



YUKON LAND USE PLANNING COUNCIL

YUKON LAND USE PLANNING COUNCIL (COUNCIL)

Annual Report 2017-2018

Report Introduction

This report summarizes the activities of the Yukon Land Use Planning Council (Council), as required by the Yukon Government in its Transfer Payment Funding Agreement. 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. Successes and Challenges
7. Work plan Summary 2018-2019

Members

Membership between April 1st – December 7, 2017

Pearl L. Callaghan, Chair

Lois Craig, Member

One Member Vacancy: Bruce Chamber was appointed but could not serve

Dennis Zimmermann was appointed December 7, 2017

Staff: Ron Cruikshank, Director

Joe Copper Jack, 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 Council makes recommendations to the Yukon Government and Yukon First Nations on regional land use planning in the Yukon and assists regional planning commissions. The Council makes recommendations relating to:

- Policies, processes, goals and priorities;
- Planning regions, boundaries and priority planning areas;
- Terms of Reference for the planning commissions; and
- 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, organizes an annual meeting of commission Chairs, and advises YESAA based reviews as to whether a project is consistent with the North Yukon Regional Land Use Plan.

1.2 Relationship to the Commissions

This relationship is characterized as a supporting role to the commissions, with a focus on regional plan production in accordance with a Terms of Reference (ToR) 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 discussing 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 the Yukon Government) that define the standards and expectations of the commissions and Memorandums of Understanding that define the assistance the Council will provide. There were no operating commissions in the territory in 2017-2018 due to FNs and Yukon Governments awaiting the outcome of the Peel Supreme Court of Canada appeal decision. Therefore no agreements were signed with the commissions.

1.3 Council to Parties

The Council is an advisory body to the Parties on regional planning matters. The Council recommends the work plans and budgets of the commissions to the Yukon Government and jointly administers the associated funding agreements. The Council also acts as a facilitator for the Yukon Government and Yukon First Nations when decisions require the consensus of both Parties.

1.4 Council Members

The Council operated with a reduced number of members until December 7th, 2017 when Dennis Zimmermann (Canada's nominee) was appointed. Bruce Chambers was previously appointed by Canada but could not serve.

2. Support to Planning Commissions

2.1 Status of Commissions by Region

The following is a summary of the status of planning in the seven planning regions (as of March 31, 2018):

- North Yukon Planning Region: no active commission. The plan is approved and being implemented by the Yukon and Vuntut Gwitchin governments, with extensive assistance from YLUPC;
- Peel Watershed Planning Region: Commission is no longer operational but its Final Recommended Plan is still requiring consultation
- Dawson Planning Region: Commission was placed in abeyance until the Peel court case was resolved. The Parties requested that Council begin the process of re-establishing the commission and new draft Terms of Reference is being developed by YLUPC, working with the Senior Liaison Committee and Technical Working Group.
- Teslin Planning Region: no active commission
- Kluane Planning Region: no active commission
- Whitehorse Planning Region: no active commission
- Northern Tutchone Region: no active commission.

2.2 Overview of Support Provided by the Council to the Commissions

There were no commissions operational in 2017-2018. The Council housed the records and information base of the Dawson Regional Commission in preparation for their re-establishment.

Information Storage and Maintenance

The Council maintained the information and records of the Teslin, Peel Watershed, North Yukon and Dawson regional planning commissions.

3. Other Council Activities

3.1 Summary of Major Activities, Results

The Council's workplan for 2017/18 identified four priority work themes:

- advancing the development of a common understanding amongst the signatories to the land claim agreements regarding how Chapter 11 should be interpreted and implemented;

- developing an organizational structure and planning process for regional commissions to create regional plans consistent with Chapter 11, including clarifying the role of the Council;
- developing a Terms of Reference and other documents required for the establishing regional planning commissions;
- assisting the Yukon Government and Vuntut Gwitchin Government with implementing the North Yukon Regional Land Use Plan.

