

Beaver River Land Use Planning: What We Heard



Prepared by the Beaver River Land Use Planning Committee
August 21, 2019

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BEAVER RIVER LAND USE PLANNING: WHAT WE HEARD

'What We Heard' Themes

1.0 INTRODUCTION

1.1 Purpose of the 'What We Heard' Document

This document summarizes what the Planning Committee heard through community meetings, submissions and contributions made by various organizations, industry, First Nation of Na-Cho Nyäk Dun citizens and interested individuals. 'What We Heard' is grouped into common topics and presented as six themes.

1.2 Purpose of the Beaver River Land Use Planning Process

On May 11, 2017, the Yukon Environmental and Socio-economic Assessment Board issued its evaluation report recommending the ATAC Resources Ltd. all-season access road project could proceed subject to appropriate terms and conditions.

The proposed 65-kilometre all-season road project includes upgrading existing trails, construction of a new road, three access control gates and numerous river crossings and culverts, including the potential use of fords.

The March 2, 2018 consolidated Decision Document sets terms and conditions for the project including a requirement for a comprehensive access regime for all land users and harvester groups.

The ATAC Road Agreement between the Government of Yukon and the First Nation of Na-Cho Nyäk Dun ("the Parties") expands on the Decision Document and among other terms outlines a collaborative process to complete a land use plan for the area and to work with ATAC Resources Ltd. to develop a Road Access Management Plan. The agreement is available on the following website <http://www.emr.gov.yk.ca/rlup/beaver-river-land-use-plan.html>

1.3 Location

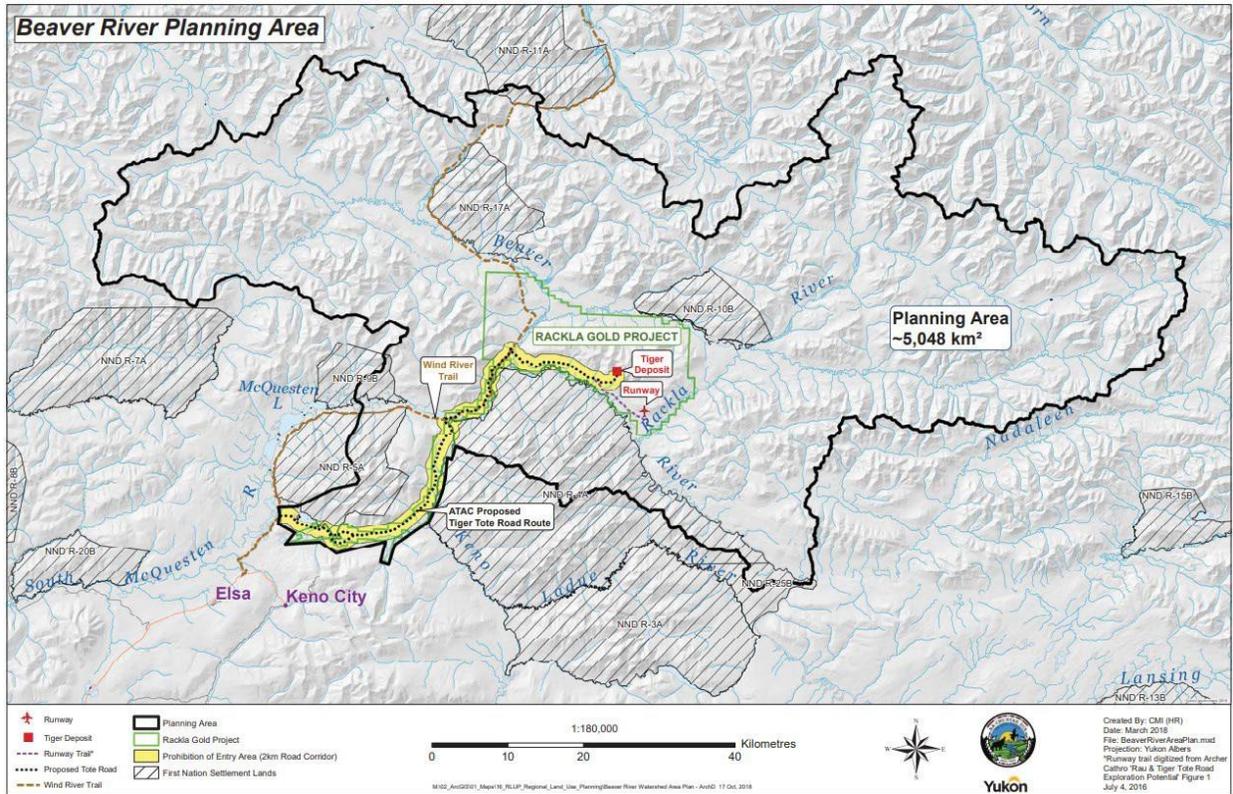
The following map identifies the Beaver River Land Use Planning Area, which is within the Traditional Territory of the First Nation of Na-Cho Nyäk Dun.

While there are no communities within the planning area, citizens of First Nation of Na-Cho Nyäk Dun, trappers, outfitters, prospectors, miners and the general public, particularly from the communities of Keno City, Mayo and Stewart Crossing, have at various times been part of the evolving land use pattern in the area.

BEAVER RIVER LAND USE PLANNING: WHAT WE HEARD

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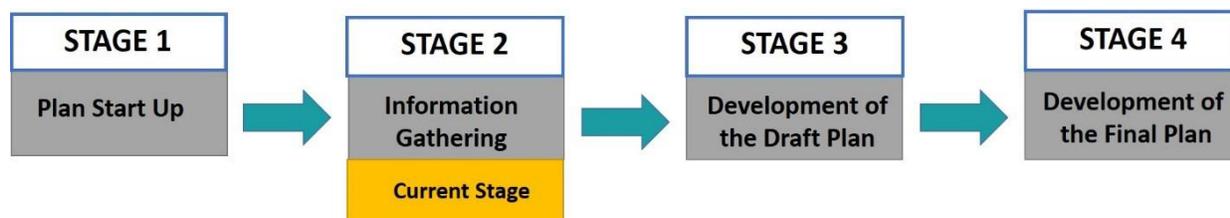
Figure 1 Beaver River Land Use Planning Area



BEAVER RIVER LAND USE PLANNING: WHAT WE HEARD

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1.4 Planning Process



The planning process includes four stages; plan start up, information gathering, development of the draft plan and development of the final plan that is to be submitted to the Parties.

