

Dawson Regional Land Use Plan Scenario exercise report

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Special thanks to the Yukon Chamber of Mines and Klondike Placer Miners' Association for advocating scenario exercises and for their valuable contributions to the development of the mock applications.

Thank you to John Glynn-Morris for facilitating. John's involvement allowed participants to be more comfortable, open, and fully participate in the exercise.

Executive Summary

About this Scenario Exercise Report

The Government of Yukon and Tr'ondëk Hwëch'in Government jointly conducted this Scenario Exercise Report. Both Parties participated in writing, revising and reviewing this report. However, the Government of Yukon is solely responsible for the release of this report.

Background

The Dawson Regional Planning Commission (the Commission) delivered the Dawson Recommended Plan to the Government of Yukon and Tr'ondëk Hwëch'in Government (the Parties) in June 2022. The Parties completed a 90-day public consultation on the Recommended Plan and are now considering whether to accept, reject, or propose modifications to this Plan.

On February 15 and 16, 2023, the Parties held two scenario exercises to identify potential gaps and areas for improvement in the Recommended Plan. The Parties co-developed two simulated mineral development applications (one placer and one quartz) to test existing assessment and permitting processes as though the Recommended Plan were implemented as presented with no modifications. Participants of the exercise included assessors, regulators, monitoring and enforcement bodies, and industry proponents as well as representatives of the Parties and Dawson Regional Planning Commission. Mineral industry representatives and environmental non-governmental organizations were invited as observers on February 16.

Briefly, the scenario exercises included:

- working with regulators to develop mock mining project applications within the Dawson Region that would appropriately test elements of the Recommended Plan;
- collaborating to create tabletop exercise handbooks specific to the Yukon assessment and permitting process and project applications;

- facilitating scenario exercises with expert participants to test the systems involved in implementing the plan; and
- identifying issues and inconsistencies in the Recommended Plan for the Parties to consider in relation to implementation.

Key Takeaways

The goal of the exercise was to understand how the Recommended Plan would work if implemented without modifications and identify potential issues that could arise. The scenario exercise was not a review of the existing mineral development assessment and permitting regime in the Yukon.

Issues or challenges identified during the exercise were characterized as “gaps”. The scale and implications of gaps varied widely. Although some gaps are specific to the mock scenarios explored in the exercises, discussions revealed other issues and considerations that could be applied more broadly to other activities unrelated to mineral development.

Implementability

There are necessary regulatory structures and information systems that must be created, changed and/or augmented before the Parties can implement the Recommended Plan. Regulators and the Commission will eventually require multiple inputs to determine conformity and permit projects, including:

- databases and associated user interfaces;
- research and mapping;
- definition, clarification and delegation of responsibilities related to inputs to applications; and
- development of new, and enhancement of existing, monitoring and enforcement.

The Recommended Plan will need to be implementable to meet its Objectives, protect Final Agreement rights, and serve the public. To achieve full implementation of the Recommended Plan as written, it will be necessary to increase the capacity of both governments and complete substantial up-front and ongoing work.

Timing of Conformity Checks

Currently, conformity checks take place during Yukon Environmental and Socio-Economic Assessment Board (YESAB) Seeking Views and Information Stage. During the exercise, it was identified that this timing is not sufficient as an application may change multiple times during a process. As a project may move out of conformity following the initial conformity check, multiple conformity checks would be required to ensure conformity and inform decision-making. Implementing iterative conformity checks has the risk of delayed timelines for applications and the Commission may lack capacity to undertake them.

Data and Mapping

A substantial amount of data is required to implement the plan. Data needs to be collected to eliminate the current deficit and needs to be regularly collected and updated to maintain the database. All data should be indexed and organized so regulators and proponents can use it. Clarity is required around who will be required to collect and fact check project-specific data.

Clarity

The scenario exercise identified uncertainty around who will assess and approve access management, wetland management and reclamation plans that would be required under the Recommended Plan. Such plans are not currently required or assessed by YESAB. The Commission identifies that these need to be reviewed and approved, but there is uncertainty around who will be responsible for review and approval of these plans and what criteria will be used.

It was further identified that clarity is required on how conflicting values within a Land Management Unit (LMU) are considered and prioritized.

Legacy Text

The Commission identified a few items that are left over from the Draft Plan. The expectation is that these will be updated before plan approval.

