



## YUKON LAND USE PLANNING COUNCIL

### YUKON LAND USE PLANNING COUNCIL (YLUPC) **Annual Report 2014-2015**

#### **1. Introduction**

This report summarizes the activities of the Yukon Land Use Planning Council (YLUPC), as required by the Yukon Government in its Transfer Payment Funding Agreement with the Council. The annual activity report contains the following:

1. Role of the Council, Relationship to the Commissions, Relationship to the Planning Parties
2. Support to Planning Commissions
3. Other Council Activities
4. Council Meetings and Activities
5. Work Plan Variance
6. Work plan Summary 2014-2015
7. Overall Achievements and Challenges

#### **Members**

##### **Yukon Land Use Planning Council:**

Patrick Rouble, Appt. September 10, 2013

Chair: Nov 19, 2013

Pearl L. Callaghan, Member, Appt. Aug. 28, 2013

George Nassiopoulos, Appt. May 7, 2014

##### **Staff:**

Ron Cruikshank, Director

Gerald Isaac, Senior Policy and Planning Advisor

Sam Skinner, Senior Planner

Heidi Hansen, Senior Financial Administrator

## **1. Introduction: Roles and Responsibilities**

### **1.1 Role of the Council**

The YLUPC makes recommendations to the Yukon Government and Yukon First Nations with respect to regional land use planning in the Yukon and assists regional planning commissions.

The Council makes recommendations relating to:

- Policies, processes, goals and priorities (see sections 3.1.1, 3.1.2)
- Planning regions, their boundaries and priority planning areas (see section 2.2.4)
- Terms of Reference for the planning commissions; and (see sections 2.1, 2.2.4, 5.1)
- Such other matters as Government and each affected Yukon First Nation may agree upon.

The Council also reviews the annual budgets and work plans prepared by the planning commissions, assists the commissions through their planning processes (see section 2.2.1) and conducts conformity checks on approved regional land use plans (implementation of North Yukon Regional Land Use Plan).

Issues associated with Council's role in implementing Chapter 11 include:

- the level of responsibility and accountability Council has for the work and expenditures of the commissions;
- the Council carrying out tasks that are identified in the agreements and legislation to be completed by the Commissions and;
- the involvement of the Council in the processes used by the Parties when developing policies regarding regional land use planning.

### **1.2 Relationship to the Commissions**

This relationship is characterized as a support role to the commissions, with the focus upon regional plan production in accordance with a Terms of Reference agreed to by the Parties. This assistance includes:

- Commission start up activities and orientation;
- Providing assistance to the commission as identified through consultation with the Parties and/or by the commission;
- Providing ongoing support: technical, financial and office administration, planning and communication;

- Providing opportunities for discussion on land use planning related topics via annual meeting of the Chairs and at regular Council meetings.

To help define this relationship, the Council enters into Transfer Payment Funding Agreements (jointly with Yukon) that define the standard and expectation of the work of the Commission and Memorandums of Understanding that define the assistance the Council will provide.

### **1.3 Council to Parties**

The Council is primarily an advisory body to the Parties but the financial agreements between the commissions, and jointly signed with the Yukon Government, indicate an overseer role for the implementation of *Chapter 11 Land Use Planning*. Recognizing that the Parties are the decision makers, and therefore crucial to successful implementation, the Council engages the Parties in virtually all stages of the implementation of Chapter 11. It does this by inviting the Parties to join the Area Specific Working Group that helps develop the Terms of Reference for regional commissions and extends these working relationships on the Technical Working Group (TWG) and the Senior Liaison Committee (SLC). The Council enters into funding agreements with Yukon that define the financial relationship and obligations associated with Chapter 11 funding. The Council attends First Nations General Assemblies when appropriate (2 attended in 2014-2015) and hosts joint meetings with Yukon and Yukon First Nations officials when decisions require the consensus of both groups.