The process is currently at the information-gathering stage, which has two components:

1. Meeting with community members, stakeholders, First Nation of Na-Cho Nyäk Dun citizens and interested individuals to gather local and Traditional Knowledge which is reflected in this “What We Heard” document.
2. Compiling and sharing existing and new information: including “What We Heard”, local and Traditional Knowledge, and science-based information into a “Values, Interests and Issues” Document, and a “Planning Area Background” Document.

1.5 Planning Committee

The Beaver River Land Use Planning Committee was established in June 2018 with two representatives from the First Nation of Na-Cho Nyäk Dun and two from the Yukon government.

Under the ATAC Road Agreement, the Planning Committee will endeavor to complete the land use plan for the Beaver River watershed by March 31, 2020, and provide the plan and Road Access Management Plan to the Parties, at which time the Parties will seek their respective governments’ approval to jointly adopt the plan.

1.6 We Appreciate Your Participation

The Planning Committee acknowledges and appreciates the contributions made to the information-gathering part of the planning process.

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2.0 PARTICIPATION

This first round of consultation took place from January to May 2019. Community meetings were hosted in Keno, Mayo and Whitehorse. Letters and follow up emails were sent to industry and environmental organizations and NGO's, trapline holders, outfitters and mining claim holders. One-on-one and group meetings were held with the interested parties and submissions were accepted.

The Planning Committee received 41 written/email submissions and held 12 stakeholder meetings. A total of 160 people attended the community meetings. Three meetings have been held with Elders.

Figure 2 - Community Meeting in Mayo, YT



The Planning Committee met with First Nation of Na-Cho Nyäk Dun Elders on January 22, 2019 in Mayo. First Nation of Na-Cho Nyäk Dun Planning Committee members also met with Elders in September 2018 and in April 2019. The Elders have shared Traditional Knowledge, which is confidential. The Planning Committee will continue to meet with the Elders and gather local and Traditional Knowledge that will be considered during the planning process.

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Figure 3 Planning Committee member and First Nation of Na-Cho Nyäk Dun citizen Steve Buyck sharing his knowledge of the Beaver River Planning Area.



BEAVER RIVER LAND USE PLANNING: WHAT WE HEARD

'What We Heard' Themes

3.0 “WHAT WE HEARD” THEMES

The following reflects what was received from written submissions and heard during stakeholder and public meetings from January to May 2019. These comments are grouped into themes and do not represent an implied order of importance. Please refer to Appendix A for a list of organizations that participated in the information-gathering stage of the Beaver River Land Use Planning process. For all submissions please see the separate document called “Submissions’ Package” on our web page at <https://yukon.ca/en/beaver-river-land-use-plan>.

Theme 1: Land Use Planning Process

The Beaver River Land Use Planning process is a negotiated process between the Yukon and the First Nation of Na-Cho Nyäk Dun governments (the Parties). The Parties negotiated the terms of reference for the planning process in response to the construction of an all-season single lane tote road. Comments received included, the planning was occurring outside of the UFA Chapter 11 planning processes, the timeline was too short and that building a road was driving the planning rather than a plan first to determine if the area was suitable for a road. The agreement is included in Appendix B.

The following comments summarize what we heard.

1. The Planning Committee should interview the people who use the area.
2. The March 2020 timeline is too short to collect adequate baseline data and for meaningful engagement on the draft plans.
3. The planning process is rushed.
4. More than a year is needed to plan for a lifetime and for future generations.
5. The plan needs to be proactive, innovative and effective, with a long-term vision.
6. The plan needs to be evidence-based and reviewed on a regular basis (e.g., every five or 10 years).
7. The plan needs to be prepared in an accountable, transparent manner.
8. The planning should incorporate the geological potential of the area along with other values.
9. There is concern about this plan superseding a Regional Land Use Plan prepared under Chapter 11 of the Umbrella Final Agreement.
10. This plan should be a regional plan that includes a larger area (the Stewart River Watershed).
11. How will planning include interested people as it progresses?
12. The designation of Special Management Areas to protect high value areas should be considered.
13. Additional information about the planning area prior to any future engagement will improve the engagement process, particularly identifying important values and impacts.
14. The Planning Committee should be nominated as per the Umbrella Final Agreement Chapter 11.
15. The planning is not in compliance with First Nation of Na-Cho Nyäk Dun agreements.

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16. There must be consultation and consensus with all citizens, not just Chief and Council.
17. This planning process will set an important precedent for sub regional planning exercises in the territory and needs to be done right.
18. This ad hoc planning process may set a precedent for further limits on land available for exploration resulting in uncertainty for the industry.
19. What is the long-term vision for the area? Go/no-go zones?
20. The plan should consider future needs of ATAC beyond the Tiger deposit.
21. Less than one per cent of lands that are explored result in mining activity, therefore it is important to keep a land base available for mining.
22. If planning compromises exploration and mining, there should be compensation.
23. The planning process is backwards. Why is the road driving the process and not the other way around?
24. A staking moratorium in the planning area should be imposed until the plan is approved.
25. Traditional Knowledge and western ecological science should be combined in a meaningful way in the planning process.
26. There is concern that the plan is being pushed through despite opposition.
27. More information, engagement, and outreach are needed for the next stages of the planning process.
28. To minimize actual or potential land use conflicts there must be engagement with the outfitters in the planning area.
29. There are other companies who want to do the same kind of planning to further their projects. This could cause resources issues for the First Nation of Na-Cho Nyäk Dun Lands Department.

Theme 2: Road Access Management

The construction, management and use of the tote road are the impetus to the development of the plan. Concerns about the road tended to focus on poor route location, establishing access to a pristine area, increased moose hunting and inadequate regulations to control access. While other comments support the development of the road highlighting opportunities for exploration, mining and other economic activities (e.g. access to traplines).

The following comments summarize what we heard:

1. The planning area is one of the more prospective areas that remains open and access should be maintained and improved.
2. The area is known as a haven for wildlife because the area is hard to reach for most hunters since the terrain is difficult to travel because of permafrost and wetland areas.
3. A reclamation plan is needed to ensure proper decommissioning of the road.
4. Who will control the road and what First Nation involvement will we have? Who benefits most? There should be compensation for all First Nation of Na-Cho Nyäk Dun citizens.