Conclusion

The scenario exercise was successful at identifying gaps in the Recommended Plan. Regulators, First Nations, monitoring and enforcement bodies and industry representatives worked collaboratively to provide perspectives and to identify

potential challenges that could arise if the Commission's Recommended Plan were to be implemented as written. Early identification of gaps provides the opportunity to explore how challenges can be addressed in the Plan and its implementation, including through clarity in the Plan itself, additional resources and capacity, interim guidance, implementing or adapting existing tools, or developing new tools.

Introduction

Tr'ondëk Hwëch'in Government and the Government of Yukon are currently undertaking land use planning for the Dawson Region under the process outlined in Chapter 11 of the Tr'ondëk Hwëch'in Final Agreement (THFA). Pursuant to Chapter 11, the Dawson Regional Planning Commission (the Commission) developed a Recommended Plan and presented it to Tr'ondëk Hwëch'in Government and the Government of Yukon (the Parties) in June 2022. Representatives from the mineral industry requested the Parties consider testing the plan with a mock-assessment exercise. The Parties agreed to undertake this as part of ongoing work to decide whether to approve, reject, or propose modifications to the Recommended Plan.

Scenario Exercise

The scenarios consisted of two mock mining project applications that were developed by the Parties. The exercise format was based on methodology commonly used in information technology and emergency management. Exercise participants included groups frequently involved in assessment and permitting in the Dawson Region, including industry groups, First Nations, regulators, and key stakeholders identified by the Parties. Two days of tabletop exercises were conducted on February 15 and 16, 2023.

The participant handbooks that were developed for the scenario exercise can be found in **Appendix A**.

Purpose

The purpose of the scenario exercise was to assess the completeness and implementability of the Recommended Plan “as written”. The goal of the exercise was to reveal potential issues, problems, or gaps that had not already been captured through public and First Nation consultation or internal review by the Parties. In doing so, the Parties and the Commission aimed to better understand the implications of the Recommended Plan and where changes may be required.

It is important to acknowledge that this was not a solution-focused exercise. The intention was to identify where potential issues might exist if the Parties approved and implemented the Recommended Plan as written.

Although some ideas and solutions were discussed and recorded through the course of the scenario exercise, the focus of this report is issue identification.

Methodology

The Scenario Exercise involved the following steps:

1. **Project start-up:** Following a request from the mineral industry, the Parties' Senior Liaison Committee met and discussed hosting a scenario exercise. Parties agreed to task their staff with collaboratively creating and conducting the exercise. Technical staff from both governments worked in partnership to develop the goals, understand challenges of the project, and design it to achieve an effective outcome. John Glynn-Morris was the contractor hired to facilitate and aid exercise development.
2. **Participant Identification and Communication:** The Parties worked together to identify individuals, groups, and organizations who are involved in the assessment, permitting and monitoring of projects in the Dawson Region. The consultant and the Parties met with participants to elicit input on where they believed the scenarios should focus and how they should be formatted.
3. **Scenario Creation:** The Government of Yukon's Department of Energy, Mines, and Resources and Department of Environment worked closely with Tr'ondëk Hwëch'in Government's Natural Resources, Heritage and Implementation departments to develop scenarios that were as realistic and detailed as possible to test the Recommended Plan.
4. **Scenario Exercise Creation:** The tabletop format was borrowed from proven methodology used in emergency management. The template and associated process were adapted by the Parties to accomplish their goals. One significant change made to the original format is participants were given the scenario booklet in advance, so they were able to prepare. As such, there were no surprises or sudden interjects that participants would need to react to.

5. **Scenario Exercise:** Two full days of exercises were held virtually on Zoom on February 15 and 16. They were hosted by both Parties and facilitated by John Glynn-Morris.
6. **Information Synthesis and Actioning:** The knowledge and understanding the participants gained is a key outcome of the scenario exercise. This information will be useful for creating and implementing a strong plan for the Dawson Region. A secondary benefit of the scenario exercise includes a more robust understanding of all aspects of the existing assessment and permitting process by all participants.

It is important the Parties acknowledge that both the scenario exercises and this report are not a review of the existing assessment and permitting regime in the Yukon. Rather, they provide a list of potential issues related to the implementation of the Recommended Plan that need to be better understood. As stated above, the scenario exercise did not seek to elicit or provide solutions. The findings in this report are intended for further discussion and consideration as the Parties move forward with government-to-government Consultation and make best efforts to come to consensus decisions on the Recommended Plan. While the Parties may not be able to address all the potential issues identified, knowing where these potential issues are, will help their technical staff develop both short-term and long-term strategies for implementation of the final approved plan.