### **1.4 Council Members**

The year began with two Council members appointed by the Minister (Patrick Rouble, Pearl Callaghan) and the Council operated with a reduced number until George Nassiopoulos was appointed (May 7, 2014). Mr. Nassiopoulos orientation session occurred May 24th, 2014. Patrick Rouble was Chair of the Council throughout the year.

## 2. Support to Planning Commissions

### 2.1 Status of Planning by Region

The following is a summary of the status of planning in the seven planning regions that the Council's envisions for the Yukon (as of March 31, 2015):

North Yukon Planning Region: Commission is no longer operational. The plan is approved and being implemented by the Yukon and Vuntut Gwitchin governments;

Peel Watershed Planning Region: Commission is no longer operational and the member's terms expired in October 2013. The Nacho Nyäk Dun and Tr'ondëk Hwëch'in approved the Commission's *Final Recommended Peel Watershed Land Use Plan* (dated July 22, 2011) and the Yukon Government approved the *Peel Watershed Regional Land Use Plan* (dated January 2014). This led to a lawsuit by the Nacho Nyäk Dun, Tr'ondëk Hwëch'in, Canadian Parks and Wilderness Society and Yukon Conservation Society challenging Yukon Government's authority under Chapter 11 to modify the Commissions' Final Recommended Plan as it applies to non-settlement land. On December 3<sup>rd</sup>, 2014, Judge Ron Veale of the Supreme Court of the Yukon made a ruling in the case that quashed the plan the Yukon Government approved plan. On December 30<sup>th</sup>, 2014 the Yukon Government announced it would be appealing the ruling. The moratorium on new mineral staking and any oil and gas development was reinstated for the region on January 8<sup>th</sup>, 2015. The lawsuit and its outcome will affect future planning processes.

Dawson Planning Region: a six person planning commission was operational and completed the Alternatives/Options stage of their land use planning process and was developing a draft plan when the Parties (the Yukon Government, Tr'ondëk Hwëch'in and Vuntut Gwitchin) announced that the Commission would be placed in abeyance until the Peel court case is resolved;

Teslin Planning Region: Terms of Reference is in draft form, with the primary outstanding issues being: 1) the nature of the involvement of the Ross River Dena Council and the Liard First Nation in the Teslin regional planning

process; 2) the completion of the review of the Common Land Use Planning Process and the review and associated decisions by the Parties and 3) the outcome of the Peel Watershed Regional Land Use Plan lawsuit regarding the approval process for that plan.

Kluane Planning Region: Terms of Reference is in draft form, with the primary outstanding issues being the planning boundary, the involvement of the White River First Nation in the Kluane planning process; 2) the completion of the review of the Common Land Use Planning Process and the review and associated decisions by the Parties and; 3) the outcome of the Peel Watershed Regional Land Use Plan lawsuit regarding the approval process for that plan.

Whitehorse Planning Region: No activity.

Northern Tutchone Region: No activity.

## **2.2 Overview of Support Provided by the Council to the Commissions**

### **2.2.1 Dawson Regional Planning Commission (DRPC)**

The assistance the Council provided the DRPC was identified in a Memorandum of Understanding signed between the two agencies in May 2012. Over the course of the year, the Council and its Secretariat were actively involved in key aspects of the work of the Commission. This work included:

- the Council's Senior Financial Administrator providing the DRPC with its financial administration, accounting services, administering payroll and benefits, preparing any necessary financial reporting (completing the year-end financial statements and preparing for the 2013-2014 audit) and other secretariat support on a permanent basis (as per the Yukon Government's request after receiving the Management Letter with the 2012-2013 fiscal year audit);
- the Director making a presentation to the Commission about the importance of consensus building at its April 16<sup>th</sup>, 17<sup>th</sup>, 2014 meeting. The Council's Chair also attended this meeting and the Council provided minute taking services;
- the Council, based upon a request, contracting a consultant (Shawn Francis Consulting) to assist the commission with its future scenario work. The Contractor worked with the Director, the Council's Senior Planner, the Technical Working Group and the DRPC's

acting Senior Planner through a series of meetings related to the evaluation of the commission's Plan Alternatives document;