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5. Can private roads be guaranteed to stay private?
6. The road should not be a public road.
7. Access criteria needs to be determined.
8. If taxpayer dollars are involved in building the road, the road should be accessible to the public.
9. The road design and Road Access Management Plan should mitigate the impacts to ensure values are protected.
10. Feasibility of using airships should be investigated and/or looked at again. In addition, drones that can move and lift large loads should be considered.
11. Airship technologies are not commercially ready and remain at least five years from rollout.
12. Roads should be routed around wetlands and impacts minimized through construction or reclamation techniques.
13. There should be access to existing trails and to new trails and roads for outdoor pursuits and for prospecting.
14. The road should not have long straight stretches as these can act as predator pathways.
15. It is important not to combine separate issues like hunting with proposed access for exploration projects.
16. What will happen to the road if ATAC goes bankrupt? Who will pay to remediate the road? A road will never go away.
17. This is not just an exploration road – it is a mining road and there is concern that ATAC will allow/sell/lease to other users, and that the road will be extended and lead to additional staking.
18. Shared, multi-user access can provide economic benefits (such as wilderness-tourism activities) and environmental benefits (less habitat fragmentation).
19. There have been significant wildlife population crashes and habitat fragmentation linked to roads.
20. Clarity is needed on the status of the Resource Road Regulations.
21. The Resource Road Regulations need to be completed so they can be used as a tool to control access.
22. There needs to be people on the ground to enforce regulations.
23. A Road Access Management Plan and regulatory mechanisms must be in place prior to any access development and remain effective during all stages of mineral development.
24. How will public consultation inform the development of the Road Access Management Plan and future amendments to it?
25. Will there be any legislative authority to regulate compliance with the Road Access Management Plan until resource road regulations are in place?
26. Why does the MOU state that any conflict between the Land Use Plan and the Road Access Management Plan will result in the Road Access Management Plan taking precedence? This could compromise the planning.
27. Moose overharvesting concerns should be addressed with restrictions on hunting by Territorial and First Nation governments, rather than blanket policies against access development.
28. There could be increased traffic on the Wind River Trail and possibly in the Peel region if the proposed road becomes a “gateway.”
29. Restrictions should be considered for the Wind River Trail.
30. Clarity is needed on the terminology of the map (e.g., defining prohibition of entry/access).

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31. Vehicle traffic along the road must cease during critical times of the year (fall rut and winter) and be kept to minimal levels during other periods to reduce animal displacement and risks of overharvesting.
32. The plan should preserve the option to permit future road access to exploration projects that show economic potential for mine development.
33. Road accessibility is a fundamental requirement for mineral projects that produce bulk concentrate materials.
34. The road might increase predation by wolves by creating predator pathways.
35. Winter-only roads are insufficient for continual production of mineral resources.
36. Other road access routes such as through the Marg property and using the Wind River Trail should be considered.
37. Effective policy and planning that is supportive of long-term, multi-user access can enhance the viability and responsible development of projects while minimizing environmental impacts that would result from duplication of infrastructure.
38. There are concerns about private versus public use of the road.
39. There is concern the road will be extended east and into other areas within the region to support exploration and mining resulting in more habitat loss.
40. There is concern that the future Rural Road Regulations support multi-user roads and resulting in more disturbance to wildlife.
41. The road is not supported. There are concerns about compensation for the trapline holders.
42. The road will access a pristine area of the Yukon and take away from that value.
43. Access into the Peel will be increased because of the road (with increased garbage).

Theme 3: Traditional Use and Knowledge

The objectives for development of the plan address the requirement to consider local, scientific and Traditional Knowledge. The Planning Committee's Operating Guidelines specifically speak to weighting scientific and Traditional Knowledge the same. Local and Traditional Knowledge is being gathered through First Nation of Na-Cho Nyäk Dun Elders, trappers and local outfitters who operate and travel through the region. The Knowledge that can be shared, with the permission of the Knowledge holders, and will be presented in the planning background report.

The following comments summarize what we heard:

1. Need to use Traditional Knowledge in this process.
2. There should be two Elders on the committee, should be First Nation of Na-Cho Nyäk Dun citizens and Elders in the decision-making process.
3. Clarity is needed as to the role of First Nation councils and boards in this process.
4. The road will go through many cultural areas, including family traplines, hunting areas, and traditional travel routes.
5. The Mayo Renewable Resources Council needs to advocate for moose hunting quotas.
6. This plan will impact our land and animals.

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7. There is concern around the Ladue lake area being overfished/hunted out. There are unique trout in the lake.
8. It is important to have traditional food security for the families.
9. Do not go with parks as First Nation people will lose their rights to access these areas.
10. The Planning Committee should balance geological information with Traditional Knowledge.
11. Outfitters noted that their clients do not want to hear heavy equipment and planes/helicopters while enjoying the wilderness hunting experience.
12. The moose numbers are currently low and there is concern that the opening of access will create more pressure on the moose.
13. There will be a loss of berry picking areas and other special areas.
14. The committee members should go on the land with the Elders, citizens and community people to encourage better engagement with all people.
15. Plan needs to consider benefits to Yukon, people in Mayo and Na-Cho Nyäk Dun citizens. We need eyes and ears out on the land.
16. Need to look at settlement areas displaced by mines.
17. Our land is not for sale.
18. Who is monitoring out on the land and will there be training for First Nation of Na-Cho Nyäk Dun citizens?
19. What do FNNND citizens get out of this planning process?
20. We need unity and need youth involvement.
21. Site-specific parcels are too small to teach traditional ways.
22. There is an existing horse/outfitting trail with camps in the area, which would be impacted. There needs to be more restrictions on the outfitters. They use machines instead of horses now. The machines scare the moose.
23. Need to respect the places of the people who live there.

Theme 4: Wildlife/Wilderness

Most of the comments about wildlife focused around the declining moose population in the region and the concerns that an access road will increase hunting and cause further decline in the moose numbers. Other comments included concerns over loss of wetlands, fish and habitat. Currently, there is limited data available on the fish, wildlife and habitat in the region. More information on fish, moose and wetlands will be collected in this year (2019) to inform the planning.

The following comments summarize what we heard:

1. Large areas of wilderness should be protected since this is one of the key assets for wilderness tourism.
2. Pristine wilderness will become a spider web of development.
3. There are important wildlife values in the area, especially moose, sheep and fish.
4. Water is the essence of life; we need to ensure that it is always clean for wildlife/people.
5. Increased stress on ungulate populations within the Beaver River Watershed as a result of increased mining activity should be considered a land use conflict between outfitting and mining.

