



# What We Heard New Public Lands Legislation

April 2025



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# Executive summary

We are developing new public lands legislation. The laws that we currently use to manage public land were set in place a long time ago. Our vision is to create a modernized regime that upholds Aboriginal and Treaty rights, ensures collaboration with Indigenous governments, balances the multitude of interests on public land, and provides a clear and efficient framework for authorizing land use activities while promoting the ecological health and sustainability of the land.

A Steering Committee is leading the development of the new legislation. Members of the Steering Committee include the Government of Yukon, Yukon First Nations, transboundary Indigenous governments and the Council of Yukon First Nations. In 2023, the Steering Committee identified key policy issues and developed potential approaches to address these issues. Feedback received from initial work towards new lands legislation including public engagement and consultation that occurred in March 2022 informed the identification of policy issues and development of potential approaches.

From May 7 to August 12, 2024, we asked the public to give us feedback on the proposed approaches. During this same time the Government of Yukon also invited First Nations to provide formal consultation input on the potential approaches for new legislation.

This report represents what we heard from the public, First Nations, and stakeholders during public engagement and First Nation consultation. The feedback included in this report is paraphrased directly from written survey and comment submissions. The examples provided here are meant to show the wide variety of input received on each topic.

## Background and supporting materials

We recommend that you read this report alongside the [New public lands legislation discussion document](#). The Discussion Document explains how the new public lands legislation is being developed, defines key terms, and describes key policy issues and options that may address those issues. The Discussion Document also includes the questions we asked in the public survey during the engagement for new public lands legislation.

The Successor Resource Legislation Working Group Terms of Reference was signed in 2020. The Terms of Reference required that a working group be established to develop new public lands legislation. Following the approval of this terms of reference, work was initiated with First Nations and the Council of Yukon First Nations to determine what opportunities there were to improve policies in the Yukon public lands legislation. The Government of Yukon led an initial consultation and engagement period in March of 2022 to understand how we can better manage land use and activity in the Yukon. This is summarized in the January 2023 Yukon Public Lands Act What We Heard Report.

The information obtained in these initial stages of the legislative development process was then brought to the Steering Committee for New Lands Legislation when it was formally established in November 2022. At First Nation's request, the Steering Committee for New Lands Legislation was modeled on the previously established Steering Committee for New Minerals Legislation. While this pause and recalibration of the process created some delays, it ultimately provided a way to effectively collaborate while keeping and using all the work and information from the earlier work to develop new public lands legislation.

## Engagement process

Public engagement for the new public lands legislation opened on May 7, 2024, and closed on August 12, 2024. During this period, we invited members of the public and stakeholder groups to give input on policy options for the development of new public lands legislation. These options were described in the New Public Lands Legislation Discussion Document. An online survey accompanied this Discussion Document and asked open and targeted questions to gather feedback from the public. Input from previous public lands legislation engagement conducted in March 2022 was considered in the development of the policy options and the vision for new legislation but is not included in this report.

In addition to the online survey, we hosted open-house meetings throughout the territory. In total, we held 11 public meetings in communities across the territory. We invited approximately 50 stakeholder groups to provide input into the development of new public lands legislation and we met individually with many of them during the public engagement period.

During this time, we also invited all Yukon First Nations and transboundary Indigenous Governments to provide consultation input on the development of new public lands legislation. This is in addition to the work that is already being done with First Nations



and transboundary Indigenous Governments at the new public lands legislation Steering Committee table.



# What We Heard

We received written responses from twelve stakeholder groups including industry associations, non-governmental organizations, municipal governments, renewable resource councils, environmental assessment boards and chambers of commerce.

We also received written responses from some Yukon First Nations which have been included in with the public responses.

We received 105 responses to the engagement survey, and approximately sixteen separate email submissions from Yukoners.

There was a wide range of feedback to almost every survey question. People supported, opposed or suggested modifications to the considered approaches for new public lands legislation. This report tries to accurately reflect the full range of views provided during the public engagement period, instead of identifying preferences for policy options.

The report is separated into two sections, responses received during public engagement and First Nation consultation and responses received during direct stakeholder engagement. Within these sections, we grouped the responses by key policy issue. Where practical, we included a short summary of the type of input we received for each key policy issue, followed by paraphrased examples. While input has been paraphrased for clarity, every effort has been made to accurately represent the original commentor's input. We included as many different perspectives as possible in this report.

## Public and First Nation responses

This section describes the responses received during both public engagement and First Nation consultation. These responses were provided through the public survey, written comment submissions from the public, and written submissions from some First Nations.

### Vision for new public lands legislation

Most people who responded support the vision for new public lands legislation. A common question that came up was, "how will you balance and coordinate all of the interests expressed in the vision?" People also emphasized parts of the vision that were



important to them. For example, some people prioritized having land available for our growing population and others focused on protecting the ecological health of the land. Finally, some people disagree with the vision for developing new public lands legislation and were concerned about the overregulation of public land. Sample comments include:

- *We need to consider future generations when making decisions about how to manage public land.*
- *I support the draft principles, but the devil is in the details of the implementation and drafting to deliver on these principles.*
- *I do not believe we need more laws to govern the use of public land by private citizens. However, I do agree with the spirit of the legislation.*
- *Important to respect Aboriginal and Treaty rights and fulfill the spirit and intent of the Final Agreements for full co-management of 'public' land.*

## Management of activities on the land

### The Legislative Framework

Many respondents stated strongly that the public must have the right to use and access public land without restrictions. These respondents generally support a **permissive approach** to managing public land. Others argued that a **prescriptive approach** is necessary to protect the environment and to provide clarity on acceptable public use and to support enforcement. Sample comments include:

- *Maintain a permissive approach, but with measures to account for negative impacts. The approach needs to be adaptive/responsive, not prescriptive. You'll never catch everything with a prescriptive approach.*
- *I think the permissive approach should be continued while using regulations to prohibit specific activities.*
- *Yukon needs a prescriptive approach. The population explosion and tourism growth has put extreme pressure on easily accessible public lands.*

## DEFINITIONS

A **permissive approach** is where most activities are allowed unless the law prohibits them. If an activity is not mentioned in the legislation, it is allowed to occur without restrictions. The current Yukon public lands legislation is a permissive approach.

A **prescriptive approach** would establish which activities can be done on public land and how they may be done. The purpose of this approach is to let people know what activities are allowed on public land and any associated rules or conditions that would guide the allowable activities.



