



## YUKON LAND USE PLANNING COUNCIL

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201 – 307 Jarvis Street, Whitehorse, Yukon Y1A 2H3  
PHONE (867) 667-7397 FAX (867) 667-4624 EMAIL [ylupc@planyukon.ca](mailto:ylupc@planyukon.ca)

October 16, 2015

Chief Dan Cresswell  
Carcross/Tagish First Nation  
Box 130  
Carcross, Yukon  
Y0B 1B0

Chief Kevin McGinty  
Selkirk First Nation  
Box 40  
Pelly Crossing, Yukon  
Y0B 1P0

Chief Roger Kyikavichik  
Vuntut Gwitchin Government  
P.O. Box 94  
Old Crow, Yukon  
Y0B 1N0

Chief Steve Smith  
Champagne & Aishihik  
First Nation  
P.O. Box 5310  
Haines Junction, Yukon  
Y0B 1L0

Chief Roberta Joseph  
Tr'ondëk Hwëch'in  
Box 599  
Dawson City, Yukon  
Y0B 1G0

Chief Kristina Kane  
Ta'an Kwäch'än Council  
117 Industrial Road  
Whitehorse, Yukon  
Y1A 2T8

Chief Math'ieya Alatini  
Kluane First Nation  
Box 20  
Burwash Landing, Yukon  
Y0B 1V0

Chief Eric Fairclough  
Little Salmon/ Carmacks First Nation  
Box 135  
Carmacks, Yukon  
Y0B 1C0

Minister Bernard Valcourt  
Office of the Prime Minister  
80 Wellington St  
Ottawa, On  
K1A 0A2

Chief Doris Bill  
Kwanlin Dun First Nation  
35 McIntyre Drive  
Whitehorse, Yukon  
Y1A 5A5

Chief Simon Mervyn  
First Nation of Na-cho Nyak Dun  
Box 220  
Mayo, Yukon  
Y0B 1M0

Ruth Massie, Grand Chief  
Council of Yukon First Nations  
2166-2nd Avenue  
Whitehorse, Yukon  
Y1A 4P1

Premier Darrell Pasloski  
Office of the Premier  
Box 2703  
Whitehorse, Yukon  
Y1A 2C6

Chief Carl Sidney  
Teslin Tlingit Council  
Box 133  
Teslin, Yukon  
Y0A 1B0

### **Dear Parties to the UFA and Yukon First Nation Final Agreements:**

We wish to follow up the issues we raised earlier this year in our briefings to CYFN and the Government of Yukon. Since then the Council has had the opportunity to meet with several of the Parties to the Final Agreements and other interested organizations. We remain concerned that there are significant differences of interpretation regarding Chapter 11 of the Final Agreements. We seek a way of resolving these differences and establishing a clear, common and consistent understanding of the Final Agreements and specifically Chapter 11.

While many of these issues have been raised previously in activities such as the Yukon First Nation Final and Self-Government Agreement Implementation Reviews (October 3, 2007), there are several issues which remain unresolved or unratified. These issues include, but are not limited to, the following:

### **The Role of the Council**

The Final Agreements indicate three primary roles for the Council: advising the Parties; assisting the Commissions with their work; and reviewing and recommending Commission's budgets. Is the Council also to take on an "overseer" role that is not directly referenced in the claim and that requires decision making powers normally associated with an overseer agency? Can the Council take on all the post plan roles of the commissions that are indicated to be the commissions if the commissions are not to be continued after completing their Final Recommended Plan?

### **Role of the Parties**

Can the Parties make decisions about regional planning without seeking a recommendation from Council? Upon receipt of a recommendation from Council, what is the duty of the Parties? Is it necessary for Council decisions and recommendations to be ratified by the Parties?

### **Role of the Regional Planning Commissions**

The authority, responsibilities and independence of the commissions have been issues that require clarity.

We do not suggest that this is a complete list of issues. As the Parties, you may also be aware of differences in interpretation between your respective governments that require clarification.

These issues need to be resolved in order to implement successful planning and satisfy the objectives of the Final Agreements. Addressing these issues now may prevent future disputes. We are aware of a wide range of tools and mechanisms for resolving these differences. These include, but are not limited to: negotiations between the Parties and the Council (including a ratification of the agreements); use of the Chapter 26 Dispute Resolution process (a process which is not available to the Council); and Judicial Declaration. There may also be other methods available. The Council is interested if there are additional or preferred ways of addressing these issues.

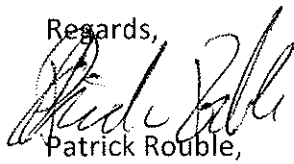
The Council is well aware of the Peel case, which is currently before the court. We recognize that this may bring greater certainty to some issues and provide a judicial and thus binding interpretation. However, the use of the courts for interpretation is not the Council's preferred means of gaining clarity. We recognize that some parties may be reluctant to participate in resolving other issues prior to the resolution of the Peel matter. Please advise if this is the case.

We also request your advice regarding the continuation of our review of the Common Land Use Planning Process that is an objective of the Chapter.

There are several options available in how to proceed. We recommend that a working group of senior officials be established to determine a process for addressing the issues. Ron Cruikshank, our Director, can be contacted at 667-7397, [ron@planyukon.ca](mailto:ron@planyukon.ca) to coordinate this activity.

We agree with Grand Chief Ruth Massie's letter of April 14<sup>th</sup>, 2015 that the importance of land use planning cannot be overstated. We are eager to resolve these concerns and return to the work of developing plans for the territory.

Regards,

A handwritten signature in black ink, appearing to read "Patrick Rouble", written over the typed name.

Patrick Rouble,  
Chair, YLUPC