

A framework for planners and regulators to guide mineral activities in Yukon communities

Proposal and questionnaire
for public engagement and First Nation consultation



What is the problem we are trying to address?

In 2019-20, the Government of Yukon engaged with First Nations, municipal and community governments to learn about their experience of mineral staking and development in Yukon communities.

We learned that although mining activities can co-exist with other types of land uses, conflict and uncertainty sometimes arise, especially within communities. Mineral rights involve development of subsurface materials, but usually disrupt the land surface and often mineral rights are held by someone other than those with an interest in the land surface.

We learned that some communities have had success in clarifying uncertainties and in using aspects of the *Municipal Act* and are slowly navigating in spite of conflict and tension. It is clear that others could benefit from these successes. We want to use what we have learned in that first stage of engagement to guide how, where and when mineral staking and development should be undertaken within Yukon communities. We want to minimize land use conflict, while continuing to promote sustainable development and respect community values.

What are we proposing?

We would like your feedback on a proposed framework that includes some policy elements for the Government of Yukon, as well as recommended practices, for all regulators and planners. The framework should:

- improve coordination between community land use planning (both municipal and unincorporated) and mineral regulatory processes;
- introduce measures to proactively reduce potential conflict related to land use, which may arise from new mineral staking;
- offer guidance to community decision-makers, residents and those who may hold mineral claims within planned and zoned Yukon communities; and
- help ensure that any permitted mining land use activities within Yukon communities are undertaken in a manner that meets proponents' needs while meeting the standards of sustainability, and respecting community values.

Who is involved and where would this framework apply?

There are numerous agencies involved when mineral activities are proposed within Yukon communities. When mineral activities are proposed, the Yukon Environmental Socio-economic Assessment Board assess them and the Government of Yukon has the role of authorization.

In the Yukon, there are several communities that are unincorporated (e.g., Ibex Valley, Mount Lorne) and where the Government of Yukon is responsible for planning and zoning under the *Area Development Act*.

There are eight communities that are incorporated (i.e., municipalities, like Dawson City and Whitehorse) and in which local governments have responsibilities under the *Municipal Act* to develop, amend and enforce their own official community plans and zoning.

This framework should support all of these agencies in respect of planning and regulating mineral activities in these kinds of communities.

There are also unincorporated non-planned communities such as Keno. This framework cannot apply to this kind of community.

The scope of this framework

As there are so many agencies involved, it is hoped that this framework can provide guidance for better collaboration and ultimately, solutions to conflict.

Acknowledging the differing jurisdictional responsibilities as well as the need to collaborate and modernize, the scope of the final framework will include guidance and recommend practices for all planners and regulators. It will also include for the Government of Yukon policy direction related to planning and zoning in unincorporated communities, as well as mineral withdrawals.

The framework is intended to be responsive to successes that may unfold in communities. It should evolve as communities grow and evolve and as mineral activities fluctuate.

How can you help?

We are inviting you to review our proposed framework. Your concerns, ideas and opinions on our proposed approach will help us ensure that we have effective tools and practices in place. This process will run from August 25 to October 14, 2022.

Background

Over the years, the Government of Yukon has received requests to make non-industrial lands unavailable for mineral staking in both incorporated and unincorporated communities. There have also been requests to keep options open for mineral exploration and development within community boundaries. These requests have come

about during community-based land use planning processes, or when new mineral claims are staked in areas zoned for non-industrial land uses.

There has also been conflict and uncertainty around the development of existing mineral claims within community boundaries, which has led to court cases over land development and mining rights in Dawson City and Whitehorse.

How will this framework relate to the development of new mining legislation?

Through the 2019-20 stakeholder engagement, we learned that numerous issues relate to the need to modernize or replace the Yukon's mining legislation. Coincidentally, a priority to develop and implement new mining legislation for the Yukon and First Nations governments emerged from the 2020 Mineral Development Strategy. Modernizing mining laws may resolve conflicts over competing land values within the boundaries of our communities.

In addition to and in advance of that legislative shift, our proposed framework could clarify the Government of Yukon's response to requests for mineral withdrawals and could encourage and support best practices with mineral exploration and development as well as land planning in the Yukon's planned and zoned communities.

How can I participate?

Fill out the survey at [Yukon.ca/mining-municipalities](https://yukon.ca/mining-municipalities) or fill out the hard copy below, and submit it to us by mail, email or in person. Let us know what you think. You have until October 14, 2022.

What about my privacy?

This questionnaire is designed to be confidential. Your individual responses will be kept private. We will summarize and report on the input we receive, but no personal attributes will be shared, so you will remain anonymous. The input you provide is protected by the Yukon's Access to Information and Protection of Privacy Act and Statistics Act.

Relevant references

If you want additional background information about mining, or planning for land use in Yukon communities, please refer to

- <https://yukon.ca/en/engagements/yukon-mineral-development-strategy>
- <https://yukon.ca/en/news/government-yukon-collaborating-yukon-first-nations-develop-new-mining-legislation>

- https://www.whitehorse.ca/whitehorse_project/whitehorse-2040-official-community-plan-review/
- <https://cityofdawson.ca/p/official-community-plan>

What will happen next?

