



**YLUPC**  
YUKON LAND USE  
PLANNING COUNCIL

Government of Yukon  
Energy Mines & Resources  
[newlandsact@yukon.ca](mailto:newlandsact@yukon.ca)  
Attn. Sarah Marsh, A/Director

July 4, 2024

**Re: Yukon Lands Legislation**

Thank you for the opportunity to provide input on the Yukon Lands Legislation. We have reviewed the public engagement information that you have provided and our recommendations are attached.

Regional land use plans benefit from sound government policies, strategies and programs. Therefore, we have a strong interest in the development of this and other related successor legislation.

Under Chapter 11 of the Umbrella Final Agreement, the Yukon Land Use Planning Council is mandated to provide recommendations to Government and affected Yukon First Nations. Section 11.3.3.1 comprises recommendations related to land use planning, including policies, goals and priorities. As such, please consider the attached document as formal recommendations under 11.3.3.1 of the Umbrella Final Agreement.

The recommendations are intended to help develop legislation that complements regional land use planning under the First Nation Final Agreements.

We would be happy to meet with you to discuss any of these concepts further.

Sincerely,

*Al Foster*

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Al Foster, Interim Chair  
Yukon Land Use Planning Council

Attachment: Recommendations for Land Legislation

Cc: Morgane Pennycook, CYFN Lands Steering Committee member  
Heather Mills, ADM, Energy Mines and Resources  
Shehnaz Ali, ADM, Environment Yukon



## Recommendations for the Yukon Public Lands Legislation

The Yukon Land Use Planning Council (the Council) is happy to see that many of the concepts suggested in our April 14, 2023 input are reflected in the public lands legislation discussion document.

The Council has a vital interest in future lands legislation. The legislation will be a key tool to clarify and enable key elements associated with regional land use planning and Chapter 11 of the Umbrella Final Agreement (UFA) and Yukon First Nation Final Agreements. Below we have made several recommendations that we believe merit consideration for inclusion. We would be happy to meet to further discuss these recommendations.

The Council's mandate is to make recommendations on a range of regional land use planning matters including policies and priorities, as well as assisting regional commissions through their regional land use plan processes. Regional commissions develop and suggest a regional land use plan to the affected Yukon First Nation(s) and Government of Yukon (YG). These regional plans are based upon the Land Claim Agreements and a Terms of Reference agreed to by affected governments. In the future we may also see Chapter 11 subregional and district plans, with bodies appointed to lead that work.

Regional plans consider a wide range of land uses and consider possible future land uses against a set of values which embrace sustainable development and other key principles and interests. By creating a vision for future land uses in a region, the regional plan helps identify agreed-upon use of the land over a specified period of time and aims to reduce land use conflicts. These regional plans, once implemented, support governments and the Yukon Environmental and Socio-Economic Assessment Board (YESAB) in making their decisions relating to the management, use and protection of land, water and resources. In this way, these decisions should be more consistent with previous agreements of affected Yukon First Nations and YG, thus providing more certainty to all.

Regional plans support sustainable communities, promote the well-being of all Yukoners, improve the integration of resource management initiatives, and provide an opportunity to improve the management of cumulative effects which includes climate change.

Regional plans are developed using a wide array of knowledge and experience, especially that of Yukon First Nation people. Regional plans also aim to specifically recognize the cultural values of affected Yukon First Nations, and to provide opportunities for public and land-user engagement.

Our suggestions address each of the five themes identified in the May 2024 Discussion Document:

1. Vision for the new lands legislation
2. Managing activities on public land



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3. Permits and tenure
4. Compliance, monitoring and enforcement
5. Land planning
6. Decision-making

## Vision for the new lands legislation

The Council supports the idea that the development of the legislation be based upon a vision and set of principles. The legislation must be more than an administrative tool. It is an opportunity to establish and strive for a set of territory-wide goals and take a more holistic approach towards land management.

The Council supports each of the principles outlined in the “Vision” section.

The introductory paragraph references the importance of being flexible. This should also be included as a principle to support the vision.

The principle related to land use plans is supported. However, it should not only reference the management of land, but also the use and protection of land, consistent with Chapter 11 of the UFA. This should be undertaken in a coordinated and integrated way to support sustainable development.

This section should also include a principle related to preserving and promoting culture, especially First Nation culture.

## Managing activities on public land

The Council supports each of the regulatory tools listed in this section, including zoning, reserves, monitoring, reporting, and thresholds.

**Camping:** The discussion paper’s section on camping appears to be geared towards drawing a line between camping and squatting. With this in mind, a consecutive days approach would be most appropriate. It is important that any authorization for camping should prohibit clearing of trees/brush, leaving garbage, and undertaking any other disturbances that would contribute to cumulative effects.

**Trails:** The Council supports the suggestion of putting more administration in place for trails. Any trail building should require permitting, oversight, reporting, and central/compiled tracking in order to properly track and manage cumulative effects over time. Land reserves could help control the proliferation of trails.



The legislation should specify how decisions will be made within the current decision framework, which includes responsibilities for YESAB and First Nations.

**Prescriptive vs. Permissive:** The Council prefers a prescriptive approach. This is preferred and appropriate given that pressures on the land are increasing and in consideration of cumulative effects. However, there needs to be some built-in flexibility to take into account unanticipated new types of activities. The legislation should have mechanisms to adapt quickly, such as the ability to develop regulations.

The legislation should include a form of conservation area, to help meet the target of 30% by 2030 (per the *Canada-Yukon Nature Agreement*). It should also respect and support Indigenous Protected and Conserved Areas (IPCAs).

