



Advancing Land Use Planning in the Yukon:

Report on workshops to address Yukon Forum strategic recommendations

Winter 2020-21

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1. Executive Summary – Workshop Key Outcomes

This report summarizes the outcomes of six videoconference workshops convened in late 2020 and early 2021 by the Yukon Land Use Planning Council (YLUPC) in collaboration with the Yukon Forum Land Use Planning Leads (“the Leads”). These workshops sought to address the directions from the Yukon Forum on advancing the Yukon regional land use planning process, particularly those around “setting Commissions up for success” and “supporting multiple concurrent planning processes” – see Appendix A.

The workshops were attended by a diverse group of people with strong experience in Yukon planning processes. These included representatives from Yukon First Nations, Yukon government, past planning Commission staff and YLUPC (see Appendix B for a list of participants).

The workshops were framed around a three-stage approach: pre-planning, planning and implementation. The overall success of the planning process depends on fulfilment of key roles, responsibilities and deliverable products at each stage. The most significant takeaway from the workshops is the importance of good pre-planning work in setting Commissions up for success. Commissions have a difficult job, and limited time and capacity available to do it. Their work would benefit immensely from:

- Clarity from the Parties on key planning issues for attention, and the scope of matters for attention (including any areas or matters to be addressed through other processes)
- Awareness of the Parties’ goals and objectives for various areas of the planning region, particularly in regards to the key planning issues (noting that plan directions are subject to further public engagement and deliberation by the Commission)
- Compilation of background information focused on the key planning issues, and presented in a compiled, value-added format in order to guide planning decisions
- Well-established working relationships and trust among the Parties before planning begins

Other key take-aways from the workshops include the following:

- Indigenous approaches to planning and applying knowledge are being explored and championed, and should lead to consideration of how to adapt planning processes
- Commissions must balance a more efficient approach to planning with providing enough detail to guide plan implementation.
- Early sharing of concepts and draft plan sections during the planning process can help identify areas of consensus and contention, and avoid wasted effort during planning
- The Senior Liaison Committee (SLC) and Technical Working Group (TWG) are key avenues for feedback among the Parties and Commission, and should draw on lessons learned from earlier Yukon planning processes

2. Background and Context

Since the signing of the Yukon Final Agreements between 1993 and 2005, only two regional land use plans have been completed as per Chapter 11 (North Yukon and Peel Watershed), with a third underway (Dawson). The Peel Watershed planning process involved a lengthy and difficult dispute that was ultimately resolved by the Supreme Court of Canada, while planning processes were interrupted during the litigation.

Leaders from the Yukon government (YG) and self-governing Yukon First Nations (SGYFNs) established a new inter-governmental working relationship through the Yukon Forum in 2016, including a Joint Action Plan. This plan mandated YG and SGYFNs (herein “the Parties”) to develop recommendations for advancing the Yukon land use planning process, beginning with a review workshop, which was held in 2018.¹ The Yukon Forum also established a Leads group for land use planning (herein “the Leads”) to advance the discussions towards recommendations for the planning processes.

2.1. Yukon Forum Review and Directions, 2018-19

At the December 2018 meeting of the Yukon Forum, leaders endorsed a set of four priority objectives and related strategic recommendations for advancing and improving the Yukon land use planning process. The Yukon Forum representatives (the Grand Chief, Peter Johnson, CYFN and Ranj Pallai, YG, Minister of Energy, Mines and Resources) forwarded these priority objectives and strategic recommendations to the Yukon Land Use Planning Council (YLUPC) in March of 2019. - see Appendix A. This included an objective to “set Commissions up for success” by:

- Examining roles and responsibilities of the YLUPC, the Commissions and the Parties
- Reviewing and agreeing to a broadly applicable process for regional land use planning
- Reviewing the information requirements for regional land use planning

The Yukon Forum also endorsed the objective to “support several land use planning processes concurrently, inside and outside of Chapter 11”.²

In order to assess how best to implement these two objectives and associated recommendations, YLUPC collaborated with the Leads to convene a working group and invited people with expertise and experience in Yukon land use planning processes in December 2020 - February 2021. This working group included experienced representatives from YFNs, YG and YLUPC; a list of participants can be found in Appendix B.

¹ Stantec, *Report from Regional Planning Workshop June 4 and 5, 2018*, Prepared for: Yukon Forum - Regional Planning Working Group, Whitehorse Date: June 22, 2018

² Regarding multiple concurrent processes, these workshops focused on regional planning under Chapter 11, which is YLUPC’s mandate.

This report captures the outcomes of the working group's efforts, using the three-stage planning approach laid out in section 3. As noted in section 8 on Next Steps, the ideas and recommendations presented here can serve as the basis for further collaboration among the Yukon Forum Leads and YLUPC on developing an updated process guide for Yukon land use planning.

2.2. Key Context Points and Considerations for Planning Commissions

Setting up Commissions for success requires thorough consideration of their operating realities, which the participants in these workshops know very well:

- Commissions are composed of knowledgeable citizens of the planning region. On the whole, they have a very diverse range of experience and backgrounds. Some may have extensive experience living on the land, while others may have technical expertise in a given area. They seldom have prior experience with land use planning processes.
- Commissions are tasked with resolving contentious and complex planning issues that have significant social ramifications in their communities. Particularly hot-button issues can consume a great deal of Commissions' time. This factor will only increase as planning moves into more populated areas with more access and development activity (see section 2.3. below).
- Commission members are typically able to gather together every 2-3 months. Overall, they have limited time given the complexity of the task they are given, particularly where plans need to address contentious issues.

2.3. Impending Increases in Planning Complexity

To date, two regional plans have been completed (North Yukon, Peel Watershed) with a third process nearing a draft plan from the Dawson Regional Planning Commission. The two planning regions with completed plans are both quite remote. They are far from regional highway networks, have limited access routes, and currently have limited industrial development activity. As such, these regions are not representative of the kinds of geographies, development regimes, and variety of land interests that are at play in central and southern Yukon planning regions.

While all planning processes can be characterized as "complex", the Yukon planning regions yet to be addressed will be significantly more complex than the initial two. It will simply not be possible to develop the same level of planning detail as in the two northernmost regions if plans are to be completed in a timely way. While the two planning regions addressed to date may not be representative of the rest of Yukon, they do provide a valuable baseline from which to assess a realistic scope and level of detail for more complex planning regions based on desired timelines and funding available. The Dawson planning process is grappling with these matters at the time of writing, and participants in that process provided valuable insight into the workshops covered by this report.