- orienting two new DRPC commission members (Debbie Nagano and Peter Jenkins) regarding their work with DRPC (May 13<sup>th</sup>, Dawson City);
- contracting a facilitator for the DRPC's May 13<sup>th</sup> to 15<sup>th</sup>, 2014 meeting in Dawson City. The YLUPC Director and Senior Planner attended this meeting, with the Senior Planner presenting the results of his spatial analysis of the Alternatives and Resource Assessment work;
- the Chair and Director attending a Senior Liaison Committee meeting June 6<sup>th</sup>, 2014 in Whitehorse;
- Council's Chair and Director met with the Commission's Chair and Acting Senior Planner on August 7<sup>th</sup> regarding the annual report (which had yet to be received, as noted in a letter from YLUPC to the commission), the interim report and the associated work plan until the end of the fiscal year. It was agreed that the Acting Senior Planner would provide the annual report and options for the work plan and budget to complete the draft plan;
- the YLUPC Chair contacted DRPC vice-Chair Debbie Nagano regarding the outstanding annual report and the need for it to allow the flow of funds associated with its submission. The Council sent a second letter to the commission about the overdue annual report (Sept. 23, 2014). After receiving no response, and the DRPC not meeting the requirements of the financial agreement, the Council then sent a letter to Aboriginal Relations, YG, stating it believed the Commission was in Default (Sept. 30<sup>th</sup>, 2014). This was followed by a meeting with the Yukon Government (Aboriginal Relations, Energy Mines and Resources), Commission Chair and the Council Chair and Director on October 2<sup>nd</sup>, 2014 where a draft of DRPC annual report was presented;
- the Council's Chair, Director and Senior Planner attending the November meetings to assist with the approval of the annual report and the work plan/budget until the end of the fiscal year (i.e. through to the production of the Draft Plan);
- Council receiving a letter from the Yukon Government, Tr'ondëk Hwëch'in and Vuntut Gwitchin Government announcing the Dawson Regional Planning Commission was being placed in abeyance until the Peel Court Case was resolved (November 28<sup>th</sup>, 2014);

- upon the request of the Parties, in December the Council assisted the Commission with the closure of its Dawson office and the movement of the office's documents and files to the YLUPC Whitehorse office;
- in December 2014 and January 2015, the Council's Senior Planner completed the final editing and facilitation of the approval by the Commission of the '*What We Heard Report*'. This report summarized the response to the Commission's *Plan Alternative* document;
- In February and March, the Council's staff began organizing the documents and files that were received from the Dawson commission and a temporary office was established in the Council's Whitehorse office.

### **2.2.2 North Yukon Regional Plan Implementation**

The YLUPC continued with its work checking that proposed projects occurring in the North Yukon region are consistent with the North Yukon Regional Land Use Plan (5 conformity checks completed in 2014-15). The Council's staff conducted a conformity check on a large seismic program proposed by Northern Cross (20 wells and 85 kms of road). The Senior Planner worked with the Yukon Government and the Vuntut Gwich'in Government staff as part of the effort to refine the formulas used to determine historic and current linear and surface disturbance levels which included the associated regeneration rates of disturbed landscapes.

### **2.2.3 Peel Watershed Planning Commission**

For the entire fiscal year, the Peel River Watershed Regional Land Use Plan was at the centre of a legal dispute regarding the approval process used by the Yukon when they modified and approved the plan in 2013-2014 (*First Nation of Nacho Nyäk Dun et al. vs Yukon Government*). The Council was due to conduct conformity checks on projects occurring in the region via the implementation of this plan (letter from Yukon Government July 31, 2014). Preliminary procedures were developed but not implemented because of the court case. A ruling in the case was made December 2<sup>nd</sup>, 2015. The Council reviewed the decision and considered its implications at the Strategic Planning Session of January 23<sup>rd</sup>, 2014.