Developing a Common Understanding of Chapter 11

The effort to develop a common understanding of Chapter 11 focussed upon engaging both Yukon First Nations and the Yukon Government. The Council attended five Yukon First Nations General Assemblies (Little Salmon Carmacks, June - 9th, Nacho Nyak Dun June - 24th, Teslin Tlingit Council - July 12th, Kluane First Nation - June 24th and Champagne and Aishihik First Nation - July 21st). The Council also attended the Council of Yukon First Nations Assembly on June 28th. Presentations were made by the YLUPC Chair at two General Assemblies (Teslin and Nacho Nyak Dun) and the Council distributed a document entitled Challenges Associated with Implementing Chapter 11-Regional Land Use Planning: *Executive Summary: From Meeting with CYFN Grand Chief Peter Johnston, Oct. 6, 2016* which summarized the main interpretation issues associated with Chapter 11.

The Council's workplan anticipated a committee of senior officials that included the Yukon Government and Yukon First Nations would be established to assist in developing a common understanding of Chapter 11. This did not occur and the Council sought alternative means of engaging the Parties. A meeting with the Energy, Mines and Resources Minister Ranj Pillai occurred on February 8, 2018. The agenda included the relationship the Council desires to foster with the Yukon Government, the requirements for successful planning and the upcoming reviews of Chapter 11 through the Yukon Forum.

In August 2017, the Council was copied a letter from the Nacho Nyak Dun regarding their desire to conduct Sub-regional and District planning process in the Stewart River Watershed. The Council replied on September, 24th, 2017, acknowledging that this scale of planning was anticipated under the land claim agreements but that little work had been done to clarify how a sub-regional or district plan might be developed. The Council hired a contractor to write a discussion document that examined ways that sub-regional planning might occur.

On December 1st, 2017, the Supreme Court of Canada released its ruling regarding the Peel Watershed Regional Plan's approval process dispute (*Nacho Nyak Dun et al. vs Yukon SCC 58*). The ruling ruled in favour of the Nacho Nyak Dun et al and the process is to be returned to a point where the Parties are to consult on the Final Recommended Plan. The ruling clarified many aspects of the approval process, including the limits of modifications and opportunities for change based upon changing circumstances. The Council held a gathering regarding selected aspects of the Peel Supreme Court Ruling on March 21, 2018 (*The Peel Decision and Beyond*) which involved over 60 participants from UFA Boards, the Yukon First Nations, Canada and the Yukon Government. The Council also asked the workshop participants to consider a Yukon Planning Framework as means of clarifying how plans are created in the territory.

Developing an Organizational Structure and Planning Process for Regional Commissions and Clarifying Roles and Responsibilities

Issues associated with the organizational structures envisioned by Chapter 11 were raised or addressed:

- In a draft discussion paper produced by a contractor that reviewed the mandates of the YLUPC and the Land Use Planning Commissions, the agreements that have provided funding to the YLUPC and commissions, the roles and responsibilities of the YLUPC and the commissions, the operational history, functional capacity, successes and challenges of the commissions and recommendation of the work required to clarify these roles;
- At the meetings with Minister Ranj Pillai, Energy Mines and Resources, February 1st, 2018;
- As the Council assisted in the implementation of the North Yukon Regional Land Use Plan (issues re: plan amendment and review) and the development of a Terms of Reference for the Dawson Regional Planning Commission (see: Terms of Reference below for details);
- In the Supreme Court of Canada's decision on the Peel approval process (commission's identified as the *central, politically neutral, planning body*, overall process identified as a *collaborative planning process*); and
- The discussion papers regarding: 1) *A Yukon Regional Land Use Strategy: A Jurisdictional Analysis and Proposed Framework for Planning* and; 2) *Sub-regional Planning in the Yukon*.

