

# Resource Access Roads Framework





This framework describes the application, principles, roles and responsibilities, policy parameters and processes that will be used to manage resource access roads.





# Introduction

**T**HE RESOURCE ACCESS ROADS FRAMEWORK outlines the goals and principles that guide decisions around the development and management of resource access roads. The purpose of this framework is to outline processes and provide guidance to regulators, industry and the public. The framework is supported by operational procedures and guidelines.

Resource access roads are distinct from the common perception of public highways. “Public highways” join communities while “resource access roads” do not. Both types of roads are important to the resource industry, but overall they serve different purposes. For the purposes of this framework, resource access roads are all routes needed by industry to access their properties and move their product to market. These include routes maintained by Highways and Public Works (HPW) and routes not maintained by HPW but still used by the public as well as the resource roads used by industry.

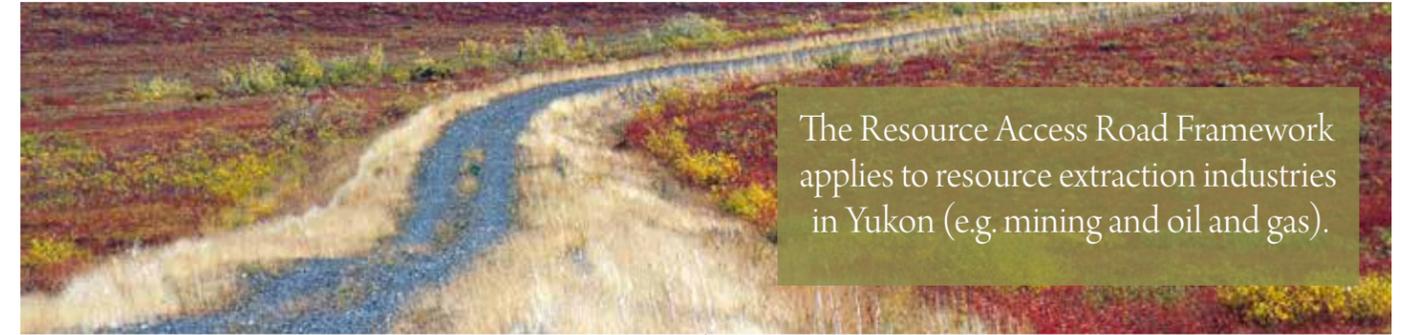
The challenges of developing resource-focused transportation infrastructure are many, with the major factors being budgetary capacity, community impact, and environmental and economic risk. Fluctuating commodity prices and the cyclical nature of resource development operations observed in the past contribute to the economic risk factors.

Government does not have the resources to address the increased demand for resource-focused transportation infrastructure. The

scale of work is huge and this challenge cannot be tackled solely by Government of Yukon (YG). It takes support and cooperation from industry and other levels of government to address these issues in the long term. This framework is not about government funding of access roads; it is about providing resource developers with a clear and consistent process for the development of transportation infrastructure required to access resources.

For the purposes of this framework, resource access roads are all routes needed by industry to access their properties and move their product to market.

In the past many resource roads became permanent long-term roads when industrial activities ended. These roads became part of the extensive network of both maintained and unmaintained roads in the territory. The intent of this framework is to ensure that the access roads of today do not become the unmaintained roads of the future. Resource access road development will be managed to minimize the potential for unsustainable maintenance costs or ongoing liability to government. Addressing reclamation and decommissioning requirements in the framework will help to mitigate overall liability by ensuring that new public roads are not created unless the government actively makes the decision to do so.



The Resource Access Road Framework applies to resource extraction industries in Yukon (e.g. mining and oil and gas).

## Application

The Resource Access Roads Framework applies to resource extraction industries in Yukon (e.g. mining and oil and gas). The framework was developed more specifically to apply to quartz or hard rock mining exploration and development. However, if a placer operation is large enough in scale, the framework principles and guidelines will apply.

The policy does not apply to forestry, tourism or agriculture industries. Forestry and agriculture are governed by other policies and regulatory requirements, and the tourism industry does not undertake development of resource access roads on this scale. However, the use of resource access roads by forestry and other industries can be accommodated within the shared road use provisions.