2.4. Impending Capacity Demands - Multiple Plans & Implementation

To date, YG and YLUPC have generally been working on one or two planning processes at once, with the North Yukon plan coming towards the completion as the Peel Watershed planning process was ramping up. As discussed in section 6, the Parties and YLUPC may soon face the reality of running more concurrent processes and at the same time as dealing with the implementation requirements for a growing number of completed plans. The Yukon Forum strategic directions also recommend that YLUPC play an increasing role in administrative support for planning Commissions, which is the case with the Dawson region planning process currently underway. The Parties and YLUPC will need to carefully assess capacity needs and limitations for ensuring adequate support for future planning processes and possible new approaches.

2.5. Indigenous Approaches and Knowledge in Planning

Land use planning, as it has commonly been done, has been developed based on Western knowledge systems and management approaches³. While these might vary depending on circumstance and individuals involved, in general planning is focused on where to allow development and not, or how much development is acceptable in a given area. This has typically been done in the Yukon by defining distinct landscape management units, and setting disturbance thresholds or designating some as protected areas.

Representatives from Yukon First Nations have often pointed out that these approaches do not fully encompass how their communities approach their relationships with the land, water and animals. Several of these First Nations have initiated their own community-based planning projects to explore their own approaches, in order to bring them to the table in regional planning processes with YG.

Chapter 11 of the Yukon Final Agreements commits the Parties to “utilize the knowledge and experience of Yukon Indian People in order to achieve effective land use planning”. In keeping with this mandate, the Yukon Forum strategic directions on land use planning direct the Parties and YLUPC to explore “developing a First Nations knowledge and data governance protocol”. Because this matter is foundational to how planning is approached, YLUPC has convened a dedicated working group called the Indigenous Planning and Traditional Knowledge (IPTK) committee. Their work is happening concurrently with that of the workshops addressed in this report, including planning for a gathering on traditional knowledge and Indigenous planning sometime in 2021. This gathering will address how to better reflect Indigenous values and worldviews in Yukon land use planning. The process considerations and recommendations throughout this report have been developed to address the issues related mainly to the Western approach to planning currently employed in the Yukon. Workshop participants were mindful that they will require further refinement based on the work of the IPTK group and YFN governments.

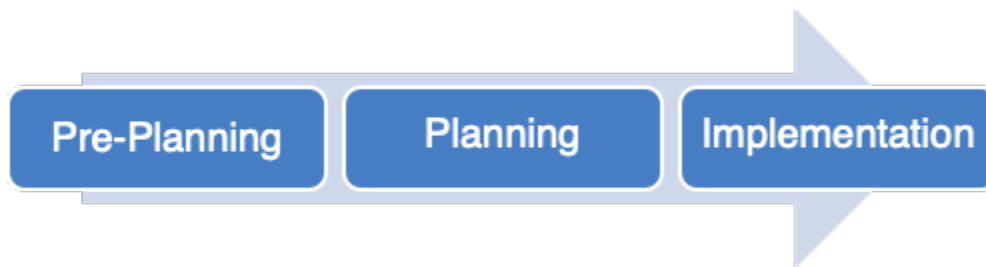
³ See 2020 report prepared for YLUPC by Gillian McKee, *Review of the Presence/Use of Traditional Knowledge in Regional Land Use Planning*

3. Report Structure: Three-Stage Planning Process

This report is structured according to the three general stages of the planning process outlined in the following section. These stages, and the associated recommended approaches to implementing the Yukon Forum objectives, may be considered the framework for a broadly applicable process for land use planning.

3.1. Framework for Planning Process & Recommendations

The working group's discussions were structured around a three-stage approach to the planning process:



The report sections on each planning stage include the following sub-sections on key matters for attention in advancing Yukon land-use planning, based the workshop discussions:

Pre-Planning

- Trust as a foundation for planning
- Collaboration to frame the plan scope, goals & objectives
- Compilation of background information

Planning

- Effective use of SLC and TWG, or alternate models of governance arrangements
- Key supports from the YLUPC for commissions to enable plan completion
- Developing plan options and considering scenarios
- Identifying areas for further planning work
- Supporting multiple concurrent planning processes

Implementation

- Monitoring of Plan Compliance
- Plan Amendment and Review Process

In many ways, the transition between stages can be thought of as a passing of the baton between carriers in a relay event. The Parties begin the race during pre-planning, and during this lap they work to be ready to pass the baton smoothly to the Commission for the planning stage. The Commissions' work during their

lap culminates in a passing back of the baton to the Parties through their final recommended plan for approval and implementation. The Parties then begin the implementation process, and eventually coming back around to plan reviews and/or amendments. The analogy of a relay race is not a perfect one, as the Parties continue to “run” with the Commissions during the planning phase, and YLUPC is in the race throughout. But the comparison does serve to illustrate the interconnectedness of the players involved, and the importance of preparing for smooth transitions. The workshop discussions could be characterized as efforts to facilitate a relatively smooth process between stages of the planning process. For each subsection topic, the following matters are addressed:

- **Needs for attention** - based on experiences to date, how the matter should be addressed in order to be more effective and efficient
- **Roles & Responsibilities** - for each matter addressed, who needs to do what among the Parties (YFNs and YG), and the YLUPC
- **Milestones and output products** - milestones that need to be met at each stage in order to be ready to move forward, and what products should be delivered
- **Key factors to success** - based on experience, what practices, approaches and principles will support success at each stage, including the qualitative, interpersonal and often subtle considerations that can profoundly influence the success of planning processes
- **Potential Resources, Guidelines & Templates** - each section identifies guidance documents that may be developed to support the Commissions’ planning work. It is expected that YLUPC and the Parties would collaborate in the creation of these documents, with YLUPC organizing to bring them to final versions ready for distribution.

The sections on the pre-planning and planning and planning stages include summary tables that capture key activities, roles and outputs/milestones. These tables are intended as a foundation for further work to build out the full details of each stage of the planning process, including details not addressed in these workshop discussions.

4. Pre-Planning Stage

4.1. *Trust as a Foundation for Planning*

The Yukon Forum objective of “setting up Commissions for success” includes a strategic direction for the “Parties to seek opportunities to build trust, to collaborate and to build relationships”. Trust is the foundation of any working relationship, and is especially important in situations with a high potential for conflicting interests. Groups of people with low trust among them cannot reasonably expect to deal well with difficult discussions and conflicts around high-stakes interests.

