



Energy, Mines & Resources
Land Management Branch

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RESIDENTIAL AND RECREATIONAL Lot Enlargement Policy

OBJECTIVE

To facilitate provision of land for residential and recreational lot enlargements.

Please note: this policy does not apply to commercial lot enlargements (for commercial lot enlargements see the Commercial and Industrial Land Application and Lot Enlargement Policy).

PURPOSE

This policy provides direction regarding the review of applications for lot enlargements to residential and recreational properties. The purpose of the policy is to:

- Allow people to apply to enlarge residential or recreational lots to accommodate legitimate land use activities;
- Ensure community interests are protected with respect to the management and sale of Yukon (public) land;
- Meet development standards as defined in the *Subdivision Act and Regulations*, planning schemes (see Definitions), other regulatory authorities, and resource management plans and policies.

BACKGROUND

From the 1950s to late 1970s, areas developed for recreational purposes were generally no more than 0.2 hectares (1/2 acre), with many lots being smaller. Greenbelts, setbacks, access corridors and other development criteria varied significantly from subdivision to subdivision. Providing enlargements facilitates increased use, while protecting the character of existing neighbourhoods and communities.

Local area plans or zoning regulations guide lot enlargements. In areas with no local area plan or zoning regulations, residential enlargements which result in a total property area no larger than 3.99 hectares can be provided, consistent with the *Subdivision Act* and *Regulations*. Residential enlargements that include minor commercial or non-commercial agricultural pursuits are accepted under this policy, consistent with the Rural Residential land application policy. Applications in remote areas or on shorelines are dealt with on a case-by-case basis, based on the sensitivity of the area and future subdivision considerations.

DEFINITIONS

Area Development Regulations: Are area-specific zoning criteria that guide land use activities on private and Yukon (public) land. They are known as zoning regulations. A proposed use in a land application must conform to the land use and development criteria specified in the zoning regulations. If no zoning regulations exist, the parcel will be classified upon sale on the same basis the land was applied for (e.g. rural residential, commercial, etc.).

Cumulative Effects: Changes of an environmental, social, or economic nature caused by the combination of past, existing, proposed, and reasonably foreseeable future development.

Detailed Rationale: Description of why the land applied for is required, including why that amount of land is needed. This must be accompanied by a scaled map of the site plan demonstrating how the land will be used. Applications for small amounts of adjacent land may, in certain circumstances, be exempt from this requirement (e.g. in cases of road realignments and easements etc.). Impact on access will be taken into consideration (e.g. people, wildlife, services etc. ability to access shoreline).

Government of Yukon Reserve: Identifies land to be set aside or retained from public disposition for a specific purpose (current or future).

Grouping of Applications: If more than one application (of any type) exists in an area and have not yet received decisions, or if there are particular sensitivities in an area, applications may be grouped together in

order to consider social, economic and environmental information and to ensure that consistent information is considered in each application.

Lot enlargement: For the purposes of this policy includes the consolidation of a vacant or surveyed lot with an adjacent titled lot. This requires subdivision approval from the relevant authority (Municipal, Government of Yukon) and must conform to the Principles and Parameters set within this policy.

Non-compliant with policy: An application that is determined not to meet the policy criteria during the Policy Compliance Review stage (prior to review by the Land Review Committee). The application is deemed ineligible and Land Management Branch is unable to proceed further with it.

Planning Scheme: A regional plan; sub-regional plan; district plan; community plan; local area plan; or land use policies and regulations made under the *Area Development Act*, the *Highways Act*, the *Lands Act* or the *Territorial Lands (Yukon) Act*. Also includes Special Management Area plans created to fulfill obligations under the applicable First Nation Final Agreement, Habitat Protection Areas under the *Wildlife Act*, and Parks under the *Park and Land Certainty Act*.