Terms of Reference Development and Dawson Regional Planning Commission (DRPC) Reestablishment

On June 8, 2017, the Council received a letter from the Yukon Government, the Trondek Hwechin and the Vuntut Gwitchin Government (the Parties) asking that the Council to work with them to revise the Terms of Reference for the commission. On July 18th, 2017 the Council wrote to the Parties agreeing to organize and facilitate a meeting of the Senior Liaison Committee (SLC) and this meeting occurred on September 8th, 2017. The YLUPC Secretariat organized the meeting (Chaired by the Director) and the agenda included reviewing the process by which the commission would be re-established, examining the status of the Commission's work, addressing the issues of funding, boundary, membership, roles, process changes and the next steps in the process of getting the Commission re-established. Based upon the direction from the SLC, the Technical Working Group (TWG), led by the YLUPC Senior Planner, met multiple times working on a draft terms of reference for the commission. Work also began on updating the Resource Assessment Report, also led by YLUPC staff.

North Yukon Regional Plan Implementation

The level of work the Council did assisting the Parties (YG, VGFN) to implement the North Yukon Regional Land Use Plan was substantive throughout the year. The Council agreed to

fund, and directly participate in projects aimed at determining the level of linear and surface disturbance in the Eagle Plains area, including work estimating current footprint levels. Contracts were developed with local contractors to help analyse fieldwork that was done by the Yukon Government regarding regeneration rates of disturbed sites in the Eagle Plains area of the North Yukon planning region. In addition, the Senior Planner worked closely with Yukon Government remote sensing specialists to determine the best means of calculating current disturbance levels and assisted with the access management plan being prepared by the Parties. This work included attending four *Directors of Implementation: North Yukon Land Use Plan* meetings.

The Council had been seeking clarification as to its role in conducting conformity checks on projects in regions with approved land use plans. In May, the Council received a letter back from the Vuntut Gwitchin and Yukon Government indicating that the Council was not the agency identified in the legislation required to conduct conformity checks on projects arising from YESAA but it could express its opinion as to whether a project conforms to the plan. The Council reviewed two projects occurring in the North Yukon Planning Region.

Additional Work and events:

- Production of a Frequently Asked Questions document entitled “*About the Role of Yukon First Nations in Regional Planning in the Yukon*”;
- On June 6th and 7th, 2017, the Director and Senior Policy and Planning Advisor attended the annual gathering of the Renewable Resource Councils. The Director made a half hour presentation and the staff deployed and attended display booth;
- The Council produced a Communication Strategy based upon its Communication Strategy session of December 18, 19, 2017. Media training occurred January 18th, 2018.
- Five Year Implementation Report Summary: a three-page summary of the work of the Peel Watershed Planning Commission and the Yukon Land Use Planning Council was submitted to Canada for their report regarding the implementation of land claims.

4. Council Meeting and Activities

4.1 Member Activity

Council member’s activities included:

- attending regular and special Council meetings, the Council met 6 times in 2017-2018;
- meetings with the Parties (First Nations and the Yukon Government);
- reviewing and contributing to planning initiatives;
- presenting at and/or attending conferences, attending training, workshops and gatherings;
- tending to financial and administrative matters of Council.

4.2 Attendance at Conferences, Workshops and General Assemblies

Events attended include:

- The Council's Chair, Senior Planning Advisor and Director attended the Planning Institute of British Columbia's "Equilibrium" Conference in Prince George British Columbia May 30th-June 2, 2018. Highlights included sessions on Indigenous Planning, Storytelling and Community Planning and Regional Empowerment;
- The Council's two new members received a full day of orientation on May 17th, 2017. Topics covered included: Land Claim Based Regional Planning and Interpretation Issues, a History of Regional Planning in the Yukon and Important Financial and Administration Information and Yukon First Nation Land Claim Agreements 101;
- The Chair and Senior Policy and Planning Advisor attended an Oral Traditions Workshop in Teslin developed by Yukon College;
- General Assemblies: Little Salmon Carmacks, June - 9, Nacho Nyak Dun June - 24, Teslin Tlingit Council - July 12, Kluane First Nation - June 24 and Champagne and Aishihik First Nation - July 21st);
- The Senior Policy Planning Advisor and Director attended the Land Claim Agreement Coalition's *Modern Treaties and Reconciliation Conference*, Gatineau, Quebec, Nov. 14-16, 2017. The Director presented at a session regarding regional planning in the North.