The workshop participants explored how trust can be developed in the regional planning context, and how to avoid undermining it. In this context, trust can be understood to include the following general elements and specific details:

- **Strong Working Relationships** - There is no substitute for spending time together and working in collaboration. The Parties should create opportunities to do this this early in the process during pre-planning (which aligns with the approach detailed in section 4.2 following, and also with the Commission once it is formed). Early formation of the TWG to support pre-planning work is also a good opportunity for collaboration and building relationships. Collaboration amongst the Parties, Commission and Council should include some time together on the land, which can also go a long way towards inclusion of First Nations representatives and their worldviews.
- **Process and Role Clarity** - Early in their collaborative work, the Parties’ representatives should sit down together to review the process ahead of them. This is to help ensure a common understanding of different stages, milestones, and products along the way. The discussion should include how each Party will go about carrying out its roles at each stage, and who is responsible for what. The MOU between the Parties developed at the start of these processes has proven to useful and should be continued and elaborated upon; this is separate from the Commission’s ToR.
- **Transparency** - This is critical in regards to having common information, understanding others’ internal processes, and policy positions that may affect plan input and approval. Sharing of information demonstrates trust, and ensures a common playing field. Every government has internal processes that take some time, but other Parties need to understand what is happening and why in order to avoid mistrust. Finally, if any Party has a position or strong view on a relevant matter, it is critical to be transparent about this early on, rather than letting a substantial amount of work happen first.
- **Equity** - Inequity in the planning process can result from differing access to information, human resources, and numbers of reps at meetings. Not all Parties may be on the same playing field in terms of resources, capacity and workload. While these inequities can not all be erased, they can be mitigated if people are aware of them and willing to support their colleagues when needed.

- **Patience** - The Parties and Commissions will likely each have times that they are not able to move as quickly as others would like. While commitment to delivering on responsibilities is important, so is understanding when there are justifiable delays. Being transparent about internal processes and reasons for delays can help others have more patience.

On the flip side of this coin, there are many practices that can undermine trust, all of which have the potential to arise in the regional planning context:

- Mixed or conflicting messages from different representatives of a Party
- Creating a “black box” perception when Parties have no knowledge of each other’s’ internal processes and the reasons for them
- Avoiding or “punting” difficult discussions
- Putting forward or changing positions with limited explanation, rationale or background information
- Overwhelming other Parties with more representatives at meetings

4.2. Collaboration by the Parties to Frame Plan Scope, Goals & Objectives

Needs to Address

Regional Planning Commissions are tasked with balancing the various land values and interests in a planning region, and with producing a recommended plan that is likely to be workable for the Parties involved (being the relevant First Nations government(s) and Yukon government). This includes considering input from the public and the Parties in working to “minimize actual and potential land use conflicts”, as per the Objectives of Chapter 11 in the Yukon Final Agreements.

In order to develop a recommended plan that meets this target, the Commissions need clear input from the Parties at the start of the process about shared goals and objectives for the planning region. This is not just a matter of each Party listing their interests and desires for the region, or outlining the key issues to be addressed in the plan. Input about planning goals and objectives should be provided by the Parties in collaboration, and should speak to desired outcomes rather than simply listing values and interests for consideration. Rather than presenting the Parties with individual perspectives on planning interests and issues, some level of synthesis and shared objectives are needed. This input should be aligned with the Objectives of Chapter 11, including the principle of Sustainable Development, and the commitment to “utilize the knowledge and experience of Yukon Indian People in order to achieve effective land use planning”. This input from the Parties is needed before the Commissions start to assess planning issues and consider planning options, so that they are not effectively “flying blind” in their work.

Through this pre-planning collaboration, the Parties should identify any areas to consider interim measures including but not limited to land withdrawals for areas they expect may be candidates for some form of protection or special management through the planning process. These might include areas of high value for cultural use, harvesting, or recreation. Having such measures in place supports Commissions' deliberations by avoiding any pre-emptive registering of interests (e.g. mining claim, spot land application) in such areas if the public becomes aware they are under consideration for protection or special management. This matter should be discussed with the Commission soon after they form and implemented in the early planning stage.

Commissions also need clear guidance about which matters should be in the scope of the regional plan, and what should be addressed elsewhere. For example, they need to know if access for exploration of a highly mineralized area is to be addressed through the regional plan, or if the Parties have intentions to deal with it through a sub-regional plan for that specific area or some other process. If left unclear, these matters can become the proverbial elephant in the room, and consume much of the Commissions' limited time and resources.

There will always be a fine balance between providing Commissions with adequate input to support their work and respecting their autonomy and roles under the Final Agreements. While it is not up to the Parties to pre-suppose the plan, neither should a Commission made up of knowledgeable citizens be expected to single-handedly resolve substantial land use issues. Collaborative input from the Parties on goals and objectives should be understood as a starting point; Commissions will need to consider this alongside input from the public and other interested parties in the course of developing planning options.

Even if collaborating in good faith during pre-planning, the Parties may not have agreement on all goals and objectives for the planning region. A collaborative pre-planning submission should highlight any areas of difference, and explain the elements involved so that the Commissions have a clear understanding of what interests the recommended plan needs to address.

Commissions can still produce an Issues & Interests report based on the input received from the public and the Parties. However, if the input from the Parties is received with a good level of collaboration and synthesis, this will go a long way to pointing towards solutions that are likely to be effective and acceptable approaches for minimizing land use conflicts. This will also support the Commissions to better synthesize input from Parties with that received from the public when looking at planning options and creating a recommended plan.