Pre-planning Process: A process coordinated by the Land Management Branch, Government of Yukon to assess an area for its suitability for development, which may involve input from the departments of Environment, Highways and Public Works, and Community Services, and other departments with responsibilities or interests in the area. It may consider social, economic, and environmental information in areas experiencing heightened interest, such as where multiple applications are received; multiple sensitivities identified through a land application review; where planning is occurring or anticipated; or where consultation with other governments, such as First Nations, is advisable. A pre-planning process may result in Land Management Branch closing off an area to applications, or deferring or denying applications, pending more comprehensive review.

Proposed Planning Scheme: A local area plan or a regulation under the *Area Development Act* that has undergone a final consultation and that has been submitted to EMR for consideration and has been formally

acknowledged to be a Proposed Planning Scheme by the Department of Energy, Mines and Resources.

Residential: For the purpose of this policy, “residential” means serving as a principal residence. Residential does not include recreational land. A residential designation within a plan or zone may allow for bed and breakfast designation, home occupation or minor agricultural pursuits. Other commercial uses are not normally permitted under a residential designation.

Recreational: For the purposes of this policy, “recreational” describes a location or lot that is not used as a primary residence. The definition includes original (1950s to late 1970s) planned subdivisions, where no zoning is in place, as well as private lots on lake bodies. Also includes YG developed lots where zoning is in place.

Settlement Pattern: the spatial distribution and arrangement of human habitations or surveyed parcels that has developed over time for the area.

Yukon (public) Land: Includes both territorial lands” as defined in the *Territorial Lands (Yukon) Act* and “Yukon lands” as defined in the *Lands Act*.

ABBREVIATIONS

IRM - Integrated Resource Management

OHWL - Ordinary High Water Mark

YESAA - *Yukon Environmental and Socio-economic Act*

PRINCIPLES

- A. Land dispositions must comply with existing and proposed planning schemes (see definitions).
- B. Land applications must demonstrate a requirement for additional land, applicants must provide a Detailed Rationale with their application. This can include providing for public health and safety; or expanding existing, established land uses that are consistent with Settlement Pattern, zoning or planning parameters.
- C. Requests for land which could be subsequently eligible for subdivision into multiple lots will not be considered.
- D. Land tenures are only authorized in an amount reasonably necessary to satisfy the purpose for which the land is needed. Residential land parcels will normally be limited to a total of 2 to 3.99 hectares (4.96 to 9.8 acres) unless otherwise required by existing planning and zoning.
- E. Land required to facilitate public recreation and multiple use of land and natural resources will normally be retained for public use rather than alienated for private use.
- F. During the application review process, the Land Management Branch will, whenever possible, consider the principles of Integrated Resource Management (IRM) in finalizing a decision. Core IRM principles include fostering understanding, cooperation and communication with other departments, governments and agencies involved in resource management, in order to consider all values before finalizing a decision.

POLICY PARAMETERS

A. Form of Tenure

- 1. Tenure, where granted, will be provided under a one year agreement for sale or, where applicable, an amendment to enlarge an existing lease.
- 2. The following conditions apply:
 - Legal survey by a Canada Lands Surveyor is to be registered by the applicant within 1 year of entering into the agreement for

sale. Subdivision approval is required prior to survey. Surveyor hire and costs associated with the survey, are the responsibility of the purchaser (the applicant).

- Development is to meet any *Area Development Regulation* and other regulatory requirements.
- Title is provided when survey is registered, all terms and conditions of the agreement for sale have been met, and the full purchase price has been received by Land Management Branch.

B. Cost of Land

- If land is sold it will be sold at market value.
- All development costs are the responsibility of the applicant, including survey costs.