Once we have integrated the feedback we receive from the public and with Yukon First Nations, we will compile and analyze all input and post a summary on the Yukon government's public engagement website. If you would like to be notified regarding the release of this summary report, please provide your email address in the last section of this document, below.

Once that information is organized, we will draft the framework document and submit it to Cabinet for review and approval.

If you have any questions, please contact Jocelyn McDowell.

Email: jocelyn.mcdowell@yukon.ca

Phone: 867-393-7043

Proposal and questionnaire

Best practices for official community and local area planning

During a 2019-20 stakeholder engagement, many participants noted impacts of mining on their municipalities and communities, such as visual and noise disturbance, decrease in property values, increased road traffic, decreased road safety and loss of tourism revenue.

We learned that in some communities, the amount of land suitable for community development is limited. Where mineral claims are staked, options for other kinds of development may be constrained.

Participants noted the importance of community planning to guide development and help resolve conflicts related to mineral activities in communities. Both miners and community representatives recognized the importance of ensuring the compatibility of different land uses. Several people said that land planning could be used to address some of these issues. Some indicated that certain areas should be unavailable to mineral exploration and development.

Proposed approaches

1. The proposed framework would allow land use planning in our communities to identify:
 - where mining activities could be permitted;
 - where community land use interests may conflict with existing, proposed or anticipated mining activities; and
 - where lands should be withdrawn from mineral staking, if other options to manage potential land use conflicts are deemed inadequate.

What thoughts or ideas do you have about this suggested approach?

Are there other factors that should be identified during community planning that would help minimize conflict, between mining and other land uses?

2. Where conflicts are identified, impacts of mining activities could be minimized via zoning regulation. Bylaw components could include:
 - requirements for buffers and/or visual barriers;
 - restrictions or conditions on hours of operation; and
 - restrictions or conditions on activities that may generate noise or other impacts to adjacent properties.

In addition, certain mining activities could be permitted as conditional or discretionary uses where they have a higher potential to create conflicts.

Discretionary uses are activities that may be considered once they have gone through a public consultation process and have been reviewed in relationship to their possible impacts or compatibility with surrounding land uses.

A development officer has the ability to apply special conditions on a development permit to address concerns that come forward or even deny an application if the impacts to neighbouring properties cannot be adequately addressed.

Would you support this approach? Do you think there are other ways that zoning regulations or other tools could be used to minimize impacts of mining activities on adjacent uses?

3. Where mining activities are anticipated to create land use conflicts (e.g., as with a major mining project), plan and zoning amendments may be required before allowing projects to proceed. This would trigger a requirement for public consultation.

It would also give a municipality or the Yukon government (in the case of unincorporated communities) the ability to negotiate arrangements with developers on how a mining project may proceed before rezoning is approved (see question #7).

Municipalities and rural communities could establish and characterize thresholds for certain activities (e.g., Class 2 mineral activities) that would trigger land use plan amendments or require rezoning.

What thoughts or ideas do you have about this suggested approach?

4. Noise may be one aspect of mineral development activities, for which it would make sense to define a threshold that would trigger plan amendments or rezoning.

What other aspects of mineral development would warrant the development of these thresholds?

5. In municipalities (i.e., incorporated communities), the *Municipal Act* controls land use through zoning. This could be communicated such that proponents of claim development are aware early in their permitting process.

What thoughts or ideas do you have about this suggested approach?

6. In unincorporated communities, the *Area Development Act* does not take precedence over the mining legislation: amendments could be made to this act that would similarly allow the management or control of land use, including activities on mineral claims.

What thoughts or ideas do you have about this suggested approach?

7. In circumstances where governments and claim holders have conflicting goals for the same land base, goals for all parties may be achieved through the negotiation of an agreement. Governments could identify circumstances where agreements may be appropriate, before allowing rezoning to permit mining activities. This would address conflicting land uses and fulfill community interests. An agreement may include:
 - a specified length of time that mining activities may be undertaken before areas can be reclaimed for other community purposes; and
 - a requirement for reclamation plans that accommodate future development plans, according to the official community plan or local area plan provisions.

What thoughts or ideas do you have about this suggested approach?

8. The *Municipal Act* also allows municipal councils to designate “direct control districts” within their official community plans and zoning bylaws. This tool enables a municipality to directly control the use and development of land or buildings in a specific area and manner that can exceed the requirements of a standard zone. This could be used to regulate such things as:
- duration and hours of operation for extraction and construction activities;
 - mitigation measures for noise, dust and other nuisance control during extraction activities;
 - length of time mining activities may be undertaken before areas must be reclaimed for other community purposes; and
 - requiring reclamation plans that accommodate future development plans, according to the official community plan.

Do you think this tool would work in your municipality? Do you have any thoughts about it?