- A prescriptive seems to be a better approach for clarity. The rules are too grey in their current state.
- It would likely be better to use a combination of the two approaches: Permissive approach covers everything except where specific laws prohibit certain things. Prescriptive approach can cover off on known activities and let the public know what is allowed. It would be difficult to cover off on everything that may occur on the land using just a prescriptive approach.
- New lands legislation must ensure that authorizations are required for activities on public lands including authorizations from Indigenous Governments.
- A prescriptive approach is necessary to ensure activities proceed in accordance with established rules and regulations.
- A prescriptive approach must not and can not restrict the exercise of Aboriginal and Treaty rights.

## Policy tools

There is some support for the proposed management tools, though some people want more information on how these tools would be used before deciding whether to support them. Several people emphasized that they thought any management tools should focus on preventing specific negative impacts rather than broadly managing how people use public land. For example, some people argue that camping and trail building should not be overly regulated, and instead stricter rules should be applied to prevent trespassing, littering, human waste, and squatting. Sample comments include:

- I think it's important to have a set of rules and guidelines that folks should follow when using the land. I also think it's equally important that every resident in the Yukon has the right to use the land and public use activities should remain available to the public.
- Any tools established need to be supported by effective enforcement.
- I like the regulatory tools mentioned and think they are necessary to protect Yukon's natural places.
- The zoning and thresholds tools could be usefully applied.
- There should be a land use plan in place before establishing zones and thresholds.
- In general, I do not agree with more monitoring and reporting, specifically in the areas of camping and trail building.
- Thresholds should be developed and should enable Indigenous Governments and Government of Yukon to determine together what amount and type of activity is acceptable within a given region.
- Regulations and policies can establish standards and requirements for how activities are carried out on public lands but they must be clearly communicated and enforced.



- Zones should only be established with the consent of affected First Nations and respect Indigenous Government decision-making within their Traditional Territories.
- Monitoring could be a very effective tool to ensure the management of public land is dynamic and responds to evolving information as well as ensuring the continued exercise of Aboriginal and Treaty rights.

### Camping, trail building, and other activities

We received significant input on camping and trail building. The most common response to our question asking whether there are activities in addition to camping and trail building that need to be regulated was, “no”. Many people are concerned about activities on public land being overregulated. However, some commentators note that in addition to camping and trail building, off-road vehicles need to be better managed. The range of responses we received include:

- There needs to be a prohibition against long-term occupation of public lands without tenure.
- Area specific rules for camping and trail building should be considered – some areas see a much higher human impact than others.
- We need to define what recreational camping is and what a trail is. We need different rules for individuals than for commercial operators.
- The lands act should not include rules governing backcountry (tent) camping on public land.
- Either a cumulative days or consecutive days approach could work but the key is to support enforcement of the rules.
- Unrestricted camping on all public lands must remain available throughout the Yukon.
- Focus on enforcement and prevention of illegal activities instead of regulating Yukoners who camp and build trails responsibly.
- We need to reduce the impacts of camping and trail building on the land, animals, and water.
- Any proposed trails should require a review and permitting process that requires First Nation consultation.
- Trails provide many benefits to Yukoners and are required for activities such as trapping and hunting. They should not be regulated if less than 1.5 metres wide.
- Not everyone uses trails for recreation. Trails are essential infrastructure for people who live and work in the bush and should not require permitting.
- New legislation needs to enable the public to cross private land where necessary to access public land.
- The free ability to carry out recreational activities on public land is key for physical and mental well-being



- We need anti-trespass laws in new legislation to protect private property.
- ATV use must be managed on public lands. They are getting bigger, more powerful and can access and damage very remote areas, with particular concern for sub-alpine and alpine areas.
- Recreational camping is a significant cause for concern as campers and outfitters come onto our Traditional Territory without informing the Nation and without respecting our ways and practices. These activities must be managed in accordance with the impacts of the proposed activity.
- First Nations must have the ability to reject, modify, or approve a newly proposed trail within their Traditional Territory because new trails may open up otherwise undeveloped areas and have negative impacts on the exercise of Aboriginal and Treaty rights.
- First Nations should not require a permit from YG for an activity that they have carried out since time immemorial and which is a constitutionally protected Indigenous right. First Nations should be able to cut trails from Settlement Land through public land as an extension of our Aboriginal and Treaty rights.

## DEFINITIONS

**Permits and tenure:** the rules for obtaining tenure like titled (private) land and leases and administering permits like land use permits and licences of occupation.

## Permits and tenure

Many comments expressed a need for more land for housing through sales or long-term leases. Some comments noted concern that some people benefit from public land at the expense of others. Many respondents expressed concern that governmental processes and overregulation would decrease peoples' ability to buy, access and use public land. Some First Nations stated that their consent should be required prior to issuing permits or prior to the sale of public land within their Traditional Territory.

### How we sell land

Many people said that methods of developing and selling land need to be fair and transparent in the future. A common comment was that the current system of selling land through the lottery is not done in a fair way for individuals looking to secure land for private home building. Some people want to limit the sale of public land and issue more leases instead. Comments on this topic include:



- We should be issuing more long-term leases to people for housing instead of selling public land entirely. Long-term leases can help control housing costs and reduce the amount of speculative investing in housing and land.
- Open market bidding should be considered when selling land.
- The needs of Yukoners must be a priority. Meeting Yukoners interests for recreational, commercial, and residential land would create economic growth and reduce rule breaking on the land.
- Indigenous governments and Yukon Government should share decision-making over development and development should be planned to enable greater consideration and protection of Aboriginal and Treaty rights.
- Spot land applications make it more difficult to maintain thresholds and assess the cumulative impacts of development on the exercise of Aboriginal and Treaty rights.
- First Nations should have right of first refusal when Yukon Government sells public lands.

### Comments about the current land lottery process:

- It feels like the current lottery system is rigged by certain people who get family and friends to apply for lots on their behalf.
- YG should be responsible for consumer protection of people when they buy a lot through the lottery as it is very hard to get information on developed lots prior to purchasing.
- If the lottery system is continued, we need to ensure that all lots do not end up in the hands of developers who reap all the benefits of developing public land instead of the public.
- Instead of a lottery, it would be better for the government to sell lots off on the open market bringing in the greatest return for public value.
- You should consider having two separate lotteries one for developers and one for individuals.
- My biggest concern is with the lottery. We all know that contractors submit multiple bids through their employees, friends, or relatives. Why is this allowed? The average person does not have a fair chance.