5. Work Plan Variance

Significant Variance from the 2017-2018 Work plan (interim report version)

The Council completed most, but not all elements of its work plan. The Council's workplan anticipated a committee of senior officials that included the Yukon Government and Yukon First Nations would be established to assist in developing a common understanding of Chapter 11 and the associated planning process. However, this committee was not formed and the Council continued to seek avenues for engaging the Parties on its process improvement ideas. The development of the Dawson Terms of Reference did include many of the production improvement ideas the Council had developed, including a Memorandum of Understanding between affected Yukon First Nations and Yukon about their involvement in the planning process.

6.0 Success and Challenges

Successes

Re-establishing High Level Communications: Yukon Government, YFNs and YLUPC

The court action associated with the Peel planning process had reduced the high-level communication between the Council, the Yukon Government and Yukon First Nations. Following the Peel ruling in December of 2017, the Council met with Minister Ranj Pillai, EMR (February 8, 2018) and the Minister spoke at the Council's Peel Decision and Beyond Gathering. A similar meeting was sought with Grand Chief Peter Johnston and scheduled early in the 2018-19 fiscal year.

The Peel Decision and Beyond Gathering

The Council's *Peel Decision and Beyond Gathering* of March 21, 2018 drew over 70 participants from across the Yukon and the feedback from the event indicated a high level of satisfaction with the topics and gathering.

Dawson Regional Planning Commission: Renewed Terms of Reference Development

Upon a request by the Yukon Government, Trondek Hwechin and Vuntut Gwitch'in governments, the Council organized a meeting of the Senior Liaison Committee on September 8, 2017 to begin creating a new Terms of Reference for the Dawson Regional Planning Commission. Substantive progress was made prior to end of the fiscal year.

Challenges

Senior Staff-Level Regional Planning Committee

The Council's 2017-18 workplan anticipated the establishment of a senior staff-level committee including YG and Yukon Government officials to receive and consider YLUPC recommendations and respond to requests for clarification with respect to the intent of the land claim agreements. This committee was not formed and the Council sought other means of communicating with the Parties. (e.g. meetings with the Minister, CYFN Grand Chief).

Sub-regional and District Planning

When planning was proposed for a portion of the Northern Tutchone Planning region, the Council highlighted to the Parties the need to clarify how sub-regional planning is conducted in the territory under Chapter 11. The agreement that was eventually signed for the area had no mention or association with Chapter 11 planning, meaning that there remains considerable uncertainty regarding the nature and process associated with sub-regional and district plans.

7.0 Work plan Summary for 2018 - 2019

Based upon the Council's Strategic Planning Session of October 20, 2017, work in 2018/19 will focus upon:

- building a solid foundation for regional planning commissions to begin their work, including clear roles, responsibilities and relationships;
- improving the education and operations of the commissions as they journey from a new organization to a high performing agency;
- developing agreement amongst the Parties as to the post final recommended plan implementation processes and future of regional commission beyond plan production;
- develop mechanism for engagement with the Parties, stakeholders and public.

Specific areas of work include:

Assisting with the Yukon Forum Joint Priority Action Plan

The Yukon Forum Joint Priority Action Plan indicates a “workshop to carry out a review of land use planning generally in the Yukon and Chapter 11 of the Final Agreements in particular”. This is anticipated early in 2018-19 (April-May) and the Action Plan also calls for “a report with recommendations to provide to the Parties” at or before the Fall of 2018 Yukon Forum. The role of the Council in either the regional planning workshop or the recommendation report is not clear but the Council will be seeking this clarity, as it could make a significant contribution under its mandate.