## Our goals are to ensure:

- Transportation infrastructure enables access to approved exploration and resource development activities.
- There is clarity and certainty around control and responsibility for roads.
- The regulatory process is fair, transparent and consistent.
- Public interest is considered in decision making.
- Negative environmental and cumulative impacts are minimized.

## Principles

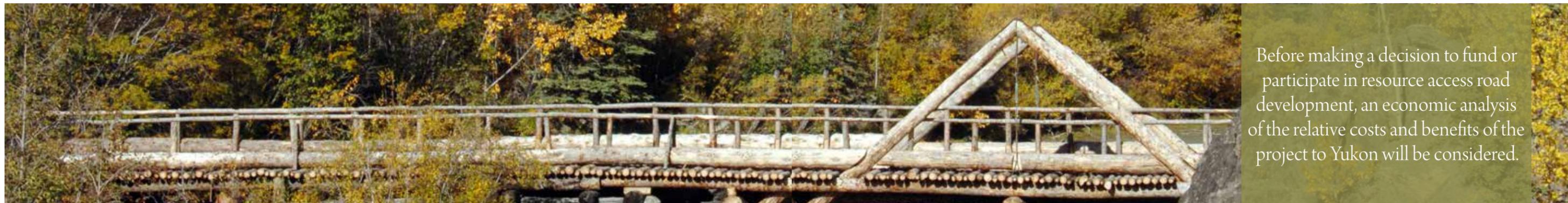
- Government must maximize the public good while minimizing risk when making transportation infrastructure investments and regulatory decisions.

- Government has a role in supporting economic development through investments in infrastructure.
- Government must consider both the social and economic benefits to communities and the territory and the potential negative environmental and socio-economic impacts of proposed road projects.
- Resource access road development must be managed to minimize the potential for unsustainable maintenance costs or ongoing liability for government.
- Cooperative use of a road by resource developers reduces the environmental and cumulative impacts of resource developments on public land.
- Resource access road development must be consistent with approved land and resource management plans.

## Roles and Responsibilities

### Yukon government is responsible for:

- building and managing a core transportation infrastructure system that supports public and territorial interests.
- providing a strong framework for regulating the development of roads that addresses:
  - industry’s responsibility within the *Yukon Environmental Socio-economic Assessment Act (YESAA)* process to ensure that socio-economic and environmental impacts are taken into account when determining whether a potential road project should proceed.
  - legal obligations to consult with First Nations.



Before making a decision to fund or participate in resource access road development, an economic analysis of the relative costs and benefits of the project to Yukon will be considered.

- requirements for community engagement and participation.
- multiple users and public use of the roads.
- what happens when industrial activity ends.
- liability for ongoing maintenance.
- cumulative effects and other environmental concerns.
- setting standards for work on existing or new public roads, working with developers to review plans to ensure public infrastructure is protected and providing technical advice to project developers. It is not the intent of this framework to require small scale operators/exploration companies to utilize public highway construction and maintenance standards.
- managing necessary upgrades to and maintenance of Yukon's primary highways; however, Yukon government may enter into cost-sharing arrangements with industry and other levels of government to facilitate upgrades required to access resources.
- developing and applying regulatory mechanisms for road designation, road use, access management, and road closures requirements including financial security requirements.
- determining if and when, and to what extent, a road will be decommissioned. Where it is in the public interest to keep the road open, reclamation may not be required.
- facilitating a process that provides certainty with regard to user rights and responsibilities on shared resource access roads.

- applying a consistent approach in the review of projects with respect to the development and utilization of regional access corridors and setting conditions for use, operation, and decommissioning where appropriate.
- conducting an economic impact assessment of potential projects when assessing infrastructure investment and requirements.

**Industry is responsible for:**

- working proactively with First Nations and communities to ensure projects address local needs and respect cultural values.
- funding capital and operational costs of road infrastructure necessary to support their operations, including creation of new roads on or off claim, and, where appropriate, maintenance or upgrading of existing public highways.
- constructing roads to appropriate health and safety standards, where developing new roads with public access restrictions. There is no obligation to develop private roads to public highway standards.
- contributing to the cost of road maintenance required as a direct result of their operations. The Department of Highways and Public Works assesses projects on an individual basis to determine how required upgrades or changes in maintenance standards are funded.
- meeting all costs, technical requirements and information needs associated with YESAA and other regulatory and licensing processes when industry is leading the process.