### How we develop land

Many people support the idea of allowing groups other than the Government of Yukon to develop land; however, some people are concerned that there would be less public accountability if groups other than the government developed land. Comments include:

- There should be collaboration with First Nations on public land development projects.
- Private developers are efficient at building affordable family homes and should be enabled to do their work.



- We need much more land to be made available for affordable housing.
- The lack of public land available for land development has a direct impact on housing affordability and quality of life for many Yukoners. Greater opportunities to access land are key to addressing this crisis.
- Development should only be done by Yukon government because private developers or First Nations have less accountability to the public.
- Municipalities should be able to develop land within their communities.
- We need more development in rural Yukon communities.
- First Nations should be able to determine where land is developed within their Traditional Territory.

## Where we develop land

A lot of feedback focused on whether land should be developed and sold only in pre-planned areas or in both pre-planned areas and through spot land applications. Other comments focused on the location of developments and the potential impacts of both widespread and centralized development. Sample comments include:

- Spot land applications are not fair or transparent and are opportunistic for specific individuals.
- If spot land applications are allowed to continue, they should only be for temporary leases.
- The government should open more public lands for development but only around established development nodes.
- Land needs to be developed in both planned areas and through application where appropriate.
- Planning should occur in nodes so public access to the backcountry is not alienated by private landowners.
- Yukoners can't wait until land use planning processes are complete before meeting their housing and land needs.
- Need to recognize that private developers are the best at making houses available quickly and efficiently.
- Developed land needs to have reasonable building requirements that are strong enough to ensure houses are being built while being flexible to adapt to the challenges of building a home.
- Land should be identified for development or sale through regional land use planning processes.

## How we value public land



Respondents have mixed views about how we should value public land, and many people are concerned about affordability. Some people believe that the sale of public land should be below market value to support Yukoners while others feel that it is important to get the highest value from land sales.

- Land in the Yukon is overpriced and has followed what has been happening in southern provinces for no reason.
- Valuing land by market value makes sense but new legislation should allow for sale under development cost or market value.
- We have so much land in the Yukon, why can't we make it more available and affordable to help solve the housing crisis?
- Market prices of land are subjective and inaccurate. Lots should be sold for less than market value and/or development value.
- Market value is skewed towards being out of people's financial means.
- Value should be determined through tender so that we can get the best value for public land.
- We need to consider the environmental value of land and not just its monetary value.

### How we authorize land uses (disposition)

People generally agree that we need appropriate tools to authorize the use of public land. Respondents provided several ideas on how public land use should be authorized. Sample comments include:

- Permits for land use should be non-exclusive.
- There should be a disposition process that allows for publicly accessible cabins on public land.
- All land users should be able to equally apply for land tenure and there should be no preference for one type of user group over another.
- First Nations rights need to be respected when considering the issuance of land use dispositions.
- We should be very cautious about selling land or issuing long-term dispositions. Public land should remain public and we should celebrate the large amount of public land available to Yukoners.
- Have opportunities for commercial wilderness lots through lease or permit.
- We need to have dispositions such as long-term leases that can support the tourism industry.
- Dispositions should be required for all types of land-use including non-exclusive occupation or use of land and there should be a broad suite of dispositions.



## Tenure duration

There are various opinions on the potential lengths for leases and land use permits. Some respondents support longer-term leases and permits in some circumstances, while others believe that existing lease and permit lengths should be maintained. Many comments were submitted on the topic of converting temporary tenure to permanent sale of land with some people expressing concerns about tenure conversion and other people supporting the option. Sample comments include:

- *I support leases up to 30 years.*
- *The current lease duration is adequate. Most lease terms do not need to be longer than 60 years.*
- *Land use planning should be completed before issuing long-term leases of up to 30 years.*
- *Permit duration should be limited to 3 years, with possible extension to a maximum of 5 years.*
- *Long term leases could be possible for housing in existing developments and accessible areas.*
- *Leases and permits should not be converted into private property – this would give some people an unfair opportunity to acquire land.*
- *It should not be possible to convert leases into permanent tenure. This will change how people manage their leased land and it creates an expectation of future ownership. If people want private land that is what they should be applying for from the start.*
- *Lease holders should be able to convert their leases to private property provided they have followed all regulatory requirements.*
- *I support expanding the length of lease terms to allow for long-term use without the need to title and sell public lands.*
- *Exclusive use and permanent or long-term disposition should not be a feature of Yukon Lands legislation. We should celebrate that only 0.6% of the Yukon has been privatized and not dilute this special legacy. We understand that should Yukon's population grow, there will be increased pressure to make long-term, or permanent dispositions, however we must recall that the purpose of this act is to safeguard the Yukon for future generations, not to sell it off to wealthy individuals and corporations.*
- *Leases should be for a maximum of 10 years and subject to First Nation review and consent.*
- *There should be an opportunity for lease reviews to assess whether existing leases are impacting Indigenous practices and ways of living.*
- *The conversion of a disposition to grant should only occur with the consent of affected First Nations.*



## Tenure costs

Very few respondents commented on how much it should cost to obtain and hold a land use permit or lease. The few respondents who commented on this topic expressed that costs should be fair and consider the purpose of the permit/lease. For example,

- *Lease costs should be very reasonable and should consider both the type of land being used and how it is being used.*
- *I think it is fair to consider the land use when determining costs for lease but there needs to be significant clarity around this to prevent the appearance of bias or lack of consistency.*
- *The annual costs of a disposition should reflect the costs to Indigenous governments and Yukon Government for administering the land management regime. These fees should be modernized and should help recover the costs of administering the regime.*

## Where dispositions are allowed

Comments about where people think dispositions should be issued varied with some emphasizing the importance of meeting the land use needs of Yukoners, while others focused on the desire to prevent negative impacts to the land while keeping public land available. Sample comments include:

- *Let's avoid opening up currently remote areas for recreational properties that can have huge impacts on the land.*
- *I would rather see public land kept open for all to use rather than being sold off or leased to a few lucky people and alienated from public use. Even if a small parcel of land is sold the public is often discouraged from using nearby lands causing a much greater impact.*
- *Need to allow much, much more opportunity for lease or tenure.*
- *To be clear, dispositions must not pre-suppose land use plans.*
- *My primary concern is the linear nature of land disposition. Land is being given out along the highway corridors such that a few people are getting the properties they want, and a far greater number of Yukoners are losing their free access to the backcountry. My preference is to suspend highway dispositions and create development nodes on side roads.*
- *We should stop the allocation of cottage lots on lakes. Lakefront cottage lots are the most extreme example of a few lucky or privileged people taking possession of a precious resource at the expense of the many Yukoners who only want to enjoy our lakes.*
- *Applications should be permitted only when consistent with the provisions and management intent of draft and approved land use plans.*

## Administrative processes

A common theme in the responses showed that people want the processes for selling, developing, and permitting land to be fair, transparent, efficient and supportive. Many people expressed frustration with the time it takes to get permits. People commonly expressed that both security and reclamation requirements should be mandatory for all permits and leases.