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6. Moose populations are in decline.
7. This area has high concentrations of moose activity with preferred moose habitat directly along the proposed road corridor.
8. Wetlands in the area are rich in biodiversity and are used by migrating and nesting waterfowl.
9. The road should not come within a mile of Ladue Lake.
10. More information is needed about the wetlands.
11. Mining and the road will have significant impacts on wildlife, especially over harvesting, poaching, habitat loss and disturbance to moose calving areas.
12. The region is pristine.
13. A Wildlife Harvesting Management Plan and restrictions to avoid over-harvesting with yearly annual reviews need to be in place until wildlife population numbers are improving.
14. The committee should consider a caribou management plan.
15. A wetland policy is needed prior to road and mineral development.
16. The intrinsic wilderness values will be compromised by road development.
17. Ladue Lake is a special place and it needs to be protected.
18. Concern the fish and wildlife will be overharvested.
19. The objective of the wildlife harvest plan must be to protect the wildlife populations and age-class over the long term.
20. Wildlife also pass down information through generations and disturbing their habitat will disturb this Knowledge transfer.
21. The Yukon is one of the few places left on this planet with intact wilderness and wildlife populations. This region contributes to this unique value.
22. The road and mining will cause water quality and quantity degradation as the road crosses numerous streams.
23. The water pollution from the mining and roads (such as road sediment and vehicle effluent) might be detrimental for the fish.
24. More studies on wetlands are needed to ensure certainty and adequate protection is there for the fish and wildlife species.
25. This area is habitat for some Species at Risk or Special Concern, including salmon, raptors and grizzly bears as noted in the *Species at Risk Act (SARA)* legislation.
26. Helicopter traffic is not conducive to the wilderness experience.

Theme 5: Exploration Industry

The exploration companies are concerned the area is relatively underexplored and limiting access to the area will eliminate future exploration and mining opportunities along with the benefits of economic prosperity that come with it. Others are concerned that decommissioning and remediation will not occur and there will be lasting environmental impacts.

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The following comments summarize what we heard:

1. Industry needs to be part of the solution, helping to mitigate disturbance.
2. This area has significant mineral potential – it would be premature to not allow mining/exploration in the area and foreclose on a rare economic opportunity.
3. The plan area hosts a belt of highly prospective rocks with demonstrated and long-term mineral exploration potential.
4. 170 kilometers of staking has occurred along this mineral potential belt (west to east) which extends beyond the planning –area – this road may be the beginning of more roads. What assurance do people have that the road will be reclaimed and the mine remediated? How can FNNND be involved?
5. The development of other mines should also be considered.
6. The area has been explored for nearly 100 years, with significant exploration activity over the last 40 years. Despite this exploration activity, the area is still described as pristine wilderness, which supports the premise that mineral exploration has been, and is, low impact, conducted with little to no footprint on the environment.
7. There is already a significant amount of land withdrawn from mineral exploration in the Yukon – 58 per cent.
8. Only 1 per cent of explored Yukon land results in a mine development - to reduce the land available reduces the chances of finding viable mineral deposits.
9. This area should not be withdrawn because of the significant amount of land in the Peel River that will be unavailable to exploration and mining and left as parks and wilderness areas.
10. A lot of land was removed from potential exploration during the Peel planning process and it was understood by the exploration/mining community that the area south of the Peel would be available for mining.
11. The value of future mining and the contribution it has to the territory's GDP needs to be considered.
12. Providing certainty of access will promote investment for responsible development - not having physical access would be a major drawback.
13. Because of the mineral potential in the Carlin type deposits further east, the planning should not foreclose on a road extension into that area.
14. Potential alternatives to a road – notably airstrips – should be investigated.
15. Moratorium on mining staking should occur.
16. People will benefit from additional work and it will help keep people in Mayo.
17. The road needs to be decommissioned after use or more mining will follow.
18. We cannot depend on mining. Need to look at other developments. There are tourism values in the area too.
19. Economic potential of the area is quantifiably higher than most regions in the Yukon and more so given the proximity to highway access and the electrical grid.
20. To properly assess an area's mineral potential, a business requires guaranteed access to large regions for exploration.

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21. Mineral exploration is a science-based business that has evolved to a stage where it can be conducted in ways that leave a minimal environmental footprint through non-disturbing techniques. Restoration techniques can restore areas to near original condition.
22. Not all regions in the Yukon have equal mineral potential, and therefore those that do should be developed while the other areas are protected.
23. Exploration companies in the area use local contractors and employees as much as possible and support the local economy.
24. Past negative legacies of mining in the Yukon are not indicative of modern projects.
25. The Beaver River Land Use Plan should not withdraw areas from exploration and mining activity.

Theme 6: Monitoring, Data, and Cumulative Effects

Understanding the cumulative effects of development in the Beaver River Watershed was a strong recurring theme as the Tote Road will provide new access to the area. Comments point to the need for good baseline information on fish, wildlife and their habitats, undertaking timely and robust monitoring to identify potential impacts and adaptive management to respond to impacts as they occur. The government-to-government agreement between FNNND and Yukon governments identifies the need to develop an adaptive monitoring program along with ATAC to address impacts in the general area of the Tote Road.

The following comments summarize what we heard:

1. Cumulative effects need to be considered and monitored, including impacts beyond the planning area and from future activities.
2. There are large information gaps on moose, grizzlies, chinook salmon and dolly varden populations and their habitats.
3. There should be a staking moratorium in the planning area during the planning process.
4. There is support for identifying and designating protected areas in the region.
5. There need to be strict limits on the human activities that have irremediable impacts – notably placer mining of wetlands.
6. There should be financial penalties to all who trespass onto the First Nation of Na-Cho Nyäk Dun lands and the road.
7. The short time frame does not allow for adequate data collection.
8. More baseline data is needed before the road is constructed in order to manage impacts and maintain the values of the area.
9. Monitoring needs to occur yearly.
10. A Cumulative Effects Management Plan should include monitoring prior, during and after road construction.
11. To understand how the moose population is changing, monitoring moose sightings over a long period is required. The moose populations are already down.
12. Mapping should include all previous developments, including winter trails.
13. A robust monitoring program must be put in place to measure both the wildlife displacement and human-induced mortality.
14. Results from the monitoring program must be used for (adaptive management) and to continually improve management practices.

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15. Climate change will further contribute to cumulative effects in this area.
16. There may be impacts from the activities associated with the mineral claims (exploration and possible future mining) in the Beaver River Watershed that may negatively impact the surrounding areas, including the Peel Watershed.

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4.0 WHAT'S NEXT?

The governments of FNNND and Yukon are collecting information on the region. Field trips into to the region are being carried out this summer by both governments. The results of this work will be shared through community meetings and community, FNNND and stakeholder workshops through the fall and winter 2019.