Products for Pre-Planning Scope, Goals & Objectives

The Parties should jointly develop and submit to Commissions an outline of the desired scope of the plan, along with draft goals & objectives for the areas of the planning region. This product should:

- Provide enough detail to illustrate the Parties' intentions; goals may be stated broadly, (e.g. sustain populations of important food animals) while objectives should be measurable (e.g. avoidance of important caribou habitat)

- Identify any interim measures such as land withdrawals or protected areas that the Parties may agree to, and when these may happen in the planning process (e.g. before or after the draft plan released)
- Identify any planning matters or geographical areas that are intended to be addressed through sub-regional plans or other intergovernmental agreements, processes, working groups, etc
- Indicate shared expectations related to protected areas (general areas for consideration) and key values (e.g. caribou herds, cultural areas); or if there is not agreement, explain the differences and considerations involved
- Identify any policies (official or otherwise) of the Parties that will affect their review of planning options (e.g. ORV policy, traditional land use support policy)
- Explain any areas of difference or disagreement among the Parties, and reasons for these differences (i.e. the interests involved)

Roles & Responsibilities for Pre-Planning

- Parties – Collaborate in exploring interests and issues in the planning regions, and in developing draft shared goals and objectives while identifying any areas of difference
- Commissions – Receive and review joint submissions from the Parties on plan scope and draft goals & objectives; request additional clarification as needed
- YLUPC – Initiate staffing for key positions to support commissions (senior planners and support staff), creation and communication of a pre-planning guidance document for Parties

Key Factors to Success Pre-Planning

- Parties need to invest substantial time for inter-governmental dialogue and building trust during pre-planning
- Draft goals and objectives need to have enough detail to provide meaningful guidance to the Commissions so that they may balance interests and identify issues
- Draft goals and objectives need to be realistic in consideration of interests and needs in the planning region
- Draft goals and objectives need to be realistic in consideration of the information available in the region (e.g. critical habitat information); pre-planning work may identify key areas for further information gathering
- Governments should identify any policies they have in place that pertain to the goals and objectives, for the information of the Commissions (i.e. not as a constraint on them)

- The Parties need to address and resolve any internal differences on planning matters prior to making submissions to the Commission, so as not to put them in the position of resolving these differences
- Draft goals & objectives should be accompanied by supporting information compiled during pre-planning (see Section 5.2 following for guidance on information gathering)

Potential Resources, Guidelines & Templates for Compiling Background Information Stage

- Guidance document developed by YLUPC, in collaboration with the Parties, on developing draft goals and objectives in pre-planning phase; this should be integrated with any guidelines or templates for Terms of Reference, and the Source Book for Commission Members
- Guideline document developed by YLUPC, in collaboration with the Parties, on pre-planning information gathering; should include a checklist on common types of information to gather during pre-planning; should address any potential protocols with intellectual property and privacy.

4.3. *Compiling Background Information*

Needs to Address

In addition to having a good sense of plan scope, goals and objectives, Commissions require adequate information about the landscape and values in the planning region to craft options that will address the key issues. It is important that this information is oriented towards addressing the goals, objectives and key planning issues in the region (which should be articulated by the Parties in a jointly prepared document as per the previous section).

To date, baseline information about the planning region has been compiled in the form of a detailed Resource Assessment Report (RAR) that is prepared by the Commission. This has been a time-consuming exercise, which uses up a lot of the Commission’s initial energy. In some cases, the information has been more detailed than what is needed for planning purposes, or includes a lot of detail that is not directly relevant to the key planning issues (which may not have been clearly articulated yet). Supporting an efficient planning process requires a good balance of the right amount and right type of information at the right time.

Ideally, the Parties would work together to identify essential information in the pre-planning stages before Commissions are formed. They would then be able to provide this to Commissions, and work with them to address any key information gaps.⁴ The Parties can also assess the need for a cumulative effects

⁴ Information on remote parts of planning regions may be sparse or incomplete. Where not immediately needed for planning purposes, Commissions may recommend further research as part of their directions in the recommended plan.

assessment at this stage, and whether to employ specific data analysis tools like ALCES (A Landscape Cumulative Effects Simulator). This type of pre-planning collaboration is also an opportunity to build trust among the Parties, and to explore needs for further research. The workshops covered by this report did not generate a checklist of specific information/datasets that should be compiled for every planning region, and this may be a worthy exercise for the Parties and YLUPC to undertake, in the interests of promoting greater planning efficiency.

This should include an assessment of what traditional knowledge sources are available, including documented knowledge and knowledge holders to involve in planning discussions. The type and amount of information gathered should be guided by the key planning issues and the Parties' desired goals and objectives for the planning region.

Background information should be presented in manageable format in terms of length and detail. This can partly be accomplished by focusing on the planning goals and key issues for the region, and also by providing compiled and refined information, as opposed to more raw data. While care must be taken to avoid bias in interpreting data, it is important to provide Commissions with a complete picture of the planning region, rather than fragmented glimpses of different pieces. While there will be detailed information about specific areas in the planning region, it is important that background information is presented in a holistic way that reflects the interconnectedness of the landscape, water, animals, and humans.

Information may also be presented to the Commissions through expert input during the planning process, not just through written sources. This is a good way to share information with proper context and interconnectedness, and should supplement the written information compiled in advance of the planning process.

Pre-Planning Products for Compilation of Information

- Compiled list of essential information about the planning region compiled by the Parties, including Indigenous knowledge sources (documented sources, as well as key knowledge holders)
- Identification of key information gaps, and approaches for addressing them
- Draft compilation report such as a focused and strategic resources assessment report to present to Commissions, with focus on information most relevant to draft goals and objectives for the planning region⁵

Roles & Responsibilities in Compilation of Information

- Parties to identify information sources, including traditional knowledge, and assess any gaps in regards to intended goals and objectives for the planning region

⁵ Information compiled should include thorough metadata documentation for the benefit of future use during plan implementation

- Parties to collaborate with YLUPC to determine need for, and approach to, cumulative effects assessment

Key Factors to Success for Compiling Background Information

- Parties work together to assess sources of information about the planning region before Commissions are formed, including traditional knowledge sources
- Streamline and simplify amount of background information provided to Commissions by focusing on information that is most relevant to the draft planning goals and objectives
- Ensuring that information gathering is focused and close enough to Commission formation so that it is not stale-dated by the time planning begins
- Using multiple formats for sharing information with Commissions - written documents, as well as in-person discussions with knowledgeable people
- Acknowledging information limitations and changing circumstances - information needs for planning issues faced in 3-5 years might be very different
- Recognize that good information is not a substitute for good relationships. Trust among the people involved is essential for dealing with difficult planning issues

Table 1: Summary of Main Activities, Roles and Products/Milestones for Pre-Planning Stage

