

# Memorandum of Government of Yukon's Proposed Modifications to the Recommended Dawson Regional Land Use Plan

## Introduction

The objective of this document is to expand on proposed modifications outlined in the Ministers' letter and to identify additional areas of proposed modification to the Recommended Plan. Modifications are also proposed in the Effective Document Design and Writing Style document, the tracked changes version of the Recommended Plan, and the Recommendations Review table; the Government of Yukon's submission should be read as a whole to ensure all proposed modifications are considered.

Modifications are proposed in accordance with s.11.6.2 of the Tr'ondëk Hwëch'in Final Agreement which authorizes the Government of Yukon, after Consultation, to approve, reject or propose modifications to the Recommended Plan as it applies to Non-Settlement Land.

## 1. Proposed Modifications to Specific Landscape Management Units

### 1.1. Landscape Management Unit 1 Access

The Government of Yukon appreciates that the Commission recognizes the importance of critical minerals and included language in the Recommended Plan that addresses access to the cobalt claims in Landscape Management Unit 1.

The Government of Yukon supports the Recommended Plan's recommendation for an access management plan for Landscape Management Unit 1. That said, in the event an access management plan has not been established at the time the cobalt deposit is shown to be viable, then an access route to the existing cobalt deposits should be determined in accordance with existing processes.

Thus, the Government of Yukon proposes that the Commission state within the Final Recommended Plan that in the absence of an access management plan, access details related to claims in Landscape Management Unit 1 shall be dealt with at the project level, in accordance with existing regulatory processes.

The Recommended Plan currently states:

*If existing mineral claims are proven viable by a proponent, the parties shall jointly consider permitting new surface access and access route.*

The Yukon government proposes modifying the language to:

*An access management plan for this Landscape Management Unit should be jointly created by the Parties. If existing mineral claims are proven viable prior to completion of the access management plan, details of where and how access is provided to these claims will be dealt with at the project level, and in accordance with existing processes.*

These changes are proposed to provide certainty that the project can proceed to assessment without undue delays if the Parties are unable to expeditiously complete the access management plan. Any access route proposed would still be subject to regular assessment and consultation requirements that would take into consideration the values identified in the Plan.

### 1.2. Landscape Management Unit 3

The Government of Yukon does not support a sub-regional planning process for Landscape Management Unit 3. Instead, the Government of Yukon proposes designating the northern portion of Landscape Management Unit 3 as a Special Management Area, with a permanent prohibition of entry order, and designating the southern portion of Landscape Management Unit 3 as an Integrated Stewardship Area 1. With these changes, the interim prohibition of entry orders should be removed for the entire Landscape Management Unit.

Yukon government does not support the continued use of withdrawals for areas outside of Special Management Areas once the Plan is approved. The Plan should provide sufficient direction now to allow for sustainable development without the use of interim withdrawals.

Interim withdrawals do not provide clarity to industry or regulators on how to implement a regional land use plan. It is unknown how long the additional conditions required to lift interim withdrawals would take to complete and therefore this introduces uncertainty into plan implementation counter to one of the purposes of land use planning which is to allow for clarity of management practices on a landscape scale.

These changes would protect environmental values in the northern portion of the river and allows a small amount of sustainable development to continue in the southern portion, securing future use of the corridor for all users, including industry and tourism. The northern portion of Landscape Management Unit 3 could either be a standalone Special Management Area or merged into Landscape Management Units 1 and 4. Please see the Draft Options for LMU Modification Map included with this submission for more details.

The Government of Yukon proposes that the Final Recommended Plan recommend the Parties pursue a Canadian Heritage Rivers designation for the portion of the Yukon River in this Landscape Management Unit. This would seek to apply this designation that is currently in place for four other rivers in the Yukon, including the Thirty Mile portion of the Yukon River. This could assist in collaborative efforts between Yukon Parks and Tr'ondëk Hwëch'in to undertake mitigative strategies, such as the establishment and maintenance of backcountry campsites and undertaking backcountry recreational impact monitoring surveys to inform potential future management decisions. Heritage River status does not constitute any management or enforcement authority; however, other existing legislative and regulatory tools can be used to regulate industrial and recreational activity.

The proposal to have a sub-regional plan that would span the entire length of the Yukon River is out of the scope of the Dawson Regional Land Use Plan. Designating the northern portion of LMU 3 as an SMA (given the environmental values in the area as well as limited development)

and the southern portion as an ISA 1 and removing the interim withdrawal protects the northern portion of the river and allows a small amount of sustainable development to continue in the southern portion, securing future use of the corridor for all users. This approach provides certainty and predictability within the plan and avoids a situation of planning to plan.