Whether the Parties decide to approve, reject, or propose modifications to the Recommended Plan, the gaps identified and lessons learned through the scenario exercise will support the creation and implementation of a plan for the Dawson Region that fulfills the objectives of Chapter 11 of the Tr'ondëk Hwëch'in Final Agreement.

Assessment and Permitting Overview

This section provides an overview of the assessment and permitting process in the Yukon. Once approved, the regional land use plan for the Dawson Region will interact with these processes at many stages. It is important to understand the stages and responsibilities of the assessment and permitting bodies to appreciate the challenges that were identified when gaps were found in the plan. An overview of the process is provided below. It is for reference in the report only and is not a guideline for proponents. Please refer to the appropriate assessment or regulatory body for questions or guidance on this process.

Project Proponent Legacy

Project proponents are responsible for a range of activities required to bring an application, and subsequently the project, from planning through to closure. Proponents navigate the assessment and permitting process working with assessors and regulators to provide information and incorporate terms and conditions into their project plan and permits. Proponents trigger assessment and permitting and are required to provide informational inputs during the process.

Yukon Environmental and Socio-economic Assessment Board

The Yukon Environmental and Socio-Economic Assessment Board (YESAB) carries out a comprehensive assessment process to examine the environmental and socio-economic effects of projects in the Yukon before they commence. As per the *Yukon Environmental and Socio-Economic Assessment Act (YESAA)*, assessors are mandated to evaluate projects and determine the potential environmental and socio-economic effects of proposed activities and recommend whether the project should proceed, proceed with terms and conditions, or not proceed.

The mock project applications created for the scenario exercise were based on typical mining projects that might be assessed by a YESAB Designated Office. Larger projects that are subject to Executive Committee screening were not explored because they are subject to a different, more comprehensive assessment. The Parties acknowledge the

Recommended Plan will affect this process but did not include it within the scope of the scenario exercise. The Parties further acknowledge that to date the Dawson Regional Land Use Planning Commission has had limited involvement in making conformity determinations pursuant to the Tr'ondëk Hwëch'in Final Agreement section 12.17.

Pre-submission

- Before a project proposal is submitted to the YESAB Designated Office, a proponent may work with YESAB informally to get direction on what to include in their proposal.
- There may also be initial discussions between the proponent and affected First Nations.

Adequacy Stage

- At this stage of the process, YESAB is looking to understand project design, what activities are being proposed and the project location. There is no consideration of effects or significance at this point, only a determination of whether the proposal application is complete so it can be effectively assessed and evaluated.
- If the project proposal is not found to be adequate, YESAB will request further information from the proponent to fill in any gaps or omissions. Multiple information requests may be required and may also be requested in subsequent stages based on public input.

Once the project proposal is deemed adequate, the application proceeds to the Seeking Views and Information stage. During this stage, YESAB will also identify the Decision Bodies who will be responsible for issuing decisions regarding the project, in accordance with the provisions in YESAA.

Seeking Views and Information

- At this stage, YESAB is looking for comments from First Nations, the Government of Yukon, Government of Canada (if they have an interest), the public and stakeholders to better understand effects, pathways and mitigations.

For example, during this stage, YESAB may receive input about how the proposed project will impact environmental values and whether these impacts can be mitigated. Comments will be used to further scope the project and identify valued components and effects pathways.

- YESAB will also receive a plan conformity determination (or 'conformity check' - also see next section) of the project from the Commission. This is a review of the project, which considers the approved regional plan's goals and objectives including whether the project location is in a Landscape Management Unit that supports the activities proposed.
- Comments received, including the conformity check, may determine that additional information is required from the Proponent prior to proceeding with the assessment.
- If the proponent submits information that is considered a significant change to the project scope, YESAB may provide a second Seeking Views and Information period to seek further input.
- Once YESAB is satisfied that enough information has been collected to assess the project, it proceeds to the next step.

Evaluation Report

- Based on its assessment of the project's environmental and socio-economic effects, YESAB produces an Evaluation Report that recommends to the Decision Bodies whether the project should proceed, proceed with terms and conditions, or not proceed.
- The Decision Bodies consult with affected First Nations on the Evaluation Report prior to issuing a Decision Document. After this consultation, the original terms and conditions of the Decision Document may change.
- While Decision Bodies have an obligation to respond to YESAB Evaluation Report, there is no further role for YESAB beyond the issuance of their Evaluation Report.
- Once a Decision Document is finalized, the project moves into the regulatory phase, which includes the proponent pursuing the necessary permits.

