

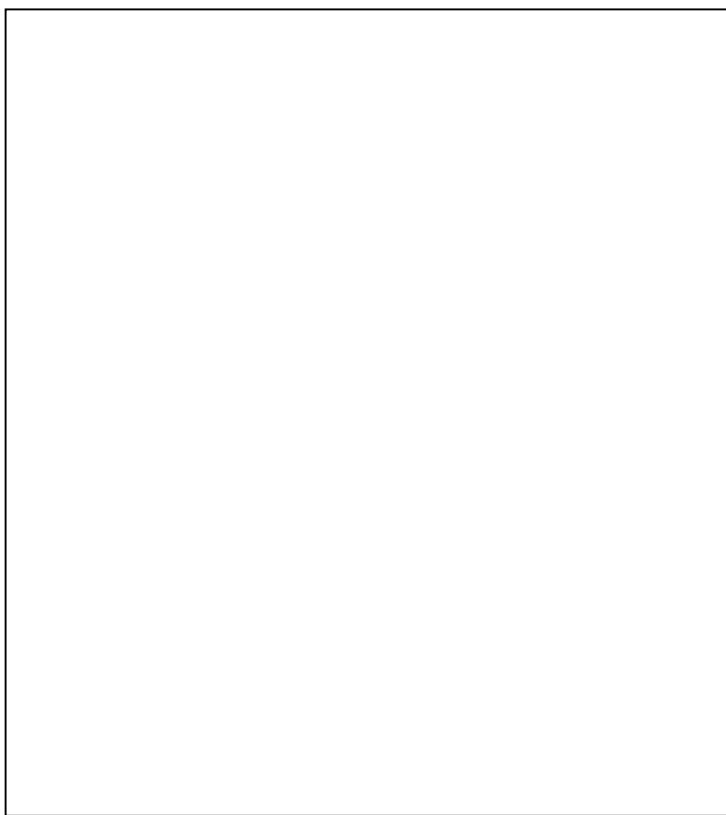


YUKON LAND USE PLANNING COUNCIL

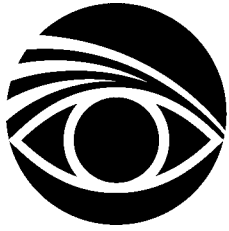
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1999**

Proceedings

**from the
CHALLENGES '99 Workshop
held Nov. 4 & 5
at CYFN, Whitehorse, Yukon**



REGISTRATION DESK: (L to R) Cliff McLeod and John Ladue
(Ross River
Dena Council) and Rose Fleet (Yukon Land Use Planning Council)



YUKON LAND USE PLANNING COUNCIL

Executive Summary

On November 3 & 4, 1999, the Yukon Land Use Planning Council held the CHALLENGES '99 Workshop in Whitehorse. The Council organized the Workshop to address challenges associated with the establishment of Regional Land Use Planning Commissions in the Yukon and to create an understanding of these challenges within the parties involved in their resolution. The Council invited representatives from the Yukon First Nations, Canada, the Yukon Government and relevant Umbrella Final Agreement organizations.

The Workshop participants addressed four major challenges: 1) defining general planning regions and specific planning boundaries; 2) determining the nominating agencies for Commission membership; 3) when planning issues should be addressed in the planning process; 4) improving participation and response from the agencies required to implement Chapter 11.

The Workshop stimulated debate regarding these challenges and while total agreement and resolution was not achieved on all the challenges, some general conclusions can be stated:

- the agencies responsible for establishing the Commission should “**get on with the job**” and not let small problems prevent Commission establishment;
- policies regarding Commission establishment need to be “**flexible**”. The General Terms of Reference for each region will require a considerable degree of “tailoring”. This will allow Commission establishment under the different land management conditions that exist in the different regions of the Yukon. Policies where “flexibility” is needed include: the number of planning regions in the territory, the means by which planning occurs in overlapping traditional territories, determining Commission membership based on a region’s population and the identification of general planning issues in the General Terms of Reference.
- **better communication** between and within the agencies responsible for Commission establishment should result in faster response times for Recommendations from the YLUPC. Out of **respect for the implementation of Land Claim Agreements**, response to the Recommendations of the Yukon Land Use Planning Council should be a priority for implementing agencies.

These proceedings should reflect the major points of the participants and serve as a record that the Yukon Land Use Planning Council, Yukon First Nations, Canada and the Yukon Government can use to develop their positions on these issues. They also serve as a record for the public.

The Yukon Land Use Planning Council would like to thank the participants, support personal, facilitators, CYFN, and the caterer. The Council envisions at the next planning Workshop involving members of the Planning Commissions and focus on the Regional Land Use Planning process.

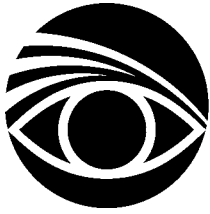


YUKON LAND USE PLANNING COUNCIL

**The Workshop would not have been a success without the help of many people.
The Yukon Land Use Planning Council would like to thank:**

Secretariat:	Ron Cruikshank Joel Jacobs Rose Fleet Sheryl Grieve
Facilitators:	Doug Urquhart Louise Profeit-LeBlanc Mark Hoppe Gerald Isaac Ed Schultz Christiane Boisjoly
Resource People:	Fred Blanchard Mikolay Peter Joel Jacobs Heather Taylor Roger Horner Bop Kuiper
Guest Speakers:	Charlie Snowshoe Deena Clayton
Caterer:	Rosemary Mervyn
Audio/Visual:	Unitech

and all the Participants listed in Appendix A



YUKON LAND USE PLANNING COUNCIL

Workshop Agenda

CHALLENGES '99

Venue Location: Council for Yukon First Nations
11 Nisutlin Drive, Whitehorse (in Riverdale)

Workshop Dates: November 3, 4, 1999

Open House Date: All Workshop participants are also invited to:
Yukon Land Use Planning Council Open House:
November 2, 1999, 4:00 pm – 6:00 pm
Yukon Land Use Planning Council Office
201 - 307 Jarvis St., Whitehorse

Purpose of the Workshop:

- 1. To address the challenges associated with the establishment of Regional Land Use Planning Commissions in the Yukon.**
- 2. To create an understanding of these challenges within the parties involved in their resolution.*

Day 1

8:30 – 9:00: Registration (at CYFN)

9:00 – 10:15: Workshop brought to order
Opening Prayer
Welcome and Introduction: Patrick James, Chair YLUPC
Opening Remarks: Lesley Cabott, Board member YLUPC

10:15 – 10:30: Coffee Break

10:30 – 12:00 **The Challenges Facing the Establishment of Regional Planning Commissions: Regions and Boundaries Focus** (Ron Cruikshank)
- Question & Answer

- 12:00 – 1:00** Lunch (to be provided, compliments of YLUPC)
- 1:00 – 2:30/45** **Breakout Groups: Planning Regions and Planning Boundaries: Where Can Planning Begin in the Yukon?**
 Groups 1 and 2: How are the Planning Regions of the Yukon defined and what conditions should exist in a region before planning can begin?

 Groups 3 and 4: How can planning occur after claims are settled in areas where traditional territories overlap?

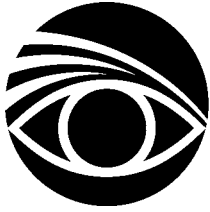
 Group 5 and 6: What are the implications of unsettled land claims to Regional Land Use Planning in the Yukon?
- 2:30/45 – 3:00** Coffee Break
- 3:00 – 4:30** Report back from Breakout Groups (end of day)

Day 2

- 9:00 – 10:15** Welcome and introduction for the day (Ron Cruikshank / Doug Urquhart)
 - Issues chosen for the day, alteration of the agenda;
- 10:15 – 10:30** Coffee Break
- 10:30 – 12:00** **Other Problems Relating to Commission Establishment**
 Group 1 and Group 2: How does a region's population effect Commission membership?

 Group 3 and Group 4: When should planning issues be identified in the planning process?

 Group 5 and Group 6: How do we get agencies to respond to planning recommendations and what type of agreements are required throughout the planning process?
- 12:00 – 1:00** Lunch (compliments of YLUPC)
 Presentation: Planning in the Gwich'in Settlement Area)
- 1:00 – 2:30** Report back from groups
- 2:30 – 3:00** Coffee Break
- 3:00 – 3:45** **Workshop Summary and Future Challenges in the Planning Process**
- 3:45 – 4:00** **Closing Comments: Laurie Henderson** (YLUP Board Member)



YUKON LAND USE PLANNING COUNCIL

Challenges 99

September 30, 1999

The Yukon Land Use Planning Council, Yukon First Nations, the Government of Canada and the Yukon Territorial Government have been working to implement Chapter 11 of the Yukon First Nation Final Agreements. This chapter calls for the creation of land use planning commissions after agreement is reached between the affected Yukon First Nations, Canada and the Yukon Territorial Government. This Workshop focuses upon the Challenges which must be overcome before agreement is reached regarding the establishment of commissions.