There will be additional opportunities for community engagement as the planning process moves forward. Please visit <http://www.emr.gov.yk.ca/rlup/beaver-river-land-use-plan.html> or <http://www.nndfn.com/>

If you wish to provide information on the planning area, you can send an email, with the subject line of "Beaver River Land Use Plan" to george.stetkiewicz@gov.yk.ca **AND** lesley.cabott@stantec.com.

APPENDIX A

Participants

BEAVER RIVER LAND USE PLANNING: WHAT WE HEARD

Appendix A Participants

Appendix A PARTICIPANTS

Bonnet Plume Outfitters	ATAC Resources
Yukon Outfitters Association	Cantex Mine Development
Canadian Parks and Wilderness Society	Wilderness Tourism Association Yukon
Ducks Unlimited Canada	Yukon Fish and Game Association
Alexo Resource Corp.	Widrig Outfitters Ltd.
Metallic Minerals	Yukon Fish and Wildlife Management Board
Mayo Renewable Resources Council	Yukon Conservation Society
Yukon Chamber of Mines	Historic Resources Board
Strategic Metals Ltd.	Whitehorse Community Meeting
Archer, Cathro & Associates Ltd.	Mayo Community Meeting
Yukon Prospectors Association	Keno Community Meeting
Wildlife Conservation Society	Community Meeting Comment Sheets
Midnight Sun Outfitters	41 Written/Email Submissions
Village of Mayo	

APPENDIX B

**GOVERNMENT OF YUKON AND FIRST NATION OF NA-
CHO NYÄK DUN PLANNING AGREEMENT**

Handwritten initials "M" and a signature.

THIS AGREEMENT made this 21st day of January 2018,

BETWEEN:

GOVERNMENT OF YUKON, as represented by the Minister of Environment and Minister of Energy, Mines and Resources

(YG)

AND:

FIRST NATION OF NA-CHO NYÄK DUN, as represented by the Chief and Councillors

(NND)

(each being a **Party** and collectively being the **Parties** to this Agreement)

WHEREAS:

- (A) ATAC Resources Ltd. (**ATAC**) is proposing the construction of an all-season, single-lane tote road (the **Tote Road**), as marked on Schedule A of this agreement, from the existing Hanson Lakes road to the Tiger deposit, located at the western end of the Rau property, that will be primarily located on Crown land and will cross a portion of NND R-5A and NND R-4A in order to support its advanced exploration and feasibility level development work at the Tiger deposit;
- (B) ATAC submitted the proposed construction of the Tote Road to the Mayo Designated Office for assessment in 2016 and the Mayo Designated Office issued its Designated Office Evaluation Report on May 3, 2017, and determined that the Tote Road would or is likely to result in significant and adverse effects, but these effects could be eliminated, controlled or reduced with the application of appropriate terms and conditions;

NOW THEREFORE, the Parties agree as follows.

- 1. **Development of a plan.** The YG and NND will prepare a plan for the portion of the Stewart River watershed (the **Plan**) identified on the map attached as Schedule A (the **Planning Area**) to this agreement in accordance with this agreement.
 - (a) **Establishment of a Planning Committee.** The Parties will each appoint two representatives to a land use planning committee to prepare the Plan (the **Planning Committee**).
 - (b) **Representatives.** The representatives of the Planning Committee will be delegates of the Parties that appointed them.
 - (c) **Operation of the Planning Committee.** The Planning Committee may make its own operating procedures and will work on the basis of consensus.
 - (d) **Duties of the Planning Committee.** The Planning Committee will:
 - i. endeavour to submit the Plan to the Parties by March 31, 2020;
 - ii. refer disputes or impasse issues to the Parties with respect to matters relating to the development of the Plan;
 - iii. seek direction and guidance from the Parties, where appropriate;
 - iv. provide for public participation in the development of the Plan; and

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- v. prepare a workplan and budget for the development of the Plan.
- (e) **Objectives.** In the development of the Plan, the Planning Committee will:
- i. promote collaboration with respect to the use and management of land, water and resources, including fish and wildlife and their habitat, within the Planning Area;
 - ii. recommend measures to minimize actual and potential land use conflicts throughout the Planning Area;
 - iii. use the traditional knowledge and experience of NND citizens, scientific information and local knowledge of other residents in NND's traditional territory;
 - iv. promote the well-being of NND citizens and other residents of NND's traditional territory, including residents of Mayo, Stewart Crossing and Keno;
 - v. take into account traditional land use by NND citizens and their traditional land management practices;
 - vi. promote integrated management of land, water and resources, including fish and wildlife and their habitats; and
 - vii. promote development that does not undermine the ecological and social systems upon which NND citizens and their culture are dependent.
- (f) **Funding.** The Parties are responsible for the expenses of their Planning Committee representatives. YG will cover meeting costs and printing costs.
- (g) **Prohibition orders.** The Minister of Energy, Mines and Resources, on behalf of YG, shall as soon as practicable following the signing of this agreement, recommend to the Commissioner in Executive Council that, for the area marked on Schedule B of this agreement, prohibition of entry orders be implemented for the purpose of locating, prospecting or mining under the *Quartz Mining Act* and the *Placer Mining Act* until the Plan is approved by the Parties.
- (h) **Fish and Wildlife Harvest.** The Minister of Environment shall initiate a process in collaboration with the Yukon Fish and Wildlife Management Board towards the timely identification of an adaptive, proactive fish and wildlife harvest regime that will address actual or anticipated increased harvest associated with the Tote Road. This may require the application of restrictions on harvesting all or part of Game Management Sub-zones adjacent to the Tote Road. To support timely and adaptive wildlife management, NND will endeavour to collect data on big game harvest activities of NND citizens in these same areas, including species and sex, and provide annual reports to YG.
- In support of these measures, the Parties will ensure terms and conditions on the project that require ATAC to ensure that their employees, contractors and sub-contractors do not harvest fish or wildlife within one km of the Tote Road, in the area marked as Schedule C of this agreement (the **ATAC Harvest Prohibition Area**).
- (i) **Adoption of the Plan.** The Parties will review the Plan and may approve it or send it back to the Planning Committee for reconsideration and may provide specific direction or guidance to the Committee to reconsider.
- (j) **Compliance with the Plan.** YG and NND will exercise their lawful discretion to grant any interest in, or authorize the use of, land, water or other resources in conformity with the Plan. However, if a designated office, the executive committee of the Yukon Environmental and Socio-economic Assessment Board (the **Board**) or a panel of the Board recommends the approval of a project that is inconsistent with the Plan, the Parties may agree that the project proceed subject to certain terms and conditions.
- (k) **Inconsistency with existing plans.** Unless agreed to by the Parties, the provisions of the Plan will prevail over any other local area district or regional land use plan to the extent of any inconsistency.