Conformity Check: Dawson Regional Planning Commission

When YESAB receives a project application in a region where a regional land use plan is in effect, YESAB shall request that the Regional Land Use Planning Commission for the planning region advise whether the project is in conformity with the approved regional land use plan (UFA 12.17.1 / YESAA s. 44).

Note, the conformity determination, or ‘conformity check’ currently takes place during the Seeking Views and Information stage of a YESAB evaluation. It is being detailed here to avoid convoluting the YESAB process description.

New land development and expansion of existing development in the Dawson Region must be assessed to evaluate whether they conform to this Plan. Conformity checks are a key part of ensuring the Commission’s vision and goals are achieved. (DRPC, Recommended Plan, p. 280)

Project conformity is determined by checking a proposed project’s activities against the following:

- the relevant Land Management Unit (LMU)(s) objectives and directions;
- general management directions in the Plan; and
- cumulative effects indicator thresholds (currently, linear feature density and surface disturbance).

The conformity check determines whether the project fits within the prescribed disturbance thresholds, considers whether the project aligns with a LMU’s management intent, how it will impact the identified LMU values and whether the general management directions in the Recommended Plan are being followed.

Once the Commission has completed their conformity check, they present their determination to YESAB to incorporate into their assessment.

Decision Bodies

Decision bodies for the mock project proposals used in the scenario exercise included the Government of Yukon, Mineral Resources Branch; Tr’ondëk Hwëch’in Government, Land and Resources; and Department of Fisheries and Oceans Canada. Decision Bodies are responsible for issuing a Decision Document based on considering the

YESAB Evaluation Report and issuing a decision document. The Decision Document becomes the basis for permitting, monitoring and enforcement and is what the proponent and subsequent regulators are bound to follow.

Decision Document phase

- The Decision Body or Bodies draft a Decision Document either accepting, varying, or rejecting YESAB's recommendations in the Evaluation Report.
- A Decision Body must give full and fair consideration to scientific information, traditional knowledge and other information that is provided with the recommendation in YESAB's evaluation report.
- A Decision Body must include in a Decision Document the reasons for which it rejects or varies any recommendation.
- Variations may include term variations, new terms, and term removals.
- The draft Decision Document is consulted on between the Decision Body and affected First Nations to understand how it may impact Treaty or Aboriginal rights.
- The Decision Body may make further changes to the Decision Document based on consultation before it is signed and may be required to provide a written explanation of how the concerns of First Nations were considered and the impact they had on the decision.
- The Decision Body cannot consult with the proponent during the decision document phase.
- If the final Decision Document determines a project should proceed, with or without additional terms, the project may proceed to the regulatory phase.
- If the final Decision Document determines that the project should not proceed, the proponent will need to redesign their project and start a new YESAB assessment.

Yukon Water Board

The Yukon Water Board (YWB) is an independent body responsible for issuing water licences for various activities for the use of water, including Class 4 placer operations. YWB is bound to produce a permit that does not contradict the associated Decision Document.

Adequacy Review

- Once an application is submitted it is checked for completeness. Proponents may be required to provide additional information and/or clarification.
 - If there is a Decision Document, YWB will check if the project scope is consistent with the Decision Document.
 - Placer operators can submit their water licence application in parallel with their YESAB submission although the licence will not be granted until a Decision Document has been issued.

Public Comment

- Once the Licensing Officer has received all necessary information, the public review process begins.
- Comments and responses to those comments are included in a public registry.
- Anyone can submit public comments during the intervention process.

Public Hearing

- Public hearings are required for issuance or renewal, and some amendments and cancellations, of a Type A water licence, unless no person is interested in participating and making representations to the YWB on the matter, and the applicant consents to not having a hearing.
- The YWB may, where satisfied that it would be in the public interest, hold a public hearing in connection with any matter relating to its objects, including the issuance or renewal of, or an amendment to, a type B water licence.

Board Review

- A Licensing Officer will present the application to the Board. The Board has the right to request further information from an applicant at this stage.
- The Board must issue and make available to the public written reasons for its decisions or orders relating to any licence or any application.

Reporting

- The licensee is required to submit reports as per the reporting section of the Water Licence.