The mandate of the YLUPC, is to make recommendations to Governments and each affected Yukon First Nation on the following:

- Land Use Planning, including policies, goals and priorities, in the Yukon;
- the identification of planning regions and priorities for the preparation of Regional Land Use Plans;
- the General Terms of Reference including timeframes, for each Regional Land Use Planning Commission;
- the Boundary of each planning region; and
- such other matters that Governments and each affected Yukon First Nation may agree.”

Given this mandate, the YLUPC has embarked on a process for the production of land use plans that has three major milestones:

- 1. The Settlement of a Land Claim Agreement,**
- 2. The Creation of a Land Use Planning Commission,**
- 3. The Production of a Regional Land Use Plan.**

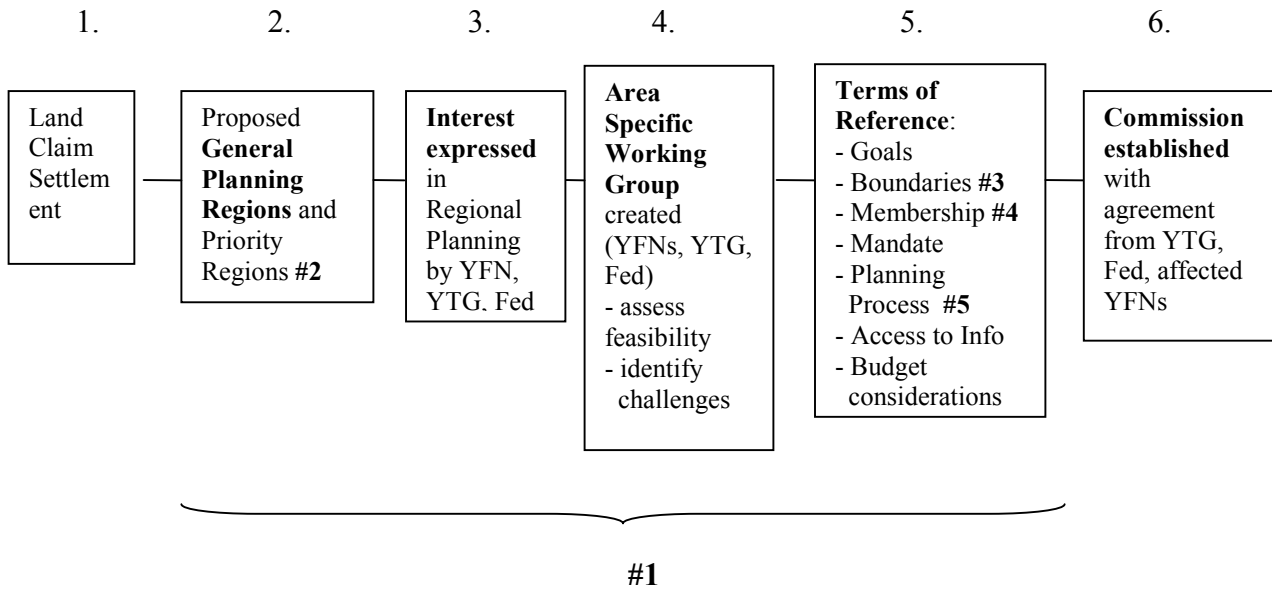
As there is now 7 signed land claim agreements in the Yukon, many areas have achieved the first milestone. However, no region in the Yukon has achieved the second milestone of actually having a land use planning commission. Understanding the problems that have arisen attempting to create these commissions is the first step in solving them.

The process of establishing a planning commission involves 6 steps (also see Figure 1 on the following page):

- 1) In order to implement Chapter 11, the Yukon First Nation(s) must first have a **Land Claim Agreement**;
- 2) **General Planning Regions** for the Yukon and **Planning Priorities** are established to direct the location and timing of the establishment of specific regional planning commissions;
- 3) The Yukon First Nation(s) or Governments must **express an interest** to proceed with discussions leading to the establishment of a Regional Land Use Planning Commission.
- 4) **An Area Specific Working Group** (ASWG) is established consisting of representatives of Governments, the Yukon First Nation(s) whose Final Agreement(s) is/are being implemented and the YLUPC. The purpose of this group is to provide effective participation with the development of a General Terms of Reference (GTOR) for the Region recommended.
- 5) **A General Terms of Reference** is developed by the Area Specific Working Group, including Goals and Objectives, Boundaries, Membership, Mandate, Planning Process and other instructions to the Commission;
- 6) **Commission Establishment:** the affected Yukon First Nations, the Yukon Territorial Government and Canada must agree on the GTOR and to establish the commission by nominating members. The Minister of Indian and Northern Affairs approves the commission establishment.

Figure 1 outlines the process of creating a commission and illustrates the key problems that have been encountered by the parties implementing the land claims agreements:

Figure 1: The Challenges Associated with Commission Establishment



Challenge #1: What are the response and agreement requirements of the parties involved throughout the process?

Challenge # 2: How are the planning regions of the Yukon defined and what conditions should exist in a region before planning can begin?

Challenge # 3 What are to be the boundaries of the Planning Regions?

Challenge # 4 How does the population of a region effect commission membership and how is it calculated?

Challenge # 5 Should the Terms of Reference for a Commission Include a Statement Regarding the Planning Issues Facing the Region?

Challenge # 1

What are the response and agreement requirements of the parties involved throughout the process?

As set out in Section 11.3.3 of the Yukon First Nations Final Agreements, the YLUPC is required to make recommendations to Governments and the affected Yukon First Nations. In its efforts to achieve this mandate, the YLUPC has made such recommendations in June and July of 1998. It was anticipated that the affected parties would respond to the recommendations in a reasonable time period. As time went by it became obvious that there are no provisions within each of the Yukon First Nations Final Agreements that require any of the affected parties to respond to the recommendations of the YLUPC.

After review of the provisions of Chapter 16, Section 16.8.0 of the UFA, the YLUPC has developed a Response Protocol, which has been recommended in August, 1999. YLUPC is currently waiting responses from the Governments and Yukon First Nations.

The questions that arise from this are:

- a) What if no one responds to the YLUPC recommendations? Then what?
- b) Because the Final Agreements require the YLUPC to make recommendations to the affected Yukon First Nations, do the Agreements empower the affected Yukon First Nation(s) to have veto power over the recommendations?
- c) What if an affected Yukon First Nation, whom does not have a Final Agreement does not agree with the recommendation? Then what?

See attached recommendation (sections 5&6)

Acceptance and Agreements

In June 1998, the YLUPC recommended eight Planning Regions for the Yukon, as well as three priority regions. Discussions have taken place with the Yukon First Nations and Governments in each of the three priority regions. It was anticipated that Governments and Yukon First Nations would reach an agreement to establish Regional Land Use Planning Commissions as set out in clause 11.4.1 of the Final Agreements. A concern was raised that all the Regions may have to be agreed upon prior to the establishment of any Regional Commissions. This was due to the possibility that the number of regions may expand if not agreed upon at the start.

Questions that arise from this are as follows:

- a) Is it necessary to confirm **all** of the proposed Land Use Planning Regions in the Yukon prior to the establishment of a Regional Planning Commission being established?
- b) Can planning proceed without reaching agreement on **all** regions in the Yukon?

- c) If a Yukon First Nation does not have a Land Claim Settlement, is it necessary for them to agree upon a planning region for their area in order to proceed with Regional Planning in another Yukon First Nations Traditional Territory?
- d) Can planning proceed if only the Yukon First Nations with Final Land Claim Agreements agree on the regions identified?
- e) What types of agreements are needed? Legal agreements?

These and other questions are the subject of two break-out groups on November 3 (day 2).

Challenge # 2

How are the planning regions of the Yukon defined and what conditions should exist in a region before planning can begin?

It is anticipated that most of the Yukon will eventually be planned by regional planning commissions through land claim agreements. No where in the UFA or any of the specific YFN agreements is there a statement about how many planning regions there is to be in the Yukon. The Yukon Land Use Planning Council has recommended 8 planning regions (see map). The Council has proposed that the planning priority areas be the North Yukon, the Northern Tutchone and the Teslin portion of the Daa Ka Planning region.

Do the parties to the agreement have the resources to support planning in three regions at once and can planning begin in only a portion of a planning region? Can any general agreements on planning regions be established with much of the Yukon still not subject to a signed land claim agreement? What conditions must exist before planning can begin?

These and other questions are the subject of two break-out groups on Day 1?

Challenge # 3 What are to be the boundaries of the Planning Regions?

The provisions of clause 11.3.3 requires the YLUPC to make recommendations on “boundaries”, and clause 11.2.1.10 requires that planning boundaries “to the extent practicable, shall conform to the boundaries of the Traditional Territories”.

The CHALLENGES with this are:

- a) How will the joint use areas be dealt with if only one of the Yukon First Nations has a Final Agreement?
- b) Can the implementation of Chapter 11 take place in a joint use area with only one Yukon First Nation having a Final Agreement?
- c) If a boundary is identified within the joint use area where only one Yukon First Nation has a Final Agreement, how can Land Use Planning take place without

influencing current Land Claim negotiations for any other affected Yukon First Nation?