- *First Nations should be part of the process of assessing permit applications.*
- *People from local communities and boards need to be able to provide input into decisions.*
- *I'm concerned that you are considering establishing security requirements without clearly stating how security will be calculated. Security calculations need to be transparent.*
- *Financial security should always be required. It should exceed expected remediation or reclamation costs. This lesson should have been learned by now.*
- *All permits should have mandatory financial security deposits to ensure that the land is being treated with respect and honour....and so Yukon taxpayers aren't on the hook for cleaning up the messes of irresponsible permit holders.*
- *Financial security should only apply to activities that have a potential to do significant environmental damage.*
- *Reclamation or remediation must be a requirement for any commercial operation.*
- *Reclamation should definitely be included in permits, with the option for "do nothing and let natural growth take over" being an acceptable option where appropriate.*
- *All land disturbing activities should require reclamation, remediation, and restoration within a set time frame after the activity is complete.*
- *New legislation should enable terms to be included in permits and tenure when Indigenous governments require such terms.*

## Compliance, monitoring and enforcement

### First Nation involvement

Many respondents support increased First Nation involvement in compliance, monitoring and enforcement. Several of these respondents pointed out that the involvement will require significant capacity support and training. Some respondents, however, believe that having multiple governments enforcing a new public lands act would be difficult and confusing. Sample comments include:

- *Enabling First Nation officials to become officers will enhance compliance, monitoring, and enforcement if they have sufficient resources and training to do the job.*
- *Yukon First Nations and transboundary Indigenous Governments should have direct decision-making authority on compliance, monitoring and enforcement.*



- The involvement of First Nations land guardians is crucial as they hear directly from individuals in their communities.
- First Nation involvement in compliance, monitoring and enforcement can improve cooperation and understanding.
- My only suggestion would be to include First Nation ways in enforcement. Right now, the consequences are very western.
- It will be too difficult and confusing to have multiple governments with potentially different interests and priorities enforcing the rules.
- It sounds like a really good way to ensure cooperation and understanding, but I worry about the possible effect of a confusing mess of jurisdictions, especially at areas that are part of multiple First Nation's Traditional Territories. If that can be addressed to create a cohesive system, it sounds good to me!
- If First Nations officials enforce the public lands act, they need to have the same training as Yukon government officers.
- Government of Yukon needs to ensure there are enough resources and capacity to adequately enforce legislation.
- New legislation should ensure that there are equal opportunities for Indigenous governments to undertake compliance and enforcement activities and should be resourced by Yukon Government.

## Enforcement tools

Most respondents support having clear enforcement tools and appropriate penalties. Many respondents state that it is essential to have enough capable enforcement officers to implement enforcement tools. Many respondents also argue that the new system needs stronger penalties than what we currently have. Some people state that we should keep enforcement tools and penalties the way they are. Comments include:

- Officers need a full suite of tools to carry out their duties.
- Officers should be designated as peace officers due to the risk of some of their investigations.
- Tools and penalties should be consistent with other pieces of legislation.
- Search, seizure and forfeiture provisions are very concerning.
- Consider restorative justice approaches in addition to these tools.
- Increased penalties and improved tools are important.
- Previous non-compliance should affect your ability to apply for future permits.
- There is a significant lack of compliance and enforcement activity in the Yukon with respect to land use. All of the options presented in the Options Report to strengthen penalties and deterrents to prevent and punish non-compliance appear to be worthwhile and would help strengthen the efficacy of the new regime.



## Public involvement

Respondents generally support the establishment of a public registry to provide information on compliance, monitoring and enforcement investigations and outcomes. Additionally, some people express a need for clear public communication and education on the rules and enforcement of a new act. Sample comments include:

- *I support the development of a registry for land use approvals. Public access to this type of information will improve transparency and confidence in decision making.*
- *Transparency is important, and an easily accessible registry including permits, inspection reports and other relevant information should be established.*
- *The public needs to be able to understand the rules.*
- *There should be public reporting after complaints are received, so affected First Nations and the general public are aware of all inspections and enforcement activity.*

## Land Planning

A common thread that we heard is that the development and approval of regional land use plans needs to be a priority. There are mixed responses to the idea of giving land use plans legislative authority. Critics of this idea expressed that land use plans are not written in a way to make them legally interpretable. Many people expressed support for using regulatory tools to implement and enforce land use plans; however, some people are worried about overregulation. Land use planning comments by topic include:

### Plan authority

- *We're worried too much about planning. Open up the lands and let the market take care of it.*
- *Giving plans authority would be a significant step towards reconciliation and would provide certainty to developers and industry.*
- *Plans need to enable land development.*
- *Land use plans need to take into account the interests of all Yukoners.*

## Implementation tools

- *Variations could be included in new legislation if there are transparent application-based approaches to seeking a variance.*
- *Land use plans should be given authority through the use of zoning tools and regulations.*
- *This is an especially important area where First Nations must have equal or greater decision-making power than Yukon government.*



- Thresholds are an essential tool when they are specific.
- Interim planning protections are important and should be used to prevent the submission of applications which will eventually be rejected.
- Interim planning protections are important to prevent the submission of numerous land use applications in anticipation of a new land use plan.
- Exemptions and legacy authorizations are important.
- If legacy authorizations are implemented, they should be time limited and not last forever.
- Local knowledge needs to be utilized in plan implementation.
- I am afraid implementation tools like zones and reserves will be used to exclude the public from using public land.
- Government land reservations are useful where long-term land use planning has not been completed.
- We don't need government land reservations we have planning processes and existing tools that can inform decisions.
- We support a moratorium on activity within our Traditional Territory until a land use plan is developed and shared-decision making is enacted to ensure activities are authorized only when and where they are consistent with our Aboriginal and Treaty rights and ways of living.
- There should be mechanisms through which Government of Yukon and Indigenous governments can expropriate existing claims and mineral activity in areas designated for protection or conservation in a land use plan.