Government of Yukon: Mineral Resources Branch

Mineral Resources Branch (MRB) is responsible for permitting all mineral exploration and development activity (except for issuing water licences and mining land use approvals for Class 4 placer operations, which are issued by the YWB). On Settlement Land, both MRB and the issue Decision Documents for mineral exploration and development activity with the proviso that in the event of a conflict the MRB Decision Document prevails as per section 12.13.4.3 of the THFA.

- Proponents submit an application to the regulator for an approval once they have received a Decision Document that allows the project to proceed.
- The application must be consistent with the activities assessed in the YESAB process.
- Once the proponent has submitted an adequate application with fees to MRB, MRB will draft an approval.
 - The approval must include any terms that were included in the Decision Document, including as a result of consultation.
 - The approval includes the Standard Operating Conditions from the *Quartz and Placer Mining Land Use Regulations*.
- MRB then simultaneously consults with affected First Nations and engages with the proponent on the draft approval.
 - Consultation with First Nations is done to identify any impacts to Treaty or Aboriginal Rights not considered in the Decision Document. Changes may be made based on that consultation to mitigate identified impacts.
 - Engagement with the operator is done to ensure that the operating plan is consistent with their project plan and to ensure that any changes in the regulatory phase do not make the project inoperable.
- Once consultation is complete, the approval is issued.
- The project may proceed subject to the terms of the approval, any other permits and relevant legislation.

Government of Yukon: Compliance, Monitoring and Inspections

Compliance, Monitoring and Inspections (CMI) ensures that the proponent is in compliance with their permits and licenses issued.

Compliance and Monitoring

- CMI conducts inspections including site visits and reviews, sampling protocols, education and enforcement.
- CMI may issue Variation Notices, which are amendments allowing minor amendments that pose no risk of significant adverse environmental effect.
- Inspector's directions are actions required by CMI to be undertaken by the operator regardless of the operating plan, usually due to compliance issues or unforeseen circumstances.

Project closure

- Project closure occurs when a project is complete or reached its permit expiry without subsequent approvals in place. At this time, projects undergo final inspections.
- If final inspections are satisfactory, the operator receives a certificate of completion indicating they are no longer liable for any part of the site.

Scenario Exercise

Overview

Scenario exercises are realistic tabletop simulations designed to test an organization's systems and processes. Scenario exercises also help organizations think about how they respond to a sequence of events and identify what critical gaps exist. They are often used to test emergency situations in the areas of health, cybersecurity, and disaster preparedness.

Given the complexities of the Dawson region and the variety of activities that occur within it, the Parties designed a novel approach that brought many participants together with a common goal of identifying where potential further work was needed to create and implement a meaningful and effective land use plan for the Dawson region.

Scenario Exercise Development

The Government of Yukon and Tr'ondëk Hwëch'in Government worked closely together for three months to develop the exercises for a Class 4 Placer application and a Class 3 Quartz application. Throughout the process, the exercises were refined based on input from industry, planners, assessors, and regulators to ensure the scenarios accurately reflect how assessment and permitting processes would interact with the Recommended Plan for the Dawson region.

Participants

Approximately 40 participants and observers from Federal, Territorial and First Nation governments, industry, conservation and mining organizations, and Umbrella Final Agreement bodies attended the scenario exercise. A list of participating entities can be found below.

- Canadian Parks and Wilderness Society
- Dawson Regional Planning Commission
- Department of Fisheries and Oceans Canada
- Facilitator – John Glynn-Morris
- First Nation of Nacho Nyak Dun Lands and Resources Department
- Government of Yukon – Compliance, Monitoring and Inspections
- Government of Yukon – Department of Environment
- Government of Yukon – Land Planning branch
- Government of Yukon – Mineral Resources branch
- Klondike Placer Miners' Association
- Tr'ondëk Hwëch'in Government – Development Assessment
- Tr'ondëk Hwëch'in Government – Heritage
- Tr'ondëk Hwëch'in Government – Land and Resources
- Wilderness Conservation Society
- Yukon Chamber of Mines
- Yukon Conservation Society
- Yukon Environmental and Socio-economic Assessment Board
- Yukon Land Use Planning Council
- Yukon Minerals Advisory Board
- Yukon Prospectors Association
- Yukon Water Board

Scenario Play

To increase equity and ensure the greatest number of invitees were able to attend, the exercises were held virtually over Zoom. Each morning, the facilitator guided participants through the placer application scenario and asked questions based on challenges presented. In the afternoon, the facilitator provided an overview of the morning scenario and guided participants through the quartz application scenario. Afterwards, participants shared what they learned and were given the opportunity to provide further feedback in a post-scenario meeting. Overall, the informal, discussion-based simulation format fostered positive interaction among participants.