Preparing for the 2019-2020 Review of Chapter 11

The Amended Implementation Plan for the Umbrella Final Agreement indicates a review of the Chapter 11 funding in 2019-2020. It is anticipated that the Parties to this review will ask the Council for a submission similar in nature to the 10-year Review Submission of 2004-2007 period.

Land Use Planning Policy Development

The Council would begin establishing policies that focus on topics that are identified in land claim agreements that relate to land use planning (non-administration policies). These would help illustrate the interpretation, philosophy and associated policies that the Council operates under as it develops its recommendations, assists the Commissions and reviews the budgets of regional commissions. These would provide a point of reference for the Council as topics arise in its work.

Evaluating the need for A Regional Land Use Planning Strategy for the Yukon

The Council, through the work of a consultant, has developed a discussion paper examining the potential development of a Yukon regional land use planning strategy. The strategy would assist with the implementation of Yukon First Land Claim Agreements by presenting a document that furthers reconciliation by expanding and interpreting concepts identified in the land claim agreements.

Dawson Regional Planning Commission Start-up and Ongoing Assistance

The Dawson Regional Planning Commission re-establishment is contingent on the Parties agreeing on a Terms of Reference for the Commission and potentially developing other agreements between themselves. If these agreements are completed by the end of 2017-18, then the Council can: develop an interim budget for the Commission to cover start-up cost, train and orient the new Dawson Regional Planning Commission members, assist with the orientation of any new staff and assist the commission through its planning process.

North Yukon Cumulative Effects Technical Work

The Yukon government and Vuntut Gwitchin Government have asked the Council under Clause 11.3.3.5 of the Vuntut Gwitchin Final Agreement for a recommendation regarding the historical linear disturbance and surface disturbance in the Eagle Plain (LMU 9) area. The goal is to better define the current level of disturbance and understand the recovery of historical disturbances. This will assist in the tracking of disturbances as required under the North Yukon Regional Land Use Plan and understand how to best implement practices for monitoring surface disturbance levels. The historical disturbance level may be determined by April 2018 and the focus of further work in 2018-19 will relate to pace and extent of landscape regeneration.

North Yukon Conformity Check Work

The Council has been conducting conformity checks on behalf of the North Yukon Regional Planning Commission for proposed projects being assessed under the *Yukon Environmental and Socio-economic Assessment Act* (YESAA). The Council believes that this is inconsistent with the land claim agreement and the YESAA and has indicated this to the Parties (VGFN/Yukon Government). The Council will continue to conduct the conformity checks until this issue is further clarified or it indicates to the Parties that it is no longer willing to conduct these because they are inconsistent with the agreements.

North Yukon Regional Plan: Process for Changing the Plan and Evaluating the Need for Plan Review

The North Yukon plan was approved in 2009 but the means by which the plan is to be changed was not articulated in the approved plan. To date the process of plan variance, amendment and review has not been delineated and further work on this topic is expected by those implementing the Plan (led by the Yukon/VGFN), with input from the Council.

Other Planning Regions

The impact of the settlement of the Peel court case may mean an increased demand for regional planning in regions other than the Peel and Dawson regions. This would require the Council to make a recommendation regarding priority planning regions for the remaining regions (Whitehorse, Teslin, Kluane and Northern Tutchone). This will involve communication with all settled First Nations regarding their interest in planning region.

Peel Regional Plan Consultation/Plan Implementation: the Council and its staff would attend these Yukon Government lead consultation, assisting if asked and observing from successes and potential improvement. If a plan is approved in 2018-19, the Council will assist with the development of an implementation strategy.

The Annual Council Sponsored Conference/Workshop: Each year the Council hosts a workshop or conference on topics relevant to regional planning. The topic or theme for the 2019 workshop or conference will be defined in the third quarter.