Pre-Planning Stage		
Activity	Roles & Responsibilities	Products / Milestones
Collaboration among Parties on plan scope and draft planning goals and objectives – via early formation of TWG	Parties – Collaborate on development of draft goals and objectives submission; identify any matters out of plan scope (i.e. to be addressed elsewhere)	<ul style="list-style-type: none"> • Joint submission to Commission with summary of Parties’ draft goals & objectives, for consideration alongside public input
	YLUPC – Support the creation of a guideline document on developing of pre-planning draft goals and objectives	
Identify any interim measures such as land withdrawals or areas for interim protection before public release of draft plan	<p>Commission – interim measures may be recommended during planning process</p> <p>Parties – Review requests for and implement interim withdrawals/protections and/or other interim measures.</p> <p>YLUPC – n/a</p>	<ul style="list-style-type: none"> • Draft list of areas for withdrawal/protection consideration • Withdrawals/protections implemented
Proactive gathering of background information about planning region	<p>Parties – Collaborate on review and compilation of background information and identification of key knowledge holders</p> <p>YLUPC - Support guidance document and checklist of pre-planning info need; lead/support cumulative effects assessments</p>	<ul style="list-style-type: none"> • Listing of info sources and key gaps; draft compilation of information, with focus on Parties’ draft goals and objectives • Cumulative effects assessments for specific areas of the planning region, where deemed necessary

5. Planning Stage

Needs to Address

Regional planning Commissions have a complex task, with limited time and resources available to carry it out. This complexity will increase as planning processes move into the central and southern Yukon, and is already being experienced in the Dawson region. As such, it will be necessary for Commissions to scope and focus their efforts during the planning phase, supported by pre-planning work by the Parties and YLUPC.

The bulk of the Commission’s time should be focused on geographic areas or topic areas (e.g. specific development sectors) that are of most concern in the planning region. These should have been identified by the Parties during pre-planning, including the goals and objectives they would like to see in the plan, pending public engagement by the Commission.

5.1. Effective Use of SLCs and TWGs

Chapter 11 does not provide a structure or guidance to the Parties for engaging with the Commissions and each other during the planning stage. During the early days of the North Yukon planning process, it became apparent that a high-level and on-going intergovernmental relationship is needed to offer input and address issues during planning. This led to what became known as a Senior Liaison Committee (SLC), whose role has since been defined in the Terms of Reference for each planning region. The SLC provides a mechanism for high-level discussions about the Parties goals and objectives for the planning region, while the Technical Working Group (TWG) is the means to contribute and assess detailed information about the planning region.

Both these groups provide an important interface with the Commission, and their effectiveness depends on coordination between them and best practices in each venue. TWGs meet much more frequently and do more inter-meeting work than the SLC, and so can be a good venue for exploring planning issues in a non-political setting on a without prejudice basis. TWG reps can then coordinate with their respective SLC reps and other internal working group staff to firm up perspectives and positions to share with other Parties.

Workshop participants identified a number of practices and approaches to achieve this - some specific to each group, and some that apply generally to both:

Overall Best Practices for both SLC and TWG
<ul style="list-style-type: none">• Ensure consistent messaging and complete information among SLC and TWG - Parties should consider developing internal working groups that include all TWG and SLC reps, plus staff from relevant departments, to ensure consistent messaging to Commissions• Focus on relationships as much as desired planning outcomes - the latter depends on the former

<ul style="list-style-type: none"> ● Commissions should provide reasons and rationale for their info requests to SLC and TWG to help them respond in the most helpful way ● Be mindful of even representation at meetings from all Parties (sometimes participation from additional staff can lead to lopsided numbers) 	
SLC-Specific Best Practices	TWG-Specific Best Practices
<ul style="list-style-type: none"> ● Develop shared principles at the start of the process (e.g. the Four Agreements) ● Shared training on managing difficult conversations and conflicts ● Start meetings with discussions and agreements among Parties’ reps, before Commission members join ● Be clear about any strong positions, while respecting Commissions’ autonomy to weigh all factors in developing draft/recommended plans ● Have realistic expectations around consensus - not all differences can be reconciled, especially with limited time 	<ul style="list-style-type: none"> ● Form early to support pre-planning ground work (e.g. drafting of ToR, compile baseline info) and form working relationships ● Stay focused on technical input, guided by political discussions at SLC level ● Include First Nations knowledge holders at meetings to ensure these perspectives and worldviews are included alongside tech info ● Ensure input from all relevant depts. (e.g. health, heritage, tourism) ● Be careful about “data dumps” on Commissions that can overwhelm - strive for compiled info

5.2. *Developing Plan Options & Considering Scenarios*

After reviewing the compiled background information, and considering input from the Parties and the public, the Commission will need to develop different options to address interests in the planning region. This might include variations on land designations and protected areas as options for balancing future land uses.

The terms “options” and “scenarios” are sometimes used interchangeably, but actually refer to different concepts. Planning options, or alternatives, are different approaches for designating what types of land uses should happen and where. Scenarios are hypothetical future situations that might occur depending on circumstances - for example, what the future might look like if forestry activity doubled in a given area.

Choices about which planning option to implement will affect what future scenarios in the planning region could look like. And the details of different potential scenarios (e.g. effects of less/same/more oil & gas

activity) might affect which planning option the Commission thinks is best. However, future scenarios are inherently uncertain, and especially so the more factors that are involved.

There is a spectrum of potential detail for future scenarios, from very general to very detailed. Developing detailed scenarios can be very time consuming and information intensive, and of course potentially inaccurate despite best efforts. In the previous example, developing scenarios around future oil & gas activity would require some data about what the less/same/more scenarios would actually look like in terms of activities and locations. This could be summarized in a fairly high-level format, or could be mapped out in fine detail. The level of uncertainty involved in developing scenarios goes up the more precise you try to be in your forecasts. As such, Commissions should assess if any detailed scenarios are needed to guide choices of planning options, or if more general scenarios will suffice, or if guidance is needed from the Parties.

5.3. Identifying Areas for Further Planning Work

The North Yukon and Peel plans both provided a lot of detail for the whole planning region, based on extensive compilation background information. This is likely not a viable approach for more complex planning regions, as noted in section 2.3. As planning moves into regions with more access and development activity, Commissions will need to focus their efforts on key planning issues and geographic areas, and flag matters for further planning attention and detail (sub-regional or district planning). This will require a sort of “triage” exercise near the start of the planning stage (environmental scan), and should be informed by a collaborative pre-planning submission by the Parties regarding key planning issues, goals, and objectives.

Some workshop participants noted that there would be value in drawing on the “minimum viable product” (MVP) approach commonly used in software development. In this approach, developers work to build a product that does its job well-enough to release, with the intention of addressing outstanding issues through updates and revisions. Obviously, tech sector development is different than land use planning, but the underlying principle can still be valuable. Commissions can focus their efforts on developing a product that addresses the key planning issues in the region, and identifies what areas need future work during “updates”.