- sharing the costs of construction, ongoing maintenance and operations and eventual reclamation and closure of shared access roads.
- formulating road use and cost recovery agreements or accommodations amongst themselves for shared access roads.
- decommissioning and reclamation activities once industrial activity is complete, if required by Yukon government.
- providing data required to complete an economic impact assessment on the proposed project.

### Categories of Roads

The need for a new road or upgrades to an existing road varies depending on the nature of the activity. This framework recognizes that there is a difference in use and requirements between exploration projects and major mine developments. The differences include: standard of road required (both in terms of new construction and upgrades to existing roads), levels of use, public and employee safety considerations, decommissioning requirements and standards, application of security by government, impacts on other users and adequate access controls.

Review and permitting of a proposal by Yukon government takes into consideration these differences and ensures that appropriate management tools are used for each project. Typically the following broad definitions can be used to distinguish between the two levels of activity.

**Exploration Road:** new roads or trails developed by industry to access property. These roads may connect to existing public road networks or be located entirely within quartz claims (internal roads/trails). Exploration roads are generally of a low level of construction and meant for access by the property owner only.

**Mine Haul Road:** new road built to a haul/industrial standard that meets vehicle and employee safety standards and is used to transport minerals from a developed mine or for re-supply and movement of people and goods to and from the mine site. In most cases, mine haul roads connect to a publicly maintained existing road network.

### Strategic Infrastructure Planning and Partnerships

Pre-planning of major infrastructure developments by industry will ensure that forward and future considerations are brought into the extensive work that is required of industry during design and baseline research prior to submission of project proposals to the Yukon Environmental and Socio-economic Board (YESAB). This pre-planning or engagement will also ensure that the appropriate government departments are included to allow for all issues to be brought forward prior to any final decisions being made.

Major haul road developments (whether a new road or upgrades and use of an existing road) may also lend themselves to various partnership discussions between government (both Yukon and federal) and industry. Any consideration of partnerships will look at monetary opportunities along with other support that government has available. Each case would be subject to appropriate discussions, economic analysis and negotiation.

## Shared Access Roads

Where existing and new roads are contemplated to be used by more than one proponent, Government of Yukon may facilitate cost-sharing arrangements between the users to ensure all actual costs of upgrading and maintaining the road are shared equitably. Industry is encouraged to work together to bring forward shared-use arrangements to government.

HPW determines how any required upgrades or changes in maintenance standards to existing public roads will be funded. Yukon government may cover all of these costs, share the costs with the proponent, or require the proponent to cover all associated costs. The decision as to which scenario will be used will be based on an analysis of the net economic benefit accruing to Yukon from the proposed project and the type of project.

If HPW determines that proponents will be responsible for costs, the first party to make application for approvals will be responsible for initial costs of construction or upgrades along with ongoing maintenance and operations regardless of whether the request is a new road or use of an existing road. Subsequent users will be required to enter into a cost-sharing agreement, prior to approval to use the road for their project. The agreement will set the conditions for payment for portion of use. Permit and/or agreements will also include arrangements concerning potential restrictions to use, access controls (whether physical or signage) and cost recovery mechanisms.

## Environmental Considerations

The Resource Access Roads Framework reinforces existing YESAA processes and respects current environmental and socio-economic best management practices. All regulatory requirements for development remain in place. This framework does not, in any manner, remove or change the current obligations to following existing YESAA processes. Some projects fall outside the scope of YESAA. For these projects, there is a process to ensure First Nation and community involvement in decisions about road development that affect their communities.

A primary focus of the Resources Access Roads Framework is to ensure that negative environmental and cumulative impacts are minimized. The framework will minimize impacts by ensuring shared access routes whenever

possible, supporting existing environmental processes under YESAA, and requiring conditions for reclamation and decommissioning be met. Yukon government will weigh the social and economic benefits to the public against the potential environmental risks when determining whether to close a road at the end of a project.