Feedback

Participants were encouraged to share their feedback on the scenario exercises through a variety of options. The facilitator sent a survey to participants, offered to meet with them individually, and encouraged other forms of feedback. The Yukon Chamber of Mines prepared and delivered a presentation to the Parties and the Klondike Placer Miners' Association submitted a report.

Project Scenarios

Application Types

Two types of mineral development projects were chosen for the scenario exercise: a Class 4 placer operation and a Class 3 quartz exploration program. Project locations and activities were selected for their effectiveness at exploring the management directions and policies of the Recommended Plan. Many stakeholders expressed support for conducting a scenario exercise to work through questions about how and where mining activity would be able to occur under the Recommended Plan. Mining is the most common industrial activity in the Dawson Region and involves more regulators than other industrial activities, and as such, mining scenarios were chosen to test specific aspects of implementation requirements for the Recommended Plan. Both areas selected were identified in the Recommended Plan as lowest or low development, with high ecological and cultural value.

Quartz Scenario

The quartz scenario developed for the exercise was a Class 3 quartz exploration proposal within Landscape Management Unit (LMU) 7: Wehtr'e (Antimony), 80 km from Dawson City. The mock proposal was a new quartz exploration program across 750 claims. The Project was within the Tr'ondëk Hwëch'in Traditional Territory and activities overlapped with Tr'ondëk Hwëch'in Settlement Land. Tr'ondëk Hwëch'in and the Government of Yukon were joint Decision Bodies on the Project. Access to the property was proposed through existing roads, a barge, and helicopter. Project activities were proposed to occur from January 1 to December 31 annually for 10 years.

Placer Scenario

The placer scenario developed for the exercise was a Class 4 placer mine proposal within LMU 17: Nän Dhòhdäl (Upper Indian River Wetlands), approximately 60 km from Dawson City. The mock proposal was for the renewal of a Class 4 placer mining operation located on 210 claims along tributaries to the Indian River within the Indian River watershed. The Project was within the Traditional Territories of the Tr'ondëk

Hwëch'in and the First Nation of Nacho Nyak Dun. Project activities were proposed to occur between April 1 and October 15, annually for 10 years.

Gaps Identified

The purpose of the scenarios was to identify gaps in the plan. The main gaps are categorized into four general themes: Data and Mapping, Clarity, and Language.

Data and Mapping:

- Some participants noted that more comprehensive wetland mapping and effect characterization are required for wetland management, access management, and reclamation plans, and do not currently exist.
- Others noted that proponents require access to wetland mapping in order to consider this information in their project proposal and ensure conformity with plan requirements such as disturbance limits and buffers.
- Surface disturbance mapping needs to be perpetually updated to reflect current disturbance levels, especially if mapping is used in the review process to make determinations.
- Participants also highlighted that if field verification is a requirement of wetland location and type under the Plan, there is a need to consider that most mining projects are submitted to YESAB in the winter. If the proponent cannot get a field verification prior to YESAB assessment, how will this be considered, and will it lead to undue delays to proponents prior to receiving permits?
- Participants suggested that if proponents are required to create wetland reclamation plans to mitigate adverse effects under the Plan, implementation guidance will be required. Some broad scale mapping exists but may not be specific enough to fully understand the overlap of a project with wetlands and mitigate the adverse effects identified.
- A need for wetland inventory to ensure assessments are accurate was mentioned by participants (p. 101, policy recommendation #52.)
- Wetland mapping and categorization may need to consider climate change – some wetlands may change (bog, fen, marsh) classification due to climate change.
- Participants noted that the Recommended Plan does not include cumulative effects indicators for water or fish.
- Participants also noted that placer operations are currently not required to provide pre- and post-season reports. This is data that could be used to build up

a database across the region. There are currently no reporting requirements throughout a project that would enable a database to keep track of placer activity. Any data reporting that does happen is not consistent or standardized. Proponent information is not submitted in the same format and so using this for a regional database is not currently possible.