### 1.3. Landscape Management Units 7 and 8

The Government of Yukon proposes modifying the boundary between Landscape Management Units 7 and 8. We further propose designating the modified Landscape Management Unit 7 as a Special Management Area, thus permanently withdrawing it from mineral staking, and designating the modified Landscape Management Unit 8 as an Integrated Stewardship Area 4. This boundary change would add 1,336 km<sup>2</sup> to Special Management Areas. This recommendation is based on our consultation with Tr'ondëk Hwëch'in and is proposed to balance protecting important habitat for the Northern Mountain Caribou herds (Clear Creek and Hart River) while allowing economic interests and values in the area including critical minerals to be developed.

Please see the Draft Options for LMU Modification Map included with this submission for more details.

The Government of Yukon is in favour of updating the Caribou Stewardship Area in the Recommended Plan to provide clear management direction and to be tailored geographically to the context of individual caribou herds. Updated Caribou Stewardship Area boundaries that align with the herd ranges of the Clear Creek and Hart River herds would apply across Landscape Management Unit 7 and the majority of Landscape Management Unit 8. Please see Caribou Stewardship Areas (Caribou Overlays) below for further details. Caribou data shows that the Special Management Area proposed for Landscape Management Unit 7 (with modified boundaries) protects a significant amount of caribou habitat.

The proposed approach increases the area of Landscape Management Unit 8 and re-designates it to an Integrated Stewardship Area 4 to ensure that the mineral resources in the area, including critical minerals, can be developed effectively. Additionally, the Government of Yukon is proposing that the Final Recommended Plan recommend a new Off-Road Vehicle Management Area that aligns with the Clear Creek and Hart River caribou herd ranges in Landscape Management Unit 8 to restrict off-trail use for recreational users. The current Off-Road Vehicle Management Area would continue to apply for alpine areas 1,400 metres or higher; if implemented, this new Off-Road Vehicle Management Area would apply to the full geographic extent of the herds' range boundaries and require recreational users to keep to designated trails and roads.

The Government of Yukon believes this approach can achieve both environmental and economic objectives in the area, including protecting important habitat for the Hart River and Clear Creek Caribou herds.

### 1.4. Landscape Management Unit 17

The Government of Yukon wishes to highlight that the ISA 2 Cumulative Effects Threshold for Landscape Management Unit 17 – Upper Indian River, is not reflective of permitted or completed

activities in the unit. Specifically, the surface disturbance threshold is 1.0% or 4.9km<sup>2</sup> of the total area (485km<sup>2</sup>) and as of mapping completed in 2020, 1.2km<sup>2</sup> has been disturbed. The linear feature density threshold is 0.5km/km<sup>2</sup> or 243km and as of mapping completed in 2020, there are 234km of linear features. This leaves only 3.6km<sup>2</sup> of surface disturbance and 8km of linear features before exceeding thresholds, based on imaging from 2020. Based on permits issued since 2020, these thresholds could have been exceeded already or be exceeded soon. This is concerning given the significant placer and some quartz development in the LMU, including existing operators seeking to renew their current permits and claim holders seeking new permits.

The Government of Yukon supports the Recommended Plan's recommendation for development of an Upper Indian River Stewardship Plan, provided it is decoupled from continued interim withdrawals in this area. The development of an Upper Indian River Stewardship Plan during Plan implementation will provide additional guidance for the management of wetland and other environmental and cultural values in this Landscape Management Unit. The Government of Yukon does not support interim withdrawals in Landscape Management Unit 17.

The Government of Yukon supports withdrawals only in Special Management Areas; there should not be interim withdrawals in the Final Recommended Plan. Integrated Stewardship Areas support sustainable development; interim withdrawals would impede this as they do not allow new operators in these areas and limits existing users to their current claims. Interim withdrawals do not provide clarity to industry or regulators on how to implement a regional land use plan. It is unknown how long the additional conditions required to lift interim withdrawals would take to complete and therefore this introduces uncertainty into plan implementation counter to one of the purposes of land use planning which is to allow for clarity of management practices on a landscape scale. In Integrated Stewardship Areas, the Plan should provide sufficient direction to allow for sustainable development without interim withdrawals.

#### 1.5. Landscape Management Unit 18

The Government of Yukon proposes that the designation of Landscape Management Unit 18 be an Integrated Stewardship Area 4, not Integrated Stewardship Area 3. This will allow for the Coffee Gold Mine to be fully constructed and for other projects to continue to explore and develop within the proposed critical surface disturbance threshold for ISA 4.

Further exploration through mining activities at Coffee Gold Mine may lead to extension of the mine, which should be accounted for in the Plan. Additionally, there are other quartz and placer activities currently underway in Landscape Management Unit 18, reducing the area available for development.