#### **2.2.4 Additional Planning Commission**

In early April, 2014, the Council received a letter from the Energy Mines and Resource Minister Scott Kent of the Yukon Government indicating that any work creating the Teslin Regional Planning Commission would resume once consensus on a Common Land Use Planning Process was achieved and the outcome of the Peel legal challenge was known. The Council invited members of the Teslin Tlingit Council to its April 23, 2014 Council meeting to discuss the status of planning in the Teslin region. Based upon this communication with the Parties, the Council did not pursue the creation of the Teslin Planning Commission. Previous correspondence from the Yukon Government indicated similar concerns when considering the establishment of the Kluane Planning Commission and the Council also did not pursue establishing the Kluane Planning Commission. This situation was explained to citizens of the Champagne Aishihik First Nation when the Council's Chair and First Nation Senior Planning and Policy Advisor attended the CAFN General Assembly at Klukshu July 18, 2014.

The Council's Director did present at the Northern Tutchone Council's *May Gathering (May 25, 2014)*, highlighting the history and challenges associated with establishing the Northern Tutchone Planning Commission.

### **3. Other Council Activities**

#### **3.1 Summary of Major Activities, Results**

##### **Common Land Use Planning Process Review**

The Council completed its proceedings from a workshop it held January 2014 regarding the Common Land Use Planning Process (CLUPP) and these proceedings were made public in June 2014. From this workshop, and other work done by the Council, 16 potential process improvements were identified.

To provide an external perspective on potential changes to CLUPP, the Council hired a consulting firm (Lesley Cabott Consulting) to make recommendations regarding changes to the Common Land Use Planning Process. This work include a review of regional planning in other jurisdictions and interviewing key people that have been involved in regional planning in the Yukon to date. Council's Director chaired the committee that oversaw the work and this



committee included staff from Yukon and the Council of Yukon First Nations. The work took place between August 2014 and April 2015. A draft of the report was completed by the end of April, 2015.

### **Public Relations Video**

The Council completed its first version of a public relations video entitled “*Our Land, Our Future*”. This five minute animated video explains the regional planning process in the Yukon as carried out under the land claims. The video is intended for a public audience or those that are not familiar with regional planning in the territory.

### **Strategic Planning Sessions**

The Council held two Strategic Planning Sessions, one October 24<sup>rd</sup> and 25<sup>th</sup>, 2014 in Haines Junction and a second January 26<sup>th</sup>, 2015 in Whitehorse. A second strategic planning session was needed because of two substantive context changes in regional planning in territory: the legal decision of Justice Ron Veale of December 2<sup>rd</sup> regarding the Peel Watershed Regional Land Use Plan and the decision by the Parties to suspend the Dawson Regional Land Use Planning Commission’s work. From the second session came the Council’s *Summary of Strategic Planning Sessions (May 2015)*. The document identifies Council’s desire to seek a clear, common and consistent understanding of the land claim agreements with respect to Chapter 11 and related chapters.

### **Briefing to the Parties**

To begin the process of creating a clear, common and consistent understanding of the land claim agreements with respect to Chapter 11, the Council requested a briefing with the Council of Yukon First Nations, Yukon, Canada, and the Liberal Party of the Yukon and the New Democratic Party of the Yukon. A presentation for these briefings was created and one briefing occurred before the end of the fiscal year (NDP, March 31<sup>st</sup>, 2015), with the other briefings scheduled for April.

### **Work plan/Budget Reviews and Submissions**

The Council entered into a new financial agreement with Yukon for its funding and the funding of the Dawson Regional Planning Commission in May 2015. The Council reviewed DRPC’s

Interim budget submission in November but this submission was ultimately not needed, as the Commission was placed in abeyance before an amended agreement was reached.

### **3.2 Planning Workshops**

#### **Northern Planners Conference**

The Council hired a consultant to produce a funding application to the Canadian Northern Economic Development Agency (CanNor) for a conference of northern planners. The preparation for the Conference was overseen by a committee that included staff members from YLUPC, Yukon and the Council of Yukon First Nations. The committee began to organize the conference but funding from CanNor was not confirmed early enough to allow for the event to proceed.