Clarity

Participants noted that greater clarity is needed within the Plan. Participant comments were categorized in the three following areas:

1. Clarity of process
2. Clarity of roles and responsibilities
3. Clarity for proponents

It should be noted that there is some overlap, and some items may fit into more than one category.

1. Clarity of process:

- Some participants commented that there is a need for greater clarity at the adequacy review stage of the YESAB process and how the Recommended Plan would apply. Specifically, YESAB assessors need to better understand how disturbance thresholds in the Recommended Plan could be applied during the adequacy of a project proposal. Currently, YESAB would receive this information during the Seeking Views and Information stage and would not have the opportunity to consider it during adequacy determination.
- Participants noted that disturbance levels may increase while a project proposal is undergoing assessment, and the Recommended Plan may need to account for this possibility.
- It is not clear to participants what should be done during implementation while data remains unavailable, such as publicly available, extensive wetland mapping. This type of data is required to assess projects and determine conformity, but is not currently available, and is cost and labour-intensive to confirm and keep current.

- If disturbance of wetlands is to be monitored annually, participants suggested that it should be clear who will be responsible for surveying and reporting on disturbance. If the proponent is responsible, that will need to be made clear and a process for this reporting may need to be established.
- Where the Recommended Plan identifies conflicting values within an LMU, for example, moose and mining, participants commented that it is not clear how values should be considered and prioritized during assessments or conformity checks.
- If YESAB introduces terms to ensure a project conforms to the plan, there is no conformity check at this stage of the current process to ensure the new terms accomplish this.
- Decision bodies may vary terms and conditions to the extent that a project no longer conforms to the plan. If a decision document were to substantially alter a project, it was noted by some participants that it is not clear how this would be accounted for, given that the conformity check would already have taken place.
- Some participants noted that the Plan may not have considered evidence in the YWB process. Furthermore, YWB legislation does not have consideration of land use plan conformity and is not something they assess at the adequacy stage. It is not clear whether YWB is bound to consider land use plans and whether YWB is considered a signatory to them.
- Participants commented that there are currently no cumulative effects thresholds set for water, particularly around flow, quality, and sedimentation but the Commission recommends the Parties develop them. If this were to occur, a mechanism may need to be created to allow regulators to consider thresholds when assessing a project.

2. Clarity of roles and responsibilities:

- Some suggested that the Commission's role in the preliminary stages of the implementation process needs to be clarified. The Recommended Plan advises that the Commission should be part of the implementation committee but does not specify how they will be involved in this working group, and what responsibilities or tasks they expect to undertake.

- A need to clarify who, whether proponent or government, must do the required mapping was noted by participants. If proponents are expected to generate mapping, how could this be collected and used to create baseline data.
- A need to clarify who confirms the accuracy of wetland mapping was also identified by participants.
 - If proponent is responsible, clarify whether they need qualified professional or registered professional biologist to perform this.
- The plan requires wetland mapping and reclamation plans. It is not clear which body determines if wetland mapping and reclamation plans are adequate, as YESAB does not currently do this, and the Commission does not have the technical expertise.
- A need to clarify who approves an access management plan (YESAB or the Parties) was noted by participants. For example, in some LMUs (LMU 1: Tthetäwndëk (Tatonduk) and LMU 7: Wehtr'e (Antimony), the access management plan should be considered jointly by the Parties, but we need to clarify this for other areas.
 - If joint approval by both Parties is required, what is the mechanism for joint review and approval, and how is the decision communicated?

3. Clarity for proponents:

- Some participants suggested that the complex direction and the 154 recommendations in the plan make it difficult for proponents, as well as regulators, to ensure the plan is being followed and they have captured all plan directions.
- Clarity for proponents on what additional requirements will now be needed within a project proposal. This will help proponents to understand feasibility and cost.
- Clarity for proponents on what is required of them at each stage of the assessment process.
- More specificity around conformity checks would help the proponent understand how conformity is determined.

Language

- Wording in rationale for designation in LMU 7 is left over from the Draft Plan designation as a Special Management Area 2, which makes it sound like it is protected when it is not.
- The Special Management Direction “no new access” in LMU 7 is a holdover from the Draft Plan.
- There was some confusion around the term “access management plan” in the Recommended Plan, as participants noted this term is used elsewhere for a different kind of access management plan and could cause confusion.