Commissions have several tools available to identify areas for further planning work beyond what is addressed in the recommended plan they develop. These should be used in order to achieve a plan that addresses key planning issues within a reasonable timeframe from the start of the Commission.⁶ For protected areas, Commissions might designate SMAs to identify areas for protection of key values, and

⁶ As noted in section 4.1, the Parties should clearly identify during pre-planning any geographic regions or topics that are intended to be addressed through other planning processes, including sub-regional planning.

then leave it to management plans for those areas to define specific management directions. For integrated management areas, time and effort should be focused on areas of greatest concern. Commissions could potentially spend a lot of time on assessing the status of relatively remote areas or areas of limited development, which may not be necessary and could divert energy from more pressing issues.

Roles & Responsibilities for Planning Stage

- Commissions – Develop plan options for various areas of the planning region, with a focus on areas related to key planning issues; share early draft sections of plans with Parties to facilitate feedback
- Parties – Provide input and feedback to the Commission, consistent with pre-planning materials and submissions
- YLUPC – Provide administrative services for Commissions and staff; provide guidance documents and technical expertise on matters such as best practices for TWG/SLC, cumulative effects, and developing planning options

Key Factors to Success for Planning Stage

- Parties provide Commissions with clear input from pre-planning work in regards to plan scope, key planning issues, and desired goals and objectives
- Commissions focus work on areas related to key planning issues
- Commissions identify areas for future planning work, and provide enough guidance to enable the Parties to develop further details
- Parties provide consistent and transparent feedback to Commissions via the SLC and TWG; early drafts of plan sections can be shared with the Parties to facilitate this
- Reliance on local and traditional knowledge of Commission members and citizens to support planning options and reduce the amount of technical analysis required

Potential Resources, Guidelines & Templates for Planning Stage

- Guidance documents on:
 - Best practices for getting value from TWG and SLC
 - Regional cumulative effects assessment
 - Assessing development scenarios
 - Conducting conservation assessments, development scenario modeling, forecasts and future vision reports
 - Developing planning options
 - Process for prioritizing key areas and topics for most planning attention

Table 2: Summary of Main Activities, Roles and Products/Milestones for Planning Stage

Planning Stage		
Activity	Roles & Responsibilities	Products / Milestones
Conduct Public Engagement	<p>Commission – Develop engagement strategies for public and planning partners and conduct engagements</p> <p>Parties – Review and offer feedback on engagement strategies</p> <p>YLUPC - Develop public engagement guidance document, with ideas, options and templates; provide administrative/financial support to Commissions</p>	<ul style="list-style-type: none"> ● Engagement strategies for FN citizens, Yukon public, and interest groups created and updated as the Commission proceeds through its work. ● Engagement strategy for Parties ● Issues and Interest Statement, reflecting Parties' collective pre-planning input on goals & objectives
Review and prioritize LMUs and topics for most planning attention	<p>Commission – Draw on background info, Parties joint pre-planning submission, local & traditional knowledge to produce draft priority list</p> <p>Parties – Provide input and feedback via the SLC and TWG</p> <p>YLUPC – Develop guidance document on identifying priorities</p>	<ul style="list-style-type: none"> ● Draft list of priority areas and topics for attention for review with SLC and TWG

<i>Planning Stage</i>		
<i>Activity</i>	<i>Roles & Responsibilities</i>	<i>Products / Milestones</i>
<p>Develop Planning Options</p>	<p>Commission – Conduct assessments and review scenarios with focus on areas related to key planning issues; draft planning options</p> <p>Parties – Provide input via TWG and SLC</p> <p>YLUPC - Develop guidelines and templates to support Commissions’ assessments of scenarios and options; provide administrative/financial services to Commissions</p>	<ul style="list-style-type: none"> ● Conservations Assessments - demand for land and resources; identify values and areas for conservation consideration ● Development Forecast - current and future demand for land and resources, consider potential scenarios ● Region Forecast Report – address the question “What are we planning for?”; consider cumulative effects assessment, conflict and compatibility studies
<p>Create Draft Plan (may include multiple planning options)</p>	<p>Commission – Draft plan and share with Parties (may share sections as they are drafted)</p> <p>Parties – Provide input via TWG and SLC</p> <p>YLUPC – Provide input via TWG on draft plan considerations; provide feedback on draft plan</p>	<ul style="list-style-type: none"> ● Plan direction statement: short piece done midway through process before detailed planning work begins ● Early iterations of the Draft Plan could be shared with Parties by Commission ● Draft Plan: may be a partial draft containing options ● Criteria for Approval of the Recommended Plan or Final Recommended Plan

6. Supporting Multiple Concurrent Planning Processes

Once the Dawson region plan is completed, planning will need to occur in central and southern Yukon (Whitehorse, Northern Tutchone, Kluane and Teslin), pending boundary approval by the Parties.⁷ The Yukon Forum objectives include support for multiple concurrent processes, rather than addressing them sequentially. Doing so will create certain capacity challenges, and also opportunities for efficiency, both of which were addressed by the workshop participants.

The consensus among the workshop participants is that YG and YLUPC are currently operating near their capacity in terms of planning, and could sustain two concurrent planning processes at once given current levels of resources. There are also further capacity implications for YLUPC and YG as more plans are completed and require implementation work – see section 7 following.

Once initiated, planning processes take some time to develop as Commissions, staff, SLC and TWG members go through a forming and norming phase. Ideally, planning processes would be staggered so that YLUPC and YG are not trying to shepherd two Commissions through a start-up phase at once, though timelines will be subject to a myriad of factors.

As noted in section 4, a strong pre-planning process is essential for providing Commissions with the foundational input they need to carry out their work. This will place particular demands on YG, as they work to support in-progress planning as well as conduct pre-planning for others. Potential capacity challenges include the following:

- There are a fair number of planners within YG, but there are only so many people available for detailed technical analysis on specific topics (e.g. wetlands functions).
- Implementation funding via Chapter 11 only flows once a planning process formally starts, not during pre-planning. This could be a capacity challenge for the Parties - under the current funding arrangements.

The workshop participants also identified several opportunities for efficiencies with multiple concurrent planning processes:

- Information sharing and technical analysis between concurrent processes
- Concurrent gathering of baseline information to support pre-planning
- Staff-sharing/secondment arrangement to support First Nations
- Senior planners and Commission chairs can collaborate on common issues

⁷ The areas with the traditional territories of White River First Nation, Ross River Dena Council, and Liard First Nation would not be addressed through Chapter 11 planning processes, as these First Nations are not Parties to Final Agreements. These areas could be addressed through other planning processes.