- d) If an agreement on a boundary can be reached between a Yukon First Nation with a Final Agreement and one without, and an approved Land Use Plan is reached, what happens if the Yukon First Nation without a Final Agreement negotiates Settlement Land within the area of their Traditional Territory that was included in the planning region which may be a direct result of the information collected for that region? Is the settlement land subject to the provisions of the Land Use Plan? Is this consistent with the way the Agreements have been negotiated where each Yukon First Nation approves the portion of the plan which includes Settlement Land as set out in Clause 11.6.0?
- e) Is it practicable to include any portion of a Yukon First Nation's Traditional Territory where "all their aboriginal claims, rights, titles and interest" have not been "cede, released and surrendered to Her Majesty the Queen" as set out in Chapter 2, clause 2.5.0 of the UFA? This may apply to setting a single planning boundary within the same area.

These questions and others are the subject of four break-out groups on November 3 (Day 1).

Challenge # 4 How does the population of a region effect commission membership and how is it calculated?

As set out in clause 11.4.2.2 of the specific provisions of each Yukon First Nation's Final Agreement, Governments and Yukon First Nation(s) shall agree on who may nominate each of the last one third makeup of the Regional Land Use Planning Commission based on the demographic ratio of Yukon Indian people to the total population in the planning region.

After review and consideration of how this provision can be implemented a number of questions and scenarios arose, which are as follows:

- a) How are the demographics for a Region determined?
- b) Is the material from Statistics Canada acceptable to determine the demographics for a Region?
- c) Were the surveys done at the time of year when the majority of Yukon First Nations were out on the land?
- d) Were the surveys done when the mining industry was still booming?
- e) Can the Enrollment list be used in determining the demographics?
- f) Given that the lands within the community boundaries are not subject to the Regional Planning process, pursuant to clause 11.2.2, are the people living within the community boundaries included in determining the demographics?

- g) Was the intent of the Agreements intended to leave the people within the community boundaries out of the picture?
- h) Once the numbers of Yukon First Nations and Non-Yukon First Nations are determined and agreed upon, how are the nominees agreed upon?

The YLUPC has developed an Option Paper that may assist in determining how the parties may agree on the number of nominees that each may nominate.

See attached Options Paper.

These questions and others are the subject of two break-out groups on November 4 (Day 2).

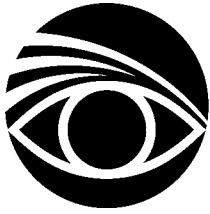
Challenge # 5 Should the Terms of Reference for a Commission Include a Statement Regarding the Planning Issues Facing the Region?

The General Terms of Reference outlines the general planning process for the commission. This process includes the identifications of regional issues, the collection of information about the region, the development of options for the plan and production of the draft plan and the production of a final plan and associated approval process. The land claim agreements make statements regarding the activities of the planning commissions, including identifying regional land use planning issues (14.4.5.2).

What are the “pros and cons” of having the General Terms of Reference include statements about regional planning issues? How similar should the General Terms of References and associated planning process be for Planning Commissions across the Yukon?

These questions and others are the subject of two break-out groups on November 4 (Day 2).

There will be facilitators and support people in each break-out group to clarify the challenges present in this background paper. We look forward to your participation at the workshop.



YUKON LAND USE PLANNING COUNCIL

CHALLENGES '99 Workshop

Speech made by: Patrick James
Chair, Yukon Land Use Planning Council

Good Morning. I'm glad that you could all come, and I would like to thank all the people who are here, to take the time out to be with us, and helping us deal with some very important CHALLENGES.

At this point in time I would like to thank the Kwanlin Dun First Nation and the Ta'an Kwach'an Council for allowing us to hold this very important Workshop within their Traditional Territory.

I would like to welcome the Chiefs, Leaders, respected Elders, First Nation's members of:

Champagne & Aishihik First Nation
Carcross/Tagish First Nations
Kluane First Nation
Kwanlin Dun First Nation
Liard First Nation
Little Salmon/Carmacks First Nation
First Nation of Na-cho Nyak Dun
Ross River Dena Council
Selkirk First Nation
Teslin Tlingit Council
Ta'an Kwach'an Council
Tr'ondek Hwech'in Han Nation
Vuntut Gwitchin First Nation
White River First Nation

and also members from the Tetlit Gwich'in First Nation, NWT

I would also like to welcome the Umbrella Final Agreement Boards and Committees, Fish & Wildlife Management Board, Renewable Resource Councils, Yukon Heritage Resources Council, and all those that I haven't mentioned. Welcome.

Welcome also the members and representatives from Indian Affairs & Northern Development, and members and representatives from the Yukon Government.

It gives me great pleasure today to introduce to you members of the Yukon Land Use Planning Council:

Laurie Henderson, Yukon Govt rep
Lesley Cabott, Federal Govt rep
myself, Patrick James, the FN rep and Chair
Rose Fleet, currently at the registration desk
Joel Jacobs, FN Liaison
Ron Cruikshank, Planning Director

As well I would like to introduce the facilitators and resource personnel that will be working with the different break out-groups:

Facilitator: Ed Schultz	Resource Person: Roger Horner
Louise Profeit-LeBlanc	Mikolay Peter
Doug Urquhart	Fred Blanchard
Mark Hoppe	Heather Taylor
Christian Boisjoly	Joel Jacobs
Gerald Isaac	Bob Kuiper

These are some of the people that we'll be working with within the next two days.

I guess we're all sitting here wondering why we're here. What are some of these CHALLENGES that we face in '99? Some of the important things. But before we get into these CHALLENGES, I would just like to go over some of the brief history as to how things got to where they are today.

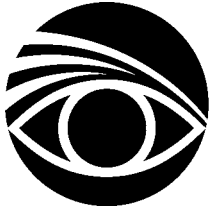
The history of Land Claims in the Yukon when we look at it, we have to pay tribute to some of the important people, some of the important Chiefs, and it just didn't start in 1973. It goes all the way back to 1902, to then Chief Jim Boss who started the first Land Claims petition to settle Land Claims in the Yukon. Since that time many, many people have contributed towards the settlement of Yukon Land Claims through the years. It's impossible to name all of those whose many hours of hard work led us to where we are today. If you look at the long history of negotiations we've lost many leaders and we've lost many elders. Some of our families have taken a terrible beating in the efforts of the Chiefs and negotiators being gone for months at a time negotiating in Ottawa, then back here and all those things. It has had its effects over the years.

We also have to acknowledge Elijah Smith, who in 1973, with a delegation of Chiefs, went to Ottawa to petition Pierre Elliot Trudeau who was the Prime Minister of the Government of Canada, with a document "*Together Today for Our Children Tomorrow*". That kicked off very, very intense negotiations for many years.

On May 29, 1993 at this very same building, outdoors at 1 p.m. we witnessed the signing of the Land Claims Agreement between four First Nations: Na-cho Nyak Dun, Vuntut Gwitchin First Nation, Teslin Tlingit Council, and Champagne & Aishihik First Nation. Those were the first four. Since then, in February 1995, the Land Claims Agreement became law, in legislation in Ottawa. Since that time, three more First Nations have signed off, which makes a total of seven. Making it seven in all, we're half way. We have seven more to go to complete Claims.

As those people, those negotiators, those First Nations and all those governments before us, who were persistent in their efforts to work towards a Land Claims Settlement in the Yukon, for all their effort that they put into it, today, as people, as UFA Boards, as leaders, First Nations, as government leaders, we have to continue to carry on this very persistent effort to try to resolve some of the important issues that face us today. As Land Use Planning Boards and Committees we must be even more persistent in beginning to implement some of these Claims Agreements. This is why we're here today. And the Governments of today, who have a very important role to play, they too should make every effort to support and commit to the process. Without them, it's almost impossible. Then, from here, we get to the purpose of these workshops to address the CHALLENGES associated with creating a Regional Land Use Planning Commission in the Yukon. We also have to understand the problems and the issues that come with creating those Planning Commissions, not only identifying the Commission members but the issues around appointing these memberships. Those are very important. We will find these important things out as we go through the workshop.

So it's only when we, as First Nation's people, Boards & Committees, governments look at these CHALLENGES of today in an objective fashion, this is when we begin the process of working together for our children tomorrow. I would like to thank you all once again for being here and taking the time out from your busy schedules to help us with some very important CHALLENGES. With that, I wish you a lot of success within the next couple days. Thank you.



YUKON LAND USE PLANNING COUNCIL

Lesley Cabott

Opening Welcome

Thank you Patrick, I too welcome you all here this morning and I look forward to meeting you and getting to know you over the next couple of days.

I am going to speak to you this morning about Land Use Planning.