Implementation Challenges Identified

Implementation challenges are areas, directions or recommendations of the Recommended Plan, which may create issues for the Parties during implementation. Inevitably, there is some overlap between gaps and implementation challenges, as gaps in the plan or challenges in the process will directly affect the implementability of the Recommended Plan. This list is not exhaustive, but includes challenges identified by participants through the scenario exercise.

Implementation challenges

A summary of Participant comments and discussion regarding conducting conformity checks is as follows.

- Up to this point, regional planning commissions have stopped operating after a plan is approved for their region and have therefore been unable to conduct conformity checks. The Recommended Plan, Tr'ondëk Hwëch'in Final Agreement (THFA), and YESAA all indicate that the Commission will continue to operate and to perform conformity checks. The structure, process, and funding for an ongoing commission have not been determined but are being explored.
- Conformity checks currently take place early in the assessment process, during the Seeking Views and Information stage, which presents difficulties for accurately determining conformity.
- There are several opportunities for a project to “fall out” of conformity following the submission of an official ‘conformity check’. For example: Terms and Conditions may change during the Decision Document phase. YESAB terms and conditions should bring a project into conformity, but a term or condition that is added could be varied or removed at the Decision Document phase, after which there is no conformity check.
- Conformity checks currently take place at the Seeking Views and Information stage simultaneously with other comments, such that the conformity check process itself cannot benefit from seeing project comments prior to issuing a determination.

- There is no opportunity for dialogue between the Commission and proponents, First Nations, and others. The Commission is not able to incorporate effects into conformity. Proponents may want to conform but do not understand how. Conversations between the Commission and proponents could resolve this issue. However, some participants expressed concern that ongoing, or iterative conformity checks along with back and forth between the Commission, affected First Nations, other commenters, adds time to the process and uncertainty for proponents.
- Participants suggested that there is a need to establish whether conformity checks will be iterative or not. Certainty and consistency of process is essential.

General implementation challenges

- Regulators and decision bodies will need guidance on how to proceed while data is not available. The approved plan is expected to be implementable on day one.
- Project conformity cannot be determined without the required data. Participants commented that there is some uncertainty around reclamation plans, e.g., if they are a requirement for assessing certain projects, and what the roles and responsibilities are. YESAB does not ask for reclamation plans or review them as a part of their process.
- It is not clear who would review and determine whether a reclamation plan is sufficient.
- Participants suggested a need to clarify the Commission's role beyond conformity checks and detail how, and if, they will be involved with other aspects of plan implementation.
- The Yukon Water Board (YWB) does not have explicit legislation, policy direction or processes in place to assess whether a project meets conformity. The board is an administrative tribunal, therefore, evaluation reports, decision documents, supplementary materials and all other evidence are used in the decision-making process. The YWB cannot contravene a decision document or any terms or conditions which it includes.
- The YWB currently does not have a process for incorporating or assessing cumulative effects.

- Participants suggested a need to clarify whether the YWB is bound to a land use plan in their regulatory board's decisions. Currently, the YWB only reviews the evidence before them.
- Participants commented that there are currently no cumulative effects considerations for water.
 - Disturbance data is not available and there currently is not a database specifically for placer. Quartz operations are required to provide disturbance data as a part of their permit, but placer permits do not currently include such a provision.
 - Participants noted that there is currently no system in place for tracking disturbance to support the cumulative effects framework.

Conclusion

The scenario exercise encouraged participants to explore their roles and responsibilities in an informal, discussion-based format. Participants approached the exercises in a collaborative and open way which was essential to their success. The lessons learned and insights gathered from the scenario exercises are invaluable to the creation and implementation of an effective land use plan for the Dawson region.

The scenarios provided an opportunity for the Parties, assessment bodies, proponents, and regulators to share knowledge, collaborate, and gain a broader understanding of each other's roles and processes. In addition to gaps in the Recommended Plan, the scenario exercise identified implementation issues. Although these issues may not be problems with the Recommended Plan itself, addressing them may require modifications that improve its implementability and compatibility with existing processes. Some of the implementation challenges identified apply when trying to implement any regional plan and are not specific to the Dawson Regional Land Use Plan. Identifying such challenges reveals opportunities to resolve persistent issues and pre-empt similar problems in future regional plans.

This exercise was an effective way to identify potential issues that exist or could arise while implementing a version of the plan and address them appropriately. Not all challenges identified can be addressed within the plan, and some may need to be resolved through additional actions. The gaps identified through the exercise will support the Parties in their assessment of the Recommended Plan and areas which may need to be clarified, strengthened or otherwise modified.