## Decision making

### First Nation involvement

Many people support more First Nation involvement in decision making about public lands. However, some are concerned about this and expressed that public views and input are not given enough consideration.

- Yukon government should not be the sole decision-maker on issues related to public land. Administration of land should be done in collaboration with First Nation governments.
- Yukon First Nation governments and transboundary Indigenous Governments need to have at least equal decision-making power to YG over all land related issues.
- First Nations have a right to meaningful consultation and accommodation of impacts to their rights. They do not have a right to final approvals on public lands.
- Currently far too much decision-making power is vested in the hands of First Nations.
- The creation of this legislation is a huge opportunity to advance reconciliation. This would be enhanced by including in the text, a requirement to conform to the UN Declaration on



the Rights of Indigenous People, in particular the concept of Free, Prior and Informed Consent.

- Why is there no inclusion of Yukon First Nation decision making methodology?
- It would be great to see decision makers collaborating with Yukon First Nations in a way that shows immediate results - taking small steps in the right direction.
- New legislation must reflect shared governance between Indigenous governments and Government of Yukon over the use and management of public lands.
- Shared decision-making is a core objective of the Final Agreements and is a key theme underlying the treaty commitments around land use planning and environmental assessments.
- New legislation should ensure a consent-based approach to decision-making in which Yukon Government authorizes activities only with the prior consent of affected Indigenous governments.

### Yukon government's decision making

Some people support increased decision-making responsibility for department officials on the basis that it would reduce political interference in decision-making. There are mixed opinions on third-party decision-making; some think that this is a good way to increase fairness and transparency, and others think that it would be overly bureaucratic and would be subject to outside influence.

- Support more decisions being made by officials rather than the Minister or Cabinet. This includes delegation in contexts where more than once department has approval roles.
- There should be direct mechanisms to ensure accountability in decision making and that public input is being seriously considered.
- Transferring decision making authority to other YG departments will cause uncertainty, role confusion and confusion for Yukoners.
- Decisions should still be made by the Minister since they are the elected officials and represent the people.
- Decision making needs to be fair and transparent.
- The operational staff who will be impacted by these regulations should be invited to participate in these conversations. Too often there are high-level conversations without the input of operational staff. This seems to mean that important decisions are made without the practical understandings that the boots on the ground level workers would bring.

### Public involvement



Many people support more public input into decision making and want to be meaningfully consulted during decision making processes. Many respondents also want to have a public registry to understand the reason behind specific decisions to increase fairness, transparency and accountability. Some people said that the public should be involved in every decision that is made regarding land management, while others said that the public only needs to be involved in high-level potentially high-impact decisions. Topics that members of the public most want to be involved in are decisions around access to public land, large scale land developments, permanent sale of public land and the issuance of long-term dispositions on public land.

- *I would like to see a means for any decision regarding land to allow for some measure of direct public input.*
- *Public input is required for any major change in tenure or scope of management. Public involvement is needed to scope the broad sweeps but not to administer lands unless a project falls outside what is expected.*
- *Larger projects should require public input. If land use planning or local area plans are in place, then smaller more routine permits and applications should be dealt with by the appropriate agency.*
- *Anything that permanently changes the public landscape should require public input, particularly that which is not under planned development or for the public good. Scope of public involvement should vary by the scope of the project.*
- *Almost no decisions should have public involvement. The most qualified and educated voices on a topic, plus affected parties should be involved. We can't make everything an opinion piece.*
- *Decisions that affect the public should involve the public in a manner commensurate with the level of potential public impact. The legislation/regulations should give you leeway about when and how to involve the public, ranging from education all the way to citizen's committees where the citizens make the decision (subject to approval by the affected First Nation(s)).*
- *It seems that current land and water uses already allow for public involvement through existing consultation mechanisms. I am more concerned that certain parties are over-represented in these consultation processes as they have the financial and other resources to provide representation. Increasingly, ordinary Yukoners are being side-lined and their voices minimized.*
- *The public elects officials who direct public servants for most decisions in the Yukon that is sufficient involvement. We suffer from over-engagement here and it does create a sense of entitlement about government decisions that is unsustainable and unjustified. If decisions are being made by a non-public government (i.e. delegated to a First Nation government) then public oversight is required.*



- *I would prefer if there wasn't another layer of bureaucracy and process layered on top of existing assessment processes. I think the thresholds for public processes through YESAA provide an appropriate screening level for public involvement and there is no need to duplicate that under a lands act.*

## Appeals

Comments received during the engagement and consultation period supported the idea of including a process to appeal decisions made under new legislation. Examples include:

- *There should be an appeals process for every type of permitting process and this process should have clear timelines.*
- *Administrative appeal processes can get unnecessarily political. Judges make better evidence-based decisions than Ministers or delegated public officials. A strong preference towards judicial appeals would make for better and more timely evidence-based decisions.*
- *An appeals process with guidelines for how appeals are conducted for each permitting or decision-making process should absolutely be put into legislation. I do not think it should be internal as it is almost impossible to avoid bias, especially in the cases of the Government itself requesting permits for their own use. A third party, public appeals process is the only way to ensure everyone is treated fairly and to avoid potential abuse of an internal process.*



# Stakeholder responses

During the public engagement and First Nation consultation period, we reached out directly to approximately 50 stakeholders throughout the Yukon to invite them to provide input into the development of new public lands legislation. Stakeholders ranged from industry associations, non-governmental organizations, municipal governments, renewable resource councils, environmental assessment boards and chambers of commerce. Some stakeholders provided written submissions with comments and suggestions and others requested to meet with us directly to provide input. This section of the report summarizes what was heard during these meetings and the information provided in written comment submissions.

It is also worth noting that some stakeholders provided input into the development of policy options prior to the public engagement period. These stakeholders were selected to work directly with members of the Steering Committee for new public lands legislation to inform the development of the policy options described in the Discussion Document.