## 1 Special Management Areas

#### 1.6. Definition

The definition for Special Management Areas identified in the Recommended Plan does not match the Chapter 10 definition within the Tr'ondëk Hwëch'in Final Agreement and so should not cite

Chapter 10 as the source. For reference, the definition we are discussing is from the Recommended Plan Glossary:

*A conservation area identified and established within a Traditional Territory of a Yukon First Nation under a Final Agreement. SMAs can be Yukon Parks, Habitat Protection Areas, National Parks or Wildlife Areas or other types. The level of protection is defined in a management plan developed for each area, with management shared among the Yukon government, First Nation governments, and Renewable Resource Councils, depending on the jurisdiction (Chapter 10, FNFA).*

Chapter 10 Special Management Areas are designated and developed through a prescribed process which differs from that of regional land use planning under Chapter 11. Due to this difference, the Government of Yukon would like to change the definition in the Plan and remove the reference to Chapter 10. Our proposed definition is:

*Plan designation used to identify areas intended to be jointly managed by Government of Yukon and Tr'ondëk Hwëch'in, in the spirit of Chapter 10 of the THFA, for conservation. During Plan implementation SMAs will require permanent prohibition of entry orders for placer and quartz, withdrawal from disposition for oil and gas, development of a management plan and legal designation. Land use activity in SMAs is allowed in accordance with the management intent and directions of the individual LMU.*

Tr'ondëk Hwëch'in and Government of Yukon may decide to establish Special Management Areas identified in the Plan through Chapter 10, s. 10.2.0 (g) and 10.5.0 and manage them in accordance with Chapter 10. Government of Yukon is open to this discussion with Tr'ondëk Hwëch'in, however it is a separate process than regional land use planning.

### 1.7. Cumulative Effects Thresholds

The Government of Yukon cannot support the Recommended Plan's assertion that only industrial development counts towards the cumulative effects thresholds in Special Management Areas. The tracking and calculation of surface disturbance and linear disturbance thresholds include all human caused disturbances, including those associated with recreation, trapping, outfitting, tourism, etc. We do not have a methodology which would only account for disturbance associated with industrial development.

While technology may ultimately allow for new methodologies, the inclusion of all human activities in cumulative effects thresholds is consistent with the definition and intent of Special Management Areas for conservation. Given the nature of these areas, the surface disturbances impacting these regions are just as likely to be from recreation, tourism, outfitting and trapping activities, and therefore it would be inappropriate to exclude these activities for surface disturbance thresholds for these areas.

The Government of Yukon supports the cumulative effects threshold values currently recommended for each Special Management Area but proposes modifying the language of the Final Recommended Plan to define these thresholds in the text of the Landscape Management

Unit descriptions, rather than referring to Integrated Stewardship Areas (and their cumulative effects thresholds). Specifically, the thresholds in Special Management Areas should be defined as either a percentage for surface disturbance and km/km<sup>2</sup> for linear disturbance or should be calculated to show the actual values. As an example, in the Recommended Plan LMU 1 is a SMA with an ISA 1 threshold, this should instead be modified to a surface disturbance threshold of 0.25% of LMU area (19.9 km<sup>2</sup>) and a linear feature density of 0.25 km/km<sup>2</sup> (1,990 km). This recommendation applies to all Special Management Areas in the Plan to increase clarity in the Plan for users by removing the linkage between Special Management Areas and Integrated Stewardship Areas.

#### 1.8. Land uses allowed within Special Management Areas

In addition to being clear about the cumulative effects thresholds established for Special Management Areas, the Government of Yukon proposes being clearer about the land uses allowed or restricted within these areas, as pointed out in the tracked changes document.

Section 3.2.2 of the Recommended Plan states that:

*“An SMA is an area managed for conservation. Industrial land use is generally not allowed in these areas. However, exceptions may be made whereby industrial activity may be allowed in existing land dispositions and surface access may be established to access those dispositions, if specified in the special management directions.”*

The direction for some of the individual Special Management Areas is contradictory with the statement in Section 3.2.2, therefore, we have recommended deleting the above statement. Most of the Special Management Areas state that industrial land uses are allowed up to a threshold level and do not specify that this would need to be within existing tenure. Additionally, forestry and agriculture (industrial land uses as per the glossary definition) are allowed in some Special Management Areas and the allowable future activity may not yet have an existing disposition. The Government of Yukon is supportive of the management intent and direction for land uses being provided for each individual Special Management Area rather than in the overall direction in Section 3.2.2, so long as the direction is stated clearly, covering all industrial activities.

