

Draft Dawson Regional Land Use Plan

Comments Submitted by:

Staff from the Yukon Environmental and Socio-economic Assessment Board (YESAB)

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Thank you for the opportunity to comment on the Draft Dawson Regional Land use Plan (DRLUP). Our comments at this time focus on ensuring references to YESAB and the environmental and socio-economic assessment process (assessment process) in the DRLUP are accurately portrayed as well as some observations, questions and suggestions for your consideration.

Recently, DRLUP staff and staff of YESAB have discussed the possibility of a bilateral workshop later this year or early in the new year to discuss broader questions at the regional planning/assessment interface, including:

- How can the plan best inform project assessments?
- How is the plan being used in assessments?
- How can the plan assist in the consideration of cumulative effects?
- What are the expectations for representations and conformity reviews by the Commission or Council, as the case may be?
- How does “conformity” relate to “significance”? Do we have the right metrics to ensure meaningful conformity reviews? Does the right data exist?
- Who’s going to undertake conformity reviews and are there sufficient resources in place to support them for a region like Dawson?
- What kind of feedback from assessments and downstream effects monitoring is needed to support plan implementation?
- Can we leverage sections 110 and 112 of the *Yukon Environmental and Socio-economic Assessment Act* (YESAA) to strengthen the relationship between the plan and project assessments; if so, where, or in what situations specific to the Dawson region?

Below contains excerpts from the DRLUP and comments, questions and suggestions from select YESAB staff (Executive Director, Manager Dawson Designated Office, Assessment Officer and Policy Officer):

Page	Section of DRLUP	Comment/Questions and Suggestions
35	<p>3.4 GENERAL MANAGEMENT DIRECTION General management directions are meant to guide land use decisions in the planning region. They are communicated in this Plan in the form of strategies and recommendations and are intended to be integrated into existing regulatory processes, such as YESAB (Yukon Environmental and Socioeconomic Board) project assessments and other land application review processes. General management direction for the Plan is organized around a results-based management framework.</p>	<p>YESAB is not a regulator, to be clear suggest:</p> <p><i>General management directions are meant to guide land use decisions in the planning region. They are communicated in this Plan in the form of strategies and recommendations and are intended to be considered in existing environmental and socio-economic assessment processes such as YESAB (Yukon Environmental and Socio-economic Assessment Board), regulatory processes, and other land application review processes. General management direction for the Plan is organized around a results-based management framework.</i></p>
45	<p>4 GENERAL MANAGEMENT DIRECTION This section provides general management direction for the Dawson Planning Region. General management direction identifies specific recommendations, strategies, and conditions of development that will assist land managers and assessors to meet Plan goals. The content in this section is informed by the Commission's direction, expert input (stakeholders, technical working groups, etc.), public input, YESAB project recommendation reviews, other land plans, and external research.</p>	<p>Suggest changing "meet" to "consider". YESAB would take Plan goals into account, informed by a conformity check, as important context when determining if a project will or is likely to have significant adverse effects. For more information on YESAB's Assessment Methodology and Significance Determination process please see the following Information Bulletins:</p> <ul style="list-style-type: none"> • YESAB's Environmental and Socio-economic Assessment Methodology; • Framework for Determining the Significance of Adverse Effects of Projects Assessed Under YESAA
45	<p><i>Table 4-1 Summary of Planning Strategy for General Management Directions</i></p> <p>Recommended Management Practices: Consist of approaches or actions to be used by proponents, land users and project assessors to help achieve Plan objectives. While Plan objectives define "what" outcome is intended for a particular value, strategies describe "how" the desired outcome will be achieved.</p>	<p>Suggest change "to be used by" to "to consider"</p> <p>Project assessors – YESAB can consider these recommended management practices but may not be able to act on them or help achieve them. The DRLUP is replete with recommended management practices for a range of values. It is difficult to tell which ones will be relevant to project assessments.</p> <p>Under Section 44(3) if YESAB is going to recommend that a non-conforming project proceed, assessors shall (to the extent possible) recommend terms and conditions that will bring the project into conformity with the regional land use plan.</p>
48	<ul style="list-style-type: none"> • Uncertainty on best use of land has resulted in land use conflicts between users and delays in the development assessment process • Create certainty for proponents and the impact assessment process by providing guidance for recommended land use. 	<p>Can you expand on this? Anything specifically?</p> <p>Suggest:</p> <ul style="list-style-type: none"> • <i>Create certainty for proponents, the impact assessment process and regulatory review</i>