## Economic Analysis

Government of Yukon may invest in transportation infrastructure in support of resource development operations where a project is shown to have a significant positive net economic benefit to Yukon. Before making a decision to fund or participate in resource access road development, an economic impact assessment of the relative costs and benefits of the project to Yukon will be considered. Yukon government will conduct the economic impact assessment using data provided by the project proponent.

Economic analysis of future resource development projects may be required when Yukon government is considering infrastructure investments.

A number of factors are considered in the economic analysis, including:

- Estimates of Mineral Reserves
- Cost Estimates
- Project Timeline
- Production Estimate and Schedule
- Payments to Government (e.g. taxes, royalties)
- Employment
- Wages and Salaries
- Possibly affected Communities and First Nations
- Estimates of Possible Impacts on Yukon Population

The amount of information or data that is available can vary greatly from project to project, with projects further along in the development process often having more relevant and detailed information publicly available.



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## Consultation Obligations and Duties for Yukon Government and Industry

Government of Yukon will continue to fulfill its legal obligations to consult with First Nations when reviewing proposals for the development of new roads or upgrading of existing roads under the Resource Access Roads Framework.

YESAA requires that impacts to Yukon First Nation rights under final agreements be considered as a part of all assessments. The act also includes specific provisions to ensure that decision bodies consult with First Nations without final agreements prior to issuing a decision document. For more significant projects being reviewed by the Executive Committee of the Yukon Environmental and Socio-economic Assessment Board, proponents are required (before submitting their proposal to YESAA) to consult with affected First Nations and communities.

## Community Engagement and Participation

For new roads or projects to upgrade existing roads the need for community involvement will be carefully considered. As well as meeting legal obligations under YESAA and First Nation Final Agreements, government will evaluate whether additional public participation should occur.

If the new road or upgrade is subject to YESAA assessment, there are opportunities for public, community, and First Nations government involvement through the YESAA process. There are instances, however, where a project is not subject to YESAA and there is no requirement for public involvement or consultation under YESAA or any other legislation, such as when road work is occurring within road rights-of-way. There may also be instances where additional consultation beyond the YESAA process is required or desirable.

In addition to any legal requirements, there may also be policy reasons to consult on specific projects. Government will consider the potential impact on a surrounding community to determine whether public participation will help to inform its decision. If public participation is warranted, government will ensure it involves the public at an appropriate level to support the decision-making process. For example, consideration of a proposal to close or restrict access to a road that is used extensively by residents in the area for hunting or recreational purposes would warrant broader public notice and discussion.

The government may use the following criteria to determine whether public participation is warranted:

- Has YESAA been triggered? If not, why?
- How far is the project from the community?
- Will access to the road be restricted to the proponent only?
- How much traffic will be on the road?
- Will traffic patterns within a community change significantly?
- Is the road currently being used by the public?
- Would use of an existing road change?

Government of Yukon also recognizes municipal governments' authority for roads within their jurisdictions and will review any road proposals that involve the use of municipal roads or new roads in municipalities in conjunction with municipal authorities.

The first step is to submit a regulatory application to Energy, Mines and Resources for the new road.



# Processes

## New Roads

Work relating to new road construction, use, maintenance, and reclamation where that road is required as access to a resource development is governed by the following regulatory processes.

In all situations, new road construction will be managed to ensure that new public use roads are not created and that all roads created for resource development are managed for the life of the project. Unless otherwise determined by YG, all new roads will be decommissioned to an appropriate level upon completion of the project.

New public use roads are new roads used for access by the general public who would not have had this access prior to the resource development. The key factor to controlling public use of a new road is access management. Control mechanisms need to be reasonable for the level of road standard and use. Liability to the developer and government is also a factor in how access will be restricted. It is recognized that each road proposal is different and case-specific actions will be used. These can range from basic controls such as signage to fully-gated and radio controlled haul roads.

The first step for a proponent is to submit a regulatory application to Energy, Mines and Resources (EMR) for the new road. If the proposed new road is:

- entirely on mineral claim, the proponent will work with EMR's Mineral Resources Branch.
- entirely off mineral claim, the proponent will work with EMR's Land Management Branch.
- partially on and partially off mineral claim, EMR determines which branch leads the regulatory process; however, the proponent may work with both the Land Management and Mineral Resources branches.