7. Implementation Stage

Needs to Address

While the Yukon Forum objectives focussed upon setting up “commissions for success” did not speak specifically to plan implementation, details on how implementation is approached will have direct implications for the planning process itself. The transition from planning to implementation is like the passing of the baton from the Commission back to the Parties. The more clarity that Commissions have about implementation elements like monitoring and reviews will happen, the more they can focus (and potentially streamline) their planning work. Without such clarity, there can be a tendency towards providing more detail, rather than risk leaving important matters to uncertain implementation processes.

This section addresses a few key aspects of plan implementation in relation to the planning process, as noted by workshop participants. Because these workshops were not intended to undertake a full review of plan implementation, YLUPC intends to convene further discussions with the Parties, including reviews of other relevant jurisdictions’ successes and lessons learned.

7.1. *Monitoring of Effects on Values*

Chapter 11 of the Final Agreements is largely silent on matters of plan monitoring, review and amendment. Section 11.4.5.10 contemplates that Commissions could play a role here, but this is not clearly mandated or elaborated. In practice to date, monitoring of plan compliance and cumulative effects on identified values have been addressed by the Parties through an implementation committee, in collaboration with YLUPC. This situation illustrates the need for a smooth transition between Planning Commissions and implementation committees. Workshop participants noted a number of important considerations to facilitate this transition:

- The Parties only have the capacity to monitor so many values for impacts from development. It will be helpful if the Commissions can identify priority values for monitoring.
- Plans should be developed with consideration of where there is adequate data available for monitoring effects on identified values and not. Where there is inadequate information, plans should indicate areas for further research or studies
- Commissions should be wary of vague, generalized, or undefined guidance (e.g. “adequate” or “significant”). If a Commission intends that the Parties’ implementation committee should determine what constitutes “adequate” or “significant”, this should be clearly stated.
- Plans can identify interim measures to address areas of immediate concern, pending further information gathering and monitoring (e.g. a particular river corridor)

7.2. Plan Review & Amendment

The Final Agreements specify under 11.2.0 that “any regional land use planning process in the Yukon shall:

- provide for periodic review of regional land use plans
- provide for procedures to amend regional land use plans
- provide for non-conforming uses and variance from approved regional land use plans

The North Yukon and Peel plans both address these matters in sections on plan implementation and revision, and direct the Parties to develop appropriate processes in their implementation plans. At present, the Parties to these plans are working on clear parameters for what constitutes a variance (very small change) versus what would require a plan amendment. Details were not confirmed in time for inclusion in this report, but should be available later in 2021.

In addition to potential amendments, Plans are intended to be reviewed at specified intervals, generally ten years. It is not yet clear if the Parties would intend to re-form Commissions to undertake comprehensive plan reviews, if initiated. Clarity on this matter would provide more certainty for Commissions, and perhaps more confidence about identifying matters for future attention in order to complete initial plans sooner.

Roles & Responsibilities for Implementation Stage

- Commissions – Identify and prioritize what values should be monitored for impact effects, in consideration of available information
- Parties – Monitor effects on values identified and levels of disturbance in LMUs; address information gaps for research; as impacts are realized or cumulative impacts near stated thresholds, address potential management options through implementation committees; identify and compile needs for potential amendments
- YLUPC – Role of YLUPC in conducting plan conformity checks on proposed developments needs to be confirmed. YLUPC has been asked by Peel/NY implementation committees to assess plan conformity, however YLUPC is not resourced to do so and will not be able to do so in the Dawson region given the anticipated number of projects.

Key Factors to Success for Implementation Stage

- Strategy among the Parties on YLUPC on how to deal with long-term capacity challenges of monitoring and implementing all regional and sub-regional plans
- Manageable amount of values to monitor for impact effects, and adequate information
- Clear direction in plans about Commissions’ intentions for specific areas or topics, and/or clear direction to Parties on what Commissions intend them address

8. Looking Ahead – Next Steps

This report can serve as a basis for on-going discussions on advancing land use planning amongst the Yukon Forum Leads, YLUPC and other representatives of the Parties. This may lead to formal recommendations to the Parties via the Yukon Forum in regards to the Yukon planning process. In particular, further discussions flowing from these workshops should focus on:

- Supporting more collaboration on pre-planning work in the four remaining planning regions. As noted in the Executive Summary and section 4, the strongest takeaway from these workshops was the importance of collaboration amongst the Parties during pre-planning in setting up Commissions for success.
- Developing an updated, comprehensive planning process document that reflects the planning stages, roles & responsibilities, and key products and milestones listed here. This should lead to development of the various guidance documents and templates noted throughout the report, coordinated by YLUPC in collaboration with the Parties. The existing Sourcebook for Commission Members should also be updated.
 - These guidance documents should take into account overarching laws, regulations, policies and strategies, such as: the Yukon Mineral Development Strategy, regulations on Resource Access Roads, ORV regulations, and any wetland policies that may be developed by YG. Relevant First Nations legislation, regulations, policies and strategies will need to be considered in each planning region.
- Assessment of impending capacity challenges with plan implementation and completing remaining regional plans. This may include assessing new options for plan implementation besides those employed for the two plans complete to date.

APPENDIX A: Yukon Forum Objectives & Strategic Recommendations



March 8, 2019

Pearl Callaghan, Chair
Yukon Land Use Planning Council
201-207 Jarvis Street
Whitehorse, YT Y1A 2H3

Dear Ms. Callaghan:

Re: Yukon Forum – Land Use Planning Priority Objectives and Recommendations

In accordance with the Joint Priority Action Plan, following the December 2018 meeting of the Yukon Forum, leaders of the Government of Yukon, Yukon First Nations and the Council of Yukon First Nations reviewed and endorsed a strategic approach to restarting and improving land use planning in Yukon.

As per the attached memorandum, the Parties have agreed to work together towards the implementation of four Priority Objectives and associated recommended actions to advance land use planning both within and outside of Chapter 11.

The Priority Objectives identified in the memorandum interrelate and will require joint and concurrent action from the Parties, the Yukon Land Use Planning Council (YLUPC), and Regional Planning Commissions for successful implementation. Notably, the recommendations envision a greater role for the YLUPC in providing administrative support to the Regional Commissions (e.g. provision of secretariat, hiring of staff and financial administration, subject to section 11.4.5 and other relevant provisions of Chapter 11), and in collaborating with the Parties to re-evaluate process and data requirements for regional land use planning.