Let me start by saying telling you who I am - I am a mother, a Yukoner and by profession, a Planner. It is for these reasons that I am very passionate about planning. As a mother, I want my son Jake to have a home in the Yukon that can provide him with a job, an economic future and I want a place for Jake that celebrates his heritage as a Yukoner and I want him to have special places he can go to just enjoy the Yukon and appreciate its beauty and magnificence. As a Yukoner, I want the same for myself. I want to be able to work here, live and enjoy the Yukon, and as a Planner I strongly believe that in order to protect our environment, and develop our territory in a way that is going to provide economic opportunities we need to do that through planning.

Firstly, I want to say thank you. Because of the First Nation people here today and because of the leaders before you, I, as a Yukoner, am able to participate in this exciting and challenging project of Regional Land Use Planning. Because of the important document "Together Today for our Children Tomorrow" a process has been established, not only established, it is legislated through the Final Agreements. "Together Today for our Children Tomorrow" was about the future.

Planning is about the future.

Its about taking pre-emptive and well conceptualised steps to create a better future.

Its about achieving desired environmental outcomes.

A friend and fellow Planner from Australia, recently spoke at a planning conference in Queensland, Australia and his presentation was called "Moving Planning out of the Rear View Mirror". That is what I want us to achieve during this next two days; moving forward, and looking forward, not looking behind.

The lands we live on share many values with many people. How do we best protect and celebrate those values attached to the land? We do that through planning. We must first and foremost identify those values and we have many tools to do that through scientific and traditional knowledge. We need to employ those tools together. We need to be producing plans in processes that are open, transparent, exciting and inclusive. We will no doubt be faced with tough decisions for land uses, such gas exploration, caribou calving grounds, mining, fisheries, protection of heritage sites and other special places. We need to make wise land use decisions, with good information.

What is planning? I already spoke about it being the future.

Planning, Regional Land Use Planning is a rational process which brings together governments, First Nations, Canada and Yukon, the public, and interested parties to develop policies to guide and manage future development and growth within our territory.

The activity of planning then includes both a process and at the end, a plan. Planning is preventive rather than remedial. It is a coordinated approach to land use. It allows us to make wise land use decisions before we have conflicts, uproars, crisis. Planning is proactive, and as such requires time for deliberation, analysis, design and development. It also requires time to include the involvement of many different and diverse interests. So those of you who have been in planning processes before know that it takes time.

Why do we do it? Firstly, it is legislated. In Canada we take planning seriously, planning is legislated in all provinces and territories, and it is legislated in the final agreements. But that's not why we do it. Why it is legislated in the agreements and why we feel it is important enough to be so is because we want to protect and improve our environment. We all need places to live work and play. The impact of those needs has an impact on our environment and the ability to cause conflict. Planning mitigates these needs while ensuring our environment is protected.

Slides

So who is the Land Use Planning Council and what do we do.

We are a creation under the Umbrella Final Agreement. WE get our mandate from Chapter 11. We are nominated by Council of Yukon First Nations, Canada and Yukon and then we are appointed by the Minister of Indian and Northern Affairs. We take our hats off and we are the Yukon Land Use Planning Council. It is important to note that we do not represent our nominating body; we are there working together for all Yukoners to implement Chapter 11.

The Financial Payments of the Implementation Plan of the UFA provides for \$7.4 million for Regional Land Use Planning. None of this has yet been spent. It also provides for \$4.4 million in constant dollars over a ten year period for the Yukon Land Use Planning Council. Since 1995 only \$1.3 million of these dollars have been spent.

Commissions, appointed by the three governments and the same applies you take your hats off, roll up your sleeves and do the planning. It is the Planning Commissions that do the Planning, not the Council. Commission members must have a good base of knowledge about the region.

Regions: 8 Regions identified here

Formed along Traditional Territories and the Peel River Watershed Region.

However there are a number of boundary issues that Ron will speak of later this morning.

And that you will be working on to provide some options for resolution.

Issues: These are just a few and are generic. It would be presumptuous of me to stand here and tell you what are the issues in your region. I will not do that, as part of the planning process the Commissions will identify the issues within their region.

Coordinated:

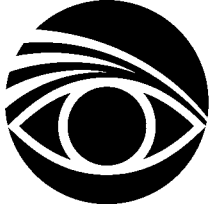
I spoke earlier of planning being a coordinated approach. And this is certainly of the more important aspects of planning. Right now in the Yukon we have a number of planning activities going on, this just lists a few. But as you can imagine or as many of you know, we are participating in Protected Areas over here, we have Forestry over here, we have resource councils making decisions over there, we have elders speaking to us through oral history projects over here.

We are all over the place and we are not necessarily sharing all that information. Right now we can't do that, we have no coordinated approach, we have the Protected Area Strategy happening over here, the forestry planning happening over here, mineral potential analysis happening there, First Nation's Oral History Projects happening there, nothing is coordinated. It becomes a mess to even attempt to weave yourself through all that, never mind missing something, But there is also an important component not even contemplated in this type of approach and that is what do we as Yukoners, community residents, users of the land, live off the land. What do we want to see happen what do we value most. So what we are being told by an elder is not going into the mix when we are making decisions regarding the mineral potential work that is going on.

We need to get coordinated, we need to share our knowledge and together through a public planning process make good decisions about our lands.

Well great, now we have a plan, how do we use it? Let me just give you one example. A developer comes to town, lets say it is a mining operation, a gold mining operation, goes to the local DAP office with his application. The local Development Assessment Officer can take that application and compare it against the plan. Look at the maps and realize that the area is a significant salmon spawning area, through the land use planning process the Commission has identified this as a no development zone. The mining company should go look somewhere else and here is our region's plan, that will let you know our vision for the future. That is what the developers want and need, some sense of direction and guidance. So the answer can be no, not an appropriate need some measures to mitigate. That is one example.

We can't plan and we can't articulate our future without Planning Commissions. That is where we need to focus right now, establishing Commissions, because it is the Commissions that do the planning. Ron Cruikshank and Joel Jacobs, our Planning Director and First Nation Liaison Officer will be speaking to you after the break about the challenges to establishing and I ask you over the next couple of days to dig deep and let us know how we can get these Commissions up and running so we have planning happening and plans to guide us.



YUKON LAND USE PLANNING COUNCIL

Challenges 99 Workshop

Day 1

Primer for Groups 1 & 2

Topic: Defining Planning Regions and Conditions for Planning

Material in Room: Land Use Planning Regions Map, Linguistic Regions Maps, Settled Land Claims Map

1. Introductions of Group

Facilitators; Ed Schultz/ Louise Profiet-La Blanc

Support Persons; Roger Horner / Mickolay Peter

2. Introductory Information;

Two key stages in establishing a commission are: 1.) the identification of general planning regions and 2) the selection of areas to begin planning after general regions are identified. This session asks the workshop participants to consider the general planning regions of the Yukon and the conditions which should exist in the region before planning commission are established and planning begins.

The work of delineating the planning boundary follows the selection of an area as a planning priority. The ultimate outcome being a planning region defined in the General Terms of Reference for the Regional Planning Commission.

UFA and YFN Final Agreement Provisions;

- *planning regions, to the extent practicable, shall conform to the boundaries of the traditional territories.*
- YLUPC makes recommendations on the identification of planning regions, priorities and the boundaries of planning regions.
- Canada agrees to provide up to \$7,428,000 for Regional Land Use Planning, which must ultimately be divided among the planning regions.
- to encourage the development of a common Yukon land use planning process outside community boundaries;

Neither UFA nor any of the YFN Final Agreements indicate how many planning regions there are to be. Therefore, there needs to be a general vision created regarding the planning regions for the Yukon. There also needs to be a process by which regions that are ready to begin planning are identified as priority areas.

Current Status:

In June of 1998 the YLUPC identified several planning regions believed to be ready to commence Regional Land Use Planning under Chapter 11. These regions were;

- Northern Tutchone Council Traditional Territories
- Vuntut Gwichin Traditional Territory
- Teslin Tlingit Council and Carcross/Tagish First Nation Traditional Territories

In July of 1998 the YLUPC made formal recommendations to establish Regional Land Use Planning Commissions in three of the regions identified. In October of 1998 the YLUPC identified **8 planning regions** that encompass the Yukon. In August 1999 the YLUPC made formal recommendations on a General Terms of Reference for the North Yukon Planning Region. To date the YLUPC has only received response and approval of the North Yukon Planning Region from three Affected Yukon First Nations. We are currently waiting response from the Yukon and Federal Governments.

3. Products/Recommendations to YLUPC from this session

- Flip chart comments about the general planning regions (in favor, against or concerns)
- Flip chart with a list of conditions the group thinks should exist before planning can begin.
- Flip chart with the groups thoughts on where in the Yukon where planning can begin.

Questions for Group 1 & 2, Day 1:

What do people think about the 8 planning regions that were identified by the YLUPC?

Do we need agreement upon all the regions before moving forward with establishment of commissions?

What conditions should exist in the region before a commission should be established? (i.e. do all land claims need to be settled?, has interest been expressed by a land claim signatory, is there pressing planning issues?)