Clarity on the allowable land uses within a Special Management Area is important as this affects the Parties' future consideration of appropriate legal designations. Some legal designation tools are incompatible with land uses that may be permitted within a Special Management Area. For example, some territorial park types under the *Parks and Land Certainty Act*, require that industrial development be prohibited. Under this legislation, “industrial development” includes (a) development of mines and minerals, oil and gas, hydro-electric and other energy resources, and agricultural lands; (b) harvesting of timber resources, (c) development of townsites, and any land use, activity or infrastructure associated with the above. Therefore, any part of a Special Management Area that allows agriculture or timber harvest, for example, could not be designated as some of the territorial park types.

The above example is provided to illustrate the importance of being clear which land uses are allowed within a Special Management Area, not to suggest that the Plan provide direction for

future designation. The Parties are responsible for the implementation of Special Management Areas, including decisions about designations and management planning.

### 1.9. Tombstone Territorial Park

As per the Terms of Reference, the Plan should not apply to Tombstone Territorial Park.

Section 1.4 (Scope of the Plan) accurately captured this, but section 3.2.6 (Other Areas) missed it. Section 6 (Landscape Management Units) should describe Tombstone similar to how it treats the City of Dawson. The Government of Yukon proposes adding Tombstone Territorial Park to the list of excluded areas in section 3.2.6, removing the Intent Statement and Special Management Directions and adding a disclaimer that the Plan does not apply to this area in section 6 LMU 5: Ddhäl Ch'ël (Tombstone).

The portion of the Dempster Highway corridor that runs through Landscape Management Unit 5 should be made its own Landscape Management Unit as it is not part of Tombstone Park but should be included in the Plan. Government of Yukon proposes creating an additional Landscape Management Unit designating this and the remainder of the Dempster Highway Corridor as a sub-regional planning area to align with Recommended Action #87 and the designation of the Dempster Highway in the Peel Watershed Regional Land Use Plan.

## 2. Administrative Revision, Variance and Plan Amendment

The Recommended Plan is proposing three types of changes outside of Plan review and revision – administrative revisions, variances, and amendments. The Government of Yukon supports the ability to make changes to the Plan to ensure that it is adaptable to changing circumstances. The Government of Yukon agrees with the idea of administrative revisions for minor technical changes that do not change the substance of the Plan and that amendments should be used to change management strategies (policies, designations or directions) within the Plan.

The Government of Yukon believes that variances are not changes to the Plan, as they should allow the Parties to decide that an otherwise non-conforming use should be allowed on a one-off basis without changing the Plan itself. By using a variance, an otherwise non-conforming use is allowed for a single user but not for other users going forward. If a change should apply more broadly, it should be treated as a Plan amendment and follow that approval process. The variance process should be described in the Plan but should follow Chapter 12 of Tr'ondëk Hwëch'in Final Agreement and the *Yukon Environmental and Socio-economic Assessment Act* in allowing Decision Bodies to determine if an otherwise non-conforming project can proceed.

The Government of Yukon would like to work with the Commission and Tr'ondëk Hwëch'in to determine the process to request and assess administrative revisions, and amendments prior to the release of the Final Recommended Plan. At a minimum, the process should set out who may make a request, what consultation and/or engagement is needed, how the request will be reviewed and by whom, who can approve or reject the request, and how disputes will be resolved.

### 3. Staged Approach to Implementation

The Government of Yukon proposes a phased implementation of some aspects of the Recommended Plan to ensure it can be practically implemented. The Government of Yukon also recommends removing recommendations outside of the planning process' scope as detailed in Chapter 11 of the Umbrella Final Agreement and the Terms of Reference for the Dawson planning process.

The Final Plan will need to be implementable to meet its objectives, protect rights, and serve the public. Several recommendations and directions in the Recommended Plan are not currently implementable. To achieve full implementation of the Recommended Plan, it would be necessary to increase the capacity of both governments and complete substantial up-front and ongoing work that is not currently feasible. There are necessary regulatory structures and information systems that must be created, changed and/or augmented before the plan can be implemented. Substantial time will be required to gather data and create systems regardless of the financial and human resource requirements. Regulators and the Commission would require multiple inputs to determine conformity and permit projects, including;

- The collection of data and creation of indexed databases and associated user interfaces;
- Research and mapping;
- Definition, clarification and delegation of responsibilities related to inputs to applications; and
- Increased monitoring and enforcement

Un-implementable recommendations should be moved to the Implementation section of the plan, and an interim approach should be used until the full recommendation can be implemented. This will accomplish the intent of the Plan to the greatest degree possible, while still allowing the Plan to be approved and implemented.