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(l) **No construction until the Plan is finalized.** The Parties will not issue any licence, permit or other authorization for the construction of the Tote Road until they have approved the Plan.

(m) **Review.** The Parties will review the Plan no later than 10 years after its adoption.

2. **Road access management plan.** YG will work with NND and ATAC to develop a road access management plan (the **Road Access Management Plan**) to be finalized before the commencement of construction of the Tote Road. This plan will identify methods for the use of the Tote Road so that it will minimally disrupt or interfere with NND citizens' traditional, cultural and other uses of the lands and resources within NND's traditional territory, including the following matters, unless agreed otherwise by the Parties:

- (a) designation of the Tote Road as an ATAC private road and subject to 6.2.3.2 of the First Nation of Na-Cho Nyäk Dun Final Agreement;
- (b) measures to prevent public use of the road, including the establishment of access gates road, the posting of signs and the restriction of motorized vehicles on the road.
- (c) regulation of the times and dates when ATAC access to and use of the Tote Road is prohibited;
- (d) installation of motion-sensor cameras by ATAC to monitor and record use of the Tote Road;
- (e) regulation of the sizes and types of ATAC vehicles permitted to use the Tote Road;
- (f) requirements for ATAC vehicle traffic to use the Tote Road in a convoy in order to mitigate impacts at specific times of the year;
- (g) regulation of the use of ATAC all-terrain vehicles on or from the Tote Road;
- (h) establishment of an effects monitoring program, including effects auditing, with respect to the use of the Tote Road;
- (i) consideration of enforcement measures and approaches with respect to unauthorized access of the Tote Road; and
- (j) any other matters that the Parties may agree.

3. **Conflict between the Plan and the Road Access Management Plan.** If there is any conflict or inconsistency between the provisions of the Plan and Road Access Management Plan, the provisions of the Road Access Management Plan will prevail over the Plan to the extent of any inconsistency or conflict, unless the Parties agree otherwise in writing or is required by law.

4. **Security and reclamation of the Tote Road.** YG and NND will work together to ensure that sufficient security is provided by ATAC to YG as provided by law, in a form recommended by the Parties, to fulfil its commitments under the reclamation plan made in accordance with the *Quartz Mining Act* that, among other matters, will provide for:

- (a) the removal of any culverts and bridges; and
- (b) the restoration of the area of the Tote Road, including, as appropriate, clean-up, drainage, erosion control, re-contouring, overburden replacement and replanting of vegetation so that the area will blend in with the local landscape and vegetation.

YG will hold the security and will make best efforts to reach agreement with NND on recommendations for its use and expenditure to provide to the Minister of Energy, Mines and Resources.

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5. **Wildlife harvesting management.** The Parties will work with the Mayo District Renewable Resources Council to address management measures that support the conservation, including sustainable use, of wildlife populations and the protection of their habitat. This includes identification of mitigation measures necessary to minimise impacts that result from construction, maintenance, use and closure of the Tote Road.

YG and NND will work with ATAC to develop measures for ATAC to implement to:

- (a) restrict hunting access by motorized vehicle from the Tote Road;
- (b) prohibit ATAC's employees and contractors from any hunting or fishing activities in the area identified in Schedule C – the ATAC Harvest Prohibition Area; and
- (c) require ATAC's employees and contractors to take wildlife avoidance training.

YG will work with NND and ATAC to establish an adaptive monitoring program, including baseline data collection, with respect to impacts on wildlife and their habitat within the general area of the Tote Road.

6. **Trapper compensation.** YG will provide compensation in the amount of up to \$5,000 or additional compensation to the holders of RTC 45 and RTC 83 and any other NND holder of a trapline where it can be demonstrated to the satisfaction of YG that the holder has been impacted significantly by the construction, maintenance, use and closure of the Tote Road.

7. **Capacity for NND.** The Parties agree to enter into a Transfer Payment Agreement (**TPA**) for YG to provide NND \$175,000 upon the execution of this Agreement for the 2017-18 fiscal year, \$150,000 for the 2018-19 fiscal year. TPAs for \$50,000 annually shall be entered into by the Parties from the commencement of the construction of the Tote Road to the earliest of: eight years following commencement of construction or the permanent closure of the Tote Road. These funds shall be used to mitigate the Tote Road's environmental and socio-economic impacts, including, but not limited to, the following measures:

- (a) development and implementation of the road access management plan;
- (b) providing for NND's participation in the Planning Committee;
- (c) convening community information sessions for NND citizens to inform and update them about the Tote Road from time to time;
- (d) conducting annual meetings with affected NND families, traditional harvesters and trappers for NND and ATAC to update them about matters related to the construction, maintenance, use and closure of the Tote Road and seek their input and feedback;
- (e) convening annual business development meetings with ATAC and NND citizens and their businesses to identify and promote development of business opportunities and facilitate economic benefits; and
- (f) contributing funds not expended under (a) to (e) to the NND Wellness Fund.

Upon the expiry of the financial provisions in this section, the Parties will undertake a review as to whether NND continues to require capacity support to carry out mitigation activities, including those listed in paragraphs (a) to (f) above.

8. Communications.

Each Party will advise the other in advance of any planned public communication about matters relating to the Tote Road and will provide copies of prepared materials to the other Party in advance of their release. Should the other Party have any concerns about these materials, the Party will work with the other Party to resolve them in a constructive manner.

When advance notice of a public communication is not practicable, the Party involved will advise the other Party of the communication immediately after it has been made.