C. Area of Tenure

- Enlargements will be limited to the size deemed to be required per the Detailed Rationale provided in the application
- Enlargements will be limited to a size that will not enable future subdivision, except in municipalities where they are compliant with Official Community Plans and municipal zoning bylaws and are accompanied with written approval from the applicable municipality. In areas without a planning scheme, the maximum total lot size is 3.99 ha, which acknowledges the 2-hectare minimum parcel size within the *Subdivision Regulations*. In areas with a planning scheme, the minimum lot size in the planning scheme will guide the enlargement limit.
- The size of the proposed enlargement area shall normally be less than the size of the existing lot.
- Enlargements in most cases shall reflect the Settlement Pattern (should one exist) and/or character of existing development and, where appropriate, be consistent with a planning scheme or area development regulations.

D. Site Criteria

1. Applications may be considered if:

- The land is suitable for their intended purpose, including having regard to the evaluation criteria outlined in the *Subdivision Regulations*, Section 8 (See Appendix A).
- They comply with existing and proposed planning schemes.
 - a) Local area plans (where they exist) are the primary screen for the review of applications.
 - b) Are not located in areas identified in Section 7.
- **Note:** Lot enlargement applications located within an area that is undergoing a local area planning process, or where a local area planning process is imminent will be considered. These include:
 - Alaska Highway West /Dezadeash
 - Fox Lake
 - Marsh Lake
 - Tagish

See Land Planning Branch website for details of these areas: www.emr.gov.yk.ca/lands/local_area_plans.html or contact Land Planning Branch for more information at (867) 456 3827 or Toll free at 1 800 661 0408 ext. 3827.

2. Applications requiring a new road will be subject to the applicable permit approval (issued by the Department of Highways & Public Works). These applications will also be considered according to the provisions of the *Yukon Environmental and Socio-Economic Act* (YESAA) and regulations to determine whether an environmental assessment will be required.
3. In situations where driveway/access road relocation affects a neighbouring lot and the existing access is not posing an immediate safety concern, the relocation must be resolved and confirmed in writing to the satisfaction of both parties. The applicant is responsible for ensuring support from the affected party and costs of relocation.

4. Land management factors such as the ability to extend the road to service additional lots will be considered in the review of applications.
5. The interests of adjacent land owners will be considered in the review of any application that restricts the enlargement capability of adjacent lots.
6. As a general rule, road, lake or river frontage shall not be more than 25% of the overall parcel boundary.
7. Applications will **not** be considered if they:
 - Encroach on developed highway rights-of-way and other public infrastructure corridors.
 - Are on lands unsuitable for proposed purposes, e.g. slopes exceeding 15% or in sub-alpine or alpine areas.
 - In Yukon Government Reserve, except with consent from Land Management Branch (per the Reserves and Notations Policy).
 - For information related to Administrative Reserves see the Administrative Reserves and Notations policy:
www.emr.gov.yk.ca/lands/legislation_policies.html
8. Enlargement applications that are received from a group of applicants, in an area that has development potential, or within an area being used by other residents, may undergo an area-specific subdivision planning exercise.
9. Enlargement applications that propose changes to existing land uses (e.g. commercial/industrial), will be reviewed for compatibility and may require re-zoning and/or more comprehensive consultation to legitimize the proposed use.

E. Resource Management Criteria

1. Parcels will normally be set back a minimum of 60 metres from the ordinary high water mark (OHWM) of lakes and rivers and a minimum of 10 metres from creeks.

- The setback may be decreased to as little as 30.48 metres where the additional reserve is not required to address the interests of existing or potential public recreation or other resource users, and is not required for environmental protection purposes.
- 2. Unique or representative landscape features, environmentally sensitive areas, shorelines, public trails, and archaeological sites are normally retained for public use rather than alienated for private use.
- 3. Areas that facilitate public access to, and use of land or water resources are normally retained for public use rather than alienated for private use.
- 4. Applications under this policy will comply with existing and proposed planning schemes and resource management plans, such as forestry and wildlife plans, where applicable.
- 5. Applications are reviewed to ensure that the needs of other public and commercial resource users are considered in an equitable manner.

ELIGIBILITY

The applicant must be:

- Nineteen (19) years of age or older.
- The registered owner or lessee of the property proposed for enlargement.