The recommendation and directions that must consider implementability and be rewritten or removed to the Implementation section of the Final Recommended Plan:

#### 3.1. Surface disturbance and Linear feature density tracking frequency

Recommended action number 12 states that the Government of Yukon should produce an annual summary of surface disturbance and linear feature density for each Land Management Unit as a short-term action. The infrastructure, resources, and capacity required to complete annual disturbance tracking do not exist, so it cannot be implemented now.

In addition to implementation concerns, it would not be effective to require annual summaries for each Land Management Unit. Surface disturbance tracking should be prioritized based on level of activity in a Landscape Management Unit, and new information needs to be gathered on an ongoing basis to inform conformity checks as tracking of the proposed and permitted disturbance would be required to ensure that cumulative disturbance does not exceed Plan thresholds. For this to be achieved it will require a commitment of additional resources beyond current allocations, and a spatial database and public-facing portal will need to be developed which will take significant time and resources to develop.

The Government of Yukon is proposing an approach to track surface disturbance every five years with a focus on areas with greater intensity of development. The Government of Yukon supports the medium- and long-term commitments in Recommended action number 12 to develop a publicly accessible indicator tracking system for use in conformity checks and to develop an online platform to allow proponents to have information supporting program design.

Monitoring of surface disturbance is not a management tool. If a Land Management Unit is approaching thresholds, conformity checks and regulatory decisions are the tools to limit additional surface disturbance. Restoration of existing disturbance will also add land back to the quantum in the long-term.

The Parties and Commission should work together to explore additional approaches.

### 3.2. Directions requiring specific wetland type identification and mapping.

To ensure compliance with requirements such as disturbance limits and buffers, proponents need access to wetland mapping to incorporate the information into their project proposals. Without this information, it is not possible to determine project conformity.

Existing, broad-scale mapping is not specific enough to determine project overlaps with wetlands. Without fine-scale wetland mapping, delineation and classification, proponents cannot determine mitigations of adverse effects at the project level or produce wetland management, access management, and reclamation plans. Percent thresholds for wetland disturbance cannot be implemented without project-scale mapping and wetland type identification.

## 4. Interim Withdrawals

The Government of Yukon proposes the removal of withdrawals for areas outside of Special Management Areas once the Plan is approved. The Final Recommended Plan should provide sufficient direction now to allow for sustainable development without the use of interim withdrawals.

Interim withdrawals create uncertainty for industry and regulators on how to implement a regional land use plan. The time and level of effort required to satisfy additional requirements is unknown. One of the purposes of land use planning is to provide clarity. Interim withdrawals are contrary to this goal and should not be used beyond plan approval.

Further, the Government of Yukon proposes that planning be completed now rather than deferred to future processes. Interim withdrawals are included in the Recommended Plan in LMU 3: Chu Kon Dëk (Yukon River Corridor), LMU 7: Wehtr'e (Antimony), LMU 17: Nän Dhòhdäl (Upper Indian River Wetlands) and LMU 21: Wëdzey Tày (Fortymile Caribou Corridor). These withdrawals are recommended until such time as additional management plans are completed by the Parties or until the Parties agree to remove them. The LMUs with interim withdrawals are sub-regional planning areas (LMU 3) or Integrated Stewardship Areas where some level of industrial development is generally allowed (LMUs 7, 17, 21). Part of this regional planning process includes creating management directions for these areas now, not deferring this to implementation. The

Government of Yukon proposes the Commission include the necessary direction for these areas in the Final Recommended Plan now so that interim withdrawals can be removed and the Plan can be implemented once it is approved.

## 5. Critical Minerals

The Government of Yukon proposes adding a sub-section into Plan Section 5.4 (Sustainable Economy) speaking to critical minerals in the planning region. The section should speak to:

- The use of critical minerals as raw inputs for clean technologies which will hasten the transition to a greener economy and help reach global CO<sub>2</sub> emission goals.
- Support for securing critical mineral supply chains. (Canada/U.S. Joint Action Plan on Critical Minerals Collaboration and Canada's Critical Minerals Strategy)
- How nickel, cobalt, copper and manganese are utilized across clean energy technologies.

## 6. Adaptive Management

Given that adaptive management was included as a guiding principle for the Recommended Plan, it is clear that the Plan is intended to be able to respond to changing circumstances throughout its lifetime. Government of Yukon recommends that the Final Recommended Plan further address how adaptive management will work during implementation to clarify how these changes will be incorporated. This is particularly relevant to the cumulative effects framework section of the Plan that is intended to expand as additional information becomes available through monitoring. Effective adaptive management is also key to properly consider how climate change alters landscapes and affects wildlife behaviours and distribution. How adaptive management fits into variances, amendments and Plan reviews processes must be considered. The Government of Yukon would like to work with the Commission and Tr'ondëk Hwëch'in to determine this process prior to the release of the Final Recommended Plan.