The legislation should fill a gap in the ability to manage other activities that fall through the cracks, such as recreational development.

The legislation should also grant authority to officers to manage activities and tenure. This management does not necessarily need to be unilateral for YG. Officers from other governments may be granted authority, including federal, territorial and First Nation government. This is an opportunity for co-management and reconciliation.

## Permits and tenure

The Council supports the inclusion of reclamation in the legislation. This is an important part of a cumulative effects framework. It will be important to be clear on what the definition of reclamation is as well as setting standards for reclamation (would require authority to develop regulations) and a measure for determining when a disturbance can be considered recovered.

The Council supports financial security as a key requirement for permits and tenure. It is important that financial security be sufficient to be an incentive to remediate as opposed to abandon sites.

The Council supports zoning. This should be done in a way that reduces conflict among adjacent land uses, which is a key objective of UFA Chapter 11 Land Use Plans.

The Council supports the use of land reservations to protect areas of conservation priority. This would be a useful interim measure where regional planning is in its early stages. This measure would be more flexible than complete land disposition withdrawals.



## Compliance, monitoring and enforcement

The Council agrees that new tools are needed to better monitor land use activities and that officers need a better ability to enforce rules and regulations.

In the spirit of reconciliation, the Council supports the suggestion that First Nations have meaningful opportunities to support monitoring and enforcement. Collaboration with First Nations will be important to make this work. This includes designating First Nation officials (e.g. land guardians) as officers with enforcement powers.

The Council agrees that transparency is important. Reporting on activities will help to monitor cumulative effects on the land.

## Land planning

The Council is very much supportive of land use planning inclusion in lands legislation.

The framework in the new lands legislation should align with the UFA Chapter 11 planning framework and enable the creation, approval, and implementation of regional plans. This includes regional planning commissions. It should also include provisions for plan variances, amendments, and reviews.

The Council would like to see the establishment of new interim measures that allow for some protection of the landscape from activities that alienate land while planning is ongoing in a region.

Once approved, a plan should have authority under law. This would provide more certainty for land and resource users in regions with approved plans. Plan recommendations should be enforceable under the law.

Conformity checks are an important part of land use plan implementation. There needs to be a process by which proposed activities are reviewed for conformity in the plan. This mechanism has been built in through the YESAA screening process. However, no ongoing commissions in an area with an approved plan are currently in place to undertake these conformity checks, resulting in a gap. This needs to be addressed.

In order to support land use planning, the government should have the authority to extinguish tenure without compensation. Where lands need to be expropriated to implement a land use plan, a mechanism needs to be in place.

The following should be considered as part of the legislation as it pertains to land use planning:



**Process:**

- Regional Planning objectives (See UFA Section 11.1).
- Regional Planning process (See UFA Section 11.2).
- Regional Planning approval process (See UFA Section 11.6).

**Designations:**

- Interim measures, including restrictions and prohibitions.
- Zoning or land designation (in regulations).
- Tools that allow a higher standard of care to be enforced on the land.

**Plan Implementation and Plan Review:**

- Mechanisms to ensure conformity with plans and guidelines for non-conformity approval.
- Plan variance and amendment requirements where non-conformities are under consideration (see: *Alberta Land Stewardship Act*).
- Delegating authority for land designation, implementation, non-conformity approval, variance, amendment, and plan review (see: *Nunavut Planning and Project Assessment Act*).

## Decision-making

The lands legislation should define the roles and authorities for the Counciland regional planning commissions, including ongoing roles of commissions in plan implementation, plan monitoring, cumulative effects monitoring, and conformity checks. Associated with this should be a requirement that YG provide a meaningful and timely response to any formal recommendations from the Council or a commission.

In the Peel Watershed Land Use Planning case, the Supreme Court of Canada confirmed that a clear objective of regional land use plans is "*to ensure First Nations meaningfully participate in land use management in their traditional territories*". Consistent with the Peel Watershed Supreme Court case, the Council supports the concept of co-management of lands with Yukon First Nations. This can be carried out through joint decision-making within a regional land use planning process.

The Council supports the development of a public registry and reporting of licences, permits, enforcement actions, and other matters. This would provide valuable information to support cumulative effects tracking and management. It would also be a valuable resource for new planning processes.



The Council supports a process for appealing decisions. This could be linked to existing regional planning processes, such as when a commission makes a representation stating that a project does not conform to a plan.

The Council is interested in learning more about what land-related decisions could be assigned to government officials by the Minister. Delegating day-to-day land decisions is a more efficient way to manage land.

The Council would like the legislation to include greater emphasis on public and First Nation consultations.

As mentioned above, approved regional land use plans should be given teeth. In some jurisdictions, regional plans are enforceable by law, such as in Alberta (e.g., Lower Athabaska Regional Plan). Decision makers should be required to follow regional land use plans. Where a decision is taken not to follow a regional plan, a plan variance or amendment would be required. Regional plans represent years of work and diverse perspectives provided by the Parties, plan partners, stakeholders, and public. These plans should in theory reduce the need for additional public and stakeholder input, as it has already been provided. Regional land use planning is the key mechanism to reflect diverse public, First Nation, and government perspectives.

Traditional Knowledge should be respected and taken into consideration as part of decision processes.

## Other suggestions

### **Process:**

It is important that the lands legislation be developed in association with the development of other successor legislation, including the *Placer Mining Act* and *Quartz Mining Act*. A more holistic approach is needed throughout all land and water management processes.