FLIP CHART INFORMATION

General Planning Regions Pros – Cons

- follow watershed boundaries
- current boundaries limit ability for reg. planning to take place
- flexibility – (region or sub-region)
- boundaries not meeting test of planning objectives
- not enough detail of research on Whitehorse planning region

Conditions Before Planning

- Get agreement from overlapped FN's. for FN's. with agreements to plan for their entire TT
 - issues
 - info & analysis
 - options
 - draft plan
- Get agreement on all regions before establishing Regional Planning Commissions

Before Planning Can Begin

- where multiple sub-region planning process are to take place
- invite sub-regional planning where unsettled claims precludes planning the entire region (eg. Teslin)

8 Planning Regions - What do we think of them?

- North Yukon: TOR for Commission
- Peel River Drainage, Dempster Corridor
- N. Tutchone – dev. TOR

Overlap / Joint Use Areas

- Are funding sources going to be made available for joint commission?

Sub-regional

- regions make sense, especially in the north. In the south it gets blurred
- traditional eco-regions are similar

- Southern Tutchone in Whitehorse area to be included with Kluane FN, Champagne/Aishihik FN & Kwanlin Dun & Ta'an Kwachan FN.
- Ta'an Kwachan & Carmacks Agreement (?) Where is this at?
- YLUPC go to each Community to have Community Consultation & input driven by UFA but represents all Yukoners.
- Yukon driven process.
- Watson Lake needs to hear and inform the general public.
- settle of claims → presenting plan.

Do we need agreement of all regions prior to a commission being established?

- YES . Regions can still be defined.

Joint Commission for overlap areas

- Dispute Resolution to focus only on these areas could be established to deal only with these.

Demographic representatives

- If a planning process is in the works then it has protection for overlap regions.

Priority Planning Region

- Identify Trondek Hwech'in as a priority planning region

Interim protection

- Moratorium(?) LUPC could recommend.
- for FN's without settlement YLUPC to make priority to consult with FN's who do not have a settlement
- invite resource people from YLUPC to communities that don't have land claim yet.

Can a commission be set up before Land Claim is Settled ?

- Development next door (in NWT) could affect south east Yukon.
- Recommendation to focus on priority regions who are already to go with their commissions

What do we do about development taking place on Traditional Lands?

- First Nations have to be consulted before a permit is granted from DIAND
- Trapline areas – compensation.
- Develop a list of resource people who have a direct / indirect association with land management.

Commissions in settled areas

- Commissions don't necessarily have to be in areas settled.
- Priority for YLUPC to ensure education process takes place .
- This might prejudice your land claims process if this is done.

Purpose of LUP (?)

- Protect the land and water
- to provide places to live and work
- planning allows us to best plan development and where this should take place
- First Nations have the same mind about our land and how we can protect it
- Spell it out that Land Use Planning is for a good for people
- Land Freeze
 - Settlement Land / Crown Land has to be planned jointly.
 - Some land use planning is done at a municipal level. (not applicable)

Conditions

- Willingness
- Has to be a settlement
- Capacity to effectively participate on a commission
- Population / demographics need to be established. (this is only for membership)
- Nine membership 1/3 YFN, 1/3 Govts YTG & Feds, 1/3 %
- Unity – one mind
- Populations updated 1999? Community can research & determine this data
- Funding – interim for funding commissions
- Commissions have to realize the priority of overlap regions by explanation of why it is important

Summary of Break-out Groups

Defining Planning Regions and Conditions for Planning

1. What do people think about the 8 planning regions that were identified by the YLUPC?

There was general agreement with the broad planning regions as envisioned by the Council and this provides a starting point for further refinement of the boundaries. However, there is a need for flexibility as each region is established. An example is the Daak Ka region, where the Teslin claim is settled but the CTFN claim is not completed. The North Yukon is the most ready to proceed, followed by the Northern Tutchone, the Peel Region and then the Tr'ondek Hwech'in Region. Overlap issues need to be sorted out and agreed to as detailed boundaries are defined. Watersheds should be considered when defining planning region boundaries.

2. Do we need agreement upon all the regions before moving forward with establishment of commissions?

No, commissions can begin in regions where land claims are settled after the general regions have been settled upon.

3. What conditions should exist in the region before a commission should be established? (i.e. do all land claims need to be settled?, has interest been expressed by a land claim signatory, is there pressing planning issues?)

A number of conditions were identified:

1. All land claims in the area must be settled;
2. All parties must agree to a General Terms of Reference for the Commission;
3. All parties should have adequate capacity to participate in the process;
4. Given the capacity of YFNs, the YLUPC and federal and Yukon governments, it may be possible to only support 1 - 3 planning processes at any one time;
5. There must be unity in the planning region with respect to initiating Land Use Planning if more than one YFN is involved;
6. Conditions seem to exist in the Tr'ondek Hwech'in region for planning to begin. funding must be available for planning commissions.

DAY 1

Primer for Groups 3 & 4

Topic: Planning in Overlap Areas with Settled Claims

1. Introductions of Group

Facilitators: Doug Urquhart (Group 3) / Mark Hoppe (Group 4)

Support People: Fred Blanchard (Group 3) / Heather Taylor (Group 4)

Material in Room: UFA , YFN Final Agreements and Imp. plans, General Planning Regions Map, Traditional Territories, and Settle Land Claims Map.

2. Introduction Information;

The process of establishing specific planning region boundaries begins with the identification of general planning regions. This is followed by discussions between Governments and the Affected Yukon First Nation(s) to assess the feasibility of the possible establishment of a Regional Land Use Planning Commission. If successful at agreeing on the general region, the parties begin further discussion on the detailed delineation of regional land use planning boundaries which will form a part of a General Terms of Reference for the Planning Region. In areas where the traditional territories of YFNs overlap, agreements must be reached as to how planning is to be done and the composition of the planning commissions.

This session examines options for planning in areas where two or more YFNs traditional territories overlap and all land claim agreements are settled. Four options are presented and the workshop participants are asked to consider the pros and cons of each option and when each options might be most appropriate (see diagrams on walls).

1. Continuous boundary development: a line through the overlap area is developed separating the planning areas.
2. Joint Planning for the Overlap Areas: members of the commissions from both sides of the overlap plan the area together;
3. United Planning for the Overlap Areas: a single commission is established for the traditional territories of the First Nations involved in the overlap.
4. "Postponed planning": the area is not planned until both parties are ready to consider one of the planning boundary options.

The group must keep in mind that the YLUPC does not have the mandate to deal with overlap resolution for the entire claim, only those relating to planning boundaries.

UFA and YFN Final Agreement Provisions;

- planning regions, to the extent practicable, shall conform to the boundaries of the traditional territories.
- YLUPC makes recommendations to Governments and Affected YFNs on planning regions and planning boundaries.

- Canada agrees to provide up to \$7,428,000 for regional Land Use Planning, which must ultimately be divided among the planning regions.
- affected YFNs shall agree on the nominees for the first one third make-up of the commission.

Current Status;

- in August of 1999 a General Terms of Reference has be formally recommended by the YLUPC to the Governments and Affected YFNs.
- the boundaries for the planning region have been dealt with in different manners between the affected YFNs. One Affected YFN simply agrees to the boundaries as set in the GTOR. Another agrees to leave the overlap out of the planning region until a contiguous boundary is established between the two YFNs.
- there is currently no response from either YTG or Federal Governments to date on the planning boundaries proposed for the North Yukon.

Product Recommendations to YLUPC

- Flip chart: pros and cons about each of the potential options presented in the comments about the general planning regions (in favor, against or concerns)
- Flip chart with list of circumstances where the options might work best.

Questions for Group 3, 4 Day 1:

What are the “pros and cons” about each of the options for planning in joint use areas?

What are the circumstances where each option might work best?

FLIP CHART INFORMATION

Joint Planning

Pros

- no desire to plan Traditional Territories together.
- shared interest in overlap area

Cons

- too many in the group in the models
- not cost effective or efficient
- could cause delayed planning
- could be too much Govt. rep unless appointed from YFN

When will this work?

- YFNs could individual plan for their own overlap & then collaborate with overlapping YFN

United Planning

Pros

- proven NND, SFN, LSC Tribal Council
- cost effective
- consistent with traditional planning, agrees with elders wishes

Cons

- political boarders
- YFNs may have too many difference

When will this work?

- existence of Tribal Council
- Govts should respect agreements reached between YFNs.

Delayed Planning

Pros

- wouldn't hold back planning the rest of a YFN territory if overlap area is delayed
- accommodate YFN's with no settled claim
-

Cons

- not cost effective
- voids: unplanned areas for a significant time
- continued ad hoc decision making
- DIAND Blue Book

When will this work?

- One YFN isn't settled
- One YFN isn't ready to plan.

Continuous Boundary

Pros

- withholds funding until boundaries are established

Cons

- not a traditional means of planning
- many FN people come from areas that cross political boundaries
- boarders are government created not YFN.

When will this work?

- provides clarity; ease
- eg. socio-economic benefits

Suggestion: YFNs informally sit down with Government to discuss overlap issues; this has been done successfully already.