## 7. Cumulative Effects Framework

As stated in our letter to the Commission in response to the Draft Plan, the Government of Yukon views cumulative effects management as a foundational framework for this plan, providing the opportunity to guide the management of the working landscape in the Dawson Region in a more sophisticated manner. The Government of Yukon supports cumulative effects monitoring as it provides a more holistic approach to assessing impacts at a landscape-scale rather than on a project-by-project basis. The development of an effective framework is important to fully understand what is happening in the region and to appropriately adapt to concerns throughout implementation of the Plan.

The work completed by the Commission on the cumulative effects framework in the Recommended Plan is commendable and advances the topic significantly from the Draft Plan.

However, the Recommended Plan did not incorporate our suggested changes to the Draft Plan to address the following specific concerns:

- Link linear feature density and surface disturbance thresholds to priority ecological values, specifically moose, caribou and water/aquatic systems using best available information.
- Further develop the socio-economic indicators in the Draft Plan to inform cumulative effects management. This will help to balance industry interests and social needs.
- Develop values-based reclamation guidance in an adaptive management context.

Currently, the Recommended Plan has guidance to track surface disturbance and linear feature density, which are indicators of human activity on the landscape, not of cumulative effects. Cumulative effects are best measured by value-based indicators. Work to identify some value-based indicators has been completed by the Cumulative Effects Working Group and are summarized in the disturbance report (<https://dawson.planyukon.ca/publications/recommended-plan/exploring-the-cumulative-effects-of-future-land-use-in-the-dawson-planning-region/>).

Recognizing the capacity constraints of the Commission, Cumulative Effects Working Group and Parties' technical staff, the Government of Yukon now recommends that some of this work occur during implementation rather than before Final Recommended Plan release. However, the Plan should provide a mechanism to incorporate cumulative effects indicators developed during implementation into the Plan. This should be embedded in the adaptive management framework and implementation sections of the Plan. For clarity, Government of Yukon supports the inclusion of these pieces in the Final Recommended Plan if available. However, regulatory processes and decision making should be able to continue without waiting for these pieces, as they are created and incorporated into the Plan they should apply going forward.

The Government of Yukon suggests adding wildfire (e.g., per cent of landscape burned), lichen cover, and caribou demographic rates (e.g., herd size, cow-calf ratios and cow-bull ratios) as value-based indicators, given that we have historic and ongoing data collection to monitor these indicators. This addition will help to provide a more holistic view of values with respect to cumulative effects at this time. These indicators, alongside the surface disturbance and linear feature density indicators, can better reflect cumulative effects in the framework and support sustainable development and conservation as defined in the Trondëk Hwëch'in Final Agreement. The Final Recommended Plan can continue to recommend further development of the cumulative effects framework, including indicators identified in Section 4.2.2 of the Recommended Plan (e.g. water and socio-economic indicators). The Government of Yukon supports the work of the Cumulative Effects Working Group in further developing values-based indicators.

## 8. Cumulative Effects Thresholds

### 8.1. Critical Thresholds

As stated in the letter, the Government of Yukon recommends that critical thresholds for surface disturbance be changed to the Draft Plan levels, i.e. critical thresholds for surface disturbance for ISA 3 should be changed from 2% in the Recommended Plan to 2.5%, and critical thresholds for surface disturbance for ISA 4 should be changed from 4% in the Recommended Plan to 5%.

The Government of Yukon's proposed modification considers varied responses during the public consultation and responds by adjusting the balance of competing interests on the landscape. The total area of the 11 LMUs designated for some development under the Recommended Plan is 22,643.41km<sup>2</sup>. This means a total of 425.99km<sup>2</sup> of land in the planning region can be disturbed before all critical thresholds are reached. After considering current disturbance, this leaves 229.63km<sup>2</sup> available for development across the entire region. Returning to Draft Plan levels would increase the total area available for development from 229.63km<sup>2</sup> to 319.94km<sup>2</sup>. The Government of Yukon sees this as a more measured balancing of interests.

## 8.2. Reclamation/Restoration Definitions

Policy Recommendation 4 states:

*The Parties must define what is meant by reclamation and restoration and how these concepts relate to the Dawson Regional Plan's cumulative effects framework.*

The Parties are, and would like to continue, working together through the Cumulative Effects Working Group on this topic.

The Government of Yukon re-iterates that these definitions and concepts need to be agreed to and finalized before the Final Recommended Plan is completed, as it is a key consideration for how the cumulative effects thresholds will be implemented. These definitions must provide certainty around how and when disturbed land can be returned to the "land quantum" (i.e. not counting towards the surface disturbance or linear feature density thresholds) within a reasonable timeframe and that the process to determine this, including actions and roles of those involved, must be clearly presented.