		<p><i>processes by providing guidance for recommended land use.</i></p> <p>What does certainty for the assessment process mean?</p>
48	<p>Recommendations to the Parties</p> <p>Through the public engagement process, the Commission heard from planning partners in the mining industry that a more consistent, streamlined and effective assessment and permitting process is necessary to ensure continued success of the industry. To this end, the Yukon Mineral Development Strategy has put forth a series of recommendations which will not be duplicated in this section but should be supported in efforts to continuously improve the process by which mineral exploration and development projects are realized.</p>	<p>It is not YESAB's role to articulate positions on the issues and opportunities identified in the Yukon Mineral Development Strategy. YESAB provided comments on the operational implications of recommendations and offered clarification in respect to the characterization of the assessment process and how it is situated and interfaces with other elements of the regulatory framework for mining in Yukon. Attached are comments for your consideration</p>
75.	<p>4.1.10 RESOURCE DEVELOPMENT AND IMPACTS TO MMIWG2S+</p> <p>The Government of Yukon and the Yukon Advisory Committee on Missing and Murdered Indigenous Women, Girls, and Two-Spirited People (MMIWG2S+) developed a Yukon Strategy on MMIWG2S+ in response to <i>Reclaiming Power and Place: The Final Report on the National Inquiry into Missing and Murdered Indigenous Women and Girls</i> (Government of Yukon, 2020b). The strategy provides for four pathways that include the cooperation of all governments, partners, and contributors to join efforts to create change together.</p> <p>The strategy identifies the following goals related to resource extraction and major infrastructure projects and the Yukon impact assessment process:</p> <ul style="list-style-type: none"> - Eliminate violence related to development projects in both workplaces and communities. Increase the workforce capacity, mitigate negative impacts, and improve the positive benefits for Indigenous women and Yukon communities (3.4). - Implement culturally relevant, gender-balanced analysis in the YESAA processes (4.4) <p>The Commission supports the calls to action within the Yukon strategy for the resource</p>	<p>Research Recommendation: YESAB's evaluation of the effects of industrial activities to the personal safety of Indigenous and non-Indigenous women and girls and LGBTQ2S+ persons in Yukon may achieve the proposed research recommendation. This study is currently underway.</p> <p>Attached is additional information about the study.</p>

	<p>extraction industry, as well as recent efforts by YESAB to consider gender-based violence within the assessment process from applicable resource extraction projects (e.g., YESAB 2017-0211). To further support these important initiatives the Commission recommends the following:</p> <p>Policy Recommendation The Parties shall implement requirements for proponents of largescale advanced exploration and mining companies in the Dawson planning region to prepare gender-based socio-economic and impact assessments.</p> <p>Research Recommendation The Parties shall conduct a study on the relationship between resource and development projects and violence against Indigenous women and girls in the Dawson planning region.</p>	
96	<p>What are Trade-offs? The Oxford definition of trade-off is: <i>“a balance achieved between two desirable but incompatible features; a compromise.”</i> Think about what your ideal solution would be for wetlands and consider what might be lost with that solution.</p> <p>TRADE-OFFS to the Threshold Approach for Wetlands</p> <ul style="list-style-type: none"> • This threshold approach may still result in fragmentation if large, contiguous areas are not kept intact. • Development may happen at a more rapid pace in wetlands until the threshold is reached. • Being LMU based vs. watershed based is not ecologically the best practice, however, this approach will provide certainty to proponents and clarity for assessors. 	How will this provide clarity for YESAB assessors?
105.	<p>Planning Strategy:</p> <p>Recommended Management Practices</p> <p>a Ensure that adequate heritage and historic resource surveys and data collection are completed, as part of the review and assessment of projects.</p> <p>b Avoid or minimize land use impacts in the vicinity of identified heritage and historic resources (e.g. use buffer zones).</p>	<p>Is the current process inadequate?</p> <p>Suggest that the DRLUPC be very clear on their definition of heritage resources because there are distinct differences between YG, YESAA and Umbrella Final Agreement (UFA).</p>