Summary of Break-out Groups

Planning in Overlap Areas with Settled Claims

1. What are the “pros and cons” about each of the options for planning in joint use areas?
2. What are the circumstances where each option might work best?

Continuous Boundary:

Pros

- This option provides the greatest clarity of all the options
- Will work best when parties can come to agreement on a continuous boundary

Cons

- does not provide as clear recognition of the “joint use”

Joint Planning:

Pros

- This option allows for shared interest and participation in planning

Cons

- This may result in duplication of effort and too many people involved in planning
- Will work best when the overlap regions want to collaborate on planning together
could be costly because in an indirect way, another commission is established

United Planning:

Pros

- This option results in the commission dealing with the internal overlaps which exist in the united region.
- This is cost effective means of planning large areas, as only one commission is created.

Best Suited when:

- This option is most suited to adjacent FNs that are part of the same Tribal Council and who want to be part of the same planning region

Postponed planning:

Pros

- This option allows some FNs to move ahead with planning and not be held back by overlapping FNs that do not want to proceed or are unable to proceed.

Cons

- This option can be costly and may result in some areas remaining unplanned.

Best Suited when:

Will work best when one FN is ready to proceed with planning but the overlapping FN is not able or ready to proceed.

DAY 1

Primer for Groups 5 & 6

Topic: Implications of Unsettled Land Claim Agreements on the Establishment of Regional Planning Commissions

Material in Room: UFA, FN Final Agreements, Imp. Plans General Planning Regions Map, Traditional Territories, and Settle Land Claims Map.

1. Introductions of Group

Facilitators; Christiane Boisjoly/Gerald Isaac

Resource People; Joel Jacobs/Bob Kuiper

2. Introductory Information;

The process of establishing specific planning region boundaries, begins with the identification of general planning regions. This is followed by discussions between Governments and the Affected Yukon First Nation(s) to assess the feasibility of the possible establishment of a Regional Land Use Planning Commission. If successful at agreeing on the general planning region, the parties begin further discussion on the detailed delineation of regional land use planning boundaries, which will form a part of a General Terms of Reference for the Planning Region.

The impact upon this process of unsettled land claims are primarily two:

- 1) land use planning in areas where any land claim agreement is unsettled may influence current land claim negotiations;
- 2) several of the planning regions currently envisioned for the Yukon have only a portion of the area settled and therefore planning the entire area is not possible at this time. It is not clear whether planning can begin in the portion of the regions that is settled.

UFA and YFN Final Agreement Provisions;

- planning regions, to the extent practicable, shall conform to the boundaries of the traditional territories.
- YLUPC makes recommendations to Governments and Affected YFNs on planning regions and planning boundaries.
- Canada agrees to provide up to \$7,428,000 for regional Land Use Planning, which must ultimately be divided among the planning regions.
- affected YFNs shall agree on the nominees for the first one third make-up of the commission.

Current Status;

- YFNs without Final Agreements are currently involved in overlap discussions with YFNs that have Final Land Claim Agreements.
- The Daak Ka Tlingit planning region currently includes a YFN's Traditional Territory which do not have a Final Land Claim Settlement, as well the region is completely surrounded with unsettled claims.
- Yukon Government is unwilling to agree to the establishment of a Regional Land Use Planning Commission until Carcross/Tagish First Nation has a Final Land Claim Settlement.
- Northern Tutchone Planning Region is surrounded by 4 unsettled and 2 settled Land Claims.

Product Recommendations to YLUPC

- Flip chart: list of thoughts and opinions regarding beginning planning overlapping traditional territories where there is at least one unsettled claim.
- Flip chart with a list of thoughts and ideas about how planning can begin in regions where some but not all claims are settled.

Questions for Group 5 and 6, Day 1

Can planning begin in overlapping traditional territories where there is at least one unsettled claim?

How can planning begin in regions where some but not all land claim agreements are settled?

FLIP CHART INFORMATION

Planning can begin in regions where some but not all Land Claims Agreements are settled.

- There is already planning
- Focus on what we can do
- Address core issues
- Prevent chaos
- Proceed with caution: limited resources
impacts on surrounding areas
- ensure that land is protected (re: BYG / spill near Yukon River)

Planning can not begin in overlapping Trad. Territories where there is at least one unsettled claim.

- Ownership is a new concept for FN

- Ownership = conflict on use of resources
- Like thin ice – creates conflict
- No legal basis for an unsettled FN
- Lack of resources for the unsettled FN
- Not so much ownership as shared use & respect.
- Guidelines – flexible enough to meet/address specific needs

Additional Issues

- If there are many unsettled areas – hold it
- Primary Use / Joint Use instead of overlap
- Only touched surface today
- How to resolve dispute between settled & unsettled FN
- Tie the ongoing use of land in the plan
- Letter of understanding – FN to resolve road blocks in their Land Claims negotiation.

FIG 1 - Depicted map of settled and unsettled traditional territories, showing overlap with each other.

Yes to planning in area with settled claim.

No to planning in unsettled area.

No to planning in overlap area of settled and unsettled area.

FIG 2 Depicts proposed region which includes both traditional territories of settled and unsettled FNs. Text indicates that LUP can start in the settled traditional territory and wait until the unsettled traditional territory is settled.

Can planning begin in overlaps where there is at least one unsettled claim?

- no planning in the overlap area until all claims are settled for the overlap.
- in overlap areas that are settled, no planning until affected First Nations agree on overlap interests & General Terms of Reference for the Commissions.
- all parties (Yukon, Canada, affected FNs) would need to agree to GTOR.

How can planning begin in regions where some but not all Land Claims Agreements are settled?

- Begin planning land base where claims are settled. Do not plan in unsettled areas.
- As additional YFNs settle, have flexibility to adjust regional boundaries to accommodate respective interests.
- Has implications on 10 year timeframe for YLUPC funding / mandate.
- May not be possible to complete all land use plans within this timeframe.

Summary of Break-out Groups

Group 5, 6 Day 1: The Implications of Unsettled Land Claim Agreements on the Establishment of Regional Planning Commissions

1. Can planning begin in overlapping traditional territories where there is at least one unsettled claim?

While these two groups both agreed that planning in overlap areas should take place only when all land claims are settled for that overlap, there was concern expressed about the “plans” that are being made for these areas outside of the planning process. However, people in both groups felt that planning should not occur in areas with unsettled claims. As an alternative, the key issues might be identified and address through avenues other than land use planning. This is because attempting to plan in overlap areas with unsettled claims could create conflict between two or more FNs and between FNs and government. The lack of at least one unsigned FN claim means that there is no legal basis for one of the FN being directly involved (i.e. commission membership) in the planning Commission. The only available funding source for the planning would be the claims that are settled and therefore the FNs with unsettled claims would not have a claim related funding source.

2. How can planning begin in regions where some but not all land claim agreements are settled?

Given that both groups thought that planning could not begin in places where there were unsettled claims (see answer to Q 1), this question cannot easily be answered as stated. However the groups felt that planning can begin in that part of the region where all claims are settled and that commissions will need to consider the inter relationships between the planning region and its adjacent areas, even if the adjacent areas are unsettled. The General Regional Boundaries developed by the Council may have to be adjusted because of unsettled areas within these boundaries.

A Letter of Understanding could be developed between the First Nations to allow planning to begin in unsettled areas but this would have to be approved by all parties (YFNs, Canada, YTG).

Day 2

Primer for Groups 1 & 2

Topic: Regional Populations and Commission Membership

Facilitator: Ed Sholtz, Louise Profeit-LeBlanc

Support Person: Roger Horner, Mickolay Peter

Material: Demographics Chart

Introduction Information

The claim makes it clear that the YFN nominates 1/3 of the commission members and Government nominates 1/3 of the members. It is the nomination of the remaining 1/3 of the commission members that has the potential to cause problems.

The claim states that the selection of nominating party is to be based upon how many Yukon First Nations live in the planning region relative to how many non-first nations live in the region. There are two agreements that are required: 1. on a region's population and composition and 2. how the ratio effects the selection of the nominating party.

UFA and YFN Final Agreement Provisions

As set out in clause 11.4.2.2 of the specific provisions of each Yukon First Nation's Final Agreement, Governments and Yukon First Nation(s) shall agree on who may nominate each of the last one third makeup of the Regional Land Use Planning Commission based on the demographic ratio of Yukon Indian people to the total population in the planning region.

11.2.2 This chapter shall not apply to:

11.2.2.3 land within a Community Boundary

Current Events Status;

The YLUPC has developed an Options Paper that may assist in determining how the parties may agree on the number of nominees that each may nominate (see workshop binder, tab 8).

Products and recommendation to the YLUPC:

- Flip chart with an answer to the question about community population being included in the calculations related to regional populations.
- Flip chart with list of sources of information about a region's population and pros and cons of each source;
- Flip chart with a list of opinions expressed about the impact the ratio has on nominating agencies?

Questions for Groups 1 and 2 Day 2:

1. With the regional planning commission not planning inside of the communities, are the communities population to be considered when determining the group that is to nominate a 1/3 of the planning commission members?