As "reclamation" is commonly understood by industry to describe activities completed by proponents during the period when a permit is active, Government of Yukon would like to suggest that a third term, "recovered", may be needed to describe the stage at which disturbed land can be returned to the "land quantum" but may not be fully "restored" and therefore should remain as a separate concept.

When land is "recovered" and can be returned to the "land quantum" should be determined by a process proposed by the Cumulative Effects Working Group and agreed to by the Parties or failing that in accordance with 11.6.2 and 11.6.4 clauses of the Final Agreement. As stated above, Government of Yukon would like to continue, working together through the Cumulative Effects Working Group on this topic.

## 8.3. Precautionary Level of Disturbance Thresholds

At the Draft Plan stage, the Government of Yukon recommended that the precautionary level of the cumulative effects disturbance thresholds should be removed. The information recommended to be collected at this level was associated with surface disturbance mapping, which was completed following the Draft Plan. As this information is now available and new information will be gathered on an ongoing basis to inform conformity checks, it is not necessary to have a separate

stage for gathering information. It is unclear what information would be gathered at this stage that would not already have been needed to determine that this stage was reached. Therefore, the Government of Yukon continues to suggest that this level of threshold not be used in the Final Recommended Plan.

Given the amount of work associated with this Recommended Plan, the Government of Yukon is cautious to recommend any more information be collected at the Precautionary Level. Tying values to disturbance thresholds (and cumulative effects) would be challenging at this level of development but should be captured at later levels (Cautionary and Critical), as recommended in 7, above.

## 9. Access

The Government of Yukon proposes including an Access Management chapter in the Final Recommended Plan, given the large number of activities on the landscape in the Dawson region. A subsection on this topic would outline standard access provisions as general management directions and provide clarity for implementation, rather than scattering access considerations throughout the Plan.

The Access Management chapter should deal with access in general, its impact on other values in the Plan, and which Landscape Management Units require access management plans, including the rationale. Much of the Plan's section 5.4.3 would thus be restructured as a new subsection under section 5. This approach should provide general management direction that mitigates access concerns, thereby reducing the number of subsequent access management plans. Issues on a specific Landscape Management Unit can be included in the appropriate subsection in section 6 of the Final Recommended Plan.

The Government of Yukon does not support the Commission's recommended list of Landscape Management Units requiring access management plans. The Government of Yukon agrees that access management plans should be developed for Landscape Management Units 1 and 7. The Government of Yukon does not believe access management plans are necessary elsewhere, primarily because access already exists in much of the region, and the proposed access management chapter should otherwise address access considerations generally. The Government of Yukon proposes that the Commission include the following language within the plan:

*We are supportive of the Parties working to reach consensus on joint access management plans for Landscape Management Units 1 and 7, however, in the absence of an approved access management plan, each government reserves the right to develop and approve a plan for its area of jurisdiction, as per the existing regulatory review process.*

The Government of Yukon does not believe it is necessary to put in place interim withdrawals or limits on permits until access management plans are complete. Access management plans are important tools that should be developed, where appropriate, but we have concerns that their development may take significant time due to financial and human capacity constraints and we see this as a risk to economic development in the region if withdrawals or the limiting of permits were tied to their completion.

## 10. Wetland Buffers

The Government of Yukon is proposing modifications to better align the Plan with existing territorial guidance by strengthening the wetland disturbance buffers by adapting them to align with the buffer sizes developed for the Forest Resources Regulations Wetlands Riparian Management Standards and Guidelines and applied to all wetlands. This would strengthen wetland buffers in the Final Recommended Plan and increase Plan implementability by mimicking existing regulations. Please see the tracked changes document for details.

## 11. Caribou

### 11.1. Fortymile Caribou

The Recommended Plan did not incorporate our suggested change to the Draft Plan to include the caribou summer range area west of Sixty Mile Road into Landscape Management Unit 21 – Fortymile Caribou corridor (formerly LMU 23). This leaves sensitive caribou migration corridors at risk in Landscape Management Unit 15 – Sixty Mile. Summer range is a limiting factor to the herd directly related to abundance, and herd abundance is critical to maintaining the presence of the Fortymile Caribou herd in the Yukon. To support migration pathways and summer range, we suggest the following special management direction be added to Landscape Management Unit 15:

*While activities are underway, special care should be taken during the months of June through November to maintain caribou summer range habitat. Specific provisions related to this time period should be considered as part of the regulatory and assessment process for individual projects.*

### 11.2. Caribou Stewardship Areas (Caribou Overlays)

The Government of Yukon would like to continue to work with Tr'ondëk Hwëch'in and the Commission to update Caribou Stewardship Areas (caribou overlays), including boundaries and new conditions that would apply to development within the boundaries. There are shortcomings of the current caribou overlays, which are outlined in the design and writing style document attached with this submission. We suggest the Technical Working Group may be a good venue to host these discussions.