The proponent is responsible for submitting a proposal for YESAA assessment. Once the YESAA recommendation is issued, EMR reviews the recommendation and makes the final decision on whether to approve the new road and whether additional consultation with First Nations



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and the public is required or appropriate. The branch issues its decision, manages any additional consultation requirements, and issues the Mining Land Use Approval, Quartz Mining License or Land Use Permit with terms and conditions including reclamation requirements.

A Mining Land Use Approval or a Quartz Mining Licence is valid for the duration of the project. A Land Use Permit is issued for a three-year period to cover the construction period. Where the operation of a road is required beyond the normal 3-year land use permit, a successional permit or other legally binding arrangement (between the proponent and Yukon government) will be required. If the road is no longer required, reclamation must be undertaken in accordance with the terms and conditions of the permit.

As part of the permitting of roads, both the Mineral Resources Branch and the Land Management Branch incorporate requirements for reclamation and decommissioning of the developments and determination of appropriate security for the project. Mineral Resources uses the Mine Site Reclamation and Closure Policy and the Security Regulations to guide the development of plans and determination of security on major mine developments including road construction and decommissioning.

For exploration projects, YG utilizes best management practices to determine appropriate levels of reclamation and decommissioning dependent upon the specifics of the road, location and future industry use. It may be appropriate in some situations to decommission a road by taking a bridge out rather than reclaiming the

whole road, for example if a project is in hiatus for a short period of time. In other situations, because of the remoteness of roads and trails, signage may be an appropriate mechanism for advising public of the private nature of the road and mitigating liability concerns.

## Upgrades to and/or Use of Existing Roads

HPW determines how any required upgrades or changes in maintenance standards will be funded. Government may cover these costs, share the costs with the proponent, or require the proponent to cover all associated costs. The decision as to which scenario applies will be based on an analysis of the net economic benefit accruing to Yukon from the proposed project.

Yukon government will determine whether projects create clear and significant economic benefit to the territory.

Work relating to road upgrading, use, maintenance, and reclamation where that road is required as access to a resource development is governed by the following regulatory processes:

**1. Maintained Highways (per the Highways Act):** Upgrading and/or changes in maintenance practices of a maintained highway may be required depending on the intended use of the road or the outcome of any YESAA review of the proponent's project. In all cases

HPW will work with the proponent to determine if any upgrades are required. HPW is responsible for any additional approvals required to do the upgrades. HPW also determines whether additional consultation with First Nations and the public is required or appropriate and manages any resulting consultation requirements.

### 2. Existing Unmaintained Roads:

This may include requirements for a Work within the Right-of-way Permit under the *Highways Act* and/or a Land Use Permit or Mining Lands Approval. Approvals and permits to use or upgrade public roads include a maintenance contract/operating agreement with HPW.

The first step is to submit a regulatory application to EMR to upgrade or increase maintenance on an existing unmaintained road. EMR and HPW will determine what permits may be required dependent upon the level and scope of work proposed.

If the proposed upgrades or increased maintenance are located entirely on mineral claim, the proponent works with HPW and EMR Mineral Resources Branch throughout the process.

If the proposed upgrades or increased maintenance are located entirely off mineral claim, the proponent works with HPW and EMR Land Management Branch throughout the process.

If the proposed upgrades or increased maintenance are located partially on/partially off mineral claim, HPW and

EMR determine which branch leads the regulatory process; however, the proponent may work with HPW and both the Land Management and Mineral Resources branches.

If the upgrades trigger a YESAA assessment, the proponent is responsible for submitting an application and for all responsibilities associated with the YESAA process. Once the YESAA recommendation is issued, HPW and EMR review the recommendation and make a final decision on whether to allow upgrades or increased maintenance and whether additional consultation by Yukon government with First Nations and the public is required or appropriate. The lead branch issues the decision, manages any additional consultation requirements, and issues the appropriate permit, Quartz Mining License or Land Use Permit with terms and conditions including reclamation requirements. Proponents are to include proposed access controls as part of the project to ensure YESAA takes these into consideration. If changes to current public use of a road are anticipated, Yukon government may engage in further discussion with First Nations, communities, and other road users.



**This framework is about providing resource developers with a clear and consistent process for the development of transportation infrastructure required to access resources.**