## Vision for new public lands legislation

Stakeholders generally support the vision for new public lands legislation. Some stakeholders do, however, provide suggestions for how the vision could be improved. These include:

- *The vision statement around land use planning should also reference land use and land protection.*
- *The vision statement should be more closely aligned with Umbrella Final Agreement objectives.*
- *We are encouraged that the new Yukon Public Lands Act will finally recognize Yukon First Nation's Final Agreements and support land claim and self-government implementation.*
- *Part of the vision for this new act should be setting standards for sustainability and ecosystem health for all land uses on public land.*
- *We recommend adding cultural health and traditions as a value to be upheld in a new regime.*
- *We suggest strengthening the language around collaborating with First Nations to ensure their meaningful involvement in a new regime.*
- *We support the listed principles and recommend the addition of a new principle that speaks to supporting the growth of Yukon's economy resulting from the access to and use of land that provides benefits to all Yukoners.*



# Management of activities on the land

## The Legislative Framework

The mixed views on whether to use a permissive prescriptive approach to managing public land include:

- A permissive approach designed to allow regulations or other management tools to be implemented quickly to deal with emerging issues could be a goal to aim towards as this legislation is drafted.
- A prescriptive approach is preferred and appropriate, given that pressures on the land are increasing and in consideration of cumulative effects.
- A prescriptive approach can put ecological and cultural protection at the forefront while better ensuring land is responsibly stewarded for future generations. A prescriptive approach with appropriate tools could better protect ecological and cultural values and provide more opportunities to work in collaboration or co-management with Indigenous governments.
- We support finding an appropriate balance in the legislation that allows for a prescriptive approach for impactful activities (camping hot spots for example) with adaptability for activities that are rare and have little impact.
- The management of non-permitted activities needs to be consistent with municipal bylaws within the City of Whitehorse.
- We support the permissive approach to management of crown land. Acts should be drafted as a holistic framework which outlines the vision and purpose, guides actions, and provides management tools to administrators. A prescriptive approach to legislation creates administrative and operational issues for land managers and applicants.
- Need to keep legislation simple. Legislation will be hard to change in the long run and take a long time to change. If details are required, then use public policy to carve those details out.
- Land access is critical to the tourism industry sector. A permissive approach is the right direction although this could in future include some prescriptive policy approaches.

## Policy tools



Stakeholders support the proposed regulatory tools for managing activities on the land. In some cases, they suggest strengthening or adding to the suite of regulatory tools. Their comments to this effect include:

- We support each of the regulatory tools listed in this section, including zoning, reserves, monitoring, reporting, and thresholds.
- Legislation should include a form of conservation area to help meet the targets of the Canada-Yukon Nature Agreement. It should also respect and support Indigenous Protected and Conserved Areas.
- The regulatory tools proposed would allow for more options to implement land use plans, manage environmental impacts and coordinate multiple land uses.
- Regulatory tools for managing activities should be used to implement policies and plans beyond land use plans. An example is the Wetland Stewardship Policy.
- The act needs a regulatory mechanism to protect localised (small-scale) and high-value ecological and cultural sites. There should be an ongoing database recording these sites and they should be protected through spatial and temporal buffers.
- We recommend that the legislation include tools for source water protection, such as exclusion of certain activities (e.g. agriculture, snow dumps, mining) that could impact surface and groundwater.

### Specific activities

Most stakeholders support establishing a definition for recreational camping and managing this activity using either a cumulative days or consecutive days approach.

Many stakeholders want to see increased management of trail building activities including mandatory permitting or strengthened permitting for trail building. Comments include:

- Include restrictions on the types of structures that may be used for camping. Permanent or semi-permanent structures should not be allowed.
- We support a consecutive-day approach to regulating backcountry camping and preventing squatting.
- Maintain the ability of citizens to temporarily camp on public land for recreational purposes without a permit.
- Both a cumulative and consecutive day limit on camping would reduce pressure on the environment. Sensitive ecosystems need to be identified and likely would require lower camping limits to ensure camping does not harm the area.
- Any trail building should require permitting, oversight, reporting, and tracking. Land reserves could help control the proliferation of trails.



- Require consultation with First Nations, trappers, the voices for fish and wildlife, communities and other stakeholders prior to issuing permits for trail construction.
- We support a more protective approach to apply a permit process to trails larger than 1.5m and where needed for those less than 1.5m. Permit processes should be flexible and consider land planning processes and input from Indigenous governments.
- The City of Whitehorse has a permitting process in place for trails within the municipality that new legislation should be consistent with.
- We do not support the requirement for permits for every trail, we feel that this is unnecessary and would be impossible for government to manage, monitor and enforce.

## Permits and tenure

### How we sell, develop and price land

Stakeholder comments on this topic varied considerably and include input on the degree to which we sell land, the lottery system, spot land applications, land development, and interactions with local governments. Comments include:

- We support shifting away from land sales and towards leasing or permitting approaches to maintain the territory's public land base. Sales of public land should only be done when there is a comprehensive land use plan and when in alignment with the Final Agreements. Failure to do this would restrict possible future protections, influence the creation of land management zones, and remove land from public access, potentially disconnecting wildlife habitats and remove access to public land from Yukon residents and First Nations.
- We are particularly concerned about the legacy of historic spot land dispositions, which have negatively impacted fish and wildlife habitats and infringed on subsistence harvest rights. The new legislation must carefully consider how to implement and authorize future dispositions to mitigate these impacts.
- We would like to see the lottery system reformed and enough land made available that a lottery system would not be required on a continuous basis. Any lottery should include a balance of ethical options to sell land fairly while allowing the market to purchase at what is fair market value.
- We support expanding land developers beyond the Yukon government to include First Nation development corporations, municipalities and non-profit organizations. We approach with caution the allowance of private companies to develop public land.
- The sale and development of land needs to consider the City of Whitehorse's Official Community Plan.
- Our main concerns are specifically related to any option that restricts the ability for individuals to apply for and acquire land through a spot land application program. It is our



position that any options relating to removing this program will create issues for land availability for the agriculture sector. The retention of the current ability to access land through both planned development and spot application programs recognizes the different needs of different types of agriculture pursuits.