2. What sources of information should be used to determine the population and composition of the planning region? What are the pros and cons of each source of information suggested by the group?

3. Once the numbers of Yukon First Nations and Non-Yukon First Nations are determined and agreed upon, how are the nominees agreed upon?

FLIP CHART INFORMATION

Commission Representation

#1 Yes - qualified
- flexible
- allow ASWG to recommend the 1/3

#2 Voters List

- Stats Canada Census by electoral re.
- Health care records
- develop a residence list
- income tax returns
- FN beneficiary list
- DIA status list
- property tax assessments

Any combination agreed upon by the parties which realistic reflects the actual pop. stats.

3 ASWG

- recommend to parties “agree nominees”
- need selection criteria
- ie. relevant experience
- residency
- demographic ratio
- interests

Community Population to be considered

- playground, bread basket, backyard, grocery store.
- this is the land which is used, not occupied.
- community is your best source of info.

Census

Pros

- available free

-

Cons

- outdated info biased
- assumes people are sedentary or work out side of home
- seasonal workers
- only recognizes status & non-status & not enrollment #

Health Care Stats

Pros

- available free
- more up to date
- specific to individual

-

Cons

- sensitive to confidentiality
- update of addresses
- only need three month residency

Electoral Lists

Pros

- available free
- updated every 4 years (election time)

-

Cons

- doesn't include children

Enrollment List form CYFN

- complete list of beneficiaries (cont'd updated)
- not accurate in terms of residency (postal)

Smaller communities could do a head count

Pro

- FN council – membership list

Con

Question – Do all enrollments count or only those who live there?

Population has to be in the planning region.

Group of 9

- Quorum 6 with alternates
- Appointed positions by Chief & Council (CYFN Reps)
- YTG Gov't / Feds. – appoint their reps.
- Final third is appointed jointly in accordance with the population formula.
-

Recommendation to the process

The last third should be representative of (at large) the community might not have a voice (?) (if this the case)

Chairperson (?)

Is this an appointed (*consensus*) or an elected position (*secret ballot*)

Appointed or elected by the commission (Board) with certain qualifications (i.e. - L.C. Knowledge, Bush-wise, Cross / cultural experience, *dedication)

Recording Secretary

Duration of term on Commission ?

- 3 year with rotation of appointees with a renewal option.
- (with a commitment for at least these 3 years)
- Yukon residency with (a mind) long term residency

Summary of Break-out Groups

Group 1, 2 Day 2: Regional Populations and Commission Membership

- 1. With the regional planning commission not planning inside of the communities, are the communities population to be considered when determining the group that is to nominate a 1/3 of the planning commission members?**

Community populations are important when considering the agency that nominates the 1/3 members of the planning commission and in most cases it makes sense to include the community populations.

Each claim should be examined for clauses relating to the populations to be considered in the demographic calculation because some claims (e.g. Tr'ondek Hwech'in) have special clauses with respect to this. Some legal interpretations of the land claim agreements imply that community populations should not be included.

- 2. What sources of information should be used to determine the population and composition of the planning region? What are the pros and cons of each source of information suggested by the group?**

Potential sources of information included: voters lists, census data, health care statistics, residents lists, Revenue Canada records, First Nation beneficiary lists, Department of Indian Affairs status lists, and property tax records. The census data is free but outdated, misses seasonal and non-stationary people but other sources other than census data are not designed specifically for counting total regional population and, therefore all have limitations.

- 3. Once the numbers of Yukon First Nations and Non-Yukon First Nations are determined and agreed upon, how are the nominees agreed upon?**

The Area Specific Working Group for the region should make recommendations to the parties regarding who nominates members of the Commission. Many of the land claim agreements specify how the nominees are agreed upon.

Day 2

Primer for Groups 3 & 4

Topic: The Identification of Planning Issues in the Planning Process

Facilitator: Doug Urquhart, Mark Hoppe

Resource: Fred Blanchard, Heather Taylor

Material: Planning Process Chart

Introductory Information;

The General Terms of Reference outlines the general planning process for the commission. This process includes the identifications of regional issues, the collection of information about the region, the development of options for the plan and production of the draft plan and the production of a final plan and associated approval process. The claim does not say anything about whether the General Terms of Reference should include an outline of the planning issues facing the region. There has been much debate as to whether it is worth the time and effort to identify Planning Issues in the General Terms of Reference for the commission when the claims call for the Commission to provide detailed instructions necessary for identifying regional land use planning issues.

UFA and YFN Final Agreement Provisions;

11.1.1 The objectives of this chapter are as follows:

- 11.1.1.1 to encourage the development of a common Yukon Land Use Planning process;
- 11.4.5 In developing a regional land use plan, a Regional Land Use Planning Commission:
- 11.4.5.2 may provide precise terms of reference and detailed instructions necessary for identifying regional land use planning issues, for conducting data collection, for performing analyses, for this production of maps and other materials, and for preparing the draft and final land use plan documents;

Current Events Status;

The North Yukon Terms of Reference do not have a list of planning issues but rather has a list of land uses to be examined for issues by the commission. In addition the North Yukon Terms of Reference identifies the agencies to be consulted throughout the planning process. It is not clear at this point if this approach will be duplicated in the terms of reference for planning commissions elsewhere in the Yukon.

Products/Recommendations to YLUPC

- Flip chart list the pros and cons for having the General Terms of Reference for a planning commission include issues;
- Flip chart of opinions expressed regarding the need to have a similar process apply across the Yukon.

Question for Groups 3, 4, Day 2

What are the “pros and cons” of having the General Terms of Reference include statements about regional planning issues?

How similar should the General Terms of References and associated planning process be for Planning Commissions across the Yukon? Can some General Terms of Reference contain a list of issues while other do not?

FLIP CHART INFORMATION

General Terms of Reference

- no requirement
- freedom to set own
- broad function
- consult other commissions
- revisions to improve
- unified – one window, LUP – DAP
- open clauses “Elijah” work together
- North Yukon / Northern Tutchone

Pros

- certainty to Governments
- better communication
- better sense of timing
- increase public interest
- ensure broad categories covered
- suggest overlooked categories

Cons

- issues too geographical in nature – create regional differences
 - “priorities will arise (div)
 - too time consuming
 - not responsibility of ASWG
 - create partisan commission members
 - people need to express issues in their own way
 - use “issues” to delay LUP
-

Day 2

Group 4

GTOR Pros on Issues

- gives Gov't greater certainty on what the Commission will do (may help until trust in the process is developed).
- general overall issues common to all YFN's is useful (eg. overlap areas, settlement, non-settlement lands)
- many issues are already identified & agreed upon through other processes eg. YPAS
- include issues in a general sense (will give food for thought for all parties, but the door remains open to add issues or expand on existing issues; can be done in phases.
- could help the public understand LUP & create support
- "G"
- can increase the credibility of LUP; don't rush the process, keep it meaningful

GTOR Cons on Issues

- could contain the scope of the Commission
- a communications policy c/w an independent issues facilitator to ensure follow-up of all issues.
- delay in process is very sensitive to many and may quickly erode public confidence in the LUP process
- danger of over consulting to the public on the same issues

GTOR Similarity

- flexible enough to accommodate differences
- standard enough to provide certainty in the process
- the principle of early issues identification should be consistent before planning begins; the process (mechanism) for doing this need not be the same from region to region.
- a region could proceed with establishment of a commission with out issues if their process stated that issue identification is done first.

Summary of Break-out Groups

Group 3, 4 Day 2: The Identification of Planning Issues in the Planning Process

1. What are the “pros and cons” of having the General Terms of Reference include statements about regional planning issues?

These groups found strong arguments on both sides of the “issues issue”. A list of pros and cons was developed:

Pros:

Provides greater certainty for governments re: the scope of the plan

- May build public awareness and interest in the plan
- Can provide food for thought for all parties
- Can increase the credibility of the land use plans
- Can help identify realistic budgets and timing for the planning process

Cons:

- May constrain the work of the Commission
- Could delay and complicate the process for establishing the Commission
- May cause divisions within the parties
- May cause Commission appointments to be too issue based and partisan
- May lead to over consulting: i.e. consultation at the GTOR development stage and again by the Commission during the production of the land use plan.

2. How similar should the General Terms of References and associated planning process be for Planning Commissions across the Yukon? Can some General Terms of Reference contain a list of issues while other do not?

Not all of the GTORs need to be identical and each planning region will have to create its own, regionally appropriate, GTOR. However, all the GTORs should provide a broad consistent foundation for planning and not be completely different in the manner in which topics are dealt with. The GTORs need to be flexible enough to adapt to region specific issues and to be able to change and improve as time goes on (GTOR should be amendable). Issues, if included, should be of a broad general nature only to identify key topics. They should not limit or constrain the Commissions.