The Government of Yukon is in favour of using caribou overlays in the Final Recommended Plan, if modifications are made. Caribou overlays could be an effective tool to support project planning that mitigates impacts to caribou. Overlays should provide project-specific considerations to guide assessment and regulation, while being flexible enough to consider the context and risk of the individual project proposed and being adaptable to new circumstances. Overlays could align with the herd range boundaries of the Northern Mountain population of Woodland Caribou (Clear Creek, Hart River, and Klaza herds) and reflect important areas for the Fortymile herd. Tailoring the overlays geographically to the context of the herds in the region will be more effective than aligning with Landscape Management Unit boundaries and the Technical Working Group can work together to jointly create directions that will apply to these areas. The Government of Yukon believes that these changes are necessary to maintain protection for caribou in important habitat

areas that are also identified for industrial activity. The Government of Yukon would like to continue to work with the Commission and Tr'ondëk Hwëch'in through the Technical Working Group to further develop caribou overlays.

## 12. Biodiversity and Species at Risk

The Government of Yukon is proposing modifications to the Recommended Plan text to more fully address biodiversity and species at risk. There were inaccuracies and omissions related to biodiversity and species at risk in the Recommended Plan; for example, the lists of species at risk found within each Land Management Unit was often incomplete. This has now been corrected in the tracked changes document.

The Government of Yukon wishes to ensure that policy recommendations relating to biodiversity monitoring and research can continually inform management decisions and has proposed modifications to reflect this. There are also proposed modifications to align the Final Recommended Plan more closely with requirements of federal recovery strategies and management plans for listed species at risk.

Preservation of biodiversity and improved knowledge of rare species were raised as key concerns through consultation and public engagement. The planning region houses many healthy populations of species at risk that are faring poorer elsewhere in the country, which increases the need to support and maintain these populations in the Dawson region. To see the scope of the proposed modifications, please see additional tracked changes document.

## 13. Naming specific Government of Yukon positions

At a variety of points in the Recommended Plan it speaks to the regional biologist making recommendations for buffers or as the point source for other technical expertise. This approach is problematic as these positions may change over time, and the required specific technical expertise may not be found at the regional biologist level. The Final Recommended Plan should not single out a specific Government of Yukon position in its text. Instead, it can refer Final Recommended Plan users to the Department of Environment at the Government of Yukon and Lands and Resources Department at Tr'ondëk Hwëch'in Government and indicate that these areas and mitigations will be identified during the assessment and regulatory processes.

## 14. Stewardship Trust Fund

The Plan recommends that a Stewardship Trust Fund be established to support the objectives of Chapter 11, along with the goals and objectives of the Recommended Plan. The Government of Yukon does not support this recommendation as it would require legislative change and overlaps with other existing work.

Section 11.7.3 of the Tr'ondëk Hwëch'in Final Agreement states that a regional land use plan cannot compel Parties to the Plan to create or change legislation. To create a trust fund, new legislation would have to be created and/or existing legislation would require amendment. In this instance, this would have to occur at both the Government of Yukon and Government of Canada

levels. As a result, this recommendation is outside of the scope of both the Dawson Regional Land Use Plan and the Tr'ondëk Hwëch'in Final Agreement and should therefore be removed.

The Government of Yukon currently supports several trust funds working at a variety of scales with objectives that align with many of those outlined for the proposed Stewardship Trust Fund. In addition, the Government of Yukon is exploring establishing a Heritage Fund, as announced on March 28, 2024, with potential objectives that overlap with those proposed for the Stewardship Trust Fund. Considering this, Government of Yukon does not believe that the capacity and resource burden associated with the establishment and administration of a Stewardship Trust Fund through the Dawson planning process is a strategic use of limited implementation resources.

## Conclusion

As stated in the summary letter from Ministers, the Government of Yukon looks forward to continuing to work with Tr'ondëk Hwëch'in, the Commission, White River First Nation, other Yukon First Nations, stakeholders, as well as the public in the planning process outlined in Chapter 11 of Tr'ondëk Hwëch'in Final Agreement. We hope that this more detailed memo as well as the other documents in our submission package help explain our changes, reasons for them and options moving forward. The Government of Yukon would be happy to make a presentation on this package to the Commission. Please contact the Government of Yukon Land Planning Branch to arrange for a meeting date.