## **Types of land use dispositions**

Stakeholders generally want the new system to include a wide variety of land use disposition types to support different land use activities. Some stakeholders want the new regime to provide specific dispositions to support their industry. Sample comments include:

- *Could tenure be given for conservation purposes? For example, could a non-profit secure tenure to public land for conservation management?*
- *Trapline tourism should be supported by permitting holders of remote fly-in lines to offer accommodation to the clients of outfitters. This would provide economic benefits and reduce the human footprint on the land as fewer structures would be needed.*
- *Non-exclusive permits better encompass the spirit of public lands as being for all Yukoners.*
- *The current Lands Acts have partial control on grazing leases and this function needs to stay in the new Public Lands Act.*
- *The tourism industry needs to be able to lease public land for commercial tourism purposes to support business planning, financial viability and the long-term security of tourism businesses.*
- *It may be useful to look at developing a type of interest that can provide some form of exclusive possession to reflect protection of infrastructure and investment.*

## **Tenure duration and cost to hold tenure**

Comments on tenure duration vary considerably. Some stakeholders focus on the need for long-term tenure to support industry and businesses, and other stakeholders prefer shorter tenure durations as this allows an opportunity to reassess the need for tenure and the potential impacts of associated activities. Sample comments include:

- *Limit the duration of land use permits to up to 2 years, as in the current legislation.*
- *We want to see a 10-year lease for trapline cabin sites.*
- *Lease lengths should be maintained at a maximum of 30 years plus one potential renewal with a consideration to use shorter lease lengths based on the potential impacts of activities. Renewals provide space for reassessment of current interests and goals of affected First Nations, and how land planning might affect the area.*
- *We would welcome the conversion of trappers' leases to grants.*



- Lease costs should be higher for riskier or more destructive development.
- We are satisfied with the current system to calculate lease costs.
- We believe that leases should be available for up to 99 years with the potential for extension to support long-term continuity for businesses operating on the land.
- It should be possible to convert leases into permanent tenure to support the long-term viability of businesses.
- We are supportive of a system where the terms have been set to fit that particular sector.
- We are supportive of assessing the value for sale of agriculture land differently from other types. We would recommend that the process look to how other jurisdictions value agriculture land and we recommend that Agriculture Branch establishes through regulation or policy a list of the considerations or instructions that an appraiser must account for in valuing agriculture land and that these are provided publicly for all applicants to understand.

### Administrative processes

Stakeholders believe that administrative processes need to be efficient and effective at providing services to industry and user groups. Stakeholders also note that it is important for the Government of Yukon to be able to reserve areas of public land for future public good and for ecological protection. Sample comments include:

- Enabling YG to set aside land for future use would be a useful tool to include in this new legislation.
- The current legislation provides the opportunity to set aside parcels of land for specific purposes that enhance the public good. We strongly recommend this general function be expanded to better enable protection of wildlife, rare species, and wildlife habitats.
- We request that all trapping related approvals be defined and managed within the Yukon Public Lands Act. We are opposed to the current process which requires trapping and outfitting related reviews and approval by two separate governmental departments. The current process results in lengthy delays.
- If moving the management of leases for trapping cabins from the Department of Energy, Mines and Resources to the Department of Environment will benefit Yukon trappers, then we are in favor.
- Generally, we support projects including an environmental aspect being transferred to the Department of Environment for management as it creates efficiency and calls upon the specific experience of the department.
- Cabins on remote traplines should not be required to have a building inspection.
- There must be an easier and faster process for a trapper to get approval for erecting a line cabin.



- Allow for opportunities for tourism to support reclamation and allow tourism business to access new land. A good case of regenerative tourism.
- We would support delegation of authority to the Tourism and Culture Department so long as they support respectful growth of land expansion of tourism and not restrict it.

## Compliance, monitoring and enforcement

Stakeholders generally support First Nation involvement in compliance, monitoring and enforcement. Some stakeholders see a need for First Nation officials to have the same training as Government of Yukon officials if they are to enforce a public lands act. Some stakeholders similarly note that there needs to be effective communication and cooperation processes established between First Nation governments and the Government of Yukon if there is shared enforcement of the new act. Stakeholders also support establishing new enforcement tools, effective penalties and a public registry of information. Sample comments include:

### First Nation involvement

- A collaborative approach between the Government of Yukon, Yukon First Nations, and Indigenous governments is a good approach but there needs to be a consideration of the additional expenses incurred to monitor and enforce new regulations.
- We support formalizing tools to allow First Nations officials to conduct compliance, monitoring, and enforcement activities. This kind of co-management breathes life into the spirit and intent of the Umbrella Final Agreement and honours our shared commitments to reconciliation. It will also be an essential part of capacity building, augmenting the existing authorities within the Government of Yukon.
- We encourage a supportive approach that engages with First Nations to determine their specific interests in enforcement. For example, some officials may wish to have monitoring abilities but not peace officer responsibilities.
- In the spirit of reconciliation, we support the suggestion that First Nations have meaningful opportunities to support monitoring and enforcement. Collaboration with First Nations will be important to make this work. This includes designating First Nation officials as officers with enforcement powers.
- A First Nation officer would have to have the exact same schooling as a non-First Nation compliance, monitoring and enforcement officer.

### Enforcement tools and penalties

- We generally agree with additional tools for investigation and enforcement.



- We suggest including the ability for officers to be accompanied by any other person the officer deems necessary to help them perform their functions under legislation.
- We support providing natural resource officers with enforcement and investigative tools.
- Consequences for unpaid fines should be substantial to deter bad behaviour. We suggest suspending licences and permits if a fine is not paid by a certain amount of time.
- Those who repeatedly fail to comply should face much higher penalties, and at some point, be prevented from reapplying for the same permits and licenses, as they have proven to be unable to care for or respect the land.
- The new act needs to be clear on who is responsible for enforcing unpermitted activities within the City of Whitehorse.
- We need tools to help prevent encroachments on public land.

### Public involvement (registry)

- We support the creation of a public registry for permits, inspections, monitoring data and proponent reports. These are invaluable tools to support YESAA assessment processes.
- We would like to see a more complete “Current Land Application Section” website that improves access to information through a public registry.
- A public registry of what is happening on public land regarding permits, licenses, enforcement measures and other matters would support more transparency and awareness. This registry needs to be user friendly and make information quickly accessible to prevent barriers to freedom of information.
- There is a clear need to increase access to information and reporting on inspections and enforcement.