Many respondents felt that communities should be able to define where mining can and can't occur with zoning, and that options to manage land use conflicts have been inadequate. Areas that have been zoned as “Industrial” have been deemed appropriate for things such as mineral activities.

However, several people suggested that there were zones where mining activities are currently allowable, but should be prohibited through staking withdrawals. Areas eligible for consideration for prohibition of new mineral staking in municipalities and rural planned/zoned communities may include:

- privately titled residential, rural residential and recreational lots;
- buffer zones (possibly between 200 to 500 m) around residential areas, where land use conflicts are anticipated;
- parks and open space zones where the impacts of mining activity would compromise environmental, cultural, or recreational values;
- areas designated for future growth (possibly only on a temporary basis); and,
- any other zone, except for industrial.

Proposed approaches

9. The framework could establish a process for municipalities and local advisory councils to request that new mineral staking be prohibited, in the context of local area or municipal planning.

What thoughts or ideas do you have about this suggested approach?

10. There are numerous existing mineral claims within communities and municipalities, in areas that may now be considered inappropriate for mineral activities. On existing claims in areas that have conflicting values, governments could facilitate and encourage arrangements that would enable development of underground resources, prior to the development of land surface for future residential, commercial or other land uses.

What thoughts or ideas do you have about this suggested approach?

Can you think of other policy or regulatory changes that would address some of the conflicts between mining land use activities and community development?

Communicate and educate, regarding land planning and mining regulation

Mining in Yukon communities often involves both the Yukon government and municipal governments, each with different regulatory regimes that apply to mining activity. During our 2019-20 targeted engagement, several people discussed the need for better communication between miners and local governments.

We also heard that permitting requirements are not always clearly communicated, and it wasn't clear how territorial mining and municipal and community planning regimes relate to each other.

Participants noted there were several territorial laws and municipal bylaws that can affect mining activity in communities. Most participants agreed that regulating mining in Yukon municipalities and communities is complicated, and that its relationship to planning is not well understood.

Proposed approaches

11. The Government of Yukon could support and facilitate early dialogue between proponents and municipalities with respect to mining-related proposals and the potential for local area and municipal planning and zoning to influence these.

What thoughts or ideas do you have about this suggested approach?

What methods of communication would work best for you?

Are there seasonal/timing considerations?

12. The Government of Yukon could establish a process involving community and territorial governments that ensures claimholders are notified and consulted when there are proposals for community plan or zoning changes, which may affect existing mineral claims.

What thoughts or ideas do you have about this suggested approach?

13. The Government of Yukon could provide educational material for distribution to planners, claimholders and operators that describes and explains:

- current assessment and regulatory processes, at the territorial and municipal government-level, for mineral claims in municipalities or zoned areas;
- how official community plans and local area plans for rural communities can affect and be affected by subsurface rights within community boundaries; and
- the use of surface land on mineral claims for mining, exploration and supporting activities within planned and zoned areas.

What thoughts or ideas do you have about this suggested approach?

Are there other or more specific aspects of mining in Yukon municipalities and communities about which you want more information?

What form of communication would work best for you? (e.g., web materials, paper pamphlets, school curriculum)

Who are you?

In the following section, please take a moment to tell us about you. This helps us understand your concerns, which will contribute to a more relevant, robust framework.

1. Are you a Yukon resident?

- Yes
- No

2. In which Yukon community do you live?

- | | |
|--|---|
| <input type="checkbox"/> Beaver Creek | <input type="checkbox"/> Mayo |
| <input type="checkbox"/> Burwash Landing | <input type="checkbox"/> Mount Lorne |
| <input type="checkbox"/> Carcross | <input type="checkbox"/> Old Crow |
| <input type="checkbox"/> Carmacks | <input type="checkbox"/> Pelly Crossing |
| <input type="checkbox"/> Dawson City | <input type="checkbox"/> Ross River |
| <input type="checkbox"/> Destruction Bay | <input type="checkbox"/> Tagish |
| <input type="checkbox"/> Faro | <input type="checkbox"/> Teslin |
| <input type="checkbox"/> Haines Junction | <input type="checkbox"/> Watson Lake |
| <input type="checkbox"/> Ibex Valley | <input type="checkbox"/> Whitehorse |
| <input type="checkbox"/> Marsh Lake | <input type="checkbox"/> Other: |

3. Are you

- Male
- Female
- Other
- Prefer not to say

4. Are you or your family directly involved in, or dependent upon, the Yukon's mineral industry for your livelihood?

- Yes
- No
- Prefer not to say

5. Are you a Yukon First Nation citizen?

- Yes
- No
- Prefer not to say

If you would like to be notified regarding the release of a report on this engagement, please provide your email address here. Your email address will be recorded separately so that your individual responses will be kept private. We will summarize and report on the input we receive, but no personal attributes will be shared, so you will remain anonymous.

Email:

Thank you for your time.

Please email, mail or drop off this questionnaire to:

Land Planning Branch (K-320LP) (*Jocelyn McDowell*)
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