	<p>c Avoid or minimize land use activities in significant heritage areas during important seasonal use periods (e.g. use timing windows).</p> <p>d Report the discovery of any heritage and/or historic resource within an affected First Nation's traditional territory to their applicable heritage departments, in addition to the Government of Yukon</p> <p>e Where impacts to identified heritage and cultural sites and resources may occur, implement the following mitigation measures:</p> <ul style="list-style-type: none"> • Establish work camps associated with resource exploration and development activities away from identified heritage routes and historic sites. • Implement immediate stop work orders if evidence of heritage or cultural values is detected, to allow Parties to assess significance. 	
175	<p>6.2 IMPLEMENTATION RESPONSIBILITIES</p> <p>The Parties (Yukon and Tr'ondëk Hwëch'in) have primary responsibilities for implementation for the Dawson Regional Land Use Plan. Implementation responsibilities may also involve other groups, including the following:</p> <ul style="list-style-type: none"> • Government of Canada; • Yukon Environmental and Socio-economic Assessment Board (YESAB); • Yukon Land Use Planning Council (YLUPC); and • Other UFA boards and committees. 	<p>What about land users/proponents? i.e. design their proposed projects to meet best management practices?</p> <p>Are there other expectations of YESAB (beyond considering conformity checks for projects undergoing assessment) regarding implementation responsibilities?</p>
176	<p>Cumulative effects indicators, including existing disturbances, must be tracked and monitored to determine conformity within each LMU. It is at the discretion of the Parties to determine the process for tracking indicators and for ensuring that thresholds are kept below cautionary or critical levels.</p> <p>Decisions made by the Parties will be informed by:</p> <ul style="list-style-type: none"> • Indicator levels; • Other management plan recommendations; and • Advice from third parties such as, for example, YESAB and YLUPC. 	<p>What kind of advice is the DRLUPC/YLUPC looking for? We can provide information (i.e. assessment outcome trends, valued environmental and socio-economic components (VESECs) of concern, etc) but not necessarily advice.</p> <p>The Dawson Designated Office has concerns over the cumulative effects indicators. Currently, the indicators are not linked to a specific value. Without a valued-based connection there is no way to evaluate the success of the indicator. ie if access is linked to caribou and caribou health is declining then one could determine that access development is above the sustainable threshold. How does one measure the effectiveness of the indicator if there is no value to measure it against?</p>

		Minor point, but it's probably not appropriate to refer to YESAB and YLUPC as "third parties". We're not the "Parties", but we are institutions of public governance borne of the UFA.
178	<p>Recommended Action</p> <p>Plan conformity evaluation process should be developed by the Parties as soon as possible following Plan approval that involves an appropriate third-party board or committee (e.g. YLUPC). Since YESAB conducts a high volume of project reviews in the planning region and there is limited capacity to undertake conformity checks, the Parties should consider the following:</p> <ul style="list-style-type: none"> • Prioritize the tracking of baseline information on linear density and surface disturbance, and associated conformity checks, in areas where a high volume of project reviews are typically submitted (i.e. East, Sixtymile, Clear Creek). Focus should be on areas that have not yet been disturbed by development. • Triage YESAB projects by type (smaller vs. larger projects) 	Important to note that smaller projects can often be more complex so project size is not an appropriate measure for triage. Triage would probably be better off done by location – ie. Where there are greater pressures on VESECs?

Other:

- Suggest that the DRLUP include a glossary of key terms and definitions.
- DRLUP uses assessment and impact assessment interchangeably. To be accurate and consistent with the YESAA, the report should refer instead to "environmental and socio-economic assessment" or simply "assessment" to properly reflect the breadth of the function and YESAB's responsibilities.
- YESAB applauds the work of the DRLUPC and the effort taken to inform environmental and socio-economic assessment in the Dawson regional land use planning area. We look forward to further discussions.

We are more than willing to discuss our comments below with you further if required. Please contact Tim Smith Tim.Smith@yesab.ca, Nick Grzybowski Nick.Grzybowski@yesab.ca and Amélie Morin Amelie.Morin@yesab.ca.