Day 2

Primer for Groups 5 & 6

Topic: Response Protocol and Agreements

Facilitator: Christian Boisjoly (Group 5), Gerald Isaac (Group 6)

Resource Person: Joel Jacobs, (Group 5), Bop Kuiper (Group 6)

Material Available in Room: Response Protocol Chart, Land Use Planning Chart

1. Introduction Information

The Yukon Land Use Planning Council makes recommendations regarding land use planning to YFNs and Governments. The claims do not contain any provisions requiring YFNs or Government to respond to the recommendations the Council makes. The responses to Council's Recommendations have been "spotty" (sometimes we get something, sometimes we don't). The importance of responding to a recommendation is crucial if the Council is to address the concerns of YFNs or Governments and to move forward to other recommendations. The Council has proposed a "response protocol" based on the one in Chapter 16 (16.8.0) but is having difficulty getting a response to the response protocol. It is at this session that the Council hopes to gage support for the response protocol.

The second challenge relates to the need for "post land claim agreement agreements". Many of the clauses in the land claims ask for agreement to be reached between YFNs and Government but the claims do not say anything about the nature of these agreements. This break-out group should look at the planning process and identify where and what type of agreements are likely to be needed in the future.

UFA and YFN Final Agreement Provisions;

11.3.3 The Yukon Land Use Planning Council shall make recommendations to Government and each affected Yukon First Nation on the following:

- 11.3.3.1 land use planning, including policies, goals and priorities, in the Yukon;
 - 11.3.3.2 the identification of planning regions and priorities for the preparation of regional land use plans;
 - 11.3.3.3 the general terms of reference, including timeframes, for each Regional Land Use Planning Commission;
 - 11.3.3.4 the boundary of each planning region; and
 - 11.3.3.5 such other matters as Government and each affected Yukon First Nation may agree.
- 11.4.1 Government and any affected Yukon First Nation may agree to establish a Regional Land Use Planning Commission to develop a regional land use plan.

Current Events Status

Vuntut Gwitchin have sent a letter saying the timelines are too long in the response protocol. YTG and Federal government have not yet responded but taken longer to respond than the response protocol calls for...

The first major agreement to arise from this chapter is the creation of the North Yukon Commission but no formal agreement is yet made. Agreements between YFN regarding overlap are ongoing, some of which have planning boundary implications (NND-Tr'ondek, Selkirk- Tr'ondek Hwech'in).

2. Product Recommendations to YLUPC:

- Flip Chart with Reactions to Response Protocol questions.
- Flip Chart with a List of potential agreements that will be necessary in the process of establishing a Commission.

Questions for Groups 5, 6, Day 2

What do people think about the timelines and stages of the response protocol? Is it likely that it will be accepted and followed? How else can the YLUPC encourage response?

Where in the process of having a commission established is agreement between the signatories to the land claim agreements required?

FLIP CHART INFORMATION

Response Protocol

Comments

- Lots of mail to respond to in a small office, limited human resources (HR) in 60 days too short, FN Communities
Potential Solution: get someone in Community who is responsible for this.
relates to funding issue
- YTG, if Gov't wants Council to go ahead, Government needs to provide support
- Cabinet – slows down process. YTG is completely resourced to respond within suggested timeline
- Fed. Gov't, need to feel confident / safe Blue Book. Not Ready to respond within these timelines. Accountability issue. Lack of internal organization. Not likely to buy-in. Highly resistant. Need a person identified as the one to represent Fed. Gov't

- Council needs to make decisions, put responsibility publicly in newspaper to Gov (YTG & FED) to respond.
- Provide Update to public
- can we make them to respond ?
- If no response – extension
 - (use their own weapon) – no response = agree – legal issue?
- Council wants to avoid creating conflict between parties
- Agreement = may vs shall in UFA
- Things will happen once commissions are in place
- provide rationale for decisions & positions (from those advising Ministers)
- D.R. process creates resistance from Gov't
- need to define affected FN – include all those who are affected
- Too short time period ie. 1 ½ hr to discuss this
- Council should have mandate to establish Commissions
- Power issues 11.2.1.8 bring to public – shall – Commission /may not be Council
- Give more power to Council

Agreements Required

- At this point everything the Council does requires agreement
- Agreement on final decision only
- Do we need formal agreement on Region before we establish a Commission?
- Just a letter from each party = Don't need a formal agreement co-signed
- 11.4.2 provision is there so no formal agree needed
- needed for : boundaries
 - Terms of Reference
- witnessing break up of agreement UFA – avoidance
- do we need further negotiation on 11.4.2 ?
- we do not have someone in the room today from R&R to explain why slow response
- need to look deeper: what is the intent? UFA was signed
- all parties want this to happen
- whats in the way?
- how to overcome the blocks
- need leadership from Council to promote response
- Gov need to work together
- all in the canoe must paddle
- positive attitude

Response Protocol

- Governments should respond to Council's recommendations within reasonable length of time.
- lack of response bogs down the process & costs a lot of public \$.
- role of both Gov't staff & politicians is important / need clear communications linkage.
- needs to be political will
- Principals (Can / YG / affected FNs / CYFN & YLUPC) need to sit down and agree

- process for responses with timeframe is important
- Proposed timelines by Council are a reasonable starting point. May need some flexibility.
- Accountability and respect are key

Agreements Required

1.) Final Agreement

2.) Progress Reports / Information

Active Communications

- on regions / priorities / proposals
- to parties involved / staff & politicians
- how to communicate / depends on nature of info
 - all three levels of gov't need to be involved
- don't want surprises
- easy to understand / use pictures

3.) General Terms of Reference

- sign off by all parties
- have to know what you're getting into
- how the commission is going to operate

Summary of Break-out Groups

Group 5, 6, Day 2: Response Protocol and Agreements

1. What do people think about the timelines and stages of the response protocol? Is it likely that it will be accepted and followed? How else can the YLUPC encourage response?

Governments should respond to Council recommendations in a respectful, timely and accountable way. *Lack of response bogs down the process and costs a lot of public money.* However, there was no agreement on the process or timing outlined in the protocol. The length of time needed, and the type of response required, varies depending on the nature of the recommendation. Therefore, parties should be flexible in the timelines set for response. “Political buy in” by the parties before the recommendation is made will help speed the responds to Council recommendations. The YLUPC, the affected YFNs, Canada, YTG, and CYFN need to get together at the senior level to discuss this topic. The First Nations often have small offices limited Human Resources and YLUPC should identify a person in key organizations and communities that “champions” implementing Chapter 11.

2. Where in the process of having a commission established is agreement between the signatories to the land claim agreements required?

The first agreement is that of the Land Claims of all the affect Yukon First Nations; No formal agreements are required to proceed with the work of the Area Specific Working Group. The Council should keep all parties informed of the progress being made during this process through regular communications and updates. The Council should keep the public informed of the progress being made in working towards the establishment of a Commission. All parties need to formally agree to a General Terms of Reference for a Commission before it can be established and this is the only formal agreement required before Commission establishment. This can be done through a sign off of the GTOR or through an exchange of letters.



YUKON LAND USE PLANNING COUNCIL

CHALLENGES '99 List of Participants

Alsek Renewable Resources Council	Boyd Campbell
Carcross/Tagish First Nations	Bill Barrett Jr.
Champagne & Aishihik First Nation	Gordon Allison
Kluane First Nation	Kathleen Johnson Miranda Bill Geraldine Pope
Liard First Nation	Laurie Allen Elder Ann Szabo
Little Salmon/Carmacks First Nation	Chris Noble Joe Bellmore
FN of Na-cho Nyak Dun	Mikolay Peter Frank Patterson
North Yukon Renewable Resources Council	Rosa Brown Vicky Josie
Northern Tutchone Council	Fred Blanchard
Ross River Dena Council	John Ladue Cliff McLeod
Selkirk First Nation	Darin Issac Don Trudeau Teddy Charlie
Teslin Renewable Resource Council	Denny Denison Sharron Chatterton
Teslin Tlingit Council	Juanita Sydney Jason Jackson
Tetlit Gwich'in	Robert Alexie Sr. P.J. Kaye Deena Clayton Charlie Snowshoe
Tr'ondek Hwech'in Han Nation	Ronald Johnson Jason van Fleet Isaac Juneby
Vuntut Gwitchin First Nation	Esau Schafer Darius Kassi

Vuntut Gwitchin First Nation (continued)	Hugh Monaghan Heather Taylor
White River First Nation	Richard J. Peter Sr. Glenn Stephen
Federal Government	Roger Horner Ian Church Al von Finster Mike Draper Karen Pelletier Carl Burgess
Yukon Government	Mal Malloch Bob Kuiper Ron Sumanik Ella LeGresley Bruce Chambers Cathryn Paish Ann MacDonald
Yukon Heritage Resources Board	John Ferbey Gary White
Yukon Fish & Wildlife Management Board	Art Johns Joe Johnson Yvonne LePage Mike Vance
Facilitators:	Doug Urquhart Louise Profeit-LeBlanc Mark Hoppe Christiane Boisjoly Gerald Isaac Ed Schultz
Yukon Land Use Planning Council	Patrick James Lesley Cabott Laurie Henderson Ron Cruikshank Joel Jacobs Sheryl Grieve Rose Fleet