9. General

- (a) **Requirement for Decision Document(s).** This Agreement shall not come into force until such time as YG and NND have issued a joint Decision Document or compatible Decision Documents that provide for the Tote Road project to proceed subject to agreed-to terms and conditions.
- (b) **Amendment.** This Agreement may be amended from time to time, in writing, by the Parties. No term in this Agreement may be changed or waived except in writing.
- (c) **Entire agreement.** Upon this Agreement coming into effect, this Agreement will constitute the entire agreement between the Parties with respect to the subject matters referenced and will supersede any prior agreement, negotiation or understanding between the Parties.
- (d) **Enforcement.** The failure of either Party to enforce the terms or conditions of this Agreement at any time, or for any period of time, will not be a waiver of such terms or conditions or of the Party's right thereafter to enforce each and every term and condition of the Agreement. This Agreement and all of its terms and conditions will be governed by and interpreted in accordance with the laws of the Yukon and the laws of Canada.
- (e) **Severability.** The provisions of this Agreement are severable. If any provision is declared to be void or unenforceable it will be severed and the remaining provisions of this Agreement will continue to have full force and effect.
- (f) **Dispute Resolution.**
 - i. In this section, "Dispute" means a disagreement between the Parties arising out of the interpretation or application of the provisions of this Agreement or matters respecting or arising in connection with this Agreement.
 - ii. In the event a Dispute arises, the Parties will exercise all reasonable efforts to resolve it amicably.
 - iii. The Parties may resolve a Dispute by mutual agreement at any time and all such agreements will be recorded in writing and signed by authorized representatives of the Parties.
 - iv. If the Deputy Minister of Energy, Mines and Resources, the Deputy Minister of Environment and the NND senior official cannot resolve a Dispute by mutual agreement within 14 days of the Dispute arising, then they will refer the Dispute together with their recommendations to the Minister of Energy, Mines and Resources, Minister of Environment and the NND Chief for resolution.
 - v. If the Ministers and the NND Chief have not resolved the Dispute within 10 days after the day on which the Dispute is referred to them (or such other period as they may agree), then the Dispute may

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be referred by either Party to a mediation, such referral to be effected by the delivery of a written notice to the other of that Party's desire to mediate the Dispute (the "Mediation Notice"), provided that:

- A. the Parties to the Dispute agree to a mediation and to a mutually acceptable mediator within 5 days of delivery of the Mediation Notice (or such other period as the Parties may agree);
 - B. the Parties to the Dispute agree to participate in a maximum of 6 hours of mediation and may extend that time by further written agreement;
 - C. the mediation must be completed within 60 days of selection of the Mediator (or such other period as the Parties may agree);
 - D. each Party to the Dispute will pay an equal share of the remuneration and expenses of the mediator; and
 - E. each Party to the Dispute is responsible for its own costs of mediation.
- vi. Notwithstanding the Dispute resolution provisions of this Agreement, any Party to a Dispute may at any time apply to the Yukon Supreme Court for such interim relief as that Party may deem appropriate.

(g) **Schedules.** The Parties agree that the following schedules form part of this Agreement:

- a. Schedule "A" – Map of the Planning Area;
- b. Schedule "B" – Map of the Prohibition Order Area; and
- c. Schedule "C" – Map of the ATAC Harvest Prohibition Area.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed in their respective names by their duly authorized representatives.

FIRST NATION OF NA-CHO NYÄK DUN

GOVERNMENT OF YUKON

Per: 
Chief

Per: 
Minister of Environment

Per: 
Deputy-Chief

Per: 
Minister of Energy, Mines and Resources

Per: 
Councilor

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Per: Shonem A. P. [Signature]
Councilor

Per: Melody [Signature]
Councilor

Per: Ronald P. [Signature]
Councilor

Per: [Signature]
Elder Councilor

Per: N/A
Youth Councilor

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SCHEDULE "A" and "B" – MAP OF THE PLANNING AREA AND PROHIBITION ORDER AREA

(Recital (A) + section 1 of the Agreement)

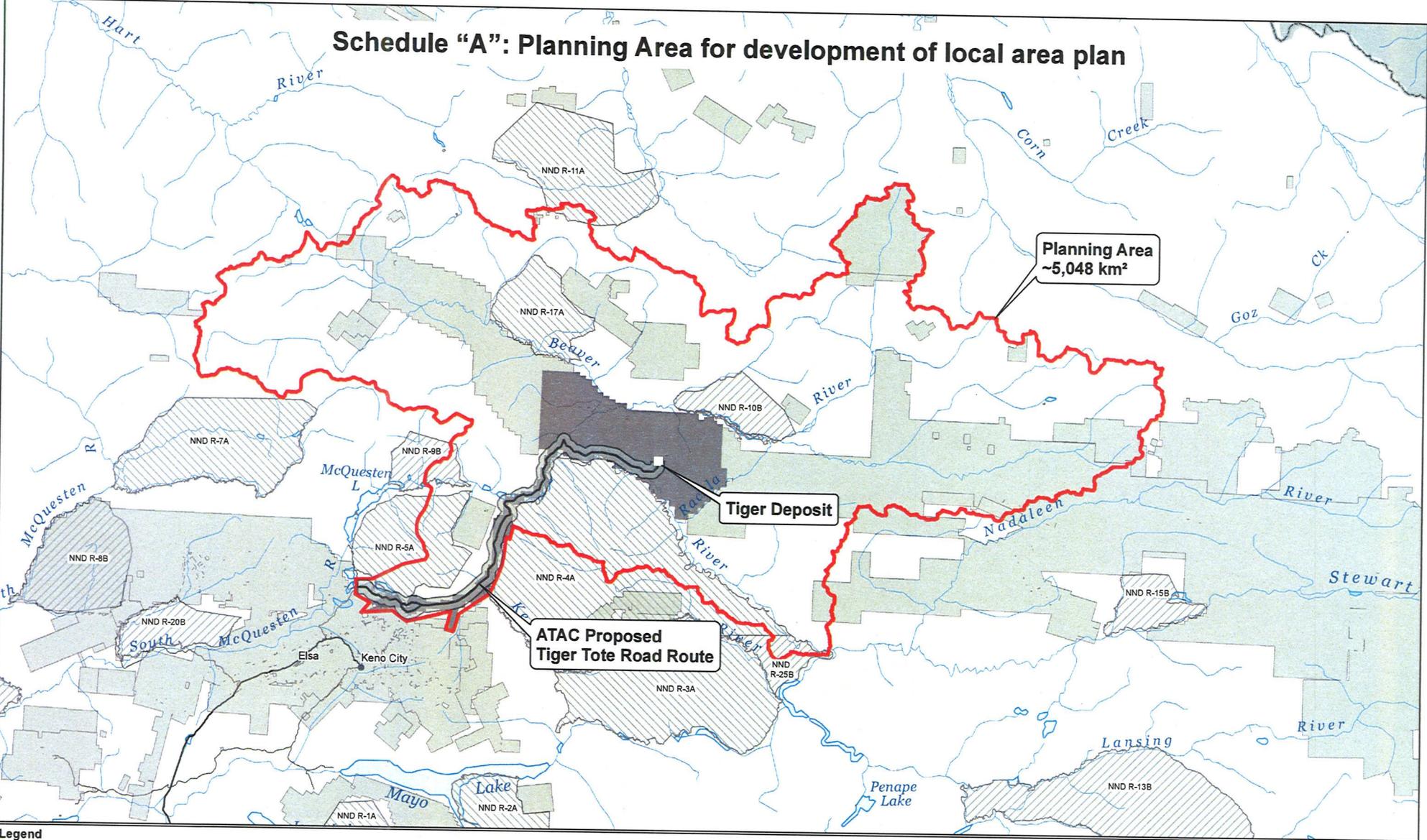
(subsection 1(g))