APPLICATION REQUIREMENTS

Applications must be complete.

All applications should include the following (see application form for further details):

- Completed application form (applicants are required to submit a draft application in order to ensure Boundary coordinates, to be reviewed for completeness and compliance).
- Where the land is within a municipality: Notification by letter from the municipality (Manager of Planning/Subdivision and Lands

Coordinator/Chief Administrative Officer) stating the application complies with applicable Official Community Plans, local planning schemes and zoning. The notification should identify existing zoning.

- Detailed site sketch, which includes a consistent and defined proportional drawing of the site (i.e. a scaled drawing).
- Boundary coordinates.
- Application fee (see application form for details).
- Subdivision fee (if applicable, see application form for details).
- Applications for Yukon land in Dawson and Whitehorse must pay the subdivision fee directly to the municipality after the land application is conditionally approved by Land Management Branch.
- Copy of Certificate of Title of the proposed lot to be enlarged.
- Copy of any caveats or encumbrances registered against the title.
- Verification from Property and Taxation authority that all taxes have been paid on titled parcel.

APPLICATION REVIEW PROCEDURES

1. Applications for lot enlargements will be reviewed as required under the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* and Regulations or under the Yukon government land review process.

- The Yukon government land application review process is outlined in the document “Guide to the Land Application Process.”
www.emr.gov.yk.ca/lands/legislation_policies.html

2. Applications within municipalities require written acknowledgement from the municipality that the application may proceed to public review.

3. An application review may result in an approval, a conditional approval, a denial, or a deferral pending more information. Applications may be denied during the Policy Compliance Review Stage, if they are determined to be Non-compliant with Policy. Such applications will not be allowed to proceed.

If development pressures are experienced in an area, Yukon government may choose to:

- conduct a pre-planning process (see definitions);

- group applications (see definitions) to consider the cumulative effects of multiple applications;
- learn the outcomes of a planning process already underway; or
- initiate a neighbourhood plan or similar plan.

Any of the above actions may result in a decision not to accept applications in an area, which will be communicated by a public means, and to the applicant in writing. For applications that have already been reviewed through the public review process, the above process may also result in the deferral or denial of an application.

APPENDIX A: Section 8, Subdivision Regulations, Application Evaluation Criteria

"In making the decision required by paragraph 7(c), the approving officer shall consider comments submitted pursuant to paragraph 7(b) and the suitability of the land having regard to:

- (a) its topography;
- (b) its soil characteristics;
- (c) its surface and subsurface drainage;
- (d) any potential hazards such as flooding, erosion, subsistence, landslides, wildland fires, avalanches, or similar risks;
- (e) quality of the water and availability and adequate supply;
- (f) availability and adequacy of sewage disposal system and solid waste disposal;
- (g) existing and prospective uses of the land proposed for subdivision and land in the vicinity;
- (h) provision for and number of existing and proposed accesses to a highway;
- (i) layout and lighting of roads and accesses from lots to roads;
- (j) design and orientation of the subdivision including the size and shape of each lot;
- (k) anticipated need for school sites, recreational facilities and parks;
- (l) protection of sensitive environmental areas and critical fish and wildlife habitat;
- (m) protection of significant natural, historical and heritage features;
- (n) protection against pollution and other environmental and public health risks;
- (o) the completed development checklist; and
- (p) compliance with applicable planning scheme."

AUTHORITIES

Acts / Regulations

Yukon Lands Act / Regulations
Territorial Lands (Yukon) Act / Regulations
Subdivision Act / Regulations
Area Development Act / Regulations
Municipal Act / Regulations
Highways Act / Regulations

Public Health and Safety Act
Public Health Regulation
Sewage Disposal System Regulation
Environment Act / Regulations
YESAA / Regulations
Wildlife Act / Regulations

Building Standards Act / Regulations
Waters Act / Regulations
Parks and Land Certainty Act
Policy
Land Value Appeal Policy
Guide to the Land Application Process