN has a long history of governance and decision-making. With a self-government agreement in place since 2005, its authorities include both federal and provincial powers, making WFN quite distinct from a regional district. While these recognized powers are for the most part restricted to being exercised on Westbank Lands (reserves), WFN has a broader governance role within its traditional territory. It was also noted that WFN's traditional territory extends well beyond the RDCO's boundaries. Accordingly, WFN's geographical scope of responsibility as an Indigenous government is greater than the RDCO and takes in several regional districts.

### **Central Okanagan Regional Hospital District**

As a related matter, it was noted how hospital districts are tied to regional governance and currently ratepayers on Westbank Lands do not participate or pay into the Central Okanagan Regional Hospital District ("Hospital District"). It was noted that WFN and West Kelowna are growing rapidly and there is an opportunity through this initiative to ensure that the Hospital District is appropriately supported. With increasing pressure on health care systems and hospitals, and increasing responsibility on regional districts, ensuring that the hospital district is able to meet needs was raised as a critical consideration.

It was also noted that there is a province-wide First Nations Health Authority that has a relationship with both the Hospital District and WFN. Accordingly, at the same time as consideration may be given to possible WFN participation in the Hospital District as part of more inclusive regional governance, the role of the First Nation's Health Authority will need to be taken into consideration, including ensuring that WFN members have access to Indigenous services.

### **Emergency Management**

As a further related matter, it was raised that BC recently passed legislation with respect to emergency and disaster management. Bill 31 was co-developed with First Nations as part of the commitment to the *UN Declaration* and *DRIPA*. The new legislation recognizes climate change, the increase in emergencies, and the need for greater inclusion of First Nations in emergency planning and management. Specifically, the new legislation envisions a leadership role for Indigenous nations.

It was suggested that given the RDCO and WFN share a large territory, emergency management that complies with the new legislation is an area that should be considered for joint decision-making and a matter to be discussed further. This will build on the RDCO and WFN's existing relationship and roles within the Regional Emergency Management Program.

*“Let’s aim for excellence, not perfection. As we work through some very complex issues, I want us to learn from Westbank First Nation’s consensus-based decision-making. We should build on each other’s strengths – like climate stewardship – we can learn so much from traditional values. I see so many gifts and strengths that Westbank First Nation has that we colonial communities can learn from and benefit from.”*

### **3. CONCLUSION**

#### **3.1. Summary & Recommendations**

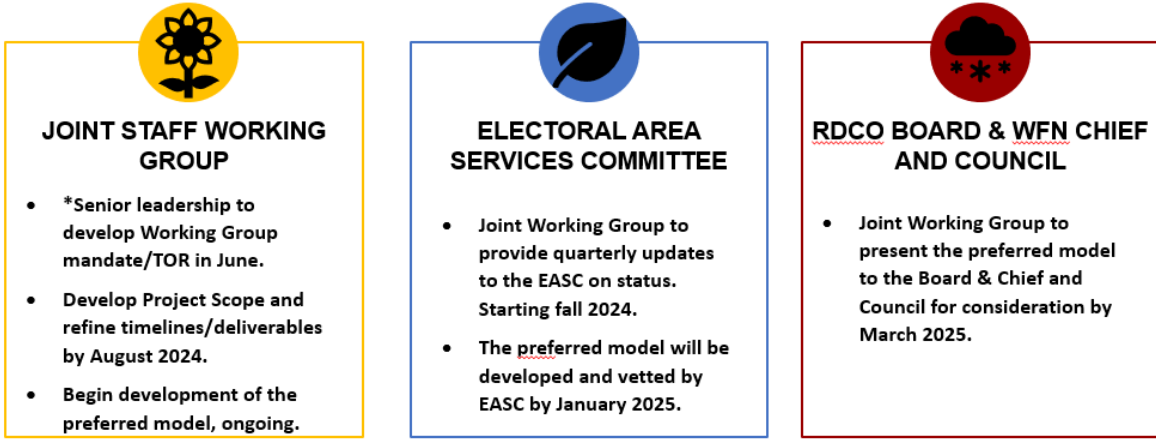
A key outcome of the session was an agreement to establish a working group to move the initiative forward. Some consideration was given to having a working group which would include a blend of political leaders and staff.

It is recommended that the Committee of the Whole meet again to discuss possible options related to the governance of the working group. Deciding on the governance of the working group is an important initial step to ensure that the project is grounded as a joint endeavour. The composition and reporting structure of the working group would need to be agreed to by Westbank Chief and Council as well as the RDCO Board.

At a minimum, the working group will need to develop its mandate, project scope, timelines and deliverables to March 31, 2025.

Following the working session and discussions with the consultant, RDCO and WFN staff, the attached appendices with recommended structures, scope, timelines, and deliverables were developed for consideration. It is suggested that the working group, comprised of senior staff recommended by the RDCO Chief Administrative Officer and WFN Director of Operations, be formed. This approach provides stability as the work to be completed, based on a terms of reference to be developed by the RDCO Board and WFN Council, will be highly technical in nature and will take significant time and effort to complete. The working group would report on a quarterly basis, to the RDCO Board through the Electoral Areas Services Committee. It is likely a parallel reporting line would be required to be established to WFN Chief and Council. Each party would be responsible for appointing their own representatives to the working group.

## Appendix A: Potential Timelines and Deliverables



\*Senior Leadership – RDCO CAO, WFN DOO, Director of Municipal Affairs, and Consultants.



## Appendix B: Potential Decision-Making & Reporting Criteria