SCHEDULE "C" – ATAC HARVEST PROHIBITION AREA

(subsection 1(h))

Handwritten initials: JG M

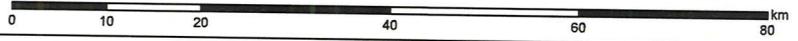
Schedule "A": Planning Area for development of local area plan



Legend

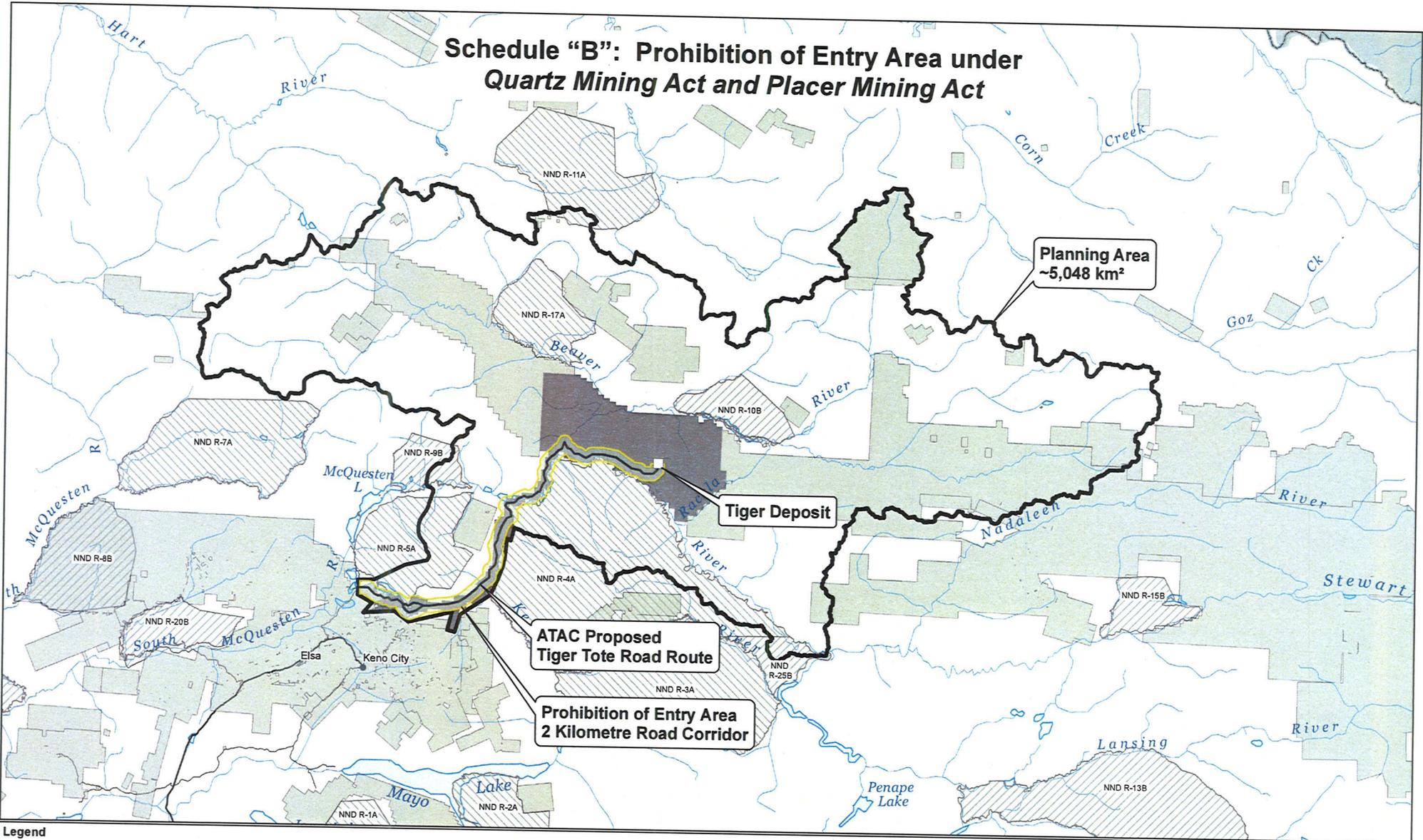
Tiger Deposit	Roads	First Nation Settlement Lands - Surveyed	Raikla Gold Project
Settlement	Highway	A: Surface and Subsurface Rights	Quartz Claims - 1M
Proposed Tote Road	Local Road	B: Surface Rights	Waterbody - 1M
Yukon Borders - Surveyed	Resource/Recreation Road	Planning Area	Prohibition of Entry Area
Watercourse - 1M			

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Created By: CMI (HR)
 Date: Jan. 12, 2018
 File: ScheduleA.mxd
 Projection: Yukon Albers

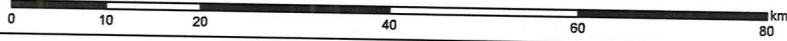
Schedule "B": Prohibition of Entry Area under Quartz Mining Act and Placer Mining Act



Legend

<ul style="list-style-type: none"> □ Tiger Deposit ● Settlement — Proposed Tote Road — Yukon Borders - Surveyed 	<p>Roads</p> <ul style="list-style-type: none"> — Highway — Local Road — Resource/Recreation Road — Watercourse - 1M 	<p>First Nation Settlement Lands - Surveyed</p> <ul style="list-style-type: none"> ▨ A: Surface and Subsurface Rights ▨ B: Surface Rights ▭ Planning Area ▭ Prohibition of Entry Area (2km Road Corridor) 	<ul style="list-style-type: none"> ■ Raskin Gold Project ■ Quartz Claims - 1M ■ Waterbody - 1M
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Created By: CMI (HR)
 Date: Jan. 16, 2018
 File: ScheduleB.mxd
 Projection: Yukon Albers

Schedule C - ATAC Harvest Prohibition Area (2 Kilometre Road Corridor)

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