### **3.3 Planning Atlas Update**

The Council closed the Yukon Planning Atlas due to the lack of use of the site and the need for updating the software used. A draft report of potential actions to integrate spatial data used in regional planning in the territory was produced. Meetings with staff of the Yukon Government and Yukon Environmental and Socio-economic Assessment Board provided some preliminary ideas for improved the integration of spatial data amongst those that review and approve land uses in the territory.

## **4. Council Meeting and Activities**

### **4.1 Member Activity**

Council member's activities typically involve:

- attending regular and special YLUPC meetings,
- meetings with the Parties (FNs and the Yukon Government),
- presenting at and/or attending conferences,
- attending workshops and gatherings and;
- attending to financial and administrative matters of Council. The Council met 8 times in 2014-2015, held two Strategic Planning Sessions, and a combined total of 8 other events (DRPC events, workshops and conferences).

## **4.2 Special meetings**

The Council held one special meeting (February 19<sup>th</sup>, 2015) regarding work plans and budgets.

## **4.3 Attendance at Conferences and Workshops**

### **Annual Renewable Resource Council Meeting, Whitehorse May 22, 2014**

The Council's Senior Policy and Planning Advisor and Director presented an overview of the status and issues associated with regional planning at the annual gathering of Renewable Resource Council's held in Whitehorse.

### **Geoscience Forum, Whitehorse**

The Council had its display booth at the 42<sup>nd</sup> Geoscience Forum in Whitehorse November 15-17<sup>th</sup>, 2014. This was attended by the Council's staff and Chair.

### **Association of Mineral Exploration (AME) Round-up Conference**

One Council member and the Director attended the AMEs Round-up 2015 Conference in Vancouver, British Columbia January, 16, 17 and 18<sup>th</sup>, 2015. The relevant issues that were addressed at the conference included: 1) the implications of low commodity prices on mineral exploration; 2) the impact of the Mount Polly tailings pond breach on future mining development and 3) the implications of the Tsilhqot'in (Williams Lake) decision regarding First Nation ownership of resources.

## **5. Work Plan Variance**

### **5.1 Significant Variance from the 2014-2015 Work plan (as express in the interim report)**

The significant variance to the work plan included:

**Common Land Use Planning Process Review:** This review was completed by the contractor in draft form but not considered to be final until feedback is received from all Parties (YG and CYFN).

### Information Management, Organization and Integration

The Council has become responsible for managing and maintaining information (spatial, text and administrative) that is created through the regional planning processes in the territory. This information needs to be organized, available and made useful to other organizations. Policies (e.g. record keeping, conformity check and information management) and strategies (e.g. geospatial integration with YESAB and the Parties) need to be developed, formally adopted and implemented.

### YLUPC's Application for Leave in the Yukon Government's Appeal of *The Nacho Nyäk Dun et al. v Government of Yukon* Decision of December 2<sup>nd</sup>, 2014.

YLUPC recognizes that the Peel Case is an important one and one that will have significant impacts on the Council and land use planning in the future. Under the UFA and entrenched in each Agreement, the Council has significant roles and responsibilities. The Council believes it has a duty to be involved in the case and that it can make an important and useful contribution to the Court. Additionally, the Council sees this case as an opportunity for the Court to expand on several issues and provide judicial guidance on the process of land use planning in the Yukon.

The Council, a neutral body, is not taking sides in the appeal, but is seeking to provide its interpretation and perspectives.

### The Northern Planner's Conference

The Northern Planner's Conference is envisioned to bring together those involved with planning in Canada's North (the territories, relevant provinces and Alaska) to discuss their challenges and successes. The conference will have four themes: *Governance, Planning for Change and Sustainability, Moving Planning Forward, and Planning Methods*. The Conference is dependent on receiving funding from the Canadian Northern Economic Development Agency (CanNor).