## Land planning

Stakeholders generally support giving land use plans more authority and support establishing effective tools to implement them. Stakeholders differed on whether legacy authorizations should be supported in new legislation. Some stakeholders believe that legacy authorizations bypass land use planning, while others believe they are important for business continuity and for recognizing historical uses of an area. Sample comments include:

### Plan authority

- We strongly support that new legislation acknowledge and follow regional land use plans.



- Once approved, a plan should have authority under law. This would provide more certainty for land and resource users in regions with approved plans. Plan recommendations should be enforceable under the law.
- We believe the plans should have enforceable legal authority, including developing regulations to ensure thorough plan implementation and that sanctioned activities remain compliant.
- Permits need to comply with any land use plan in effect for an area.
- Applications for permits should be required to be consistent with land use plans, and subject to change once they are developed or reclamation needs are assessed.
- We do not support the option of giving land use plans statutory authority as written in the discussion document. Managers and applicants need flexibility to deal with such things like ancillary permits or licenses that are required for limited time periods, for requests for expansion of current operations and for those activities that have been reviewed and approved as an exemption or a through a variance.

### Implementing land use plans

- An issue for us is linear disturbance. We are encouraged to see land use plans establishing thresholds and we hope to see the new lands act integrate this approach.
- Implementation of land use plans needs to be done in consultation with First Nations, municipal governments, environmental organizations and others.
- Conformity checks are an important part of land use plan implementation. There needs to be a process by which proposed activities are reviewed for conformity to a land use plan.
- In order to support land use planning, the government should have the authority to extinguish tenure without compensation.
- Legacy authorizations are a concern for us, and it is unclear how they would work in relation to the Yukon Environmental and Socio-economic Assessment Act.
- We agree with developing exemption, legacy authorization and interim planning period protection tools to help create a robust framework.
- Legacy authorizations currently seem like an attempt to allow for a land use plan to be circumvented. If tools allowing for exemptions and legacy authorizations are included, we recommend well defined circumstances for when they can be used.
- We only support legacy authorizations if they are agreed to by all parties developing a land use plan.
- We would like to see the establishment of interim measures that allow for some protection of the land from activities that alienate land while planning is ongoing.
- We support interim planning period protections. This tool needs to be tied to whatever exemption or grandfathering tools are used to prevent land use permits/tenures from being requested with an intent to be grandfathered into future land use plans.



- We give no support for a ban or restriction on land use or application for land during active planning processes unless agreed upon by all governments and stakeholders who may have an interest in those lands before or as part of the development of the planning process.
- There must be provisions to ensure that applications submitted and in process prior to the approval of a plan will be reviewed and considered with all the information but will not be summarily denied because the use may be incompatible with the final approved plan.
- Maintaining areas of historical tourism use is important to not negatively impact tourism industry access and products.

## Planning frameworks

Very few stakeholders provided comments on whether to establish new planning frameworks in public lands legislation. One example is:

- We support the legislation enabling the development of planning frameworks in Traditional Territories where First Nations have not signed final agreements. However, it is unclear how these plans would be implemented or enforced in areas where neighbouring First Nations have overlapping Traditional Territories.

## Decision making

Stakeholders support providing greater opportunities for First Nation involvement in decision making processes. Some stakeholders also express support for including an appeals process in new legislation. Sample stakeholder comments are as follows:

### First Nation involvement

- Can we include mechanisms in legislation that allow First Nations to have management authority for establishing and managing Indigenous Protected and Conserved Areas?
- We are in support of equal and joint decision making where there are co-management opportunities or commitments with Yukon First Nations.
- Legislate the necessity of First Nation governments and Yukon Environment and Socio-economic Assessment Board reviews for all land sales and leases, including grazing leases to ensure compliance with Free Prior and Informed Consent under the United Nations Declaration of the Rights of Indigenous Peoples.
- We would like the legislation to include greater emphasis on public and First Nation consultations.
- We support the concept of co-management of land with Yukon First Nations. This can be carried out through joint decision making within a regional land use planning process.



- In regard to any cooperative or joint decision making with First Nations or Indigenous governments, we note that any framework to implement this would need to ensure transparency and accountability above all else. First Nation and Indigenous governments are not accountable to non-citizen people in Yukon. All decision makers need to be unbiased and have no investment in the decision outcome.

## Public involvement

- We would like to see decisions being made by committees that invite the most relevant stakeholders to the table when making decisions. It is impossible for any one review board or committee to have expert knowledge on all industries or subject areas.

## Yukon government decision making

- Ensure communication with the Yukon Environmental and Socio-Economic Assessment Board on any changes to Government of Yukon decision making structures.
- Adopt a similar requirement as stated in Section 83 of the Yukon Environmental and Socio-economic Assessment Act, that decisions issued by a decision body must be implemented.
- Legislation should define roles and authorities for the Yukon Land Use Planning Council and regional planning commissions that include ongoing roles in plan implementation, plan monitoring, cumulative effects monitoring and conformity checks.
- We have noted a concern with the slowness or lack of decision making from those holding the delegated authority for decisions on agricultural and grazing applications. These positions need to be fully empowered to use decision making power in a timely fashion.

## Appeals

- We support a process for appealing decisions. This could be linked to existing regional land use planning processes, such as when a commission makes a representation stating that a project does not conform to a plan.
- We support the ability of a party to appeal a decision. For example, appeals could occur when a project doesn't align with what is outlined in a regional land use plan or local area plan.

# Next steps

Reviewing and compiling the public engagement and First Nation consultation input included in this report has been an important step towards developing new public lands 32



legislation. In addition to this work, we are committed to further the development of new minerals legislation. To ensure positive momentum on both these pieces of legislation, we carefully considered priorities for each. These considerations resulted in:

- ensuring that the Steering Committee for New Minerals Legislation had the resources to develop a legislative framework agreement for new minerals legislation; and
- focussing work for new public lands legislation on completing the public engagement and First Nations consultation processes, reviewing and organizing the related feedback and delivering this what we heard report.

The Steering Committee for new public lands legislation will use the feedback from this engagement to inform the development of a framework which will set out a structure for the new public lands act. Once the framework is established, we will develop the operational details of the legislation.

We are committed to undertaking the next steps to develop a framework for new public lands legislation and will work in a way that considers the capacity and priorities of not only the Government of Yukon, but that of our partner First Nations governments. This government-to-government work will happen alongside, and be balanced with, the ongoing work of advancing new minerals legislation