The new approach also calls for the Parties to work together to support several land use planning processes concurrently, upon the request of affected First Nations. The approach involves evaluating a full range of process options, including Chapter 11 regional land use planning going forward with Settled First Nations. In areas of potential overlap with non-settled Yukon and transboundary First Nations, it is acknowledged that the Government of Yukon will be required to fulfill government-to-government consultation requirements with those non-settled Yukon and transboundary First Nations. For regional planning processes, the Parties will draft a terms of reference (and may seek assistance from YLUPC staff) and provide such terms of reference to

Pearl Callaghan
Page 2
March 8, 2019

the YLUPC for recommendation to the Parties as required under 11.3.3.3 of First Nation Final Agreements.

We look forward to working with the YLUPC in implementing the attached recommendations as we recommence regional land use planning in the Yukon with a renewed approach. Should you have any comments, questions or concerns about the enclosed memorandum, please feel free to contact one of the Yukon Forum Regional Land Use Planning Chapter 11 Leads identified in the attached memorandum.

Sincerely,



Ranj Pillai
Minister of Energy, Mines and Resources



Grand Chief Peter Johnson
Council for Yukon First Nations

Enclosure: Memorandum: Yukon Forum Regional Land Use Planning Chapter 11 – Strategic Recommendations

cc: Yukon Forum Chiefs

MEMORANDUM

December 7, 2018

TO: Yukon Forum Members

FROM: Regional Land Use Planning Chapter 11 Leads;
James MacDonald, Council for Yukon First Nations
Manon Moreau, Government of Yukon
Sherri Young, Government of Yukon

RE: **Yukon Forum Regional Land Use Planning Chapter 11 – Strategic Recommendations**

As directed by the Yukon Forum, through the Joint Priority Action Plan, a regional land use planning workshop was held in June 2018, with over 40 attendees from the Government of Yukon, nine Yukon First Nation governments and the Yukon Land Use Planning Council. Participants reviewed aspects of land use planning, within and outside of Chapter 11, with the goal of making recommendations to advance land use planning in Yukon.

Yukon and First Nations governments have reviewed the results of the land use planning workshop, and have affirmed their commitment to regional land use planning by endorsing the four priority objectives detailed in an August 30, 2018 memo. We, the Chapter 11 leads, have since undertaken an analysis of the four priority objectives and have developed series of strategic recommendations to work towards their implementation.

1. Objective One – Set up Commissions for success:

- 1a. *Examining the roles of the Yukon Land Use Planning Council, Planning Commissions and the Parties.*
- 1b. *Reviewing and agreeing on a broadly applicable process for regional land use planning*
- 1c. *Reviewing the information requirements of regional land use planning*

STRATEGIC RECOMMENDATIONS:

- Yukon Land Use Planning Council provides increased administrative support to the Commissions (secretariat, hiring, financial processes);
- Commissions focus primarily on planning and providing regional expertise;
- Commissions build relationships with public and key stakeholders through engagement and other communications;
- First Nations develop an engagement framework, which reflects First Nations' needs;
- Parties participate more directly in planning processes through communication of priority issues and providing technical expertise (beyond data contribution);
- Parties seek opportunities to build trust, to collaborate and to build relationships;
- Parties and Yukon Land Use Planning Council explore ways to reduce time and resources required for planning, by improving and streamlining planning processes, tools and products, including
 - consideration of whether the current products are all required, or whether there is an opportunity to merge or streamline interim products (i.e. Resource Assessment Report, Issues and Interests Report, Plan Scenarios and Alternatives);
 - developing a First Nation knowledge and data governance protocol;
 - exploring ways to support Affected First Nations in research and identification of issues and interests, and in gathering information;
- Parties enhance internal communication with respective leadership, and make better use of internal working groups (Technical Working Group /Senior Liaison Committee);
- Terms of Reference is used to formalize agreed-upon changes to roles, processes and tools;
- Communicate to Yukon Land Use Planning Council, per attached draft letter.

2. Objective Two – Support Several Land Use Planning Processes Concurrently Inside and Outside of Chapter 11

STRATEGIC RECOMMENDATIONS:

It is recommended that the Chapter 11 leads seek a mandate from leadership to initiate the remaining regional land use planning processes, upon request by affected First Nations. Recommended subsequent actions include:

- Affected First Nations contact Yukon government Assistant Deputy Ministers (Energy, Mines and Resources and Environment) to discuss regional land use planning interest;
- Parties consider alternate planning processes, such as sub-regional or district land use planning, particularly where issues could be addressed through other processes, or where Chapter 11 funding may be inadequate;

- Parties consider alternate ways to support First Nations in creating their vision, gathering knowledge, and identifying issues and interests ;
- If pursuing Regional Land Use Planning, develop Terms of Reference together with affected First Nations;
- Submit proposed region to Yukon Land Use Planning Council for consideration, and for Yukon Land Use Planning Council to recommend;
- Parties support the completion of current/existing planning processes underway (e.g. Forest Resources Management Plan / Local Area Plan / Habitat Protection Area).

APPENDIX B: List of Workshop Participants

Organization	Name	Title
Kluane First Nation	Adam Humphrey (workshop 1-2)	Land Planner
Kwanlin Dün First Nation	John Miekle (workshop 1-2)	Manager Land Planning
	Roy Neilson (workshop 1-4)	Land and Resource Planner
Na-Cho Nyäk Dun	Dawna Hope (workshop 1-3)	Alexco Mining Liaison/Water Specialist
Teslin Tlingit Council	Dorothy Cooley	Lands and Resource Planning Manager
Tr'ondëk Hwëch'in	Kay Linley (workshop 3)	Lands and Resource Manager
	Lee Whalen	Heritage Officer
Yukon Government	Brian Johnston	Parks Planner
	Jerome McIntyre	Director, Land Planning
	John Ryder	Manager, Habitat Programs
	Krysti Horton	Manager, Regional Land Use Planner
Yukon Land Use Planning Council	Ron Cruikshank	Executive Director
	Sam Skinner (1, 3,4, part of 5,6)	Senior Planner
	Tim Van Hinte (workshop 5-6)	Senior Planner, Dawson Region

Note: Representatives from Vuntut Gwitchin Government were invited to join the workshops, but were not available.